



European Centre of Expertise in the field of labour law, employment and labour market policies (ECE)

ECE Thematic Review 2022-2023: Application of EU
labour law in the long-term care sector

Synthesis Report





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Acronyms

AEntG	Posted Workers Act - <i>Arbeitnehmer-Entsendegesetz</i> (DE)
AZG	Working Time Act – <i>Arbeitszeitgesetz</i> (AT)
ArbZG	Working Time Act (<i>Arbeitszeitgesetz</i>) (DE)
AÜG	Act on Temporary Agency Work (<i>Arbeitnehmerüberlassungsgesetz</i>) (DE)
BPA	Citizen-driven personal assistance (DK)
CAHC	Collective Agreement for Health Care and Health Insurance (HR)
CAPHC	Collective Agreement for Private Health Care in Croatia
CASA	Collective Agreement for Social Assistance (HR)
CCNL	National Collecting Bargaining Agreement (IT)
CCT-SAS	Collective agreement for employees in the assistance and care sector and the social sector (LU)
CJEU	Court of Justice of the European Union
COPAS	Confédération des Organismes Prestataires d’Aides et de Soins (LU)
CSS	Social Security Code (LU)
CT	Code du Travail (LU)
ECA	Employment Contracts’ Act - <i>töölepingu seadus</i> (EE)
DPC	Agreement to Perform Work (CZ)
DPP	Agreement to Complete a Job (CZ)
EU	European Union
ESF	European Social Fund
GewO	Trade Act (<i>Gewerbeordnung</i>) (AT)
HGHAG	Domestic Workers Act <i>Hausgehilfen- und Hausangestelltengesetz</i> (AT)
HSE	Health Service Executives (IE)
KPDZSV	Collective Agreement for the Health Care and Social Protection Sector - <i>Kolektivna pogodba za dejavnost zdravstva in socialnega varstva Slovenije</i> (SI)
LGTFP	Law on employment relationships entered into with public entities <i>Lei Geral do Trabalho em Funções Públicas</i> (PT)
LTC	Long-term care
MDW	Migrant Domestic Workers (CY)
MRCI	Migrant Rights Centre Ireland (IE)
MS	Member States
NGO	Non-Governmental Organisation
OWTA	Organisation of Working Time Act (IE)
OWTR	Organisation of Working Time Regulations (MT)
PAN	Agreement on pay and conditions of employment for personal

	assistants and carers (SE)
PfIBG	Care Occupations Law – <i>Pflegeberufegesetz</i> (DE)
PGB	Personalised Budget, <i>Persoonsgebonden budget</i> (NL)
PLC	Portuguese Labour Code (PT)
POT	Work organisation plans - <i>plan d'organisation du travail</i> (LU)
PSG	Care Reinforcement Laws – <i>Pflegestärkungsgesetz</i> (DE)
SSA	Social Services Act (DK)
SWAG	Strategic Workforce Advisory Group (IE)
TAW	Temporary Agency Work
TAWD	Temporary Agency Work Directive
TCN	Third country nationals
TPWCD	Transparent and Predictable Working Conditions Directive
	TzBfG Part-time and Fixed-term Work Law – <i>Teilzeit- und Befristungsgesetz</i> (DE)
WLB	Work Life Balance
WLBD	Work Life Balance Directive
WTD	Working Time Directive
VET	Vocational Education and Training
VVT	Collective agreement for nursing homes, care facilities, home care, maternity health care and youth health care (<i>CAO Verpleeg-, Verzorgingshuizen, Thuiszorg en Jeugdgezondheidszorg</i>) (NL)
ZZDej	Health Services Act - <i>Zakon o zdravstveni dejavnosti</i> (SI)
ZDR-1	Employment Relationships Act - <i>Zakon o delovnih razmerjih</i> (SI)

Country codes

AT	Austria	FI	Finland	NL	Netherlands
BE	Belgium	FR	France	PL	Poland
BG	Bulgaria	HR	Croatia	PT	Portugal
CY	Cyprus	HU	Hungary	RO	Romania
CZ	Czechia	IE	Ireland	SE	Sweden
DE	Germany	IT	Italy	SI	Slovenia
DK	Denmark	LT	Lithuania	SK	Slovakia
EE	Estonia	LU	Luxembourg		
EL	Greece	LV	Latvia		
ES	Spain	MT	Malta		

Executive Summary

The Thematic Review Synthesis Report has been prepared in the context of the work of the European Centre of Expertise in the field of labour law, employment and labour market policies (ECE) based on national reports for the 27 EU Member States (hereafter 'MS'), prepared by the experts of the European Labour Law Network (ELLN). The topic of the Thematic Review 2022-2023 regards the application of EU labour law in the long-term care sector.

Scope and objectives of the report

The report, based on assessments carried out by legal experts in each Member State, aims to identify and analyse knowledge gaps on long-term care (LTC) workforce by attempting a comparative overview of the legal status and working conditions of the LTC workforce in the MS and by examining the application and enforcement of EU labour law for LTC workers. For this purpose, it tries to map the composition of the LTC workforce across the MS, and the applicable national regulations. In addition, to the extent possible, it compares existing national variations in the application of EU labour law to LTC workers identifying possible issues related to their material rights and the enforcement of those rights.

The report focuses on three main categories of LTC workers: **personal care workers, nurses and domestic care workers**. It does not cover either informal carers, i.e. those in the social environment of the person in need of care, including a partner, child, parent or other person, who provide care but are not hired as a professional LTC worker, or other professionals involved in LTC sector.

The study focused primarily on the following EU Directives and their applicability to LTC workers:

- Directive on Transparent and Predictable Working Conditions
- Working Time Directive
- Directive on Work-life Balance
- Temporary Agency Work Directive
- Directive on Part-time work
- Directive on Fixed-Term work.

The thematic review pursued the following four main objectives:

- To address knowledge gaps on the LTC workforce (primarily through the identification of national definitions and classifications of LTC workers in national law).
- To identify possible issues in relation to personal scope (such as identification of categories of LTC workers to whom (certain aspects of) the EU labour law may not apply with a view to assess the existence of potential gaps in personal scope coverage).
- To identify and analyse issues in relation to material rights provided for in EU labour law.
- To identify possible issues in relation to enforcement of existing EU labour law.

EU labour law establishes minimum requirements to be transposed into the national legal order. Member States retain the possibility to set more protective standards if they wish to. The thematic review was not intended to assess the nature and level of protection

provided by standards as set in national law, and whether there could be variations in protection within national standards depending on specific categories of long-term care workers. The minimum standards set in EU labour law were the baseline for the analysis.

Key findings

Knowledge gaps on the LTC workforce

Based on the information included in the country reports produced for the MS, it can be concluded:

- **Organisation of the LTC system and the composition of the LTC workforce:** the organisation, governance and financing of the LTC system affect the labour market status and employment conditions of the LTC workforce and the applicability of specific regulations to LTC workers (see Section 2).
- **Definition of LTC workers:** formal LTC workers can generally be defined as professionals who provide LTC at either the care recipient's home, in a residential setting or another form of care setting and who are remunerated for their services. This category comprises personal care workers, nurses and domestic LTC workers who are working at the care recipient's household within an employment relationship (encompassing live-ins). **There is no uniform definition of LTC workers across MS** that could help assess the EU-wide distribution of the LTC workforce among these 3 sub-categories. There are indeed no national definitions and classifications of LTC workers in the legislation of most MS. According to the available information in the national reports, in ten countries no official classification of LTC workers was reported (as explicitly pointed out, e.g., in the national reports for **CZ, FR, HU, LU, LV, NL, PL, PT, ES, SK**). Overall LTC workers are being considered regular employees, and being covered by general labour law provisions, or where relevant, specific law applicable to other categories of workers such as (certain types of) 'domestic workers'. According to the approaches identified in the national reports, three elements appear relevant for the identification of the legal status of LTC workers:
 - The employer of the LTC worker;
 - The type of employment contract, or lack thereof;
 - The workplace (the home of the care recipient or elsewhere).
- **Forms of employment in the LTC sector:** In the public sector, LTC workers are usually employed under a (permanent, often, but not always full-time) contract of employment. In the private sector, contracts of employment are used, as well as services contracts with self-employed LTC workers, are used in several countries. Moreover, in many MS (**AT, BE, BG, DE, DK, EL, ES, FI, FR, HR, IE, IT, LU, NL, PL, PT, SE, SI**), the LTC sector is characterised by a high use of non-standard forms of employment (e.g. part-time work, fixed-term work, temporary agency work), in contrast with permanent, and/or full-time work relationships. Zero-hours contracts in the LTC sector were only mentioned in one MS (**CZ**).
- **Regulation of working conditions in the LTC sector:** no specific regulation of working conditions in the LTC sector can be found in most MS. Usually they are covered by general labour law rules, and, in that case, they enjoy equivalent level of protection as workers in other sectors. In some countries (**AT, ES, FR, IT, NL,**

SE), some specific laws or some exclusions from specific rules may be applicable to (certain types of) domestic workers who may be performing LTC work. Only few national reports (**AT, DK, LU, PL, SI**) have reported special regulation for LTC workers. In almost all countries (except **FR**) no distinction was reported between LTC work for older persons and for persons with disabilities.

- **Possibilities of formalising informal care provided by family members as LTC workers:** in some MS (**AT¹, DK, FI, NL, SE as well as, partially, IE and SI**), family members can be formally employed as LTC workers when providing care. In this case, they generally also fall under the labour law applicable to employees.
- **Domestic (live-in) care workers:** they are present to a significant extent only in some MS (in particular: Italy, Greece, Malta, Cyprus, Portugal, Spain, Austria and Germany), and in some instances may be associated to alleged bogus self-employment (see next bullet point).
- **Bogus self-employment in the LTC sector:** the possible occurrence of bogus self-employment in the LTC sector was identified by national experts in some MS (**AT, DE** but also **HU, LT, PL**).

Issues regarding the personal scope²

The national reports contain a set of observations on the legal status and nature of employment of the LTC workforce:

- **Applicability of EU labour law to nurses:** Nurses as LTC workers are fully covered without any exceptions by the national law transposing relevant EU labour law under this review in the majority of the MS (**AT, BE, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK**). In some MS, exceptions from some regulations were reported: in **Bulgaria** regarding TAWD (i.e. sectoral restriction), and in **Malta** regarding the WTD (for the private sector, and without prejudice of the contents of relevant collective agreements).
- **Applicability of EU labour law to personal carers:** The situation of personal carers as LTC workers is similar to that of nurses. Personal carers are fully covered without any exceptions by the national law transposing EU labour law (in the above sense) in the majority of the MS (**AT, BE, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK**). In the MS that were just mentioned in the previous bullet point, the same exceptions that apply to nurses also apply to personal carers.
- **Applicability of EU labour law to domestic LTC workers:** The situation of domestic LTC workers is somewhat different because specific legal frameworks entailing exceptions from the applicability of EU labour law were reported in more countries. According to the national reports, domestic LTC workers are fully covered without any exceptions by the national law transposing EU labour law in half of the MS (**CZ, DE, DK, EE, HR, HU, LT, LU, LV, MT, PL, SI, SK**).³ In the other MS, there

¹ In Austria, the possibility of “formalising” the work of a family member providing care has been reported for only one federal state (*Bundesländer*) out of nine.

² The text below on different facets of the legal status and nature of employment of the LTC workforce, covers most but not always all 27 MS, due to lack of information on specific issues.

³ This concerns the cases where the EU labour law has been transposed and implemented in national law. The information regarding the transposition of Directives dates from January 2023 the time when the national reports were written.

were specific exceptions from the applicability of certain regulations: in **Austria** concerning the WTD and the WLBD; in **Bulgaria** regarding the TAWD (i.e. sectoral restriction); in **Portugal** concerning the WTD and the TAWD; in **Sweden**, regarding the WTD, PTWD and FTWD; in **Belgium, Greece, Finland** and **Ireland** regarding the WTD; in **France** as the WTD, the TAWD, the Directive on Part-Time work and the Directive on Fixed-Term Work is not applicable to persons employed by private households; in **Spain**, where, instead of the general labour code, a specific law governs the working conditions of persons employed in private households; and in **Italy** and the **Netherlands** where the TPWCD is applicable only with exceptions (i.e. those provided for in the Directive itself for natural persons in households acting as employers). **Cyprus** reported that the WLBD, the Directive on Part-Time work, the Directive on Fixed-Term Work and the TPWCD are not applicable to domestic LTC workers.

Material rights

The thematic review examined the potential issues in relation to material rights of the LTC workers. The following conclusions can be drawn:

- **National laws/collective agreements specifically designed for LTC workers:** Nineteen MS (**AT, BE, BG, DE, DK, ES, FI, HR, IT, LT, LV, LU, MT, NL, PL, PT, RO, SE, SI**) reported to have national laws or specific provisions in laws and/or collective agreements specifically designed only for LTC workers or for workers in healthcare and LTC. In some countries, most or many collective agreements (especially enterprise level agreements) which may be relevant for LTC workers are not publicly available according to the national reports (**CZ, MT, SE**).
- **Working time and predictability of working time of LTC workers:**
 - *Sources of regulation:* In some countries there is a variety of rules (found both in national legislation and collective agreements depending on the national legal order) that apply to the working time of nurses/personal assistants and domestic workers.
 - *Regular working time rules:* Twelve MS reported to have regulation on working time which is common for nurses/personal assistants and domestic LTC workers (**BE, BG, CZ, EE, HR, HU, IE, LT, LV, SI, SK**). Three countries (**AT, IT** and **NL**) have special regulations for the regular working time of live-in domestic LTC workers. In the remaining MS, working time rules for nurses and domestic LTC workers differ, which can be explained notably by the fact that workers are employed by households acting as employers (e.g. **FR, ES, SE**).
 - *Limits on overtime of LTC workers:* These limits are not the same for nurses/personal assistants and domestic LTC workers in thirteen MS (**AT, CY, DK, EL, ES, IT, LU, MT, NL, PL, PT, SE, SI**) according to the available information. In two countries derogations from the limits on overtime were reported for nurses (**SI** and **PL**).
 - *Rest periods for LTC workers:* The national regulation of rest periods of LTC nurses/personal assistants applies also to domestic LTC workers in fourteen MS (**BE, BG, CZ, DE, EE, FI, HR, HU, IE, LT, LV, PL, SI, SK**). Differentiated rules for the rest periods of domestic LTC workers have been reported in the rest of the MS. In **Austria, Spain, Italy, The Netherlands** and **Portugal**

there are derogations regarding the rest periods of live-in domestic LTC workers from the rest period rules that apply to domestic LTC workers.

- *Regulation and remuneration of stand-by time for LTC work:* The rules on the regulation and remuneration of stand-by time of LTC workers show a variety of approaches. In ten MS, the same general labour law rules are relevant for both nurses/personal care workers and domestic LTC workers (**CZ, DE, EE, FI, HR, HU, IE, LT, LV, SK**). Differentiations in regulation and remuneration of stand-by time between nurses/personal assistants and domestic LTC workers were described in fourteen countries (**AT, CY, DK, EL, ES, FR, IT, LU, MT, NL, PL, RO, SE** and **SI**). Derogations from the regulation and remuneration rules regarding stand-by time for domestic LTC live-in workers exist in **Austria**, the **Netherlands** and **Romania**.
- *Measures to ensure predictability of working time schedule:* There is a variety of approaches across the MS when it comes to such measures. The notice of changes of the schedule must be transmitted to the worker in advance:
 - without specifying the time frame (e.g. in due time in **Latvia**).
 - some days (e.g. four days in **Germany**, seven days in **Belgium, Lithuania, Luxembourg** (only for nurses and personal assistants) and **Poland**) in advance or even,
 - weeks (e.g. one week in **Hungary**, two weeks in **Austria, Czech Republic** and **Sweden**, three weeks for domestic LTC workers and four weeks for nurses and personal assistants in **Denmark**) in advance.

In many countries, these regulations differ between nurses/personal assistants and domestic LTC (**AT, DK, EL, ES, FR, IT, LU, NL, PL, PT** and **SE**).

- *Regulation and compensation of inconvenient hours and shift work:* Inconvenient hours and shift work of domestic LTC workers are compensated in all countries except for four MS (**CY, EL, ES** and **LU**). Regulation and compensation of inconvenient hours and shift work is reported to be applicable in a similar way in all categories of LTC workers in eleven MS (**BE, CZ, DE, EE, FI, HR, HU, IE, LV, NL** and **SI**). A lack of specific regulation on compensation of inconvenient hours and shift work of domestic LTC workers was reported only in seven MS (**AT, BG, FR, MT, PT, RO** and **SK**).

- **The live-in LTC work arrangement:**

- In a range of countries there are rules in national law and applicable collective agreements that set specific rights and conditions for live-in carers to various extents. This is the case in **Austria** for example the Domestic Care Act, **Sweden** (Act on Domestic Workers) and **Portugal** (Domestic Work Regime). In **Italy**, the national collective agreement is the source of regulation of live-in carers.
- Specific conditions of accommodation of live-in carers are regulated in six MS (**AT, EL, ES, IE, IT** and **LU**). In nine countries the accommodation and board are allowed as form of payment in kind for live-in LTC workers (**AT, CZ, ES, IE, IT, LU, PT, RO, SI**).

- Special rules to ensure privacy protection of personal life of the live-in carers were reported only in five countries (**AT, EL, IE, IT** and **LU**).
- Specific rules were reported to exist regarding the termination of employment of live-in carers in seven countries (**AT, ES, IT, LU, NL, PT** and **RO**).
- In **Austria, Spain, Luxembourg** and **Italy** there are specific rules on the protection of live-in carers against violence and abuse.
- In eight countries (**AT, BE, DE, ES, IE, IT, LU** and **NL**) special rules were identified as regards access/inspection from labour inspectorate in the private homes of the care receivers.
- **Classification of live-in carers as temporary agency workers:**
 - In twenty countries (**BE, CZ, DE, EE, EL, ES, FI, HR, HU, IE, IT, LU, LV, MT, NL, RO, PL, SE, SI**) live-in carers can qualify as TAW under the labour law legislation. However, in some of these countries this qualification, although possible in theory, is not encountered in practice (**BE, CZ, ES, SI**) or the actual use of such type of work is limited (**EL, PL, SE**). In addition, in some countries this possibility is provided by law only with limitations (**IE, MT, NL**).
- **LTC platform work:**
 - In **Estonia**, there are platforms that place domestic workers and, to a far lesser extent, also recruit such workers. Only in **Greece** national regulation on platform work was mentioned as potentially covering the LTC sector, but this seems not to have an important impact on working conditions in the LTC sector. Although **Spain** has regulation on platform work, this is not applicable to LTC workers because the rebuttable presumption only extends to “delivery or distribution of any consumer product or commodity”.
 - Since only legal assessments were performed for the propose of this report, it cannot be excluded that an increase in the use of platforms in this sector occur in other Member States.

Enforcement issues

Turning to the enforcement of rights, the following conclusions can be drawn from the national reports:

- Labour inspectorates are usually the first line of enforcement of LTC workers’ labour rights while judicial enforcement seems to be less relevant for LTC workers. However, inspection work faces practical obstacles, especially for live-in LTC carers, the workplace being a private home.
- **Nurses and personal care workers:** In general, no major issues in the enforcement of EU labour law were reported for nurses and personal care workers in the majority of MS (**AT, BE, BG, CY, CZ, DK, EL, ES, FR, HR, HU, IE, IT, LT, MT, PT, RO, SE** and **SK**). In six MS (**DE, FI, LU, LV, NL, PL**), issues relating to the enforcement of EU labour law for nurses and personal care workers in the LTC sector have been reported, mostly concerning the inadequate enforcement of working time regulations.

- **Domestic LTC workers:** Some countries have not identified any challenges relating to the enforcement of domestic LTC workers' rights (**BE, BG, CZ, DK, HR** and **LT**). Experts from 11 MS (**AT, CY, DE, EE, EL, IE, IT, LV, MT, RO, SI**) highlighted a number of issues in the enforcement of labour rights of domestic LTC workers, including live-in carers, in particular in the case of migrant and mobile workers. Main issues of concern reported relate to working time and undeclared work.
- **Level of labour rights awareness among LTC workers:** In the majority of MS (**AT, BE, BG, CZ, EE, EL, FI, FR, HR, HU, LT, LV, MT, NL, PL, PT, SE, SI**), there is no robust information on whether LTC workers are sufficiently aware about their labour rights, and/or whether care recipients are aware of LTC workers' labour rights. In some MS (**CY, DE, SI**), however, challenges were reported in relation to LTC workers' awareness about their rights. Interesting approaches to awareness raising were mentioned in seven MS (**DK, ES, FI, IE, IT, LU** and **RO**).

Background

The long-term care (LTC) sector includes a range of services and assistance for people who need permanent nursing care and/or depend on assistance with daily activities over an extended period. While, there are many professions that can be involved in LTC (e.g. social care workers, cleaners in residential care centres, cooks etc.), this study focused on the situation of LTC workers that are professionals who provide LTC at either the care recipient's home, in a residential facility or another form of care centre and who are remunerated for their services. The formal LTC workforce comprises two main professional categories: **personal care workers / caregivers** and **nurses**. The LTC workforce also includes **domestic LTC workers** who are engaged in domestic care work at the care recipient's household within an employment relationship. If domestic LTC workers live in the care recipient's household, they are referred to as live-in carers.

Key challenges in the LTC sector relate to **workforce shortage and difficult working conditions in the sector** (low pay, demanding working hours, evolving skills needs, physically and mentally straining tasks, widespread use of non-standard forms of employment).

Methodology and limitations of the analysis

The report is based on 27 national reports that cover all MS and were finalised in January 2023. Each report provided a mapping of the LTC workforce in the given country, analysed the personal scope of EU/national labour law applicable to LTC workers and explored the material rights of the LTC workers and the issues of enforcement of these rights and good practices.

Many national experts reported a lack of availability of accurate and systematic statistical data on the LTC workforce, which makes the identification of LTC workers and the analysis of their situation challenging. In addition to the data constraints, due to the high heterogeneity of national LTC systems, the clustering of information was not always possible. As a comparative legal report, the present synthesis focusses primarily on legal issues and provides a broad picture of the EU-wide situation. It is based exclusively on existing legal information included in the national reports (mainly laws, case-law and legal literature).

Moreover it is important to acknowledge that at the time the research for this study was conducted (end 2022-early 2023), two instruments, namely the directive on Transparent

and Predictable Working Conditions and the Directive on Work-life Balance, were not implemented in all MS, due to delays in transposition. Therefore, all related analysis may be incomplete and/or out of date and shall therefore be used with caution.

1 Introduction

1.1 Setting the scene

The long-term care (LTC) sector includes a range of services and assistance for people who, as a result of mental and/or physical impairment and/or disability over an extended period, depend on assistance with daily living activities and/or need permanent nursing care. Daily living activities which the individual may require support with, include daily self-care activities such as bathing, dressing, eating, getting in and out of bed or a chair, moving about, using the bathroom, and controlling bladder and bowel functions. They may also be related to independent living, i.e. instrumental activities of daily living, such as preparing meals, managing money, shopping for groceries or personal items, performing light or heavy housework, and using a telephone.⁴ Professionals who provide LTC at either the care recipient's home, in a residential facility or another form of care centre (e.g. day care centres, etc.) and who are remunerated for their services, belong to the LTC workforce ('LTC workers').

The LTC workforce comprises two main professional categories: **personal care workers**⁵ and **nurses**.⁶ The term **domestic LTC workers** refers to any person engaged in domestic work, who provides LTC under an employment relationship. **Live-in carers** are domestic LTC workers who live in the care recipient's household and provide LTC. Migrant (third-country nationals – TCN) LTC workers are long-term caregivers with origins from a non-EU state.

LTC generally involves different levels of governance and the involvement of several institutional, organisational and professional stakeholders.

The working conditions' regulation in the LTC sector and application of EU labour law to the LTC workforce—an area that is understudied in Europe—are the focus of this report. The findings of the report are based on 27 national reports which analysed the situation in each of the EU Member States (MS).

1.2 Challenges in working conditions in the LTC sector

Some of the biggest challenges the LTC sector faces, are the workforce shortage and the widespread use of non-standard forms of employment.⁷

The main common issues that LTC workers in Europe currently face were identified in the national reports as follows:

- The LTC workforce's mobility across countries is highly prevalent in some cases, causing considerable staff shortages in sending countries as their LTC workers seek higher wages, especially in neighbouring countries. However, receiving countries have also reported persistent staff shortages despite the migration of LTC workers to their countries.

⁴ This definition of LTC is used in the Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11.

⁵ In this analysis, defined in accordance with ISCO-08, falling under codes 5321 and 5322. The terms personal care worker and personal carer/caregiver are used interchangeably in this report and refer to the same concept.

⁶ In this analysis, defined in accordance with ISCO-08, falling under codes 2221 and 3221.

⁷ See Staff Working Document accompanying the proposal for a Council Recommendation on long-term care, SWD (2022) 441.

- In some countries, legislative reforms to address the current challenges of LTC are being introduced or have recently been implemented, while in others the legal framework has not yet been updated. The absence of specific regulations for the LTC workforce and a highly fragmented legal system represents a challenge in many countries.
- Other issues reported on LTC workers' working conditions are associated with the current trends identified in the LTC sector:
 - the transformation of the organisation and management structures (either through current reforms, which are rather focused on the persons in need of LTC than on the status and working conditions of LTC workers, thus not addressing in a sufficiently balanced way the demands of persons in need of LTC and the needs of the LTC workforce, or through the transfer of responsibilities between authorities (from public to private) and regions (from national to regional level);
 - the increasing complexity of LTC service provision and the challenges of digitalisation, which also increases the requirements of the LTC workforce to obtain new skills/training;⁸
 - the arduous working conditions (especially in terms of low wages and quality of working conditions, characterised by very high overtime work and inconvenient work shifts, accidents at workplace, harassment and psychosocial risks) resulting in high turnover of staff and the reduced attractiveness of LTC work;⁹ and
 - the trend towards deinstitutionalisation in LTC (i.e. a shift from the provision of care in residential settings to the provision of care at home)¹⁰, which may impact on LTC workers' working conditions and the enforcement of their rights (national experiences confirm the higher rate of effectiveness in monitoring and enforcing the labour rights of LTC workers employed in care facilities, as opposed to those who work in private households of persons in need of LTC).

1.3 Aim of the report and research questions

Most LTC workers are covered by general EU labour law.¹¹ Nonetheless, LTC workers face challenging working conditions. ***The question that arises is whether EU labour law***

⁸ The issue of complexity has also been reiterated in Recital 17 of the Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11.

⁹ The existence of particularly difficult working conditions, especially for live-in caregivers or domestic workers is confirmed in Recitals 18 and 19 of the Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11.

¹⁰ This trend, which is changing the delivery model of LTC, is highlighted in the Eurofound report as one way of enabling persons in need of LTC to live in their communities longer: Eurofound (2020), Long-term care workforce: Employment and working conditions, Publications Office of the European Union, Luxembourg, p. 61.

¹¹ For a more detailed description of EU labour law with relevance for the long-term care sector, see Recital 25 of the Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11: "This Recommendation builds on Union law regarding transparent and predictable working conditions, such as Directive 96/71/EC of the European Parliament and of the Council, Directive (EU) 2019/1152 of the European Parliament and of the Council and Directive (EU) 2022/2041 of the European Parliament and of the Council, regarding work-life balance, such as Directive (EU) 2019/1158 of the European Parliament and of

adequately addresses the specific issues and challenges these workers face, and/or whether EU labour law is sufficiently enforced in the LTC sector.

The report pays particular attention to the most vulnerable LTC workers, such as domestic LTC workers, live-in carers or migrant workers, who face particularly difficult working conditions, including low wages, unfavourable working time arrangements, undeclared work, inadequate social protection, and non-compliance with essential labour protection rules and irregular forms of employment.¹²

This report does not cover informal carers,¹³ i.e. “someone in the social environment of the person in need of care, including a partner, child, parent or other person, who is not hired as a professional long-term care worker”.

The study focuses primarily on the following EU Directives and their applicability and application to LTC workers:

- **Directive on Transparent and Predictable Working Conditions.**¹⁴ At the time this study was conducted, this Directive had only been implemented in a limited number of MS: the information relating to this Directive might therefore be incomplete and/or out of date.
- **Working Time Directive**¹⁵
- **Directive on Work-life Balance**¹⁶, similarly with the Directive on Transparent and Predictable Working Conditions, at the time this study was conducted, this Directive had not been implemented in all MS: the information relating to this Directive might therefore be incomplete and/or out of date.
- **Temporary Agency Work Directive**¹⁷
- **Directive on Part-time work**¹⁸
- **Directive on Fixed-Term work.**¹⁹

In view of the above, the thematic review pursues four main objectives:

- *Addressing knowledge gaps on the LTC workforce, through the identification of national definitions and classifications of LTC workers in national law.* It explores

the Council, and regarding health and safety at work, such as Council Directive 89/391/EEC, Council Directive 89/656/EEC, Council Directive 90/269/EEC, Council Directive 98/24/EC, Directive 2000/54/EC of the European Parliament and of the Council, Directive 2003/88/EC of the European Parliament and of the Council, Directive 2004/37/EC of the European Parliament and of the Council and Directive 2013/35/EU of the European Parliament and of the Council, which is applicable and relevant to long-term care.”

¹² See Recital 19 of the Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11.

¹³ In accordance with the definition included in the Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11.

¹⁴ Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

¹⁵ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

¹⁶ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

¹⁷ Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work.

¹⁸ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC.

¹⁹ Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

the role of the social partners and collective agreements in establishing and ensuring rights of LTC workers.

- *Identifying possible issues in relation to personal scope of EU labour law coverage.* More specifically, the thematic review explores possible categories of LTC workers in the MS to whom certain aspects of EU labour law may not apply.
- *Identifying and analysing possible issues in relation to material rights provided for in EU labour law.* In doing so, the thematic review identifies potential weaknesses and loopholes in the national legal contexts in the way EU labour law addresses the challenges faced by LTC workers. In doing so, several subtopics have been assessed: whether a specific sectoral approach exists at national level for LTC workers; what the challenges are in applying working time regulations to LTC workers; whether special rights and working conditions for live-in carers and domestic workers in certain MS exist; whether LTC work through platforms is relevant.
- *Identifying possible issues in relation to enforcement of existing EU labour law.* Of particular interest were the employment constructions concerning the live-in care model and the challenges of undeclared LTC work. Some good practices in promoting and enforcing labour rights in the LTC sector were gathered.

1.4 Methodological considerations

The present report is based on 27 national reports that cover all MS. The information used in the individual reports covers the situation in each country in January 2023. Each report provided a mapping of the LTC workforce in the given country, analysed the personal scope of EU/national labour law applicable to LTC workers, explored the material rights of the LTC workers, the issues of enforcement of these rights and good practices.

In many of the national reports, the classification of LTC workers according to categories of personal carers, nurses, domestic LTC workers and live-in carers was not possible/not applicable and LTC workers can be classified differently. In many cases, the various categories (e.g. personal care workers, nurses, domestic LT workers and live-in carers) are not distinct while there is no national equivalent to the two main professional categories, namely LTC workers (personal care workers and nurses) and domestic LTC workers.

In addition, many countries reported a lack of accurate and systematic statistical data on the LTC workforce (usually, the available information on health care and social services does not distinguish between LTC and other forms of care), which makes the identification of LTC workers and the analysis of their situation challenging. The absence of such statistics regarding the prevalence of the various types of LTC workers adds to the challenge of investigating the legal status and working conditions of such workers. The issue is particularly important with regard to domestic LTC workers, including live-in carers, for which data are completely absent in many countries because live-in care is not regulated and sometimes undeclared (e.g. undocumented migrants rendered “invisible” and vulnerable).²⁰

The above considerations entail limitations to the comparative nature of the present report, and to the extent to which it comprehensively captures the situation in terms of working conditions and labour relations of LTC workers in the Member States.

²⁰ Eurofound, 2020, Long-term care workforce: Employment and working conditions, Publications Office of the European Union, Luxembourg, p. 26.

1.5 Definition of LTC work in the national legal orders

Although MS have agreed on a definition of LTC,²¹ no uniform definition of LTC workers can be deduced from examining the legal orders of the different countries. As a consequence, the available information on each LTC workers' category is not comprehensive and not representative of the full situation of LTC workers in most of the MS. This has an impact on the comparability and overview of the situation at EU level.

In relation to the absence of legally defined categories, the lack of accurate, systematic and reliable statistics is reported in many countries (**BE, BG, EL, ES, LT, LV, MT, PL, PT, SI**) as an obstacle to compiling an overview of the LTC workforce and the prevalence of each LTC worker category.

Despite the ratification of the ILO Domestic Workers Convention (189) by a series of MS (BE, FI, DE, IE, IT, MT, PT, SE and lastly by ES in 2023), information on the existence and prevalence of live-in LTC workers in particular was lacking or limited in many countries (**BE, BG, CY, CZ, DE, EE, ES, IE, LV, LT, NL, PT, SI, SK**). In several MS, the lack of official statistics is linked to the fact that this type of work is uncommon (e.g. **DK, HU, NL, SI**).

There is a limited amount of data covering the entire LTC sector in many countries.

Two countries provide sources of definition of LTC workers, while adding specific dimensions to the definitions. In **Lithuania**, a definition of LTC is found in secondary legislation and introduces the notion of "teams", i.e. a group of professionals who have one goal: to provide LTC services to meet the needs of persons in need of LTC, applying their professional knowledge and skills and sharing responsibility for the services they provide. The **Romanian** Social Assistance Law (2011) includes a definition of LTC as care services for a person who needs assistance in performing the basic and instrumental activities of daily life for a period of more than 60 days. Thus, a time dimension is added in the LTC concretising the definition of LTC work further.

Another dimension highlighted in the reports is the definition of "dependency" which serves for the classification of care as LTC. This is relevant for determining the provision of assistance in the context of LTC and, consequently, the categorisation of care work as LTC work; it then triggers the applicability of special provisions to those working in the LTC sector. As quoted in the previous paragraph, the **Romanian** Social Assistance Law (2011) introduces a time dimension, and the period of 'more than 60 days' is the criterion used to establish a dependency and need for LTC. The legal regime of LTC work is based on the categories of beneficiaries as LTC recipients. Another relevant example in this respect is **Austria**, where the Domestic Care Act regulating live-in LTC services includes specific categories of persons in need of LTC (persons considered entitled to such type of care), i.e. the applicability of this Act depends on the prerequisites provided for by law.²² A person

²¹ See Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, p. 1–11.

²² The Domestic Care Act only applies to employment relationships (§ 1 (2) – unofficial translation):

1. between a caregiver who has reached the age of 18 years and
 - a) the person to be cared for or one of his or her relatives, or
 - b) a non-profit provider of social and health care services of a preventive, caring or rehabilitative nature; and
2. if the person to be cared for
 - a) is entitled to a care allowance from a care level 3 up pursuant to the Federal Care Allowance Act (BPGG) or pursuant to the care allowance laws of the Federal States, or to a similar benefit to the same extent, or

in **Luxembourg** is considered 'dependent on care' if, as a result of a physical, mental or emotional illness or a disability, he/she has a significant and regular need for assistance from a third person for the essential activities of living (*actes essentiels de la vie*). These activities include personal hygiene, use of the bathroom, feeding, clothing and mobility (Article 348 of the Social Security Code). This assistance is provided at home on either a full-time or part-time basis (in-home LTC; *maintien à domicile*). Specialised facilities (residential LTC; *milieu stationnaire*) provide care for persons who can no longer live at home. A person's level of dependency is assessed using a standardised grid. Depending on their dependency level (1 to 15), the person receives a certain number of minutes of care assistance per week (210 to 2 171 minutes) in addition to other types of assistance (technical, home adaptation, etc.). Hence, the type and extent of LTC provided to an individual depends on these particular specifications. In **Cyprus**, domestic workers originating from third countries can in "exceptional cases" be employed as carers and obtain a work and residence permit under certain criteria linked to the level of dependency of persons in need of LTC.²³

There is no specific regulation of working conditions in the LTC sector in most countries. LTC workers are usually covered by general labour law rules or rules applicable in the health care or social services sector, which means that LTC workers enjoy an equivalent level of protection as workers in other sectors. Although the different categories included in the classification established for the purpose of this thematic review are prevalent in many countries, they are in general not relevant for identifying the applicable regulatory framework and the respective rights and obligations.

Some countries have reported specific regulation in place as regards working conditions of the LTC workforce, which, however, is not comprehensive. These rules only address certain issues or categories of LTC work, at times in rather unspecific terms. For example, in **Poland**, there is no act that comprehensively regulates the situation of persons who provide LTC services and only some acts vaguely address the conditions of LTC workers. In **Austria**, although the national legislation does not treat LTC workers as a distinct group of workers, a special regulation for live-in LTC workers has been introduced (Domestic Care Act – *Hausbetreuungsgesetz*). Such care is not qualified as medical care since it is not provided by nurses, but assistance with household management and activities of daily living. The law on health care professions in **Luxembourg** distinguishes between 22 professions, out of which caregivers (*aide-soignant*) and nurses (*infirmier*) cover most areas of LTC work. Nevertheless, these regulations deal exclusively with the modalities of practicing the profession and thus have limited impact on LTC workers' legal status and working conditions. The LTC sector in **Denmark** is largely regulated by the Act on Social Services, which provides for different types of public care services. In **Slovenia**, based on

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- b) the person to be cared for is entitled to care allowance of care level 1 or 2 pursuant to the BPGG or pursuant to the care allowance laws of the Federal States or a similar benefit to the same extent and this person has a permanent need for care due to a verifiable dementia disease, and
 3. if, after a work period of not more than 14 days, uninterrupted time off of at least the same duration is granted, and
 4. if the agreed working time is at least 48 hours per week, and
 5. if the caregiver is accepted into the household of the person to be cared for the duration of the work period."

²³ These criteria are: (i) older persons above the age of 75, (ii) people with special needs, provided that they present a certificate from a specialized doctor, (iii) people suffering from cancer (certificate from the Oncology Centre), multiple sclerosis (MS), myotonic dystrophy, nephropathy, myopathy, mental disorders and serious psychological problems, partial or total loss of vision, arthritis deformans, Alzheimer, dementia, as well as overweight persons with mobility problems (medical certificate mentioning the weight and the height of the person), and (iv) "handicapped" (term used in the website of the Ministry) persons on wheelchairs or bed-bound persons.

the provisions of the Long-term Care Act (adopted in December 2021),²⁴ the definition of LTC workers can, at least to a certain extent, be deduced.

No distinction is usually made between LTC for older persons and persons with disabilities. However, in some countries, e.g. in **France**, the LTC sector distinguishes between (i) care of older persons and of persons with disabilities, and (ii) care at home and residential care.

2 Mapping of the LTC workforce

2.1 Organisation of the LTC national systems

2.1.1 Public/private organisation of LTC provision

The configuration of the LTC system and the structure of LTC expenditure affect the composition and characteristics of the LTC workforce.²⁵

LTC can be financed by **public expenditure**, which can be tax-based or social insurance-based, or by **private expenditure**, which includes compulsory and voluntary private insurance schemes and out-of-pocket payments. Often, LTC is financed through a mix of public and private sources.²⁶

Certain national reports (e.g. **DK, PL, SI**) reported that most LTC workers are employed in the **public sector**. In **Slovenia**, around 70% of LTC workers provide their services in public institutions (homes for older persons, other residential institutions) while 30% of them provide LTC at the user's home.²⁷ In **Denmark**, LTC services in nursing homes,²⁸ public care housing or private residences are mostly provided within the scope of the public welfare system, free of charge for all citizen and financed by income taxes. Consequently, LTC workers are primarily public employees (employed by municipalities or regions), while the prevalence of LTC (private) services was reported to be limited.

Finally, LTC workers in **Poland** are predominantly employed as public employees by public social service facilities while some may still work for a smaller group of companies and NGOs as private employees or self-employed.

Conversely, other national reports (**FI, SE**) flagged how, while LTC as a sector continues to largely rely on public funds, employment relations are increasingly concluded between private employers and LTC workers. In **Finland**, private health care and social services were reported to be a large-scale employer. In **Sweden**, while the LTC labour market remains highly dependent on public funding, a far-reaching privatisation since the early 1990s has created a situation in which publicly funded private entities (companies, non-profits or even individuals) provide LTC for the older persons or persons with disabilities: this was reported to be e.g. the case for family members of the person in need, who can be employed as paid personal caregivers, and for "personal assistance" provided in a joint household, which assistance users share with their family personal assistants.

The organization and funding of LTC through public insurance was only reported in two countries (**LU, DE**). In the case of **Germany**, this is only designed as a "partial" insurance,

²⁴ This Act was heavily criticised and at the time of writing the national reports, its implementation was postponed until the revision of most of its provisions.

²⁵ The focus of this Thematic Review was not on the expenditure for LTC. Some MS reported on the relevance of expenditure for the legal status and applicability of specific regulations to LTC workers. This issue is therefore not examined EU wide, but it is limited to some national legal orders.

²⁶ Section 3.1.3 of the Staff Working Document accompanying the proposal for a Council Recommendation on long-term care, SWD (2022) 441.

²⁷ Smolej Jež S. et al (2016), Analiza kadra v dolgotrajni oskrbi [Analysis of the workforce in long-term care], IRSSV (see here), p. 9.

²⁸ Regulated in the Statutory Act on Social Services.

while a major share of care was reported to be provided by informal carers. In addition, a significant share of the workforce is formally categorised as self-employed, both in residential and in home-based care.

2.1.2 Levels of governance

LTC generally involves different levels of governance and several institutional, organisational and professional actors.

The horizontal fragmentation between the health care and social services systems, as well as the vertical fragmentation between the national, regional and local levels implies different organisational structures and conditions of services not only across, but also within Member States.²⁹

The provision of LTC in several countries was reported to be highly fragmented and complex, involving several stakeholders and levels of governance. Some illustrative cases are highlighted below:

- In **Italy**, the LTC system is largely fragmented across a complex system of health care, social services and other types of support. Furthermore, it is subject to a national, regional or local distribution of responsibilities (both **horizontal and vertical fragmentation**).
- Similarly, there is no uniform system of LTC provision in **Slovenia**: while several pieces of legislation cover this field, LTC services also overlap with those provided within the health care, pension and invalidity system and within the social assistance system (**horizontal fragmentation**).
- Similarly, in **Bulgaria**, where the institutional model of care is prevalent, LTC services and other social and health care services for the older persons and for persons with disabilities are provided under two separate systems, i.e. the social services system and the health care system (**horizontal fragmentation**).³⁰
- In **Belgium**, in line with the federal structure, separate joint committees and collective bargaining agreements exist in the LTC sector for the Flemish, French and German communities. The communities independently regulate labour relations in the care sector (**vertical fragmentation**).
- In **Finland**, the organisation of public health care, social welfare and rescue services has recently been reformed, with the aim of improving the availability and quality of basic public services. The responsibility for organising these services was transferred from municipalities to counties, with the provision of support for informal carers being now the responsibility of the well-being services at county-level. As the employer has changed from the municipality to the county, this move can be interpreted as a *transfer of undertaking* and the question of *wage harmonisation* must be addressed at the large scale: due to the size of the reform, the national report highlighted potential challenges in its implementation. The reform was also reported to have an impact on different types of work and employment contracts, as it also involves part-time and fixed-term work and raises questions about the equal treatment of workers (**vertical fragmentation through territorial devolution**).

²⁹ For further information, see Section 3.1.1 of the Staff Working Document accompanying the proposal for a Council Recommendation on long-term care, SWD (2022) 441.

³⁰ Interestingly, the national report highlighted the existing territorial disparities in the availability of LTC services, with administrative centres with larger populations hosting more social services with greater capacity.

2.2 Classification of the legal status of LTC workers

The level of complexity of the LTC systems and the modalities of organisation across the MS are very heterogeneous, as a comprehensive framework covering all workers engaged in LTC in both the public and private sectors does not exist.

LTC workers can generally be defined as professionals or non-professionals who provide LTC, including personal caregivers, nurses and domestic LTC workers (covering live-ins as well). The term 'non-professional' usually refers to a person with no official qualifications and training.

There are no national definitions and classifications of LTC workers in the legislation of most MS.³¹ Where an official classification of LTC workers is lacking, LTC workers are generally considered as regular employees and are covered by general labour law provisions (as explicitly pointed out, e.g., in the national reports for **CZ, ES, FR, HU, LU, LV, NL, PL, PT, ES, SK**). The existence of specific definitions for certain categories of LTC workers was reported in **three MS (AT, DK, MT)**, but this has no clear correlation with the legal status of LTC workers.

According to the approaches identified in the national reports, a classification of the legal status of LTC workers can derive from the analysis of three different elements:

- 1) The employer of the LTC worker (the main ones are: public sector, private companies, private users);
- 2) Type of employment contract, or lack thereof (e.g. employment relationship under public or private law, self-employed, volunteer, family member);
- 3) The workplace (the home of the care recipient or elsewhere).

2.2.1 Who is the employer?

The legal status of LTC workers may depend on their employer. Due to the diversity of the national systems in combination with different levels of analysis in the national reports, the countries mentioned in this subsection are only those that reported a relation between LTC workers categories and their employer. The range of possible solutions at national level is illustrated (in a non-exhaustive manner) below:

- In **Cyprus**, a difference between nurses and personal carers employed in the public sector and those employed in the private sector was signalled by the national report, with the working conditions of the latter category depending on the applicability of a collective agreement.
- In **Hungary**, the legal regime of LTC workers also rests on the traditional divide between public and private sector employees.
- In **Italy**, different sets of provisions apply to nurses who work as domestic workers and live-in LTC workers employed directly by the family of the person in need, depending on whether they are employed by a public or private entity.
- Similarly, in **Slovenia**, while general labour law legislation applies to all workers, special laws apply to public sector employees.³²

³¹ The definition refers to who an LTC worker is, while the classification relates to the assignment to one of the types of LTC workers (nurse, personal carer or domestic LTC worker).

³² The primary (formal) difference being the applicable pay system, but , differences also exist with respect to the regulations on workers' participation. See Public Sector Salary System Act, 'Zakon o sistemu plač v javnem sektorju', OJ RS No. 56/02 et subseq.

- Also, according to **Slovak** law, LTC workers can either have a private or public employment relationship, depending on the nature of their respective employer.
- Finally, in **Spain** there is a difference between civil servants (governed by specific rules, only partially covered by labour law) and public employees (covered by labour law)³³ on one side, and private employees (covered by labour law) on the other.

2.2.2 What type of contract does the worker have?

At least four national reports signalled that the legal status of LTC workers might depend on the presence of an employment contract (employment relationship under public or private law), **and on its characteristics, or on its absence** (in this case, the LTC workers perform their services as self-employed, volunteers or family members on the basis of a civil law contract):

- In **Belgium**, LTC workers can be either regular employees or self-employed workers.
- Similarly, in **Romania**, LTC workers may either conclude an employment contract, or a civil law contract (as a self-employed person).
- In **Hungary**, additionally to the private/public sector divide (see Section 2.2.1 above), another potentially relevant special category was signalled, i.e., that of 'simplified' (i.e. casual, intermittent) workers that are employed to perform daily basic work, which has several sub-categories.³⁴ This category is partly covered by the Labour Code and partly by a special Act: Article 203 of the Labour Code specifies which Labour Code articles do not apply to workers subject to simplified employment. However, no data on the number of such workers in the LTC sector is available in the country.
- Similarly, in **Spain**, where LTC workers can either be public or private employees (see Section 2.2.1 above), domestic workers are hired directly by the care recipient, engaging in a "special employment relationship" which excludes the application of the Labour Code.³⁵ While particular provisions for live-in domestic workers were introduced, these do not account for whether the live-in domestic workers provide LTC services, or perform other activities instead.

2.2.3 Where does the worker perform work?

The legal status of LTC workers may also depend on whether they perform their services at the home of the care recipient, or elsewhere.

- In the **Netherlands**, it was reported how the majority of LTC workers who perform LTC work **outside of the care recipient's home** have either concluded a contract of employment ([Article 7:610 Dutch Civil Code](#)) or work as independent contractors, i.e. are self-employed persons ([Article 7:400 Dutch Civil Code](#)): in both cases, the

³³ Civil servants are not workers and labour law does not apply to them. However, as the CJEU has stated that the concept of employee in EU Law has its own scope, some Directives (i.e, WTD) do apply to them. There is however a common regulation for nurses that are civil servants and public employees, i.e., Law 55/2003.

³⁴ Seasonal work can be performed 120 days per year, while casual work can be performed for 5 continuous days, 15 days per month and 90 days per year. Seasonal and casual work together may not exceed 120 days annually.

³⁵ Governed by Royal Decree 1620/2011, 14 November, por el que se regula la relación laboral de carácter especial del servicio del hogar familiar.

LTC worker concludes a contract with the nursing home/ care facility and not with the individual care recipient.

Differently, if LTC is provided **at the care recipient's home**, the LTC worker can still be either employed or self-employed but will conclude a contract with either the care recipient directly or with the home care agency. Usually, the care recipient pays the home care agency to provide home care services (*thuiszorg*). The home care agency hires the LTC worker (as either an employee or as a self-employed worker) to provide care in the recipient's home.

- In **Austria**, LTC is either provided in **residential care facilities** (where those in need of LTC live permanently), or in the **home of the person in need** of LTC (home care).

In the latter case, services may be provided by **external service providers** (mobile care), or alternatively by **family members** or live-in caregivers. In this regard, a special act³⁶ provides for two options for **external live-in carers**: they can either work under an employment contract to which special provisions on working time apply, or as self-employed persons if they have a trade license to provide personal care.³⁷ Conversely, the national report noted that usually no formal contractual relationship is established in the case of **family members** who provide LTC (except in the Federal State of Burgenland).

³⁶ Domestic Care Act – *Hausbetreuungsgesetz* – HBeG.

³⁷ § 159 Trade Act *Gewerbeordnung* – GewO.

2.3 Legal status of LTC workers in national jurisdictions

Further specificities related to the legal status of LTC workers were described by some of the national reports.

Table 1 presents the specificities of the legal status of LTC workers in those MS in which national reports included information on the composition and nature of employment of the LTC workforce. For the MS that are not included in this table, national reports do not include any specific information on the legal status of LTC workers.

Among the countries for which specificities are reported, self-employment was identified in **nine countries (AT, BE, CY, DE, DK, HU, LT, LU, NL)**. Undeclared work was reported to be an issue for **ten countries (AT, DE, EL, HR, HU, IT, LV, NL, PT, SI)**. Temporary agency work was reported to be widespread in **one country (DK)**. In some MS (**AT³⁸, BG, DK, FI, NL, SE as well as, partially, IE and SI**), family members can be formally employed as LTC workers when providing care. In this case, they generally also fall under the labour law applicable to employees.

Table 1. Specificities of legal status of LTC workers across MS

Country	Temporary agency work	Self-employed	Other	Volunteers	Undeclared	Family members as employees
AT		Nearly all live-in LTC workers are self-employed leaving a small percentage of live-in LTC workers with an employee status			Presence of undeclared domestic work	Family member who provides LTC can be employed by a state-owned company in a formal employment relationship only in one federal state (Burgenland) out of nine
BE	Possibility to hire workers as temporary workers through a temporary employment agency only when they	Self-employment most common among home nurses and physiotherapists				

³⁸ In Austria, according to the expert, the possibility of “formalising” the work of a family member providing care is possible in only one federal state.

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	start their job with LTC work					
BG						Family members who provide long-term care may be considered employees if they have concluded an employment contract with a social service provider to provide in-home care for their family member.
CY		Part of the nurses are self-employed				
CZ			<i>Social care assistants: persons who provide care to individuals who depend on assistance by others, i.e., social care assistants are neither considered self-employed (entrepreneurs) or employees³⁹</i>			
DE		A significant share of the workforce in both residential and in-home care is formally categorised as self-employed workers			Presence of undeclared domestic work	
DK	Reported widespread use by private agencies of temporary agency workers	Reported widespread use of outsourcing/subcontracting in the LTC sector – subcontracting to self-employed persons		Reportedly widespread		Family members who provide LTC services may be considered employees under at least two schemes (as providing in-home care or as providing

³⁹ Social care assistants provide care based on a written agreement concluded directly with the person they provide care to. The agreement must include detail on the parties to the agreement, the extent of assistance, the place and time of assistance, and the wage paid for the assistance. The wage paid for assistance is not subject to income tax up to the extent of the amount of the contribution provided to persons with degree IV disability, which is CZK 19 200 per month (approx. EUR 802). Health insurance for social care assistants is paid by the state and they are considered participants in the public pension scheme.

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						care to a long-term ill or disabled family relative)
EL	Limited				Live-in workers represent the biggest share of LTC workers and are often undeclared migrant workers	
FI	Used to a certain extent					Informal caregivers with contracts of informal care: they are covered by the Act on Support for Informal Care, but remain outside the framework of labour protection
HR	Limited			Yes, with entitlement to certain rights similar to the protection of employees	Marginal	
HU		Used to a certain extent by companies, NGOs or natural persons/families	Simplified workers: regulated partly by the Labour Code, and partly by a special Act. Simplified (casual, intermittent) workers are employees. Simplified employment is daily work, which has several sub-forms. Seasonal work may be 120 days per year, while casual work may be 5 continuous days, 15 days per month and 90 days per year. In addition, seasonal and	There is some level of voluntary work in the care sector (e.g., elderly). Volunteers are not classified as workers, since only very limited labour law provisions must be applied.	Marginal	

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			casual work together may not exceed 120 days in a year. Article 203 of the Labour Code enlists those Articles of the Labour Code, which shall not be applied for simplified employment. There are no data about the number of simplified workers in the LTC sector.			
IE						Family members may provide full-time LTC for a relative, receiving payment and being regarded as "employees"
IT					Prevalence of undeclared domestic work	
LT		Common in residential LTC				
LV			<i>Assistants for persons with a severe disability</i> on the basis of a service agreement with the municipalities (70 per cent are family members). Labour law does not apply to them. The services of assistants may be provided for a maximum of 100 hours per month (it is formally impossible to exceed regular working hours)		There is no relevant statistics or research, it is considered that live-in carers or privately hired care workers are often perform undeclared work.	
LU		Marginal				
NL		An increasing number of Dutch workers work are self-employed persons which applies to the LTC sector as well (the number of self-employed people			Marginal	Conclusion of a care agreement between the person in need of LTC services and the family member for four days/week or more, which entitles

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		grew to 1.2 million in the third quarter of 2022, with the largest growth among self-employed persons in health and welfare occupations)				the caregiver to full labour law protection
PT					Undeclared work widespread in the domestic LTC sector	
SE			Individual or “ <i>personal assistants</i> ” were introduced with the aim of better integrating disabled persons to participate in society. “Personal assistants” are funded by taxes and paid by the local authorities (municipality) directly or indirectly, if the need for care does not exceed 20 hours a week			Family members who provide LTC services are usually employed as personal assistants. They are subject to special statutory provisions in the Act on Domestic Work (1970:943) , under para 1
SI					Marginal	No obstacles for family members to become personal assistants according to the provisions of the Personal Assistance Act; they are employed by a provider of personal assistance services and have the status of an employee

2.3.1 Live-in LTC workers as temporary agency workers

It is only in a limited number of MS that live-in LTC workers play a significant role in LTC provision (in particular: Italy, Greece, Malta, Cyprus, Portugal, Spain, Austria and Germany). Possible weaknesses and loopholes in the regulation of this type of employment deserves a particular attention in these MS.

Table 2 provides an overview of the MS in which live-in LTC workers can be classified as temporary agency workers (TAW) and in such a case, whether their rights are effectively safeguarded under the Temporary Agency Work Directive (TAWD). **In nineteen countries (BE, CZ, DE, EE, EL, ES, FI, HR, HU, IE, IT, LU, LV, MT, NL, RO, PL, SE, SI) live-in LTC workers can qualify as TAW under the labour law legislation.**

However, in some of these countries this qualification, although possible in theory, is not implemented in practice (**BE, CZ, ES, SI**) or the actual use of such type of work is limited (**EL, PL, SE**). In addition, in some countries this possibility is provided by law with (**IE, MT, NL**) or without limitations (**HU**).

Table 2. Classification of live-in LTC who work as Temporary Agency Workers and their protection under the Temporary Agency Work Directive (TAWD)

Country	Domestic LTC live-in workers classified as TAW	Effective protection of their rights under the TAWD
AT	No.	N/A
BE	Yes.	Yes.
BG	No.	N/A
CY	No.	N/A
CZ	Theoretically yes, but not encountered in practice.	N/A
DE	Yes.	Incorrectly classified temporary agency workers are common both among external staff of formal LTC providers and among live-in caregivers. Unlawful temporary agency work results in a retroactive reclassification as an employment relationship with the user (section 10 (1) of the Act on Temporary Agency Work/AÜG).
EE	Yes. The labour legislation in Estonia does not exclude this possibility.	The rights under the TAWD are not effectively protected for live-in caregivers. Agency work is not regulated in detail in Estonian labour law. The Estonian Employment Contracts Act only includes a few provisions on TAW. No separate regulation for temporary agency workers has been established.

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EL	Yes. However, this form of work is very rare in the LTC sector.	No weakness in implementing the TAWD in LTC sector has been identified.
ES	Theoretically possible, but in practice it is difficult. The 'temporary' nature of the services provided by temporary work agencies and the legal rules that require the services to be covered under a fixed-term employment contract are tremendous obstacles. In practice, some employment agencies are specialised in LTC, but are not temporary work agencies	The TAWD was fully transposed by Law 14/1994. However, there are no references to domestic workers or live-in carers. This is not its specific scope of application.
FI	Yes. There is no regulation that would prevent temporary agency work. If the definition of an employment relationship is fulfilled and the work can be regarded as temporary agency work the provisions on temporary agency work apply.	Yes. There is no difference between different types of work in the legislation when it comes to the requirement to apply provisions on temporary agency work related to the TAWD, so all these provisions apply when temporary agency work is carried out in an employment relationship.
FR	No.	N/A
HR	Yes.	No information available.
HU	Yes, the Labour Code allows for temporary agency work without limitations in this respect (Articles 214-221)	Yes.
IE	Yes, but only if the live-in caregiver is posted by an employment agency.	If live-in care is provided by an employment agency, section 6(1) of the Protection of Employees (Temporary Agency Work) Act 2012 stipulates that the caregiver, during his or her assignment, is entitled to the same basic working and employment conditions to which he or she would be entitled if he or she were directly employed by the user
IT	Yes. In this case, the Legislative Decree of 14 September 2015 No. 148 applies.	Yes. In case staff is leased intermediately by a social cooperative, the work carried out by foreign workers as caregivers of older persons or persons with disabilities is considered "domestic work". The user, in a particular court decision, was not the employer, because an

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		employment relationship had been established between the cooperative and the worker. ⁴⁰
LT	No.	N/A
LU	Yes.	N/A
LV	Yes.	No evidence due to the lack of information and relevant practice
MT	Yes, if the live-in caregiver's work meets the criteria established in the Temporary Agency Workers Regulations, 2011.	No, the situation of live-in caregivers is very unique and as such, the TAWD (as transposed) does not effectively protect them.
NL	Yes, if the live-in caregiver has concluded an agreement for temporary agency work. Whether or not this is temporary agency work depends on the contract that was concluded.	The rights of live-in caregivers under the TAWD are protected just like they are for other temporary agency workers.
PL	Yes. It is possible for live-in care work to be recognised as temporary agency work, although the situations in which this could happen are very limited. In accordance with Polish regulations, temporary agency work may only include tasks: (a) of a seasonal, periodic, ad hoc nature or, (b) who's on-time performance by the user's employees would not be possible, or (c) whose performance is the responsibility of an absent employee of the user employer. It will be very rarely possible to categorise live-in care work in one of the above-mentioned tasks.	No information available.
PT	No.	N/A
RO	Yes, the user can also be a natural person ⁴¹ (Article 88 para. (4) of the Labour Code).	There is no case law in this area and there are very few cases on legislation of temporary agency work.
SE	The issue of live-in care workers has not been raised in the Swedish labour law and is extraordinarily rare, if even existing.	No information available.
SI	Theoretically yes, but due to insignificant extent of live-in care work in Slovenia, this has not yet been raised as a relevant issue.	No information available.
SK	No. The temporary work agency is regulated in Act No. 5/2004 Coll. on employment services, as amended (Articles 29-31). According to Article 31 paragraph 1 of this Act, the temporary work agency provides the temporary agency worker protection in accordance with the special regulations on working conditions and employment conditions.	This special regulation is primarily the Labour Code. The activity of temporary work agencies is regulated in Articles 58, 58a and 58b. The provision of live-in care services as temporary agency work in the Labour Code is not explicitly regulated.

⁴⁰ Court of Cassation, Order No. 35080 of 29 November 2022.

⁴¹ A natural person, in contrast to a legal person, is a living/individual human being considered as a subject of rights and obligations.

2.3.2 Bogus self-employment in the LTC sector

Data on the occurrence and rate of bogus self-employment in the LTC sector are not available in most MS. However, despite this lack of data, the possible occurrence of bogus self-employment in the LTC sector was identified by national experts in **six MS (AT, DE, HU, IE, LT, and PL)**.

In **Hungary**, companies and civil organisations were reported to use bogus self-employment (especially for live-in carers and platform workers) to cut the costs of employment.

In **Lithuania**, misclassification issues reportedly appear in the private sector, where bogus self-employment is used by private service providers (or the work performed in private households is not formalised). This option is chosen by private care recipients to circumvent the rigid rules of labour law and the relatively high taxation rate.

Live-in carers are most frequently sent to **Germany** by agencies from other MS; the majority are from Poland, followed by Bulgaria and Romania, but also from other Central and South Eastern European and Baltic countries, according to a survey among agencies⁴². Formally, the majority are either classified as self-employed persons or, even more frequently, are posted workers under the authority of the posting agency. Both classifications have been severely criticised in the literature, notably as it was argued that such workers cannot be compared with self-employed service providers as the caregiver's tasks are determined by the care recipient and his/her needs and wishes are not predictable. Case law has been inconclusive and is based on a case-by-case assessment which has given a varying degree of importance to the different criteria for the classification as (direct) employee. As for self-employed caregivers hired by formal LTC providers for service provision, reference can be made to the 2019 decision of the Federal Social Court (B 12 R 6/18 R). In that case, the Federal Social Court for the first time found that a typical situation of insourcing of a "freelance" carer by an LTC provider for work side-by-side with its regular staff actually amounted to illegal temporary agency work (resulting in a direct employment relationship with the user). The prevalence of bogus self-employment is considered to be very high.⁴³

Bogus self-employment has also been identified as one of the biggest problems in LTC in **Poland**: this concerns particularly nurses who provide in-home care and to caregivers employed directly by the person in need of care or by the individual's family.

In **Austria**, applying the general criteria to determine an employment relationship, it is likely that persons providing live-in domestic LTC as self-employed could be re-classified.⁴⁴ This has been mentioned in the literature.⁴⁵

Finally, the expert signals that bogus self-employment is likely to occur in **Ireland** in the context of platform work.

⁴² [Branchenreport-2021.pdf \(24h-pflege-check.de\)](#).

⁴³ SRa Redaktion, Sozialversicherungspflicht freiberuflicher Pflegekräfte, SRa (Sozialrecht Aktuell) 2019, 234 et seq.; ver.di (2023), Warum Pflegekräfte in die Leiharbeit wechseln, available <https://gesundheit-soziales-bildung.verdi.de/themen/leiharbeit>.

⁴⁴ Schaub, Rechtsfragen der 24-Stunden-Betreuung, in Pfeil/Reichel/Urnik, Pflege und Betreuung – who cares? (2020) pp. 66 et seq.

⁴⁵ Schaub, in Pfeil/Reichel/Urnik, Pflege und Betreuung – who cares? (2020) pp. 66 et seq; Kaltenegger, Personenbetreuung als selbständige Tätigkeit?(2018).

2.3.3 Possibilities of formalising informal care provided by family members as LTC workers

Although family members are considered informal caregivers and are not included within the scope of this study,⁴⁶ some national reports (**AT⁴⁷, BG, DK, FI, NL, SE as well as, partially, IE and SI**) highlighted how family members may be formally employed as LTC domestic workers and provide care to their relatives or friends.

In **Austria**, the possibility for a family member who provides LTC to be employed by a state-owned company in a formal employment relationship only exists in one federal state (Burgenland, see above Section 2.2.3).

In **Bulgaria**, family members who provide long-term care may be considered employees if they have concluded an employment contract with a social service provider to provide in-home care for their family member.

In **Denmark**, according to the Social Services Act (SSA), section 118, a person may under certain conditions be employed by the municipality to provide care to a close relative who either has a long-term illness or is disabled, in their residence. Family members who provide care do not necessarily live in the same household with the person they provide care for. One precondition is for this arrangement to be an alternative to non-residence 24-hour care, or that the need for care corresponds to a full-time job. Moreover, the applicant (close relative) must be closely connected to the ordinary labour market. The individual is employed by the municipality in which the close relative resides in. The wage level is defined in the Social Services Act and corresponds to the maximum level of sick leave benefits. The scheme includes pension contributions, with the employer paying an eighth percentage of the salary as contribution: 4 per cent is deducted from the salary as the employee's pension contribution, cf. section 118 (2) SSA. According to section 118 (3), the duration of the employment relationship is limited to six months, with the possibility of extending employment by three additional months under special circumstances only.

In **Ireland**, family members may provide full-time LTC for a relative, receiving payment and being regarded as "employees" (with the exception of some legislation excluding employment by an employer of an employee who is a relative and "who is a member of the employer's household and whose place of employment is a private dwellinghouse of a farm in or on which both the employee and the employer reside").

In the **Netherlands**, even if this was reported as an unusual occurrence, it is possible for an individual to provide LTC for a family member against remuneration, either as an employee or as a self-employed. The care recipient usually qualifies for a PGB (*persoonsgebonden budget*), which is a personal allowance that the care recipient can use to purchase health care services: in this case, the care recipient and the family member may conclude a care agreement, which specifies the scope of labour law protection in different types of contracts/care agreements, depending on the family relationship and working time.

In **Slovenia**, family members can be personal assistants (which differs from informal family assistants who are paid for their loss of income by the state budget) according to the provisions of the Personal Assistance Act: in that case, they are employed by a provider of personal assistance services and have employee status.

⁴⁶ Informal caregivers may be entitled to state subsidies, tax incentives, coverage of social security contributions and special leave from their regular employment when caring for a family member. However, in these cases, they are not classified as employees and are not covered by labour law provisions.

⁴⁷ In Austria, the possibility of "formalising" the work of a family member providing care is possible in only one federal state.

In **Sweden**, family members who provide LTC are usually employed as personal assistants. In that case, they are covered by the special statutory provisions in the Act on Domestic Work (1970:943), under para 1. In the reportedly unusual situation where they are not employed as personal assistants, while providing LTC for a family member, they are not covered by that legislation and are excluded from most ordinary labour laws, such as employment protection legislation.

Conversely, in **Finland** the Act on Support for Informal Care covers support for informal caregivers. According to section 2 of the Act, an informal caregiver is a relative or another person close to the care recipient who has signed a contract of informal care. Informal caregivers who are covered by the Act on Support for Informal Care remain outside the framework of labour protection, being instead bound to work at home and lacking flexibility or working hours protection. The national report highlighted how making use of the free time they are entitled to under the Act, may prove difficult in practice.

2.4 Atypical employment in the LTC sector

In **eighteen MS (AT, BE, BG, DE, DK, EL, ES, FI, FR, HR, IE, IT, LU, NL, PL, PT, SE, SI)**, the LTC sector is characterised by a high use of non-standard forms of employment. Zero-hours contracts were only mentioned in **one national report (CZ)**.

Finally, the national report for **Cyprus** reported on a specific type of employment contract for migrant domestic LTC workers (non-EU nationals with a domestic worker visa), which establishes a restrictive scheme limiting the switch between employers and does not provide for the possibility to negotiate a salary increase, nor for freedom of association. Based on a standardised contract of employment provided by the Ministry of Interior, this regime diverges significantly from the generally applicable statutory regulations and collective agreements.

Table 3 provides an overview of the different types of atypical employment used in the LTC sector across the MS.

Table 3. Types of atypical employment used in the LTC sector⁴⁸

Country	Part-time	Fixed-term	Zero-hour contracts
AT	Widespread in residential care		
BE	Many employees take advantage of legal opportunities to work part-time (or take career breaks)	Since the abolition of the probationary contract, fixed-term employment contracts (or temporary civil service appointments in the public sector) are mainly used at the beginning of the worker's career to determine his/her suitability for a job in the health care (including LTC) sector. Given such specificity, they are overall not very common.	
BG		Persons hired to provide LTC work as personal carers at the home of a person with severe disabilities under the Personal Assistance Act conclude fixed-term contracts only. Overall, 32 per cent of LTC workers have fixed-term contracts.	
CY		There is a specific type of employment contract for migrant domestic LTC workers (non-EU nationals with a domestic worker visa).	
CZ			Agreements on work performed outside an employment relationship. These are Agreements to Complete an Assignment ("DPP") and Agreements to Perform Work ("DPČ"); they can generally be considered zero-hours contracts ⁴⁹
DE	Half of the LTC workers have a part-time employment contract		
DK	Widespread use in the public LTC sector	Around one fifth of LTC workers have a fixed-term contract.	
EL		A large share of "help at home" programme workers are employed under fixed-term contracts because their employment is linked to EU programmes/financing. Overall, 17 per cent of LTC workers have a fixed-term contract.	
ES		30 per cent of LTC workers have a fixed-term contract.	

⁴⁸ Many countries are not included in this table due to the fact that no specific types of contracts were described in the national reports, mainly due to lack of such information/statistical data at national level.

⁴⁹ Under a DPP and DPČ, the employer does not have the obligation to assign work to the employee. Under a DPP, a maximum of 300 hours of work can be performed annually. Under a DPČ, the extent of the performance of work may not exceed 20 hours per week on average within a given reference period.

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FI	25 per cent of LTC workers work part time	Around one fifth of LTC workers have a fixed-term contract.	
FR	31 per cent of LTC workers work part time/ 89 per cent of domestic LTC workers work part time (2019)	17 per cent of LTC workers have a fixed-term contract.	
HR	Majority of personal assistants		
IE	29 per cent of workers have a part-time employment contract		
IT	30 per cent of LTC workers work part time	18 per cent of LTC workers have a fixed-term contract.	
LU	Around one third of the workforce (nurses and personal caregivers not only in LTC) works part time		
NL	The large majority of the workforce is employed part-time		
PL		One quarter of LTC workers have a fixed-term contract.	
PT	27 per cent of LTC workers are employed part-time		
SE	Half of LTC workers work part-time	28 per cent of LTC workers have a fixed-term contract.	
SI	Limited (below 10 %)	Only in exceptional cases in accordance with labour legislation. However, during the COVID-19 crisis, special (emergency) legislation allowed the recruitment of additional health care and care workers, especially in facilities for older persons and other similar institutions on a temporary basis, on fixed-term contracts, as well as the temporary recruitment of students	

2.5 Overview of national legal frameworks specifically designed for the LTC sector

Table 4 presents the most important laws and collective agreements specifically designed for and/or applied to LTC workers, or specific groups thereof, in **nineteen MS (AT, BE, BG, DE, DK, ES, FI, HR, IT, LT, LV, LU, NL, MT, PL, PT RO, SE, SI)**. The MS that are not referred to in this table did not report on national legal frameworks specifically designed for and/or applicable to the LTC sector or part of the broader care sector.

According to some national reports (**CZ, MT, SE**), collective agreements (especially enterprise level agreements) which may be relevant for LTC workers are not publicly available. Finally, it is worth noting that in **Portugal**, a list of collective agreements was mentioned that could potentially be applicable to the employment relationship with LTC workers (namely nurses and personal care workers). Such agreements are not included in the table below as they have a broader scope (beyond LTC or care).

Table 4. Overview of national legal frameworks (laws and collective agreements) specifically designed for the LTC sector (or part of the broader care sector)

Country	National legal frameworks specifically designed for the LTC sector
AT	<p><i>Domestic care</i></p> <p>In the field of domestic care, the Domestic Care Act has been issued.</p> <p>The Domestic Workers Act applies to persons who provide LTC in private households. A Minimum Wage Scale for workers in private households applies to such workers. This is crucial because no generally applicable statutory minimum wage applies in Austria, and collective agreements do not exist for domestic work due to the lack of a representative employer organisation.</p> <p><i>Other LTC providers</i></p> <p>For other types of LTC providers, general labour laws apply and they are covered by collective bargaining agreements. The most important are the collective agreements for social services (mobile care) and workers who work in religious old age and care facilities. A special collective agreement applies to the Red Cross, which also provides mobile services.</p>
BE	<p>Law of 20 November 2022 containing measures regarding staff shortages in the healthcare sector and the executing Royal Decree of 27 November 2022. Law adopted to address the high workload, and difficulties in finding suitable skilled staff in the LTC sector.</p> <p>Collective bargaining agreement of 10 January 2022 concluded in the Joint Committee 330 regarding the organisation of work and the stability of timetables.</p>
BG	<p>Personal Assistance Act of 2018, as subsequently amended. The law regulates the employment status of personal care workers providing care in the home of persons with permanent disabilities.</p> <p>Ordinance No. RD-07-7 of 28.06.2019 for inclusion of persona caregivers, issued by the Minister of Labour and Social Policy, as subsequently amended. It sets out the content and procedure for concluding a model employment contract with a personal caregiver. The agreement is concluded on the basis of Art. 14, para. 3 of the Personal Assistance Act. An employment contract is concluded with the prior consent of the three parties – the personal caregiver, the social service provider and the beneficiary. A written agreement on the content is a condition for the conclusion of an employment relationship. A contract with an in-home caregiver for personal assistance can only be concluded for a fixed term.</p> <p>Separate collective agreements apply to the long-term care sector – for example, in 2022, a collective labour agreement was concluded for “Social Services” of the Municipal Enterprise for the Municipality of Pomorie. Pursuant to this agreement, those</p>

	<p>who work in a specific setting are entitled to 5 days of additional paid leave, and all others who perform auxiliary functions will be entitled to an additional 2 days of paid leave.</p>
DE	<p><i>Nurses/personal care workers:</i></p> <ul style="list-style-type: none"> • Fifth Regulation on Working Conditions in Care Work (5. PflegeArbbVO). This Regulation provides for minimum rates of pay, including a regulation about standby time, and annual leave entitlements. Pay rates differentiate by qualification, referring to the standardised legal training requirements of the PfIBG. • Care Occupations Law (PfIBG) – on occupational qualifications and training requirements.
DK	<p><i>Public sector agreements:</i></p> <ul style="list-style-type: none"> • The collective agreement for social and health care personnel, KL and FOA, 2021-2024. • The collective agreement for social and health care personnel, Danske Regioner and FOA, 2021-2024 <p><i>Private sector agreements (nation-wide)</i></p> <ul style="list-style-type: none"> • The collective agreement for social and health care temporary agency workers. • The collective agreement for employees mainly occupied to perform service tasks for the Danish public sector, including care, who are employed in a company that is member of the employers' association KA Pleje, 2020-2023. • The collective agreement for BPA-workers, DI og FOA, 2020-2023. • The collective agreement for BPA-workers, Dansk Erhverv og FOA, 2020-2023. • The collective agreement for domestic disability assistance, excl. BPA, Dansk Erhverv og FOA, 2020-2023.
ES	<ul style="list-style-type: none"> • Royal Decree 1620/2011⁵⁰ • Royal Decree Law 16/2022⁵¹ <p>The decrees provide for a 'special employment relationship' which excludes the application of the Labour Code. The 2022 amendment extended unemployment benefits (in compliance with CJEU case law) and made it more difficult for employers to terminate the contracts of employment.</p> <p>This does not only cover 'care for family members and for persons who live in the same household', according to Article 1(4) of Royal Decree 1620/2011, but also covers domestic activities in a broader sense (i.e., cleaning, ironing, gardening or driving vehicles). The same regulations apply to all such workers. Specific provisions apply to live-in workers, but do not distinguish whether they provide LTC or not.</p>
FI	<ul style="list-style-type: none"> • Collective agreement of the Seure leasing company Ltd for temporary agency workers; • Collective agreement for the health services sector; • Collective agreement for Työterveyslaitos; • Collective agreement of the Student Health Care Foundation; • Collective agreement for the private social services sector (collective bargaining of several nation-wide collective agreements is currently ongoing). <p>There are also generally applicable collective agreements in the LTC sector. However, workers who are not classified as employees under an employment relationship remain excluded from the scope of such agreements.</p>
HR	<p>Collective Agreement for the Area of Social Assistance Collective Agreement for the Area of Health Care and Health Insurance</p>

⁵⁰ Royal Decree 1620/2011, 14 November, por el que se regula la relación laboral de carácter especial del servicio del hogar familiar.

⁵¹ Royal Decree 16/2022, 6 September, para la mejora de las condiciones de trabajo y de Seguridad Social de las personas trabajadoras al servicio del hogar.

	Collective Agreement for the Area of Private Health Care in Croatia
IT	<p><i>Personal caregivers /domestic workers</i></p> <p><i>Contratto collettivo nazionale (National collective agreement) colf e badanti.</i></p> <p>This collective agreement, among others, specifies the professional profiles of such workers and provides for minimum wage, the rules on working time (also with reference to discontinuous or stand-by work), determines the length of the notice period in the event of termination of the relationship, protects pregnant workers, etc.</p> <p><i>Nurses</i></p> <ul style="list-style-type: none"> • <i>Contratto collettivo nazionale Sanità pubblica</i> for workers employed by public institutions such as the National Health Service; • <i>Contratto collettivo nazionale Sanità privata</i> for workers employed by private employers such as private clinics. <p>They provide specific rules for health care workers, taking the specificities of the entire health care sector into account. In any case, employers cannot derogate from the law.</p>
LT	<ul style="list-style-type: none"> • The Law of the Republic of Lithuania on Nursing Practice and Midwifery Practice; • Decree on the description of the procedure for determining the workload of nurses; • Law on Social Services; • Collective bargaining agreement for the public health care sector (applicable to nurses and medical doctors) and for social workers in the public sector.
LU	<p>Article 350 (7) of the Social Security Code: system of in-home caregivers, i.e., one-third directly provides (i.e., not through an official network/ provider) all or part of the care services the care recipient’s own home if the person in care of need continues to live at home.</p> <p>The recipient can also hire someone to provide full-time or part-time care. Such persons are considered “employed caregivers” (<i>aidant salarié</i>). They benefit from the provisions of the Labour Code, but not from the collective agreement for employees in the assistance and care sector and the social sector (CCT-SAS).⁵² This collective agreement provides more rights than the Labour Code, in particular wage levels above the minimum wage, additional holiday entitlements and clear rules on working time</p>
LV	<p>The LTC employed by the state and municipalities are covered by collective agreement (general agreement) concluded by Latvian Health and Social Care Workers’ Trade Union and the Ministry of Welfare.</p>
NL	<p>LTC workers fall within the scope of general Dutch labour law (no separate national legislation exists for this sector).</p> <p>Collective labour agreements might apply to health care workers depending on where they work, their profession and contractual agreement.</p> <ul style="list-style-type: none"> • Health care workers in hospitals fall within the scope of the collective agreement for hospitals. • The main collective agreement applicable to LTC workers is the collective agreement for nursing homes, care facilities, home care, maternity health care and youth health care (VVT), with a request pending to declare it universally applicable at the national level.
MT	<p>Hospitals and Clinics Wages Council Order, 1968, which operates for all employees in any private hospital, nursing or convalescent home, dental or other clinic including dental mechanics and medical or nursing institutions or similar establishments.</p>

⁵² *Convention collective de travail pour les salariés du secteur d’aide et de soins et du secteur social;* available here: <https://www.copas.lu/wp-content/uploads/2021/02/CCT-SAS-2021-2023.pdf>.

	<p>Domestic Service Wages Council Order, which specifically applies to live-in/ domestic workers and includes LTC workers (either live-in or in-home caregivers).</p>
PL	<p>There is no statute in Poland that would comprehensively regulate the situation of persons providing LTC services. It is only possible to refer to acts that only vaguely relate to the situation of such employees:</p> <ul style="list-style-type: none"> • <i>Ustawa z dnia 15 lipca 2011 r. o zawodach pielęgniarstwa i położniczej Dz.U. 2019 poz. 576 (Act on the professions of nurses and midwives).</i> • <i>Rozporządzenie Ministra Zdrowia z dnia 20 sierpnia 2012 r. w sprawie szczegółowych wymagań dotyczących kształcenia pielęgniarek i położnych Dz.U. 2012 poz. 970 (Requirements for the education of nurses and midwives).</i> • <i>Ustawa z dnia 15 kwietnia 2011 o działalności leczniczej Dz. U. 2022 poz. 633 (Act on medical activity).</i> • <i>Rozporządzenie Ministra Zdrowia z dnia 22 listopada 2013 r. w sprawie świadczeń gwarantowanych z zakresu świadczeń pielęgnacyjnych i opiekuńczych w ramach opieki długoterminowej Dz.U. 2015 poz. 1658 (Regulation on guaranteed benefits in the field of nursing and care services as part of long-term care).</i> • <i>Ustawa z dnia 12 marca 2004 r. o pomocy społecznej Dz. U. 2021, poz. 2268 (Act on social assistance).</i> • <i>Ustawa z dnia 19 sierpnia 1994 r. o ochronie zdrowia psychicznego Dz.U 2022 poz 2123 (Act on protection of mental health).</i> • <i>Ustawa z dnia 26 czerwca 1976 Kodeks pracy D. U. 2022, poz. 15.10 (Labour Code).</i> • <i>Ustawa z dnia 23 kwietnia 1964 Kodeks cywilny Dz. U. 2022 poz. 1360 (Civil Code).</i>
PT	<p>Domestic Work Regime (Decree-law no. 235/92, of 24 October), which applies to all domestic workers.</p> <p>In January 2023, a Portuguese Parliament a proposal of law (Proposal of Law no. 15/XV¹⁰), which intends to amend the Domestic Work Regime, proposing to modify several provisions related to working time matters was being discussed).</p>
RO	<p><i>Health Care Workers (nurses)</i></p> <p>Labour Code; Law 95/2006 on healthcare reform;⁵³ Order 253/2018 for the approval of the Regulation on the organization, operation and authorization of palliative care services;⁵⁴ Emergency Ordinance no. 144/2008 on the profession of nurses, midwives and the medical assistants and the organization and functioning of the Order of Nurses, Midwives and Medical Assistants in Romania;⁵⁵ Order 870/2004 for the approval of the Regulation on working time, the organization and performance of stand-by duty in public units in the health sector;⁵⁶</p> <p><i>Domestic workers</i></p> <p>The framework law is the Social Assistance Law no. 292/2011;⁵⁷ for its implementation there are special laws regarding the social protection of different categories of beneficiaries entitled to long-term care services.</p>
SE	<p>Most, or at least many, collective agreements are not publicly available. The below listed are understood to be the major and most important collective agreements for LTC workers:</p> <ul style="list-style-type: none"> • Act on Domestic Work (<i>Lagen (1970:943) om husligt arbete</i>). • Collective agreement for personal assistants 2021-2023 Vårdföretagarna Kommunal (care companies) (<i>Kollektivavtal Personlig assistans 2021-2023 Vårdföretagarna Kommunal</i>).

⁵³ Republished in the Official Gazette of Romania no. 652 of 28 August 2015

⁵⁴ Published in the Official Gazette of Romania no. 199 bis of 5 March 2018.

⁵⁵ Published in the Official Gazette of Romania no. 785 of 24 November 2008.

⁵⁶ Published in the Official Gazette of Romania no. 671 of 26 July 2004.

⁵⁷ Published in the Official Gazette of Romania no. 905 of 20 December 2011.

	<ul style="list-style-type: none"> • Collective agreement on general conditions and wages. Industry care and treatment facilities and care facilities (<i>Kollektivavtal Allmänna villkor och löner. Bransch Vård och behandlingsverksamhet samt omsorgsverksamhet 2021-10-29, Vårdföretagarna, Vision, Akademikerförbunden</i>). • Collective agreement on general provisions AB20 (<i>Kollektivavtal Allmänna bestämmelser AB20</i>). • Main agreement on pay and general terms and conditions of employment and recommendations on local collective agreements, etc. HÖK 22 (<i>Huvudöverenskommelse om lön och allmänna anställningsvillkor samt rekommendation om lokalt kollektivavtal mm HÖK 22</i>).
SI	<p>In addition to general labour law legislation, several special laws are of relevance:</p> <ul style="list-style-type: none"> • Health Care and Health Insurance Act, OJ RS No. 9/92 et subseq., • Health Services Act, OJ RS No. 9/92 et subseq. • Social Assistance Act, OJ RS No. 54/92 et subseq.) • Parental Care and Family Benefits Act, OJ RS No. 26/14 et subseq. • Personal Assistance Act, OJ RS No. 10/17 et subseq. <p>There is a sectoral collective agreement:</p> <ul style="list-style-type: none"> • Collective agreement for the health care and social protection sector, OJ RS No. 15/94 et subseq.

3 Comparative overview of the application of national law transposing EU labour law to LTC workers

3.1 Applicability of national law transposing EU labour law to LTC workers

3.1.1 Applicability of EU labour law to nurses

According to the **majority of national reports (AT, BE, CY, CZ, DE, DK, EE, EL,⁵⁸ ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK)**, nurses as LTC workers are fully covered without any exceptions by the national law transposing EU labour law (the Working Time Directive - WTD, the Directive on Work-Life Balance - WLBD, the Temporary Agency Work Directive -TAWD, the Directive on Part-Time work - PTWD, the Directive on Fixed-Term Work- FTWD, and the Directive on Transparent and Predictable Working Conditions - TPWCD).⁵⁹

Conversely, for **two MS (BG, MT)** exemptions from specific regulations were reported: in **Bulgaria** regarding the TAWD (temporary agency work not being authorised in the sector), and in **Malta** regarding the WTD (for the private sector only, and without prejudice of the contents of relevant collective agreements).

Table 5 presents the national laws in MS which transposed EU labour law for **nurses**.

Table 5. Applicability of EU labour law to nurses

⁵⁸ There is no distinction in Greece between nurses and personal care workers. Due to the absence of a distinct category for personal care workers, many nurses essentially also perform the tasks of the former. Social workers also work in LTC structures.

⁵⁹ This concerns the cases where the EU labour law has been transposed and implemented in national law. The information included in the table regarding the transposition of Directives dates January 2023, when the national reports were written.

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Country	WTD	WLBD	TAWD	PTWD	FTWD	TPWCD
AT	Applies	Applies	Applies	Applies	Applies	Applies (although not yet fully transposed)
BE	Applies	Applies	Applies	Applies	Applies	Applies
BG	Applies	Applies	Does not apply to LTC	Applies	Applies	Applies
CY	Applies	Applies in the public sector and where there are applicable collective agreements	N/A	Applies in the public sector	Applies in the public sector	Applies in the public sector
CZ	Applies, provided they have concluded an employment relationship	Not yet transposed	Applies, provided they have concluded an employment relationship	Applies, provided they have concluded an employment relationship	Applies, provided they have concluded an employment relationship	Not yet transposed
DE	Applies	Applies	Applies	Applies	Applies	Applies
DK	Applies	Applies	Applies	Applies	Applies	Not yet transposed
EE	Applies	Applies	Applies	Applies	Applies	Applies
EL	Applies	Applies	Applies	Applies	Applies	Applies
ES	Applies	Applies	Applies (theoretically possible in the field of civil service, but job boards are usually used to replace workers)	Applies	Applies	Applies
FI	Applies if nurses work under an employment relationship, the Working Time Act (Työaikalaki, 872/2019) applies	Applies, (Employment Contracts Act)	Applies (Employment Contracts Act)	Applies(Employment Contracts Act)	Applies(Employment Contracts Act)	Applies(Employment Contracts Act)
FR	Applies	Not yet transposed	Applies	Applies	Applies	Not yet transposed
HR	Applies	Applies	Applies	Applies	Applies	Applies
HU	Applies	Applies	Applies	Applies	Applies	Applies as of January 2023
IE	Applies, but section 3(2)(b) of the Organisation of Working Time Act 1997 provides that	Applies	Applies	Applies	Applies	Applies

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	the sections dealing with daily rest periods and breaks at work, weekly rest periods, Sunday work, and weekly and nightly working hours do not apply to a person employed by a relative who is a member of that relative's household and whose workplace is a private residence or farm where he or she and the relative reside					
IT	Applies. Legislative Decree 8 April 2003, No. 66	Applies. Legislative Decree 30 June 2022, No. 105	Applies. Legislative Decree 15 June 2015, No. 81	Applies. Legislative Decree 15 June 2015, No. 81	Applies. Legislative Decree 15 June 2015, No. 81	Applies, but only if the employment relationship lasts more than 3 hours/week with the same employer. Legislative Decree 27 June 2022, No. 104
LT	Applies	Applies	Applies	Applies	Applies	Applies
LU	Applies	Applies	Applies	Applies	Applies	Applies once implemented
LV	Applies	Applies	Applies	Applies	Applies	Applies
MT	Does not fully apply . See Hospital and Clinics Wage Council Wage Regulation Order, 1977 (private sector) (collective agreement for public sector)	Applies	Applies	Applies	Applies	Applies

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NL	Applies. It is transposed in the Working Time Act , the Working Time Decree and the Articles 7:634-645 Dutch Civil Code	Applies. The Directive is transposed in the Act on Paid Parental Leave	Applies, if they are temporary agency workers within the meaning of Article 1(1) Law on allocation of labour force by intermediaries	Applies. The Framework Agreement is transposed in Article 7:648 Dutch Civil Code	Applies. The Framework Agreement is transposed (primarily) in Articles 7:649 and 7:668a Dutch Civil Code	Applies
PL	Applies unless the individual is working under a non-employment contract (service contract)	Not yet transposed	Applies	Applies unless the individual is working under a non-employment contract (service contract)	Applies unless the individual is working under a non-employment contract (service contract)	Applies unless the individual is working under a non-employment contract (service contract)
PT	Applies	Not yet transposed. (transposition is underway with some provisions addressed to employees with the status of informal caregiver, such as (i) the right to a carer's leave of 5 working days per year; (ii) the right to work under a part-time contract for a maximum period of 4 years; (iii) the right to work under a flexible work arrangement to provide care; (iv) special protection in case of dismissal)	Applies	Applies	Applies	Not yet transposed (transposition is underway)
RO	Applies	Applies	Applies	Applies	Applies	Applies
SE	Applies. Nurses are covered by the Working Time Act (Lag 1982:673 om anställningsskydd)	Applies. The category is covered by the different acts transposing the Directive. See the	Applies. The ordinary statutory law applies. Act on temporary agency work (" Bemanningslagen ")	Applies. The ordinary statutory law applies, the Employment Protection Act (lagen 1982:80 om anställningsskydd)	Applies. The ordinary statutory law applies, the Employment Protection Act (lagen 1982:80 om anställningsskydd)	Applies

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	which transposes the Directive	Government Bill here .		and the Act on protection against discrimination of part-time and fixed-term employees (lagen 2002:293 om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning)	and the Act on protection against discrimination of part-time and fixed-term employees (lagen 2002:293 om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning)	
SI	Applies	Applies	Applies	Applies	Applies	Applies
SK	Applies	Applies	Applies	Applies	Applies	Applies

3.1.2 Applicability of EU labour law to personal carers

The situation of personal carers as LTC workers appears to be similar to the one of nurses. According to the **majority of national reports (AT, BE, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LU, LV, NL, PL, PT, RO, SE, SI, SK)**, personal carers are fully covered without any exceptions by the national law transposing EU labour law.⁶⁰

Again, in **two MS (BG, MT)** exemptions from the application of specific regulations were reported: in **Bulgaria** from the TAWD (temporary agency work not being authorised in the sector), and in **Malta** from the WTD (for the private sector only, and without prejudice of the contents of relevant collective agreements).

Table 6 presents the national laws that transpose EU labour law in the MS for **personal caregivers** as LTC workers.

Table 6. Applicability of EU labour law to personal carers

Country	WTD	WLBD	TAWD	PTWD	FTWD	TPWCD
AT	Applies	Applies	Applies	Applies	Applies	Applies (although not fully transposed yet)
BE	Applies	Applies	Applies	Applies	Applies	Applies
BG	Applies	Applies	Does not apply to LTC	Applies	Applies	Applies
CY	Applies in the public sector and where there are applicable collective agreements.	Applies in the public sector and where there are applicable collective agreements.	N/A	Applies in the public sector	Applies in the public sector	Applies in the public sector
CZ	Applies provided they have concluded an employment relationship	Not yet transposed	Applies provided they have concluded an employment relationship	Applies provided they have concluded an employment relationship	Applies provided they have concluded an employment relationship	Not yet transposed
DE	Applies	Applies	Applies	Applies	Applies	Applies
DK	Applies	Applies	Applies	Applies	Applies	Not yet transposed
EE	Applies	Applies	Applies	Applies	Applies	Applies
EL	Applies	Applies	Applies	Applies	Applies	Applies
ES	Applies	Applies	Applies	Applies	Applies	Applies

⁶⁰ This concerns the cases where the EU labour law has been transposed and implemented in national law. The information included in the table regarding the transposition of Directives dates from January 2023 the time when the national reports were written.

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FI	Applies if personal carers work under an employment relationship, the Working Time Act (Työaikalaki, 872/2019) applies	Applies (Employment Contracts Act)	Applies (Employment Contracts Act)	Applies (Employment Contracts Act)	Applies (Employment Contracts Act)	Applies (Employment Contracts Act)
FR	Applies	Not yet transposed	Applies	Applies	Applies	Not yet transposed
HR	Applies	Applies	Applies	Applies	Applies	Applies
HU	Applies	Applies	Applies	Applies	Applies	Applies as of January 2023
IE	Applies	Applies	Applies	Applies	Applies	Applies
IT	Applies. Legislative Decree 8 April 2003, No. 66	Applies. Legislative Decree 30 June 2022, No. 105	Applies. Legislative Decree 15 June 2015, No. 81	Applies. Legislative Decree 15 June 2015, No. 81	Applies. Legislative Decree 15 June 2015, No. 81	Applies
LT	Applies	Applies	Applies	Applies	Applies	Applies
LU	Applies	Applies	Applies	Applies	Applies	Applies (once transposed)
LV	Applies	Applies	Applies	Applies	Applies	Applies
MT	Does not apply fully. Hospital and Clinics Wage Council Wage Regulation Order, 1977 (private sector)	Applies	Applies	Applies	Applies	Applies
NL	Applies	Applies	Applies if they are temporary agency workers within the meaning of Article 1(1) Law on allocation of labour force by intermediaries	Applies	Applies	Applies
PL	Applies unless the individual is working under a non-employment contract (service contract)	Not yet transposed	Applies	Applies unless the individual is working under a non-employment contract (service contract)	Applies unless the individual is working under a non-employment contract (service contract)	Applies unless the individual is working under a non-employment contract (service contract)

	Applies	Not yet transposed (transposition is underway)	Applies	Applies	Applies	Not yet transposed (transposition is underway)
PT	Applies	Not yet transposed (transposition is underway)	Applies	Applies	Applies	Not yet transposed (transposition is underway)
RO	Applies	Applies	Applies	Applies	Applies	Applies
SE	Applies. Personal caregivers are covered by the Working Time Act (1982:673) which transposes the Directive	Applies. The category is covered by the different acts transposing the Directive. See the Government Bill here .	Applies. The ordinary statutory law applies. Act on temporary agency work ("Bemanningslagen")	Applies. The ordinary statutory law applies, the Employment Protection Act (lagen 1982:80 om anställningsskydd) and the Act on protection against discrimination of part-time and fixed-term employees (lagen 2002:293 om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning)	Applies. The ordinary statutory law applies, the Employment Protection Act (lagen 1982:80 om anställningsskydd) and the Act on protection against discrimination of part-time and fixed-term employees (lagen 2002:293 om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning)	Applies
SI	Applies	Applies	Applies	Applies	Applies	Applies
SK	Applies	Applies	Applies	Applies	Applies	Applies

3.1.3 Applicability of EU labour law to domestic LTC workers

The situation of domestic LTC workers appears different from nurses and personal carers, as exemptions from the application of EU labour law were reported in more countries.

In roughly **two thirds of the MS (CZ, DE, DK, EE, ES, FI, HR, HU, IE, IT, LT, LU, LV, MT, PL, RO, SI, SK)**, it was reported that domestic workers are fully covered without any exceptions by the national law transposing EU labour law.⁶¹

⁶¹ This concerns the cases where the EU labour law has been transposed and implemented in national law. The information included in the table regarding the transposition of Directives dates from January 2023 the time when the national reports were written.

In the other MS, there are specific exemptions from the applicability of certain regulations to domestic LTC workers, or to specific categories thereof:⁶²

- In **Belgium, Greece, Finland** and **Ireland** regarding the WTD;
- In **Austria** with regards to the WTD and WLBD;
- In **Portugal** regarding the WTD and TAWD;
- In **Sweden** regarding the WTD, PTWD and FTWD;
- In **Cyprus**, regarding the WLBD, the PTWD, the FTWD and the TPWCD.
- In **France**, regarding the WTD, the TAWD, the PTWD and the FTWD.
- In **Bulgaria** regarding the TAWD (sectoral restriction);
- In **Italy** and the **Netherlands**, the applicability of the TPWCD is subject to limited exceptions, which appear to be linked on the specific exclusions made possible in Article 1(7) of the Directive.

Overall, **nine MS (AT, BE, EL, ES, FI, FR, IE, PT, SE)** reported that the WTD does not apply to domestic LTC workers (for some Member States, this exclusion is limited to specific workers, as it concerns domestic LTC workers only where employed by private households, e.g. **FR** or **SE**, or when they are family member, i.e. **FI** or **IE**). In the case of **Spain**, LTC domestic workers employed by private households are subject to a specific law, different from the general labour code.

Table 7 presents the national laws transposing EU labour law in the MS on **domestic LTC workers**.

Table 7. Applicability of EU labour law to domestic LTC workers

Country	WTD	WLBD	TAWD	PTWD	FTWD	TPWCD
AT	Does not apply. Covered by the Domestic Workers Act with working time provisions less advantageous than those	Does not apply. The Domestic Workers Act does not include relevant provisions	Applies. Self-employed persons may be covered as “employee-like persons” and are also included in the personal scope of the Agency Work Act	Applies. The provisions on part-time work (§ 19d AZG) also cover domestic workers – but self-employed live-in domestic	Applies. § 2b AVRAG also applies to domestic workers (§1 (4) AVRAG) - but self-employed live-in domestic workers are not covered	Not as clear as the Domestic Workers Act; has not been amended since 2018 – but self-employed live-in domestic workers are not covered

⁶² In several cases, whether or not the household acts as the employer determines exemptions (e.g. ES, FR, SE, IT, NL), as well as the fact that the LTC worker is a family’s member (IE or FI).

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	provided in the Working Time Directive. Special provisions apply to live-in domestic workers. Self-employed live-in domestic workers are not covered at all			workers are not covered		
BE	Does not apply	Applies	Applies	Applies	Applies	Applies
BG	Applies to all domestic workers	Applies to all domestic workers	Does not apply to LTC (restriction)	Applies to all domestic workers	Applies to all domestic workers	Applies to all domestic workers
CY	The contract provided complies with the WTD. ⁶³	Does not apply	N/A	Does not apply	Does not apply	Does not apply
CZ	Applies provided they have concluded an employment relationship	Not yet transposed	Applies provided they have concluded an employment relationship	Applies provided they have concluded an employment relationship	Applies provided they have concluded an employment relationship	Not yet transposed
DE	Applies. Disputed for live-in caregivers (an exception from working time law is envisaged under Section 18 (1) 3 ArbZG) ⁶⁴	Applies	Applies	Applies	Applies	Applies
DK	Applies	Applies	Applies	Applies	Applies	Not implemented yet
EE	Applies if an employment	Applies if an employment	Applies if an employment contract has been concluded	Applies if an employment	Applies if an employment	Applies if an employment

⁶³ The national report, however, pointed out that studies show that this is not implemented and that there are gross violations. No case has gone before the courts.

⁶⁴ Part of the literature considers this exception to be applicable to live-in caregivers, which is the basis for concluded numerous contracts without explicitly determined working hours. However, the prevailing opinion, which seems to be supported by case law, calls for a narrower interpretation (the German exception should be restricted to cases of a “family-like” community).

	contract has been concluded	contract has been concluded		contract has been concluded	contract has been concluded	contract has been concluded
EL	Does not apply. Article 1 para 4 of P.D. 88/1999 implementing the WTD excludes domestic workers from its application	Applies. However, these rules seem to be rarely applicable	Applies	Applies	Applies	Applies
ES	Applies partially i.e., with possible variations as regards domestic workers who fall under the category of "labour relations of special nature" ⁶⁵ (Article 2 Labour Code)	Applies partially i.e., with possible variations as regards domestic workers who fall under the category of "labour relations of a special nature" (Article 2 Labour Code)	Applies partially i.e., with possible variations as regards domestic workers who fall under the category of "labour relations of special nature" (Article 2 Labour Code)	Applies partially i.e., with possible variations as regards domestic workers who fall under the category of "labour relations of special nature" (Article 2 Labour Code)	Applies partially i.e., with possible variations as regards domestic workers who fall under the category of "labour relations of special nature" (Article 2 Labour Code)	Applies partially i.e., with possible variations as regards domestic workers who fall under the category of "labour relations of special nature" (Article 2 Labour Code)
FI	Does not apply in certain cases According to section 2 of the Working Time Act (Työaikalaki, 872/2019) the Act does not apply to work performed by a member of the employer's family	This depends on the existence of an employment relationship. The Employment Contracts Act only applies only if an employment relationship exists	This depends on the existence of an employment relationship. The Employment Contracts Act only applies if an employment relationship exists	This depends on the existence of an employment relationship. The Employment Contracts Act only applies if an employment relationship exists	This depends on the existence of an employment relationship. The Employment Contracts Act only applies if an employment relationship exists	This depends on the existence of an employment relationship. The Employment Contracts Act only applies if an employment relationship exists

⁶⁵ Each of these 'special relationships' has their own rules which may affect the type of the contract, the length of the employment relationship, the working hours, the right and duties of the parties and even the termination of the contract. These rules are not intended as a 'derogation' from EU law. Most of them were approved in the 1980s before Spain became a MS. This is a domestic effort to provide rules for particular groups of workers and there is no intention to derogate from EU law.

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FR	Applies, <i>except</i> for workers of private households	Not yet transposed	Applies, <i>except</i> for workers of private households	Applies, <i>except</i> for workers of private households	Applies, <i>except</i> for workers of private households	Not yet transposed
HR	Applies. There are family members with employment contracts who are live-in domestic workers (Article 48(1) of the Regulations on the Minimum Conditions for the Provision of Social Services). They are not excluded from the protection guaranteed to all other employees	Applies	Applies	Applies	Applies. However, there is an exception for the spouses (homemaker) of the older person since their salaries are financed by the ESF. According to Art. 12(7)(2) Labour Act, the limitation of the maximum duration of fixed-term employment contracts does not apply to employees employed under projects financed by the EU	Applies
HU	Applies	Applies	Applies	Applies	Applies	Applies as of January 2023
IE	Applies, but section 3(2)(b) of the Organisation of Working Time Act 1997 provides that the sections covering daily rest periods and breaks at work, weekly rest periods, Sunday work and weekly and nightly working hours do not apply to a person employed by a relative who	Applies	Applies	Applies	Applies	Applies

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	is a member of that relative's household and whose workplace is a private residence or a farm where he or she and the relative reside					
IT	Applies. Legislative Decree 8 April 2003, No. 66	Applies. Legislative Decree 30 June 2022, No. 105	Applies. Legislative Decree 15 June 2015, No. 81	Applies. Legislative Decree 15 June 2015, No. 81	Applies. Legislative Decree 15 June 2015, n. 81	Applies, with some limited exceptions. ⁶⁶ Legislative Decree 27 June 2022, No. 104
LT	Applies	Applies	Applies	Applies	Applies	Applies
LU	Applies	Applies	Applies	Applies	Applies	Applies once implemented
LV	Applies	Applies	Applies	Applies	Applies	Applies
MT	Applies	Applies	Applies	Applies	Applies	Applies
NL	Applies to both live-in and domestic LTC workers	Applies to both live-in and domestic LTC workers	Applies if they are temporary agency workers within the meaning of Article 1(1) Law on allocation of labour force by intermediaries . In this case, the exclusions stipulated in the Regulation on Home Services do not apply, since the Regulation only applies to domestic workers who are directly employed by the person in need (e.g. Court of Appeal Amsterdam, 21 September 2021, ECLI:NL:GHAMS:2021:2741 (Helpling))	Applies to both live-in and domestic LTC workers. The applicability of the Framework Agreement is even emphasised in the Regulation on Home Services , in which the government implies that the differentiated treatment of part-time domestic workers is in line	Applies to both live-in and domestic LTC workers	Most of the provisions apply to both live-in and domestic LTC workers. However, the provisions on the transition to another form of employment and mandatory training (Articles 12 and 13 of the Directive) do not apply to employees who fall under the scope of

⁶⁶ Legislative Decree 27 June 2022, No. 104, Articles 10 and 11 do not apply to domestic workers. Article 10 provides for the right of a worker with at least six months' service with the same employer, who has completed his or her probationary period, to request a form of employment with more predictable and secure working conditions (Article 12 of the Directive). Article 11 provides for mandatory training (Article 13 of the Directive).

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				with the Framework Agreement (p. 7)		the Regulation on Home Services (Article 2b(5)(a) Flexible Work Act; Article 7:611a(3) Dutch Civil Code)
PL	Applies as long as the worker is hired as an employee	Not yet transposed	Applies as long as the worker is hired as an employee. Volunteers or family member caregivers are not covered	Applies as long as the worker is hired as an employee	Applies as long as the worker is hired as an employee	Applies as long as the worker is hired as an employee
PT	Does not apply	Not yet transposed into Portuguese law. Although the Domestic Work Regime (and the respective proposal of amendment) does not include specific rules on this matter, the legal framework contained in the PLC applies, whenever compatible with the particularities of the domestic service contract	Does not apply	Applies	Applies	Not yet transposed into Portuguese law. Although the Domestic Work Regime (and the respective proposal for amendment) does not include specific rules on this matter, the legal framework contained in the PLC applies, whenever compatible with the particularities of the domestic service contract
RO	Applies to professional and non-professional personal assistants of disabled persons. Does not apply to informal caregivers of older persons employed half-time (Law	Applies to professional and non-professional personal assistants of disabled persons. Does not apply to informal caregivers of older persons employed half-time at another workplace (Law 17/2000), without	Applies to professional and non-professional personal assistants of disabled persons. Does not apply to informal caregivers of older persons employed half-time at another workplace (Law 17/2000), without an employment contract for LTC	Although informal carers of older persons receive an allowance for half of their working time, the provisions for part-time employees do not apply to them	Applies to professional and non-professional personal assistants of disabled persons. Does not apply to informal caregivers of older persons employed half-time at another	Applies to professional and non-professional personal assistants of disabled persons. Does not apply to informal caregivers of older persons employed half-time at another workplace (Law

	17/2000), without an employment contract ⁶⁷	an employment contract for LTC			workplace (Law 17/2000), without an employment contract for LTC	17/2000), without an employment contract for LTC
SE	Does not apply. Domestic workers who perform their duties in the home of <i>their employer</i> (the care recipient), are explicitly exempt from the Working Time Act, (see para 2, section 3). However, special provisions on working time apply, see Act on Domestic Work (1970:943) , para 2-7	Applies. The category is covered by different acts transposing the Directive. See the Government Bill here .	Applies. Ordinary statutory law applies. The Act on temporary agency work (" Bemanningslagen "). If a person is employed to perform domestic work through a temporary work agency, his/her employment contract does not fall under the Act on Domestic Work, as the employer would not be the care recipient, but the agency	Applies and does not apply. If the domestic worker is directly employed by the employer in his/her home, special exemptions apply, but the equal treatment provisions in the Directive apply. If the domestic worker is employed by someone else to work in a household, ordinary statutory laws apply. The Employment Protection Act (lagen 1982:80 om anställningsskydd) and the Act on protection against discrimination of part-time and fixed-term employees (lagen 2002:293 om förbud mot diskriminering av	Applies and does not apply. If the domestic worker is directly employed by the employer in his/her home, special exemptions apply, Act on Domestic Work (1970:943) , but the equal treatment provisions in the Directive apply. If the domestic worker is employed by someone else to work in a household of a care recipient, ordinary statutory laws apply. The Employment Protection Act (lagen 1982:80 om anställningsskydd) and the Act on protection against	Applies. Act on Domestic Work (1970:943) para 1 a and paras 11 a-1 d

⁶⁷ They have the right to reduce their working hours to half. During the other half (while providing care), they receive an allowance from the local budget. This compensation is not paid on the basis of an employment contract but is compensation for the hours they had to reduce their working hours by to be able to provide care for the person in need. As employees, they work for their employer 4 hours/day, and provide care to an older person the rest of the time. The Working Time Directive does not apply for the rest of their working time.

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				deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning)	discrimination of part-time and fixed-term employees (lagen 2002:293 om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning). Collective agreements for personal assistants offer far-reaching opportunities for multiple fixed-term contracts	
SI	Applies (labour legislation applies to all workers, including domestic workers; k)	Applies (labour legislation applies to all workers, including domestic workers;	Applies (labour legislation applies to all workers, including domestic workers;)	Applies (labour legislation applies to all workers, including domestic workers;	Applies (labour legislation applies to all workers, including domestic workers;	Applies (labour legislation applies to all workers, including domestic workers;
SK	Applies to all domestic workers	Applies to all domestic workers	Applies to all domestic workers	Applies to all domestic workers	Applies to all domestic workers	Applies to all domestic workers

3.2 Analysis of exclusions and derogations

This section provides information on the derogations and exclusions of LTC workers in relation to the coverage of national law transposing EU labour law across certain MS (see Section 3.1 above): the information is based on the exclusions from the personal scope contained in the national reports.

As illustrated in **Tables 5** and **6** above, the national provisions transposing EU labour law apply to **nurses** and **personal caregivers** without any significant exceptions; the few exclusions reported are cases in which the most recent EU labour law directives (e.g. WLBD, TPWCD) had not yet been transposed in the national legal orders.

Conversely, as the exclusions apply mostly to **domestic workers**, the following sections focus primarily on the situation of domestic LTC workers and can particularly affect migrant and mobile domestic carers, which according to this report represent a large share of LTC workers in some MS (e.g. in **CY, DE, MT**).

3.2.1 Working time

3.2.1.1 Exclusions

As described in **Table 7**, **nine MS (AT, BE, EL, ES, FI, FR, IE, PT, SE)** reported the exclusion of domestic workers, or to specific categories thereof, from the application of the national transposition of the WTD.

General exclusion

In **two MS**,⁶⁸ this broad exclusion concerns the general category of 'domestic workers':

- In **Belgium**, domestic workers are excluded from the Labour Code of 16 March 1971, transposing the Working Time Directive.
- In **Greece**, Article 1 paragraph 4 of Presidential Decree 88/1999 implementing the Working Time Directive excludes domestic workers, including live-in LTC domestic workers, from its scope. Reportedly, the reason for the exclusion of domestic workers from working time provisions is that it is not possible to accurately measure their working time, because the boundary between their private and professional life is blurry. No information was provided regarding an alternative working time regime for domestic workers.

Conversely, in **two MS (AT, PT)**, there is a special parallel working time regime for domestic workers.

- In **Austria**, domestic workers are not covered by the Working Time Act but by special provisions in the Domestic Workers Act, which provides for special working time provisions that again are amended in the Domestic Care Act. Legislative documents state that domestic workers are not covered by the Working Time Directive: this is reportedly based on the understanding that the Directive (or at least the proposal for the 1992 Working Time Directive) suggests that the definition of 'worker' in Directive 89/391/EEC applies, which explicitly excludes domestic workers from the personal scope in Article 3 (a).

⁶⁸ In the 2023 EC detailed report on the implementation of the WTD (SWD (2023)40, page 4), another two MS are identified as having entirely or partially excluded domestic workers from their transposing legislation, i.e. Luxembourg and Sweden; in the later case, special provisions on working time nonetheless apply (see p. 75 of the present report).

- In **Portugal**, the Domestic Work Regime (Decree-law No. 235/92, of 24 October), which applies to all domestic workers, was approved prior to the entry into force of the Working Time Directive and, therefore, did not transpose it.

Particular exclusions (family members; workers employed by households acting as employers; live-in workers)

In **five MS (FR, ES, SE, IE, FI)**, the exclusion from the application of the WTD transposition concerns specific categories of domestic workers (i.e., live-in workers; workers employed by households acting as employers; workers that are relatives to the care receiver).

In **France**, the national transposition of the WTD generally applies for domestic workers, except for workers employed by private households (the latter having a derogatory regime to most parts of the French labour code).

In the case of **Spain**, domestic workers who are hired directly by the care recipient are employed under a “special employment relationship” which excludes the application of the Labour Code, while setting specific requirements, including on working time, some of, but not all, appearing to align with the minimum requirements of the WTD.⁶⁹

In **Sweden**, domestic workers who perform duties in the home of their employer (the care recipient) are explicitly exempt from the Working Time Act (see paragraph 2, section 3). However, similarly to Spain, special provisions on working time apply according to the [Act on Domestic Work \(1970:943\)](#), paragraphs 2-7.

In **Ireland**, the national law transposing the WTD in principle applies to domestic LTC workers, but section 3(2)(b) of the Organisation of Working Time Act 1997 provides that the sections dealing with daily rest periods, intervals at work, weekly rest periods, Sunday work, and weekly and nightly working hours do not apply to a person employed by a relative and who is a member of that relative’s household and whose place of employment is a private residence or a farm that belongs to his/her relative.

Similarly, Section 2 of **Finland’s** Working Time Act states that it does not apply to work performed by a member of the employer’s family.

3.2.1.2 Derogations

For three MS (**DE, DK, MT**), national experts reported that, while the national implementation of the WTD applies to LTC workers, some possibilities of derogations were established by legislation. This should be seen as illustrative and without prejudice of other derogations to exist, since the WTD provides for a range of possible derogations subject to certain conditions – notably where continuity of service would require so.

In **Germany**, the LTC work belongs to the sectors to which the derogation provided for in Article 18 WTD applies. Section 7 (2) of the Working Time Act (*Arbeitszeitgesetz - ArbZG*) allows for derogations for LTC workers (in general) by collective agreement for the sake of care recipients’ well-being; the reference period for weekly working time can be increased up to 12 months. Collective agreements concluded with a trade union can delegate the power to decide on such derogations to company-level agreements with works councils. There are some court decisions on the appropriateness of derogations and compensatory rest periods. For instance, an extension of weekly working time to 87.5 hours each in two successive weeks was found to be disproportionate, just like a daily working time of 16 hours without any longer breaks (Lower Saxony Labour Appeals Court, 10 TaBV 108/16).

⁶⁹ Governed by Royal Decree 1620/2011, 14 November, *por el que se regula la relación laboral de carácter especial del servicio del hogar familiar* (available [here](#)).

In **Denmark**, where the Working Time Directive is implemented in three statutory acts, namely the Danish Holiday Act, the Danish Act on Working Time and the Act on Occupational Health and Safety, domestic LTC workers are not excluded from the scope of the Holiday Act or the Danish Act on Working Time. However, under the Danish Occupational Health and Safety Act, work that is performed in the employer's private household is exempt from the scope of the Act, cf. section 2(2). This, on the face of it, implies that an employer is not required to observe the rules on working time that are implemented in the Danish Act on Occupational Health and Safety, i.e. daily and weekly rest times. The definition of work "performed in the private household of the employer" refers to private household (domestic) work not performed by LTC workers as an occupation. Work of a more industrial character, including domestic LTC work, personal assistance, and in-home care, which are all performed in the private household of the employer, are covered by the Act on Occupational Health and Safety. Rules in the LTC sector likewise confirm that care recipients, i.e. individuals who receive care services in their homes, must respect (all) working time rules, including those on daily and weekly rest periods. They must follow the procedure for obtaining a dispensation from the regulations on rest time in the Danish Occupational Health and Safety Act, as stated in the collective agreement on domestic disability assistance.

Additionally, a derogation that only applies to nurses and personal caregivers was reported in **Malta**. Nurses in **Malta**, in particular, are and may be subject to different collective agreements instead of the law. The collective agreement would, however, include higher levels of protection than those provided for in the law. In this regard, the Organisation of Working Time Regulations, 2004, establishes that certain regulations shall not apply to activities requiring continuity of service or production, as may be the case, e.g. the reception, treatment or care provided by hospitals or similar establishments, residential institutions and prisons. However, even though the Organisation of Working Time Regulations 2002 (which transposes the Working Time Directive) contains the said exclusion, the Hospitals and Clinics Wages Council Regulation Order, 1977 continues to apply to workers (including nurses and potentially to caregivers) in the private hospital and clinic sector. To this end, rights that cover, for example, working hours, waiting time, overtime, free meals and uniforms, minimum daily and weekly rest periods are covered by the Hospitals and Clinics Wages Council Regulation Order, 1977.

3.2.2 Work-life balance

Exclusions from the applicability of the WLBD to LTC workers were reported in only a few countries.⁷⁰

In the case of **Denmark**, certain limited-hour workers in the care sector may possibly be excluded from the right to cash benefits or wages during maternity/paternity leave due to the marginality of their employment. Under the Danish maternity/paternity leave regulations in the Danish Parental Leave Act, certain requirements must be met to be eligible for benefits during leave (which is distinct from the right to take leave), cf. section 27. The parent must have worked at least 160 hours over the last four months, and at least 40 hours per month for at least three of those four months to be eligible for leave benefits. For LTC workers with a very limited number of working hours, i.e. less than ten hours per week over a 4-month period, the right to receive benefits during leave may thus be unobtainable. The requirement that entitlement to cash benefits from the Danish state

⁷⁰ See caveat in e.g. executive summary: that at the time the research for this study was conducted, the Directive on Work-life Balance, was not implemented in all MS, due to delays in transposition. Therefore, all related analysis may be incomplete and/or out of date, and shall therefore be used with caution.

depends on a specific employment rate is a common feature in social security regulation. A minimum connection to the labour market must have been established to offset a loss of income through benefits. The limit for eligibility is set very low.

Conversely, in **Cyprus**, this exclusion is not linked to the marginality of employment but to the practices followed in non-unionised private hospitals and residential homes. The WLBD was reported to apply in the public sector and where collective agreements exist. However, there have been complaints to trade unions that the Directive may not be observed in practice in non-unionised private hospitals and residential homes for the older persons. Many private hospitals and residential homes for the older persons do not allow unions. Trade unionists and officers of the Nursing Association consulted for the purposes of this thematic review, reported that LTC workers in many private hospitals and residential homes for the older persons are informed that they will be dismissed if they request to join a union. **This primarily affects migrant domestic workers (MDW) who have no unions that represent them.**

3.2.3 Extension of the personal scope of LTC work

In a limited number of MS, the personal scope of LTC workers is extended to address the sector's staff shortages or as a means to reduce labour costs. In this case, the hiring of students and pensioners is allowed and encouraged. This type of work, however, does not provide full labour law coverage, while certain exceptions and special regulations apply. In addition, activation measures for unemployed persons (possibility to retain part of their unemployment benefits and cumulate these with work in the LTC sector for a limited period) were introduced in **Belgium**.

3.2.3.1 Students

In **Croatia**, some personal assistants are students who do not conclude employment contracts, but instead sign contracts on performing student work in accordance with the Act on the Performance of Student Work (Official Gazette Nos 96/2018, 16/2020).⁷¹ Although they are not considered employees, they are entitled to occupational health and safety, protection from harassment and sexual harassment and to a 30-minute break if they work at least six hours a day, just like regular employees (Article 13).

In the same vein, **Belgian** law also contains measures to address the staff shortages in the health care sector which provide that students are exempt from ordinary social security contributions for a quota that currently tops 475 hours per year. Hours performed by students with student contracts during the 3rd and 4th quarters of 2022 in the care sector were neutralised and will therefore not be eligible for the calculation of the annual quota of 475 hours.

Similarly, during the COVID-19 pandemic, **Slovenia** also passed a special (emergency) legislation which allowed the temporary recruitment of students in the LTC sector.⁷²

⁷¹ The worker is a student or other person who has entered into a contract with the client and an intermediary for the performance of student work and performs work for the client. The right to perform student work can be exercised by specific categories of students for a minimum fee to perform hourly student work.

⁷² The national report did not specify whether this piece of emergency legislation is still in force.

3.2.3.2 Pensioners

The **Belgian** Law of 20 November 2022 allowed all pensioners who were former LTC workers to return to work in the care sector. Pensioners and early retirees could temporarily combine their income from performing work in the care sector with their pension benefits without restriction. The rules were adjusted to allow the conclusion of employment contracts with a duration of less than 1/3rd of regular weekly working hours (derogation from the minimum weekly working time – Article 11 bis of the Employment Contract Law of 3 July 1978) and to reduce the 7-day notice period to three days in case of a variable schedule (special regulation on the predictability of work schedules compared to the standard provision for part-time employees). To make use of this measure, the employer will have to consult the works council, the Committee for Prevention and Protection at Work or the trade union delegation.

3.2.4 Other limitations to the applicability of EU labour law (or national labour law)

Some other exclusions to the relevant national law transposing EU labour law are related to certain forms of work that deviate from the standard employment relationship. Special regulations on certain aspects of such relationships vary from country to country and no universal patterns emerged in many countries. Indicative examples are mentioned in this section.

In **Italy**, Articles 10 and 11 of the law implementing the Directive on Transparent and Predictable Working Conditions (Legislative Decree 27 June 2022, No. 104) do not apply to domestic workers. Article 10 provides for the right of a worker with at least six months' service for the same employer, who has completed his or her probationary period, to request more predictable and secure working conditions (Article 12 of the Directive). Article 11 provides for mandatory training (Article 13 of the Directive). Subject to further examination (i.e. whether these provisions of Italian law concern specifically situations where households act as employers), this exclusion appears linked to the possibility left to Member States to "decide not to apply the obligations set out in Articles 12 and 13 and in point (a) of Article 15(1) to natural persons in households acting as employers where work is performed for those households", as provided for in Article 1(7) of the Directive.

Another interesting case associated with contracted working time of LTC domestic workers is found in the **Netherlands**, where domestic workers who, as a private person, work in the home of another private person, fall under a special Regulation on Domestic Services (*Regeling dienstverlening aan huis*) if they typically provide services for their employer for less than four days a week. Domestic workers, including informal caregivers who have concluded a special type of agreement with the care recipient, also fall within the scope of this special arrangement (see also, for example Article 7:629 (13) Dutch Civil Code on sick pay). Although data on the total number of persons who work under this arrangement is unavailable, according to the Minister of Social Affairs and Employment, in 2021 there were approximately 30,000 informal carers with a PGB-related contract (a personal allowance the care recipient can use to purchase health care services (*persoonsgebonden budget*)) who fell within the scope of the Regulation on Domestic Services. In general, employment law is applicable to these domestic workers. However, the arrangement excludes them of certain types of protection that other employees are entitled to. For example, when a domestic worker falls sick, his/her wages are paid for a maximum of six weeks. This usually entails 104 weeks. In addition, domestic workers are excluded from part of the Dutch social security legislation, such as unemployment benefits (Article 6, under 1, c, *Werkloosheidswet*). Domestic workers may work for any private person and do not specifically work for care recipients. Such workers can also be contracted by care

recipients, of course. The purpose of this arrangement is to stimulate the market for personal services. This is achieved by reducing employers' costs. In addition, the government aims to remove some potential obstacles—such as paying employee insurance premiums and other administrative burdens—to hiring someone to perform work which the employer could also do him- or herself, such as cleaning. Removing these obstacles could also increase demand for this type of work. This special arrangement for domestic work also applies to specific groups of domestic LTC workers (mainly to domestic LTC workers who work for less than four days a week based on the PGB budget). Whether the reasons for the difference in treatment are equally applicable in this case is debatable since the care recipient could be unable to do the work him-/herself and may not have a choice but to hire someone to perform this work.

The case of “simplified” workers in **Hungary** may be of equal interest. Their status and legal nature of employment are partly regulated in the Labour Code and partly in a special act. Simplified workers, either on a casual or intermittent basis, are considered employees. Simplified employment refers to daily work, which has several sub-forms. Seasonal work may amount to 120 days per year, while casual work can be performed on five continuous days, 15 days per month and 90 days per year. In addition, seasonal and casual work together may not exceed 120 days per year. Article 203 of the Labour Code lists those provisions of the Labour Code that do not apply to simplified employment: this is the case, e.g., for the provisions concerning the predictability of the work schedule (Section 97(4)-(5) of the Labour Code) and for some provisions concerning annual and sick leave (Section 122-133). At present, no data on the number of simplified workers in the LTC sector are available. However, this does not suggest that this exclusion is not relevant for LTC workers.

In the **Czech Republic**, apart from the employment law relationship under an employment contract, the Labour Code (Sections 74-77) regulates agreements on work performed outside an employment relationship. These are the Agreement to Complete a Job (“DPP”) and the Agreement to Perform Work (“DPČ”); they can more or less be considered zero-hours contracts. Under a DPP and DPČ, the employer does not have the obligation to assign work to the employee. A maximum of 300 hours of work can be performed per year under a DPP. Under DPČ, the performance of work may not exceed 20 hours per week on average within a given reference period. Both agreements provide a framework for the performance of work that is more limited in scope than in an employment contract. Both agreements are common in the labour market, and no data suggest that LTC workers are bound by these agreements more often than workers employed in other sectors. While the Labour Code still applies to both of these agreements, there are a few exceptions. For instance, these agreements may be terminated by either party without stating a reason with a 15-day notice period (apart from a termination agreement or immediate termination). As regards working time, the main restriction is that the performance of work based on a DPP or DPČ may not exceed 12 hours in a period of 24 consecutive hours. Generally, parties opt for a DPP if the scope of work does not exceed 300 hours per year (a legal limit). In addition, there are certain tax benefits if monthly remuneration does not exceed CZK 10,000 (EUR 410.5) – specifically, there is no obligation to pay social security and health insurance contributions up to this amount. Under a DPČ, the limit is half of the regular working hours per week. If the monthly remuneration does not exceed CZK 3,499 (EUR 143.6), there is no obligation to pay social security and health insurance contributions. There is also more flexibility for the employee and the employer, in particular as regards scheduling of working hours. When the national report was submitted, a bill transposing the Directive on Work-Life Balance and the Directive on Transparent and Predictable Working Conditions was in the legislative procedure, which aims to reduce the differences between standard employment contracts and DPP and DPČ agreements. It is likely, however, that the DPP and DPČ will remain at variance with the respective Directives.

In **Cyprus**, migrant domestic workers are employed by households to provide LTC, and they are often paid, at least in part, by social welfare benefits. This is a category within the domestic work sector which is defined under the general rules of the Aliens and Immigration Law, which vests unrestricted power in the Council of Ministers to grant a special permit to any person, regardless of conditions and without guidelines. Since 2014, third-country national domestic workers may be employed as caregivers and are granted work and stay permits in “exceptional cases” in line with specific criteria. The most vulnerable individuals in terms of pay, exploitation and abuse of both working and employment conditions are live-in or other care workers who are employed as ‘migrant domestic workers’ (MDW). The vulnerability of domestic workers and discrimination against female migrant domestic workers has been continuously highlighted in reports and studies since early 1990. Recent studies furthermore discuss the relationship between precariousness and economic vulnerability and present empirical findings that precariousness is related to gender, migration and the labour market. One study concludes that a high number of female migrant domestic workers are among the most vulnerable workers in Cyprus and are in a very precarious situation. A 2020 survey established that they work 40 % more hours than stated in their contract of employment, with one in five domestic workers working close to or more than twice the number of hours foreseen in their contract; one-third are not paid the full amount they are owed and one-third are not paid on time; 67 % per cent clean two or more houses; and one in three has not taken a day off during the week in years. In addition, domestic workers, just like the vast majority of TCNs, are excluded from access to a long-term residence permit.

In Germany practically all live-in carers are recruited from abroad. If the contractual relationship is—correctly or not—categorised as a posting of workers, the application of German law is limited in accordance with Article 3 PWD. One specific problem referred to in the literature is that the country of origin may—either de jure or de facto—allow caregivers to be classified as self-employed persons, although they would be recognised as employees under German law. The same literature expresses serious doubts about the accuracy of A1 documents issued by the countries of origin such as Poland, and the difficulty of demanding a process of rectification for workers who should de facto fall under the scope of German law according to the rules of the Rome I Regulation, the Social Security Regulation 883/2004 and Article 4 of the Enforcement Directive 2014/67/EU. In the light of CJEU decisions in cases such as *C-202/97 (Fitzwilliam)* and *C-2/05 (Herbosch Kiere)*, German authorities are shying away from closer investigations, as bilateral processes of rectification are quite complex and burdensome.

4 Working conditions of the LTC workforce in the 27 MS

4.1 Aspects of working conditions

The focus of this section are the national regulations and collective agreements regarding:

- the working time arrangements of the LTC workforce depending on the classification as nurses/personal assistants and domestic workers (such as sources of regulation of LTC workers’ working time, regular working time, limits on overtime, rest periods, regulation and remuneration of stand-by time, predictability of working schedule, regulation and compensation of inconvenient hours, emergency rules applied in the context of the COVID-19 pandemic),
- the specific rights and working conditions of domestic live-in LTC workers (working time arrangements, conditions of accommodation, privacy/protection of personal life, accommodation and board as form of

payment in kind, termination of employment, protection against violence and abuse, access/inspection from labour inspectorates) and

- LTC work provided through platforms.

When one or more countries are omitted from the following tables, this means that the relevant national report did not provide information on specific regulations concerning these aspects.

4.1.1 Working time of LTC workers

4.1.1.1 Sources of regulation

Some MS reportedly present a diversification of rules (found both in national legislation and collective agreements, depending on the national legal order) that apply to the working time of nurses/personal assistants and domestic workers. This is the case, for example, where specific rules apply to the working conditions of domestic workers in general, and not only LTC workers (**AT, DK, PT, ES, SE**). Here, the general labour law regulations may apply additionally for issues not covered by the special regulations for domestic workers.

Another differentiation relevant for the nurses and personal assistants, is based on the employment in the public or private sector. More specifically, there are discrepancies in the applicable law which depend on whether the employment relationship is of a private or public law nature. In the latter case, civil service law is applicable (e.g. in **ES, FR, HU**).

Table 8 provides an overview of the sources of regulation of LTC workers' working time in the MS. The explanation for each aspect is provided in the subsequent tables (Tables 9-15).

Table 8. Sources of regulation of LTC workers' working time EU wide

Country	Nurses/personal assistants	Domestic LTC workers
AT	Working Time Act – <i>Arbeitszeitgesetz</i> (AZG)	Domestic Workers Act. For live-in domestic workers: Domestic Care Act
BE	Collective bargaining agreement of 10 January 2022 concluded in the	Joint Committee 330 on the organisation of work and the consistency of timetables
BG	Labour Code: Regulation on working hours, breaks and leaves. There are no relevant collective agreements in this sector.	General rules for all domestic workers – Labour Code: Regulation on working hours, breaks and leaves. There are only a few collective agreements in some municipalities.
CY	WTD transposed by Law 63(I)/2002 (Organisation of Working Time Law of 2002). The Republic of Cyprus regulates working time via the Laws on Annual Leave with Pay which regulates the general framework for paid leave and the law purporting to transpose the WTD, the Law on Organisation of Working Time, herein referred to as WTL.	Contract of employment, but not monitored and often disregarded
CZ	Labour Code	
DE	Act on Working Time / <i>Arbeitszeitgesetz</i> (<i>ArbZG</i>); potentially applicable collective agreements	Act on the Working Time / <i>Arbeitszeitgesetz</i> (<i>ArbZG</i>)
DK	Collective agreement for health care staff in the municipalities, 2021	
EE	Employment Contracts Act Health care sector collective agreement (2023–2024)	Employment Contracts Act when an employment contract has been concluded. Health care sector collective agreement (2023-2024), when an employment contract has been concluded.
EL	National interprofessional collective agreement, Presidential Decree 88/1989, Presidential Decree 156/1994	Excluded from working time regulations (except for the measures to ensure predictability of working schedule – Presidential Decree 156/1994 which applies to them).
ES	<i>Civil servants/public employees</i> : Labour Code, particularly Articles 34 and following (not applicable to health care sector staff). Some of the staff in the health care sector are employees under an employment contract (with the most relevant provisions in Law 55/2003, which explicitly implements Directives 93/104/EC and 2000/34/EC, but not the WTD. The scope of Law 55/2003 is not primarily workers who have concluded an employment contract, but	Royal Decree 1620/2011 (“special employment relationship” when employed by the care recipient) and Labour Code

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	<p>Article 2.3 extends its scope to health care workers under labour law if it does not oppose specific regulations, that is, the Labour Code and relevant collective agreements).</p> <p>The regions have certain powers in these matters, but Law 55/2003 establishes the minimum rules that must be respected. Therefore, each region can adapt these rules (at least for civil servants). This makes it difficult to provide a simple answer, because there are 17 different answers (there are 17 regions in Spain). These rules apply to all nurses, not only to those providing LTC.</p>	
	<p><i>Private sector:</i> Labour Code and framework collective agreement on care services for dependent persons and the development of the promotion of personal autonomy</p>	
FI	Working Time Act and relevant national-level collective agreements	
FR	<p><i>Civil servants:</i> Articles L. 611-1 to L. 613-11 of the French Civil Service Code</p> <p><i>Private employees:</i> Articles L. 3121-1 to L. 3134-16 of the French Labour Code.</p>	Articles 45 and 46 of the National Collective Bargaining Agreement of employees of private households (<i>Convention collective nationale des particuliers employeurs et de l'emploi à domicile du 15 mars 2021</i>)
HR	Collective Agreement for Social Assistance (Official Gazette Nos 61/2018, 3/2019; CASA); Labour Act (LA); Collective Agreement for Health Care and Health Insurance (Official Gazette Nos 29/2018, last amended in 3/2023; CAHC); Collective Agreement for Private Health Care in Croatia (Official Gazette Nos 118/2019, 148/2022; CAPHC); Regulations on minimum conditions for the provision of social services (Official Gazette Nos 40/2014, 66/2015, 56/2020, 28/2021, 144/2021, 18/2022) – these Regulations define the maximum duration of weekly working hours of direct work with beneficiaries and work on other tasks. For instance, workers who carry out care activities, support in organised facilities, support in the performance of daily activities of living, accompanying a person with disabilities and carrying them (i.e. assisting them with getting out of bed/ getting into bed, assisting them with moving from their bed to a wheelchair and vice versa, assisting them with getting in and out of a car and other means of transport, etc.), spend 37.5 hours a week directly working for the beneficiary (Article 44). There are no specific provisions for live-in domestic workers	
HU	<p><i>Civil servants:</i> Act on Public Employees for Public Employees Articles 55-59</p> <p><i>Public employees:</i> Labour Code for employees, Articles 92-109;</p>	<p>Labour Code for employees, Articles 92-109;</p> <p>Civil Code for self-employed persons</p>

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IE	Organisation of Working Time Act 1997 (OWTA)	
IT	Legislative Decree of 8 April 2003, No. 66 on working time and collective bargaining (CCNL National Health Service and CCNL private clinics)	Legislative Decree of 8 April 2003, No. 66 on working time and collective bargaining (CCNL)
LT	Regulation No. 496 of 21 June 2017 the Government of Lithuania and	Labour Code
LU	Labour Code Collective agreement (CCT-SAS) ⁷³	Labour Code Same rules apply to all domestic workers, no difference for live-in caregivers
LV	Labour law	Labour law
MT	If in the private sector, the Hospitals and Clinics Wage Council Wage Regulation Order, 1977 applies. If in the public sector, collective agreements apply	Organisation of Working Time Regulations, 2002 (“OWTR”)
NL	Working Time Act , Working Time Decree and several collective agreements apply. As mentioned, the most important collective agreement by far is the collective agreement on nursing homes, care facilities, home care, maternity health care and youth health care (VVT) .	
PL	Act on medical activity (Ustawa z dnia 15.04.2011 o działalności leczniczej (Dz. U. 2022, poz. 633). Act on special solutions related to the prevention, mitigation and prevention of COVID-19, other infectious diseases and crisis situations caused by them (Ustawy o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem I zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych)	Labour Code (applied to all workers)
PT	PLC or LGTFP, depending on the nature (private or public) of their employment relationship. Several collective agreements are potentially applicable	Domestic Work Regime (Decree Law No. 235/92, of 24 October) Subsidiarily, the PLC may apply to the domestic service contract where it seems to be compatible with its particularities

⁷³ The organisation of working time is a large part of the CCT-SAS, with the social partners taking advantage of the autonomy afforded to them by the Labour Code to regulate this matter. A sectoral mechanism is in place to determine the annual and average working time (Article A.2.). Over monthly reference periods, the actual working time is in principle not supposed to vary by more than 10 per cent upwards or downwards in relation to the average annual working time (Article A.4.). Each department/service must set up its own working time scheme, with precise rules on how this can be modified (RTS – régime de travail d’un service). The staff representatives involved and in case of disagreement, a joint committee (social partners), can mediate (Article B.1.2.). Derogatory rules are allowed for services with considerable fluctuations during certain periods of the year (Article B.1.3.).

RO	The Labour Code, Regulation from 2004 on working time, organisation and performance of stand-by duty in public units in the health care sector; Framework Law No. 153/2017 on the remuneration of staff paid from public funds	All domestic workers: the Labour Code, Social Assistance Law No. 292/2011, Law No. 448/2006 on the protection and promotion of the rights of persons with disabilities, Government Decision No. 548/2017
SE	Working Time Act Collective agreements	Act on Domestic Workers Collective agreements
SI	Employment Relationships Act , 'Zakon o delovnih razmerjih (ZDR-1)', OJ RS No. 21/13 et subseq. For nurses (providing health care/ LTC) also the Health Services Act , 'Zakon o zdravstveni dejavnosti (ZZDej)', OJ RS No. 9/92 et subseq.). For nurses and personal care workers: Collective Agreement for the Health Care and Social Protection Sector ('Kolektivna pogodba za dejavnost zdravstva in socialnega varstva Slovenije (KPDZSV', OJ RS No 15/94 et subseq.)	Employment Relationships Act , 'Zakon o delovnih razmerjih (ZDR-1)', OJ RS No 21/13 et subseq.) (applies to all domestic workers with a contract of employment)
SK	Labour Code	

4.1.1.2 Regular working time rules

Twelve MS reported to have regulations on working time which are common for nurses, personal assistants and domestic LTC workers (**BE, BG, CZ, EE, HR, HU, IE, LT, LV, SE, SI, SK**).

In the remaining MS, working time rules for nurses and domestic LTC workers differ.

Only in three countries (**AT, IT, NL**), special regulations for the regular working time of live-in domestic LTC workers have been identified.

Table 9 provides an overview of the applicable national regulations and collective agreements on the regular working time of LTC workers (nurses/personal assistants and domestic LTC workers, including live-in).

Table 9. Overview of the regulation on the regular working time of LTC workers in 27 MS

Country	Nurses/personal assistants	Domestic LTC workers
AT	8 hours/day; 40 hours/week.	Domestic workers: 86 hours/ 2 weeks

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		Live-in domestic workers: over 2 weeks, a maximum of 128 hours (Section 3(2) Domestic Care Act)
BE	<p>General working hours are 38 hours per week for all employees in the sector.</p> <p>Part-time contracts are often concluded. In this case, each contract must contain a minimum of 13 hours of work per week.</p> <p>In some subsectors, staff must be available 24 hours a day to care for patients. This is the case in hospitals and nursing homes, among others. Therefore, in these sub-sectors, the 38-hour average may be reached over a 13-week period (trimester), during which the individuals can work up to 11 hours per day, but no more than 50 hours per week</p>	
BG	8 hours	
CY	<p>The WTL provides that all employees are entitled provides that each worker shall have a daily rest period of at least 11 consecutive hours per 24-hour period; the 24-hour period begins at 00:01 and ends at 24:00 hours. The WTL provides that the weekly rest, subject to certain provisions, every worker is entitled to a continuous minimum of 24 hours per week. Art. 6(2) WTL allows however exceptions, provided that it is justified for objective or technical reasons or by the conditions of work organisation, a minimum rest period of 24 hours may be set. The employer is given the discretion to decide that the employee is entitled either two rest periods of 24 consecutive hours over a 14-day period, a continuous minimum rest period of 48 hours per 14-day period. There is a statutory standard maximum explicitly referring to overtime. The WTL contains a maximum weekly working time as not exceed 48 hours on average, including overtime. The reference period is four months. However, there is an explicit derogation for the reception, hospitalization and / or care services provided by hospitals or similar institutions, including the activities of specialized doctors, residential institutions and prisons. The derogation is subject to the general principles for the protection of the safety and health of workers, Articles 4, 5, 6, 7 and 9 of this Law shall not apply to workers whose working time, due to the specific nature of the activity carried out, is not calculated and/or predetermined or can be determined by the workers themselves, pertaining to sections maximum daily hours allowed (Art. 4 of WTL).</p>	Contract of employment, but not monitored and often disregarded
CZ	<p>Standard weekly working time:</p> <ul style="list-style-type: none"> • 40 hours per week; • 37.5 hours per week in case of a 3+-shift regime or continuous regime; 	

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	<ul style="list-style-type: none"> 38.75 hours per week in a 2-shift regime. <p>The length of one shift may not exceed 12 hours</p>	
DE	As agreed in collective agreement or work arrangements	As agreed by collective agreement or work arrangements
DK	<p>37 hours per week for full-time employees.</p> <p>Daily normal working time is agreed by local collective agreements – if no agreement is found, the daily working time ranges between 5 – 10 hours for full-time employees</p>	<p>Maximum 37 hours per week for full-time employees (over a 4-month period).</p> <p>It is possible to conclude individual agreements on additional working time, i.e., 37-48 hours/week. Such agreements are subject to approval by the trade union, which ensures the agreement is voluntary</p>
EE	40 hrs per week/8 hrs per day	
EL	<p>National interprofessional collective agreement.</p> <p>Maximum limits of 40 hours/week; 8 hours/day</p>	All domestic workers are excluded from regulations on working time
ES	<p><i>Civil servants/public employees:</i> The law refers to the relevant agreements (Article 47 of Law 55/2003). It covers between 35 and 37.5 hours, depending on the region (Article 39 of the Framework Collective Agreement)</p>	40 hours per week (Article 9(1) Royal Decree 1620/2011). Not more than 8 hours per day in case of minors
	<p><i>Private employees:</i> 1 792 hours per year.</p> <p>1,755 working hours for LTC workers who provide in-home care services (non-residential LTC).</p>	
FI	<p>Regular working time shall not exceed eight hours per day or 40 hours per week. The weekly working time may be organised in such a way that it averages 40 hours over a period of no more than 52 weeks without exceeding the regular daily working time of eight hours.</p> <p>Regular working time may be organised in the form of shift work. In shift work, the shifts must change regularly and at intervals agreed upon in advance. Change is considered regular when a shift does not coincide for more than an hour with the shift immediately following or the shifts are no more than an hour apart.</p>	<p>No regulation if no employment relationship has been concluded.</p> <p>The Working Time Act does not apply to domestic work performed by a member of the employer's family</p>

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FR	35 hours per week. (Article L. 3121-27 of the French Labour Code)	Article 45 of the National Collective Bargaining Agreement of Employees of Private Households: "The provisions relating to working hours and part-time work laid down in the Labour Code shall not apply to employees covered by this collective agreement. The provisions of this chapter shall be supplemented by those laid down in each of the specific bases."
HR	40-hour week (Article 17(1) of the CASA); Article 28(1) of the CAHC; Article 65(1) of the CAPHC	
HU	Full time: 8 hours per day and 40 hours per week.	
IE	Section 15 OMTA: Maximum 48 hours per week averaged over a four-month period. Work week for health service executive staff is 39 hours.	
IT	According to the law, the normal working time is 40 hours/week (Article 3 of Legislative Decree of 8 April 2003, No. 66). National health service: 36 hours/week in 5 or 6 days (Article 43 CCNL)	Live-in domestic workers: 10 hours a day, non-consecutive, for a total of 54 hours a week. Domestic LTC workers: 8 hours a day, non-consecutive, for a total of 40 hours/week in 5 or 6 days. (Article 14 CCNL)
LT	Nurses-- 38 hours/week, social workers - 39 hours/week (collective agreement), others-- 40 hours/week	
LU	40h/ week, 8 h/ day (Article A.1. CCT-SAS)	40h/ week, 8 h/ day (Article L. 211-5)
LV	Article 131 of the Labour Law - 40 hours per week; 8 hours per day	
MT	If in the private sector, the Hospitals and Clinics Wage Council Wage Regulation Order, 1977 applies, i.e. not more than 40 hours of work per week and overtime starts to run beyond the 40 weekly working hours. There is no cap on the maximum number of hours of overtime. If in the public sector, collective agreements.	Organisation of Working Time Regulations (OWTR) Regulation 7 states the following: 7.(1) Save as otherwise provided in these regulations, the average working time for each seven-day period of a worker, including overtime, shall not exceed 48 hours: Provided that:(a) the average weekly working time is calculated from the total number of hours worked in a reference period as specified in sub-regulation (3); (b) the periods of paid annual leave, granted in accordance with regulation 8, the periods of sick leave as specified in any relevant legislation issued in terms of the Act or as specified in a relevant collective agreement and any other leave to which a worker shall be entitled pursuant to any relevant legislative provision issued in terms of the Act shall not be included in the calculation of the average.

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		<p>However, the Overtime Regulations, 2012, state that the employee can give his/her consent to remove the 48-hour cap in the OWTR.</p> <p>3(2) The provisions of sub-regulation (1) limiting overtime to a weekly average of 48 hours during the applicable reference period shall not apply where the employee has given his/her consent in writing to work more than a weekly average of 48 hours</p>
NL	<p>The general standard is 48 hours per week, on average, in each 16-week period, which can be deviated from by collective agreement (Article 5:7 Working Time Act). The collective agreement VVT provides for 36 hours per week, on average, every year or (if the employee chooses) 36 hours, on average, in every quarter. The employer and employee may deviate up to a maximum of 40 hours per week, on average (Article 3.1)</p>	<p>Article 5:7 Working Time Act does not apply to live-in domestic workers. Instead, the employer must comply with a specific, detailed provision on uninterrupted rest periods (Articles 5.10:1-5:10:2 Working Time Decree). Nevertheless, the same provision of the collective agreement VVT applies to both live-in and domestic LTC workers</p>
PL	<p>7:35 hours per day and 37:55 hours per week.</p> <p>Working time can be extended to 12 hours if justified by organisational reasons or type of job</p>	<p>8 hours per day and 40 hours per week.</p> <p>Working time can be extended to 12 hours if justified by organisational reasons or type of job</p>
PT	<p>PLC: maximum limits of 40 hours/week; 8 hours/day.</p> <p>LGTFP: maximum limits of 35 hours/week; 7 hours/day.</p> <p>Collective agreements potentially applicable: maximum limits range between 35 and 40 hours</p>	<p>The Domestic Work Regime establishes a maximum period of work of 44 hours per week (it is disputable whether this rule is still in force, considering the maximum normal period of work defined by PLC).</p> <p>(cf. the Proposal of Law No. 15/XV intends to amend the relevant rule of the Domestic Work Regime, establishing a maximum normal period of work of 40 hours per week)</p>
RO	<p>8 hours/day, with shift work</p>	<p>Formal caregiver at home: maximum 8 hours/day, consecutive or distributed at regular intervals throughout the day. The 8-hour period may only be exceeded under the conditions expressly provided by law</p>
SE	<p>40 hours/week (Working Time Act. Some collective agreements might reduce these hours)</p>	
SI	<p>40 hours per week (on average, within the reference period of 6 months)</p>	
SK	<p>According to Article 85 paragraph 9 of the Labour Code, an employee's average weekly working time, including overtime, may not exceed 48 hours. But according to Article 85a paragraph 1 of the Labour Code, the average weekly working time of an employee, including overtime, may exceed 48 hours for a period of four consecutive months in the case of a health care employees under other relevant regulations if the employee agrees to the given extent of working time. The average weekly working time of an employee who falls under the first sentence shall not exceed 56 hours</p>	

4.1.1.3 Limits on overtime of LTC workers

According to **thirteen national reports (AT, CY, DK, EL, ES, IT, LU, MT, NL, PL, PT, SE, SI)**, rules on overtime differ between nurses/personal assistants and domestic LTC workers.

In **two MS** derogations from the limits on overtime were reported for nurses (**SI** and **PL**).

Table 10 provides an overview of the specific rules on overtime limits for the different categories of LTC workers.

Table 10. Regulations on limits to overtime for LTC workers

Country	Nurses/personal assistants	Domestic LTC workers
AT	12 hours/day; 60 hours/week; 48 hours on average over 17 weeks/26 weeks, if permitted by the collective agreement	<i>Domestic workers:</i> no limit, but only permitted in exceptional cases.
		<i>Live-in domestic workers:</i> the Domestic Care Act does not distinguish between normal working time and overtime – the above mentioned limit on regular working time (128 hours/2 weeks) applies. This limit can only be exceeded through on-call or stand-by duties that by legal definition are not to be considered working time ⁷⁴
BE	This limit of 50 hours per week may be exceeded, provided that the 38-hour weekly average is reached over a 4-week period. However, exceeding the weekly maximum limit is limited by the fact that over a trimester, the number of additional working hours must be limited to 143 hours. If this amount is exceeded, compensatory rest must be granted immediately. If overtime work exceeds 143 hours, it is paid at 150 per cent	
BG	Pursuant to Article 146, para. 1–3 LC, the duration of overtime work performed by a worker within any one calendar year may not exceed 150 hours. The duration of overtime work may not exceed: 30 hours of day-time work, or 20 hours of night-time work during one calendar month; 6 hours of day-time work, or 4 hours of night-time work during one calendar week; 3 hours of day-time work, or 2 hours of night-time work over two successive working days	
CY	The WTL contains a maximum weekly working time as not exceed 48 hours on average, including overtime, however under Art. 16(2)(c)(i) of WTL the derogation applies for nurses and care workers. The Collective agreement provide for these.	Under Art. 16(2)(c)(i) of WTL the derogation applies for nurses and care workers. There is no collective agreement for domestic workers.

⁷⁴ The explanatory materials to the legislative draft point out that working when being called is 'of course' considered working time.

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CZ	8 hours per week and 150 hours can be ordered by the employer per calendar year. The parties can agree to a higher amount of overtime work but may not exceed the 8-hour-limit over a 26-week period, or 52 weeks if it is agreed in a collective agreement.	
DE	10 hours/day (derogation option for care work in Section 7 (2) ArbZG); 48 hours/week within a 6-month reference period	
DK	No specific limit, but: - observance of rules on daily and weekly rest time, and always a maximum of 48 hours per week. - Overtime (above 37 hours per week) cannot be used systematically	Legal WT duration is maximum 37 hours per week for full-time employees (over a 4-month period). It is possible to conclude individual agreements on additional working hours, i.e. 37-48 hours/week. Such an agreement is subject to approval by the trade union, which ensures that the agreement is voluntary
EE	Maximum working time over a four-month period-- 48 hrs per week including overtime work. The reference period can be extended by a collective agreement up to 12 months	
EL	National interprofessional collective agreement. Presidential Decree 88/1989: up to 2 hours in a normal day of work	All domestic workers are excluded from regulations concerning working time
ES	<i>Civil servants/public employees</i> : there is no defined overtime in this field. Article 48.2 of Law 55/2003 establishes the maximum combined duration of working time corresponding to the ordinary working time and additional working time (48 hours per week of effective work, but on average, over a six-month period, unless a different calculation is established by agreement). The 'additional working time' is linked to on-call work. In this field of health care, and in particular in emergency services, on-call work usually requires on-site work, hence the worker must remain in the facilities at all times. 24-hour on-call services are frequent in Spain (more for doctors than for nurses but may include nurses as well). Health care staff are required to remain present at the workplace, all this time must be regarded in its entirety as working time, regardless of whether they actually perform tasks during this period. Article 49 of Act 55/2003 is also relevant, because it regulates a 'special working time' scheme on a voluntary basis, up to 150 hours per year. Article 49 authorises the 'competent administrative or labour authorities to 'prohibit or limit, for reasons of safety or health of personnel, excesses over the maximum duration of the working time provided in Article 48.2' (48 hours of weekly working time). However,	Not more than 80 hours per year (Article 35 of the Labour Code)

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	there is no strict prohibition, i.e. this 'special working time' can result in a work week of more than 48 hours.	
	<i>Private employees:</i> No specific rules in the collective agreement, hence not more than 80 hours per year (Article 35 of the Labour Code)	
FI	When observing general working hours, daily overtime is defined as work that exceeds eight hours a day. Weekly overtime is defined as work that exceeds 40 hours a week and that is not counted as daily overtime	
FR	The maximum weekly working time is forty-eight hours (Article L. 3121-20 of the French Labour Code)	
HR	Article 19 of the CASA and Article 49 of the CAHC regulate payments for overtime work and limits are prescribed by the LA. If the employee works overtime, the total working time of the employee may not exceed 50 hours a week; one can work maximum 180 hours of overtime work per year or maximum 250 per year when agreed by collective agreement (Article 65(3) and 65(4) of the LA).; Article 70 of the CAPHC refers to the provisions of the LA on overtime work.	
HU	Max. 8 hours per week	
IE	None, subject to section 12 OWTA	
IT	According to the law, overtime is regulated by collective bargaining, but the weekly working time may not exceed 48 hours, including overtime (Article 4-5 of the Legislative Decree of 8 April 2003, No. 66). National Health Service: only for exceptional situations. The use of overtime for each employee may not exceed 180 hours/year (Article 47 CCNL)	Overtime must not affect the right to daily rest (Article 15 CCNL)
LT	8 hours/7 days (opt-out: 12 hours/7 days); 180 hours per year	
LU	The maximum daily working time is limited to 10 hours, exceptionally 12 hours (Article B.3. CCT-SAS)	Maximum of 10 hours per day, 48 hours per week, exceptionally 12 hours per day with a specific agreement and under the condition that the weekly working time does not exceed 40 hours (Article L. 211-12)
LV	Article 136 of the Labour Law – overtime work may not exceed 8 hours in 7 days period calculated in average within 4 months.	

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MT	<p>If in the private sector, the Hospitals and Clinics Wage Council Wage Regulation Order, 1977</p> <p>Work over and above the 40 hours is paid as follows:</p> <p>For Sunday and public holidays:- double</p> <p>For all time worked outside the ordinary hours of work on any day of the week, including any weekly day of rest except a Sunday or a public holiday:- 1.5 times.</p> <p>Overtime is not capped.</p> <p>If in the public sector, a collective agreement applies.</p>	<p>Regulation 7 of OWTR applies: the average working time for each seven-day period of a worker, including overtime, shall not exceed forty-eight hours.</p>
NL	<p>The Working Time Act and the Working Time Decree do not specifically limit overtime: the general limitation for normal working time applies. Up to 1 April 2022, the VVT collective agreement stipulated that in terms of work provided in nursing homes and care facilities, the number of hours of overtime could not exceed 10 per cent above the agreed working hours measured over a 4-month period. If this percentage was exceeded, the employer had to proceed (at the employee's request) to provide assistance or post a vacancy (Articles 5.16 and 5.18).</p> <p>In general, the VVT collective agreement distinguishes between 'plus hours', 'more hours' and 'overtime'. Plus hours are hours worked overtime during the week and are, in principle, compensated at another time during the year (Article 3.7). More hours are relevant for part-time employees and are hours the employee has worked in excess of those agreed in the employment contract, but less than the maximum working hours for full-time employment (1 872 hours). More hours are paid at the end of the year as normal working hours (Article 3.8). Overtime means the employee works more than the maximum working hours for full-time employment (1 872 hours). For these hours, the employee is entitled to an additional compensation of 50 per cent of his/her hourly wage (Article 3.9)</p>	<p>The same provisions of the VVT collective agreement apply</p>
PL	<p>Cannot exceed 150 hours in a calendar year. Unless otherwise regulated, but not more than up to 48 hours weekly, including normal working hours. Nurses can agree to work more than an average of 48 hours per week (so-called medical stand-by time)</p>	<p>Cannot exceed 150 hours in a calendar year. Unless otherwise regulated, but not more than up to 48 hours weekly, including normal working hours.</p>
PT	<p>PLC: between 150-175 hours/year, depending on the size of the company; up to 2 hours on a normal day of work; on a rest day or</p>	<p>PLC rules applicable to domestic workers.</p>

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	<p>public holiday, the limit corresponds to the number of hours equal to the daily working period.</p> <p>LGTFP: 150 hours/year; up to 2 hours on a normal day of work; on a rest day or public holiday, the limit corresponds to the number of hours equal to the daily working period.</p> <p>Collective agreements: no relevant provisions</p>	No specific regulation in the Domestic Work Regime
RO	8 hours/week	
SE	<p>48 hours over a 4-week period or 50 hours per calendar month. Maximum 200 hours over one year (Working Time Act, para 8).</p> <p>Additional overtime up to 150 hours per calendar year (para 9) may be accepted</p>	Act on Domestic Workers: 48 hours over 4 weeks. Maximum 300 hours over one year
SI	<p>Max. 8 hours per week, 20 hours per month, 170 hours per year (exceptionally, with the worker's consent, even more, namely up to 230 hours per year).</p> <p>For nurses: max. 8 hours per week (above this limit, with an express consent by the worker in writing)</p>	Max. 8 hours per week, 20 hours per month, 170 hours per year (exceptionally, even more, namely up to 230 hours per year with the worker's consent)
SK	<p>Overtime work is regulated by the Labour Code in the Article 97.</p> <p>According to Article 97 paragraph 6 of the Labour Code overtime work for an employee may not exceed on average eight hours in individual weeks in a period of at most four consecutive months, if the employer has not agreed a longer period with the employees' representatives, however at most 12 consecutive months.</p> <p>An employee may be charged overtime work up to the maximum extent of 150 hours in a calendar year. An employee working in a medical profession pursuant to special regulation can, after agreement with employees' representatives, be charged to perform up to 100 additional hours of overtime work per calendar year beyond the limit stipulated in the first sentence. (paragraph 7)</p> <p>(8) The number of hours of permitted overtime per year shall not include overtime work for which the employee received alternative free time or overtime work that is performed in the context of</p> <p>a) urgent repairs or work without which there would be a risk of a work-related injury or large scale damage pursuant to special regulations,</p> <p>b) extraordinary events pursuant to a special regulation where there is a risk to life, health or of damage on a large scale pursuant to special regulations. (paragraph 8 letters a/ and b/)</p> <p>The scope and conditions of overtime work shall be determined by the employer after agreement with the employees' representatives. (paragraph 9) An employee may work a maximum of 400 hours overtime in a calendar year. (paragraph 10)</p>	

	<p>An employee who performs risky work cannot be assigned to overtime work. Overtime work may be agreed with this employee exceptionally in the case of work pursuant to paragraph 8. It is possible to agree exceptionally overtime work with the employee who performs risky works for the reason of managing secure and fluent production process after previous agreement of the representatives of employees. (paragraph 11)</p> <p>According to Article 97 paragraph 12 of the Labour Code an employee whose job falls under the category of health care pursuant to relevant regulation and who is over the age of 50 may not be ordered to perform overtime work. Overtime work is admissible only with the employee's agreement.</p> <p>But according to above cited Article 85 paragraph 9 of the Labour Code, an employee's average weekly working time including overtime may not exceed 48 hours. According to Article 85a paragraph 1 of the Labour Code, however, the average weekly working time of an employee including overtime may exceed 48 hours over a period of four consecutive months, if he/she is employed in the health care sector under another relevant regulation and if the employee agrees to the proposed working time. The average weekly working hours of an employee who falls under the first sentence shall not exceed 56 hours.</p>
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4.1.1.4 Rest periods for LTC workers

According to **fourteen national reports (BE, BG, CZ, DE, EE, FI, HR, HU, IE, LT, LV, PL, SI, SK)**, the national regulation of rest periods for LTC nurses/personal assistants also applies to domestic LTC workers.

Conversely, specific rules for the rest periods of domestic LTC workers have been reported in the remaining MS. Interestingly, **five national reports (AT, ES, IT, NL, PT)**, indicated that different rules from those generally prescribed for domestic workers exist regarding the rest periods of live-in domestic LTC workers.

Table 11 provides an overview of the general or specific rules concerning rest periods for LTC workers across the MS where these exist.

Table 11. Overview of the regulation on rest periods of LTC workers in 27 MS

Country	Nurses/personal assistants	Domestic LTC workers
AT	½ hour at work rest break, 11 hours/day, 36 hours/week	<p><i>Domestic workers:</i> at work rest break of between 20 and 60 minutes, depending on the daily working time; 13 hours daily at least between 21:00 and 06:00; one day weekly starting from at least 14:00 until the start of work on the following day.</p> <p><i>Live-in domestic workers:</i> 3 hours at work rest break in total, two of them 30 minutes without interruptions; every 24 hours: 10 hours rest break, including the time between 21.00 and 06:00.</p>

		In both cases, the interruption of the break/rest period is only allowed for urgent, undelayable and inevitable reasons ⁷⁵
BE	Article 38ter Labour Code: All employees shall be entitled to at least 11 consecutive hours of rest during a 24-hour period between the cessation and resumption of work	
BG	30 min minimum daily meal break; 12 hours of minimum uninterrupted daily rest period; 48 hours minimum uninterrupted weekly rest period	
CY	<p>The WTL provides for rest periods and duration of night work. Art. 9(1) provides that the working time of night workers shall not exceed an average of eight hours per day, in a period of one month or in any other period determined by collective agreements. Also the twenty-four-hour weekly rest period provided for in subsection (1) of section 6 of this Act shall not be taken into account in calculating the average.</p> <p>(2) Night workers whose work involves special risks or considerable physical or mental strain shall not work more than eight hours during a 24-hour period in which they perform night work.</p> <p>(3) Work involving particular risks or significant physical or mental strain, unless specified by the legislation in force or by collective agreements, shall be determined at the enterprise level after consultation between the employer and the representatives of the employees or their representatives on safety and health matters, in accordance with the provisions of the Act and in accordance with the written risk assessment, in which the risks associated with night work shall also be assessed.</p>	No breaks mentioned
CZ	<p><i>Breaks:</i></p> <ul style="list-style-type: none"> • 30 minutes after no more than 6 hours of continuous work; • 30 minutes after no more than 4.5 hours of work in case of juvenile employees; • reasonable time for rest and meal breaks in case of work which cannot be interrupted. <p><i>Daily rest:</i></p> <ul style="list-style-type: none"> • 11 hours between the end of one shift and the start of the next shift within 24 consecutive hours; or • 8 hours in cases under sec. 90(2), provided that the employee's subsequent rest period is extended by the same amount of time by which the preceding rest period was reduced. 	

⁷⁵ There may be an obligation to resume work as there is a restriction to it (see the last paragraph - § 3 (5) of the Domestic Workers Act).

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	<p><i>Weekly rest:</i></p> <ul style="list-style-type: none"> • 35 hours of uninterrupted rest per week (preferably to include Sundays); or • 24 hours in cases under sec. 90(2), provided that the employees has an uninterrupted weekly rest period so that in a period of 2 weeks, the total length of this rest is at least 70 hours 	
DE	<p>11 hours per day; free on Sundays (derogation option for care work in section 7 (2) ArbZG by collective agreement for the sake of the well-being of the care recipient; the reference period for weekly working time can be increased up to 12 months. Collective agreements concluded with a trade union can delegate the power to decide on such derogations to company-level agreements with works councils)</p>	
DK	<p>Two consecutive days off each week, lasting btw. 55-64 hours in total.</p> <p>If daily rest time is reduced to 8 hours, the weekly rest time can be shorter (two short weekly rest periods with a duration of 35 and 32 hours).</p> <p>The weekly rest time can be extended by extending the period by at least 24 hours</p>	<p>The parties have used the derogation possibility in the working time rules (approved by the Head of the Danish Working Environment Authority).</p> <p>The daily rest time may be reduced to 8 hours. Such a reduction cannot take place more than two times per week, and not over two consecutive 24-hour periods.</p> <p>Per week, a BPA worker, as a main rule, is entitled to 1 day off, which must be in continuation of his/her daily rest time.</p> <p>Special rules apply for 24-hour shifts. A precondition for 24-hour shifts is that there must be a designated room for resting</p>
EE	<p>Between working days: min 11 hrs. This restriction may not be applied to caregivers, provided that working does not adversely affect their health and safety; rest time per week: 48 consecutive hours</p>	
EL	<p>Presidential Decree 88/1989: at least 11 consecutive hours between two daily periods of work, except in specific cases</p>	<p>All domestic workers are excluded from regulations on working time</p>
ES	<p><i>Civil servants/public employees:</i></p> <p><i>Daily rest:</i> 12 hours between the end of a workday and the beginning of the following one. The maximum workday is set at 12 hours, but there is a possibility to work up to 24 consecutive hours. There are rules on compensating rest if those limits are not respected in case of 'additional' and 'special' working time.</p> <p><i>Breaks:</i> 15 minutes if the working day exceeds 6 hours.</p> <p><i>Weekly rest:</i> 36 hours.</p>	<p><i>Daily rest:</i> 12 hours between the end of a workday and the beginning of the next one (it can be 10 for live-in caregivers, but the remainder up to 12 hours must be compensated within a four-week period).</p> <p><i>Breaks:</i> 15 minutes if the working day exceeds 6 hours (30 minutes if the working day exceeds of 4.5 hours for workers under the age of 18 years).</p> <p><i>Weekly rest:</i> 36 hours (2 days in case of minors).</p> <p><i>Annual leave:</i> 30 days</p>

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	<p><i>Annual leave:</i> 30 days (Articles 50 et ff. Law 55/2003)</p>	
	<p><i>Private employees:</i></p> <p><i>Daily rest:</i> 12 hours between the end of a workday and the beginning of the next one (no more than 9 daily hours of work. Travel time between the homes of two care recipients is considered working time in home care service).</p> <p><i>Breaks:</i> 15 minutes if the working day exceeds 6 hours (30 minutes if the working day exceeds 4.5 hours for workers under the age of 18 years).</p> <p><i>Weekly rest:</i> 36 hours (2 days in case of minors).</p> <p><i>Annual leave:</i> 30 days (Articles 39 et ff. of the Framework Collective Agreement)</p>	<p><i>Live-in domestic workers:</i> Two hours for their main meals. (Article 9(5)(6)(7)(8) Royal Decree 1620/2011)</p>
FI	<p>According to the Working Time Act, employees who work more than six hours a day in a job that does not require their physical presence at the workplace for the uninterrupted flow of work must, as a rule, be given a daily break of at least one hour. The employer can also agree on a shorter break with the employee, albeit no shorter than half an hour. Employees must be free to leave the workplace during their break. If the employee's working hours exceed 10 hours in a 24-hour period, the employee has the right to a break of up to 30 minutes after eight hours of work</p>	
FR	<p>Daily rest: 11 consecutive hours (Article L. 3131-1 of the French Labour Code).</p> <p>Weekly rest: 24 consecutive hours + 11 consecutive hours (Article L. 3132-2 of the French Labour Code)</p>	<p>35 consecutive hours (Article 46 of the National Collective Bargaining Agreement of employees of private households)</p>
HR	<p>Articles 21-24 of the CASA (30-minute break is guaranteed; 60-minute break or two 30-minutes breaks are guaranteed for employee who works in 12-hour shifts; 48-hour weekly rest is guaranteed);</p> <p>Articles 30-35 of the CAHC (30-minute break is guaranteed; 60-minute break or two 30-minutes breaks are guaranteed for employee who works in 12-hour shifts; 12-hour daily rest, exceptionally, in primary health care, the daily rest between two consecutive working days may be less than 12 hours, but not less than 10 hours; 48-hour weekly rest; If it is absolutely necessary for the employee to work on the day of the weekly rest, s/he is provided to take the unused weekly rest immediately after the end of the period s/he spent at work due to which s/he did not take the weekly rest or took it for a shorter duration. If the weekly rest cannot be taken in this manner due to work needs, it can be</p>	

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	used later according to the employer's decision. In any case, the employee must be provided to take a weekly rest after 14 days of continuous work.); Articles 75-79 of the CAPHC (30-minute break, 12-hour daily rest and 24-hour weekly rest are guaranteed; possible equivalent periods of compensatory daily and weekly rest in line with the LA).	
HU	2 days per week Daily: 11 hours	
IE	Sections 11, 12 and 13 OWTA provide for a daily rest period, rests and breaks at work, and weekly rest periods. Employees are entitled to a rest period of not less than 11 consecutive hours in each 24-hour period. Employees are not required to work for a period of more than 4.5 hours without a break of at least 15 minutes or for a period of more than 6 hours without a break of at least 30 minutes. Employees must, in addition, be granted a daily 11-hour rest period, a rest period of at least 24 consecutive hours in each 7-day period.	
IT	According to the law: 11 hours of rest every 24 hours; weekly rest possibly on Sunday (Articles 7 and 9 of the Legislative Decree of 8 April 2003, No. 66). National Health Service: daily rest may not be less than 11 hours (Articles 43 CCNL). One day of rest per week, possibly coinciding with a Sunday. In one calendar year, a nurse has the right to 52 days of weekly rest, regardless of the organisation of working hours (Articles 45 CCNL). The weekly rest period should coincide with a Sunday in the private sector as well, if possible	<i>Domestic LTC workers:</i> weekly rest on Sunday. If the worker's religion provides for a different day of rest other than Sunday, the parties can agree on replacing Sundays with this particular day for the weekly rest (Articles 13 CCNL)
		<i>Live-in domestic workers:</i> 11 consecutive hours/day. Weekly rest: Sunday and an additional 12 hours on another day of the week, agreed with the employer.
LT	11 hours (24 hours in case of a 24-hour work shift), nurses – 26 to 28 working days of annual leave, social workers – 25 working days of annual leave	
LU	Uninterrupted weekly rest period of 44 hours/week. In case of non-compliance, one additional day of rest for each full 8-week period during which this rest was not granted (Article L. 231-11 CT, Article B.5. CCT-SAS)	Uninterrupted weekly rest period of 44 hours/week. In case of non-compliance, one additional day of rest for each full 8-week period during which this rest was not granted (Article L. 231-11 CT, Grand Ducal Decree)
LV	Article 142-144 of the Labour Law – minimum daily rest period must be at least 12 hours; minimum weekly rest period must be at least 42 continuous hours.	
MT	In the private sector, the Hospitals and Clinics Wage Council Wage Regulation Order, 1977 applies.	OWTR

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	<p>Regulation 7 states that full-time employees shall be granted breaks for meals and rest of not more nor less in the aggregate of one hour on any single day.</p> <p>If in the public sector, the collective agreement applies</p>	
NL	<p>For nursing and care work, Article 5.19:2 Working Time Decree provides that the general provisions on uninterrupted rest periods can be deviated from by collective agreement. At minimum, the collective agreement must ensure the employee has an uninterrupted rest period of at least 11 hours in each consecutive 24-hour period, which may be shortened to at least 8 hours once in each consecutive period of 7 times 24 hours, as well as once to at least 10 hours.</p> <p>On the basis of the VVT collective agreement, the employer must grant an uninterrupted rest period and recovery time of at least 36 hours in each consecutive period of 7x24 hours or at least 60 hours of rest and recovery time in a consecutive period of 9x24 hours (Article 3.4)</p>	<p><i>Domestic LTC workers:</i> Article 5.19:2 Working Time Decree</p>
		<p><i>Live-in domestic workers:</i> the employer must comply with a specific, detailed provisions on uninterrupted rest periods (Articles 5.10:1-5:10:2 Working Time Decree).</p> <p>Nevertheless, the same provision of the VVT collective agreement applies to both live-in and domestic LTC workers</p>
PL	11 hours per day, 35 hours per week	
PT	<p>PLC: at least 11 consecutive hours between two daily periods of work, except in specific cases.</p> <p>LGTFP: at least 11 consecutive hours between two daily periods of work, except in specific cases.</p> <p>Collective agreements: no relevant provisions</p>	<p>Domestic Work Regime rules currently in force: live-in domestic workers are entitled to a rest period of at least 8 consecutive hours, which may not be interrupted, except for serious and unforeseen reasons or force majeure, or when they have been hired to care for a sick person or children under the age of three.</p> <p>(cf. Proposal of Law No. 15/XV intends to amend this regime, establishing a minimum rest period of 11 hours)</p>
RO	<p>12 hours/day, 48 hours/week. After 12 hours of work, 24 hours of rest.</p> <p>The work performed by the social assistance and health care provider, to ensure the continuity of the activity, on weekly rest days, public holidays and on other non-working days, in accordance with the regulations in force, within the normal work schedule, is paid with an increase of up to 100 per cent of his/her basic salary</p>	<p>12 hours/day, 48 hours/week. After 12 hours of work, 24 hours of rest.</p> <p>Professional personal assistants are required to ensure the continuity of the activity during a public holiday as well, except where time off is authorised by the employer (Directorate of Social Assistance or private providers of social services).</p> <p>Non-professional personal assistants are entitled to annual rest leave in accordance with the Labour Code. During this period, the employer (municipality) has the obligation to provide the seriously disabled person with a replacement, pay an allowance or accommodation in a care facility</p>

SE	The Working Time Act (paras 13, 13a, 14) stipulates at least 11 hours of rest per 24 hours, primarily between 12.00 a.m. and 05.00 a.m. 36 hours of uninterrupted rest every week, primarily on weekends. Breaks are also provided for (para 15)	Act on Domestic Workers "Relevant night sleep", primarily between 12.00 a.m. and 05.00 a.m. 36 hours of uninterrupted rest every week, primarily on weekends.
SI	12 hours (daily rest) 24 hours (weekly rest period)	
SK	Articles 21-24 of the CASA (30-minute break is guaranteed; 60-minute break or two 30-minutes breaks are guaranteed for employee who works in 12-hour shifts; 48-hour weekly rest is guaranteed); Articles 30-35 of the CAHC (30-minute break is guaranteed; 60-minute break or two 30-minutes breaks are guaranteed for employee who works in 12-hour shifts; 12-hour daily rest, exceptionally, in primary health care, the daily rest between two consecutive working days may be less than 12 hours, but not less than 10 hours; 48-hour weekly rest; If it is absolutely necessary for the employee to work on the day of the weekly rest, s/he is provided to take the unused weekly rest immediately after the end of the period s/he spent at work due to which s/he did not take the weekly rest or took it for a shorter duration. If the weekly rest cannot be taken in this manner due to work needs, it can be used later according to the employer's decision. In any case, the employee must be provided to take a weekly rest after 14 days of continuous work.); Articles 75-79 of the CAPHC (30-minute break, 12-hour daily rest and 24-hour weekly rest are guaranteed; possible equivalent periods of compensatory daily and weekly rest in line with the LA).	

4.1.1.5 Regulation and remuneration of stand-by time for LTC work

According to the analysis performed in the national reports, the rules on the regulation and remuneration of stand-by time⁷⁶ of LTC workers show a variety of approaches:

- In **ten MS (CZ, DE, EE, FI, HR, HU, IE, LT, LV, SK)**, the same **general labour law** rules are relevant for both nurses/personal care workers and domestic LTC workers.
- On the other hand, **differentiations** in regulation and remuneration of stand-by time between nurses/personal assistants and domestic LTC workers were described in **fourteen national reports (AT, CY, DK, EL, ES, FR, IT, LU, MT, NL, PL, RO, SE, SI)**. Furthermore,

⁷⁶ The report follows the definition of "stand-by" time according to the case-law of the Court of Justice: the worker must be reachable at all times but is not required to remain at a place determined by the employer. As "on-call" is understood the case that the worker is required to remain at the workplace or another place determined by the employer.

specific rules concerning the regulation and remuneration of stand-by time for domestic LTC live-in workers exist in **three MS (AT, NL, RO)**.

- According to **three national reports**, there are **no specific rules** on the regulation and remuneration of stand-by time for LTC workers in **Belgium, Bulgaria** and **Portugal**.

Interestingly, in **Germany, Estonia, France**, the **Netherlands, Italy, Spain** and **Sweden**, collective agreements reportedly play a role in the regulation and remuneration of stand-by time.

Table 12 provides an overview of the rules concerning the regulation and remuneration of stand-by time of LTC workers across the MS.

Table 12. Overview of the regulation and the remuneration of stand-by time of LTC workers EU wide

Country	Nurses/personal assistants	Domestic LTC workers
AT	Regular stand-by time to a significant extent: 60 hours/week and 12 hours per day (§ 5 AZG); in case the working time predominantly consists of stand-by time: 3 times a week, 24 hours/day, 72 hours/week but on average only 60 hours (§ 5a AZG)	<i>Domestic workers: none.</i>
		<i>Live-in domestic workers: any on-call time exceeding the maximum limit, which the caregiver spends as agreed in his/her own living quarters or in domestic surroundings and during which he/she is otherwise free to dispose of his/her time shall not be deemed working time</i>
BE	None	
BG	None	
CY	Yes, there is regulation of this matter. There has been no new regulation since Matzak where working time this stand-by time when the limitations imposed on the worker 'are such as to affect objectively and very significantly the worker's ability to manage freely the time'. The Cypriot Courts have examined standby only in the context of fire fighters in two cases of Attorney General v Michalis Kongorizi and Nicoli and others V Republic. In the latter case the Administrative court allowed an appeal by firefighters pertaining to recognition and compensation for on-call waiting time.	No. This is not usually in the contracts.
CZ	<i>Regulation</i> The employer may only require stand-by time from an employee if this has been agreed with the employee.	

	<p><i>Remuneration</i></p> <ul style="list-style-type: none"> • active stand-by time (if work is performed) – the employee is entitled to his/her salary/wage; • passive stand-by time (if work is not performed) – the employee is entitled to at least 10 per cent of his/her wage 	
DE	Collective agreements can increase the daily working time beyond 10 hours (or allow works council agreements to do so). The weekly working time can be extended beyond 48 hours for workers who give written and individual consent	
DK	<p>Planned stand-by time cannot exceed more than 24 hours/week.</p> <p>The remuneration of stand-by time is agreed locally, otherwise this applies (e.g.): stand-by time is included in the working time (with a certain ratio).</p> <p>For calls and efficient services during stand-by-time, the remuneration is the worker’s regular wage + 50 per cent</p>	<p>Stand-by time is included in the working time (with a certain ratio).</p> <p>If called to provide services during stand-by-time, the worker is remunerated (regular wage + 50 per cent).</p> <p>If called to provide services during inconvenient hours: the BPA worker is additionally entitled to free transportation to/from the home of the care recipient</p>
EE	Minimum wage according to the collective agreement; stand-by-time: 10 per cent from the wage agreed in the employment contract (from 01.01.2024: 20 per cent)	
EL	<p>Presidential Decree 88/1989</p> <p>No specific compensation for stand-by time is envisaged. It is a question of individual agreement</p>	All domestic workers are excluded from regulations on working time
ES	<p><i>Civil servants/public employees:</i> ‘additional working time’ is linked to on-call work (see ‘limits on overtime’).</p> <p>Article 48(2) of Law 55/2003 provides for a specific rule on stand-by time, which is not considered working time unless the worker is required to perform actual work or service, in which case both the duration of the work performed and the commute shall be counted as working time.⁷⁷</p>	Not more than 20 hours per week (one-month reference period). The wage must be at least the same as that for normal hours (Article 9(2) Royal Decree 1620/2011)

⁷⁷ This Article has not been amended to implement CJEU case law. Since *Matzak* (21-2-2018, case C-518/2015), the Court requires counting this stand-by time as working time when the limitations imposed on the worker ‘are such as to affect objectively and very significantly the worker’s ability to manage their time freely’. The Spanish Supreme Court has already implemented this doctrine (in general, not in the particular case of LTC workers).

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	<p><i>Private employees:</i> 'availability shifts' are not mandatory, but they can be accepted by the worker on a voluntary basis. It is not stand-by time, but on-call work. There is a salary supplement for this availability, but it only counts as working time when the worker is actually called (from the moment of the call until 30 minutes after the end of the service provided). This on-call work counts as overtime (Article 46 of the Framework Collective Agreement)</p>	
FI	<p>An employer and employee may agree on stand-by time and the amount of compensation. When on stand-by, the employee shall be available to the employer and be called for work. Time spent on stand-by is not considered working time unless the employee is required to remain at the workplace or in its immediate vicinity. Stand-by may not unduly hamper the employee's leisure time.</p>	
FR	<ul style="list-style-type: none"> A period of on-call duty is defined as a period during which the employee, without being at his/her workplace and without being at the permanent and immediate disposal of the employer, must be able to intervene to carry out work for the employer. <p>The duration of this intervention is considered actual working time.</p> <p>The period of on-call duty is compensated, either financially or in the form of rest.</p> <p>Employees affected by periods of on-call duty shall be informed of their individual schedule within a reasonable time. (Article L. 3121-9 of the French Labour Code).</p> <ul style="list-style-type: none"> A company or establishment agreement or, failing that, a branch agreement may introduce stand-by duty. This agreement sets out how stand-by duty is organised, the arrangements for informing and giving advance notice to the employees concerned and the compensation to which they give rise, either in the form of money or in the form of rest (Article L. 3121-11 of the French Labour Code) 	No provisions
HR	<p>Article 20 of the CASA regulates only on-call work, not stand-by time;</p> <p>Article 51 of the CAHC (The stand-by time spent on duty in excess of the monthly fund of working hours is paid as overtime.);</p> <p>Articles 160-162 of the CAPHC (The employer determines the compensation for stand-by time in a flat amount – Art 160(1))</p>	
HU	<p>On-call (20 per cent extra pay) and stand-by duty (40 per cent extra pay)</p>	
IE	<p>No intermediate legislative category: standby time is either working time, or not.</p>	

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IT	<p>In the event of discontinuous activities, the law may be waived (Articles 16 of the Legislative Decree of 8 April 2003, No. 66). The specific regulation is established by collective bargaining (Articles 17).</p> <p>National Health Service: an on-call service is provided, lasting 12 hours. Each employee cannot have more than 7 on-call shifts in a month. If the worker is available on a public holiday, he or she is entitled to a compensatory rest day (Articles 44 CCNL)</p>	<p>Specific remuneration distinguishing between discontinuous night care services and on-call services only. In the latter case, if the worker is required to perform work other than merely being present, it is not considered overtime, but is remunerated based on their actual content (Articles 10-11 CCNL)</p>
LT	<p>Max 24 hours / shift-- usual pay. No additional payment</p>	
LU	<p>1 hour of additional rest for 24 hours of on-call (obligation to be on site within 30 minutes).</p> <p>0.5 hours of additional rest for 24 hours of on-call telephone duty (obligation to be reachable by phone)</p>	<p>No regulation. National case law is based on EU case law</p>
LV	<p>No specific legal regulation in general. Stand-by time spent at the premises is considered working time (Article 130 of the Labour Law)</p>	
MT	<p>If in the private sector, the Hospitals and Clinics Wage Council Wage Regulation Order, 1977 applies.</p> <p>Regulation 5 states:</p> <p><i>An employee shall be entitled to the payment of the minimum remuneration applicable to him/her for the time during which he/she is present on the premises of the employer, unless he/she is present under any of the following circumstances;</i></p> <p><i>(a) Without the employer's consent, explicitly or implied;</i></p> <p><i>(b) for some purpose not connected with the employee's work and other than being on-call;I) by reason only of the fact that he/he is a resident thereof; and</i></p> <p><i>(d) during recognised breaks for meals and rest, provided the employee is not on-call.</i></p> <p>If in the public sector, the collective agreement applies</p>	<p>National Minimum Wage National Standard Order 1992. No provision on stand-by time</p>
NL	<p>The Working Time Decree distinguishes between stand-by shifts and on-call shifts. Stand-by shifts are only possible if provided for in a collective agreement (Article 5.19:3). The VVT collective agreement also distinguishes between stand-by shifts and on-call shifts</p>	<p><i>Domestic LTC workers:</i> the same provisions of the Working Time Decree and the VVT collective agreement apply.</p> <p><i>Live-in domestic workers:</i> Article 5.19:3 does not apply (Article 5.10:2(1)). Nevertheless, the same provisions of the VVT collective agreement apply</p>

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PL	For stand-by time, an employee has the right to 50 per cent of his/her remuneration	For stand-by time, an employee has a right to 60 per cent of his/her normal remuneration, unless stand-by time is spent at home
PT	PLC/LGTFP: no specific regulation Collective agreements: no relevant provisions	No specific regulation
RO	The working time required for the performance of stand-by duty can be added to the working time based on the basic employment contract. Stand-by periods are remunerated with 100 per cent of the worker's salary. However, on-call duty at home is not considered working time	There are no provisions on stand-by time (not even in the Labour Code). Live-in carers are continuously available on 'stand-by', but this does not count as working time
SE	The Working Time Act (para 6) states that the employer might be called to work (stand-by for a maximum period of 48 hours over a 4-week period or 50 hours during one calendar month), and when work is performed, it is not considered stand-by time (para 6). Collective agreements can deviate from this provision. Compensation is agreed in collective agreements (see for instance AB 20, § 22)	Act on Domestic Workers Not regulated in statutory law for those employed directly in the employer's household. The collective agreements provide for such compensation, see for example, PAN 20, §§ 12 and 13
SI	No explicit provision in the ZDR-1; provisions on working time must be interpreted in line with CJEU case law on this issue. For nurses (in the ZZDej): there is an explicit provision that stand-by duty is considered working time, but remuneration depends on whether effective work was performed or not, whereas on-call duty spent at home does not count as working time (Art. 53 of ZZDej)	No explicit provision in the ZDR-1; provisions on working time must be interpreted in line with CJEU case law on this issue
SK	No specific regulation exists for LTC workers. Regulation and remuneration of stand-by time is regulated in Article 96 of the Labour Code. According the Article 96 paragraph 1 if, in justified cases, in order to ensure necessary tasks, the employer orders the employee or agrees with him to stay outside the framework of the work shift schedule and beyond the specified weekly working time resulting from the predetermined working time schedule for the specified time at the agreed place and be ready to perform work according to the employment contract, it is a work standby. Under the conditions set out in Article 94, the employer may order or agree with the employee to work standby outside the workplace even for the period during which the employee does not work because it is a holiday for which he is entitled to compensation or for which his monthly salary is not deducted; provision of Article 122 paragraph 3 is not affected by this. The time during which the employee remains in the workplace and is prepared to perform work but does not perform work is the inactive part of work standby that is considered to be working time. (paragraph 2) For every hour of the inactive part of work standby in the workplace as defined in paragraph 2, employees are entitled to pay amounting to a proportionate part of their basic pay, which shall not be less than minimum wage in EUR per hour pursuant to a special regulation. If the employer and the employee agree on the provision of alternative free time in compensation for the inactive part of work standby in the workplace, the employee shall be entitled to the pay stipulated in the first sentence	

	<p>and one hour of alternative free time for one hour of work standby; the employee shall not be entitled to pay while taking alternative free time. (paragraph 3)</p> <p>According the Article 96 paragraph 4 the time during which the employee remains in an agreed location outside the workplace and is prepared to perform work but does not perform work is the inactive part of work standby that is not considered to be working time. For each hour of the inactive part of the standby time outside the workplace, the employee is entitled to a compensation of at least 20% of the minimum wage in euros per hour according to a special regulation. (paragraph 5)</p> <p>The time when an employee on standby performs work is the active part of work standby, which is treated as overtime work. (paragraph 6)</p> <p>According to Article 96 paragraph 7 the employer may order at most eight hours of work standby per week and at most 100 hours in the calendar year. Work standby above this range is permitted only by agreement with the employee. According paragraph 8 in a collective agreement it shall be possible to agree restriction of the extent of work standby that may be agreed with an employee pursuant to paragraph 7.</p> <p>Where flexible working time is implemented, work standby in the workplace falling under Article 96 paragraph 2 shall be deemed basic working time. (Article 96a of the LC).</p>
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4.1.1.6 Measures to ensure predictability of working time schedule of LTC workers

There is a variety of approaches across the MS when it comes to measures to ensure the predictability of working time schedule of LTC workers. The notice of changes of the schedule must be transmitted to the worker in advance at least:

- some days (e.g. four days in **Germany**, seven days in **Belgium, Lithuania, Luxembourg** (only for nurses and personal assistants) and **Poland**) or
- weeks (e.g. one week in **Hungary**, two weeks in **Austria, Czech Republic** and **Sweden**, three weeks for domestic LTC workers and four weeks for nurses and personal assistants in **Denmark**) or
- without specifying the time frame (e.g. in due time in **Latvia** and **Estonia**).

In **eleven MS (AT, DK, EL, ES, FR, IT, LU, NL, PL, PT, SE)** the legislation establishing measures to ensure the predictability of the working time schedule of LTC workers differ between LTC nurses/personal assistants and domestic LTC workers.

In the remaining MS, such measures are reportedly common to both LTC/nurses personal assistants and domestic LTC workers.

Table 13 presents countries that have general or specific rules on the predictability of working time schedule of LTC workers.

Table 13. Overview of measures to ensure the predictability of working time schedule of LTC workers in the 27 MS

Country	Nurses/personal assistants	Domestic LTC workers
AT	May be changed with the consent of the employee/works council or unilaterally only with two weeks' notice	No specific regulation
BE	<p>There are three steps in the preparation of time schedules:</p> <p>Step 1: Planned hourly schedule.</p> <p>A schedule that covers one month shall be drawn up no later than 3 months before the start of the month to which it relates, based on a consultation of the employees and the employer's needs. In this planned schedule, the average weekly working time shall be respected over a period of no more than maximum 3 consecutive months /13 consecutive weeks.</p> <p>Step 2: Posted schedule</p> <p>The schedule is posted one month before the start of the month to which it relates. An amendment of this posted schedule is possible only with the joint agreement of the employer and employee, unless no agreement could be found and after reasonably foreseeable efforts by the employer (e.g. interviewing all colleagues of the department/department concerned) and after all possible solutions were exhausted (e.g. the use of mobile teams).</p> <p>Within local social consultations at company level (in the works council, the committee for prevention and protection at work, the trade union delegation), the employee representation is informed about the changes in each department that had to be implemented by the employer.</p> <p>Step 3: Final schedule</p> <p>Seven calendar days before the start of the week to which the schedule relates, the final schedule for the entire week must be issued and can only be changed by joint agreement between the employee and employer</p>	
BG	Measures agreed upon in the individual employment contract	
CY	Existing measures are not described in the national report.	In theory these must be provided in the contract of employment. In practice this is regulated informally and any contractual terms are implemented as a result of the oral agreement of the parties. The changing of working patterns, overwork, underpay etc are among the most regular complaints of domestic workers in care work.
CZ	The employer is required to prepare a written weekly work schedule and to inform the employee thereof or of any changes at least 2 weeks before the beginning of the period for which the working time is scheduled, unless the employer agrees with the employee on a different timeline on providing the relevant information	
DE	Section 12 Part-time and Fixed-term Work Law (TzBfG): in case of on-call work, the worker must be informed about his/her schedule at least 4 days in advance. They must be called to work for at least three hours. The weekly working time can only vary between 80 per cent and 100 per cent of a predefined maximum duration or between 100 per cent and 125 per cent of a minimum duration	

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DK	Employees are consulted in the drafting of the work schedule, which is distributed at least <i>four weeks in advance</i> (unless derogated from by local agreement)	The BPA worker obtains the work schedule <i>three weeks in advance</i> , in so far as this is possible
EE	Information provided by the employer in good time. The period should be specified in the employment contract	
EL	Presidential Decree 156/1994 The employer should inform the employee in writing on the regular working hours per day and week, specifying cases where it is defined in average terms	Rules on the employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (Presidential Decree 156/1994) are also applied to domestic workers. Nevertheless, these measures are meaningless for domestic workers because the latter are excluded from regulations on working time
ES	<i>Civil servants/public employees</i> : no special measures for civil servants apply. LTC workers under an employment contract have the right to receive information on the essential elements of their contract and the main working conditions under Royal Decree 1659/1998 (implementing Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship).	Domestic workers must receive the relevant information on the essential elements of the contract and the main working conditions if these do not appear in the contract formalised in writing. Specifically, this information must include: a) Wage benefits in kind, when agreed; b) The duration and distribution of stand-by time, as well as the system of remuneration or compensation; c) The conditions for overnight stays, if any. (Article 5 Royal Decree 1620/2011)
	<i>Private employees</i> : they have the right to receive information on the essential elements of the contract and the main working conditions under Royal Decree 1659/1998	
FI	The employer has to create a roster to plan work schedules	
FR	<ul style="list-style-type: none"> The employer shall post the times when work begins and ends, and the times and duration of rest periods (Article L. 3171-1 of the French Labour Code). When all employees in a department or workshop do not work according to the same collective schedule, the employer shall draw up the necessary documents for the calculation of working hours, compensatory rest periods and ensure that they are actually taken by each of the employees concerned (Article L. 3171-2 of the French Labour Code). The employer shall make available to the labour inspection officer mentioned in Article L. 8112-1 the documents that allow the 	No provisions

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	working time performed by each employee to be recorded (Article L. 3171-3 of the French Labour Code)	
HR	Article 17(7) of the CASA (The employee must be informed about the work schedule or change of the work schedule at least one week in advance, in writing, with the exact start time indicated, except in the case of emergency overtime work.); Article 60a(5) of the LA (The employer must notify the workers of the schedule or change of such schedule at least one week in advance.); Article 71(5) of the CAPHC (The employer must notify the workers of the schedule or change of such schedule at least one week in advance.)	
HU	The work schedule must be set <i>one week</i> in advance	
IE	Section 17 OWTA provides that an employee is entitled to be notified in advance of the hours he or she will work each week. Additionally, section 3(1A) of the Terms of Employment (Information) Act 1994 provides that one of the details that must be provided within 5 days of commencement of employment is “the number of hours which the employer reasonably expects the employee to work (i) per normal working day, and (ii) per normal working week”. Section 18A OWTA prohibits “zero-hours working practices”. Section 18A OWTA enables an employee whose contractual hours do not reflect the hours actually worked over a reference period to be placed in a higher band of weekly working hours	
IT	According to Article 4, Legislative Decree 27 June 2022, No. 104, implementing the EU Directive on predictable working conditions, information about the work schedule must be communicated to the worker	Working time and the work schedule are agreed between the parties and must be included in the employment contract or in the letter of employment in writing (Article 5 CCNL)
LT	Notification of work schedules at least <i>seven days in advance</i>	
LU	Obligation to draw up an individual work plan (<i>PTI – plan de travail individuel</i>) for at least one month, communicated at least 7 days in advance. The employee must make his or her wishes known by the 10th of the previous month, and these must be respected as far as possible, subject to the needs of the employer and the wishes of the other employees (Article B.6 CCT-SAS). However, the employer has the possibility to adapt the work plan after its publication. The change must in principle be communicated in writing and must be justified by the proper functioning of the service (Article B.7 CCT-SAS). These hours are in principle to be paid as overtime (Article C.1. CCT-SAS)	The Labour Code provides for the possibility of setting up work organisation plans (<i>POT, plan d’organisation du travail</i> , Article L. 211-7 CT), which protect the employee within certain limits against last-minute changes to the predetermined work schedule. However, the formalism required is not suitable for a private person, and even less so for dependent persons. Flexible working time clauses are common and, in principle, recognised by case law. The employer can therefore redefine the working hours according to his/her needs. There are a few isolated cases that provide a framework for this employer’s power and protect against abuse, but there is no clear and fixed case law on this subject

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LV	Article 52(2) of the Labour Law – if the working schedule changes or is unpredictable, the employer has the obligation to notify the employee in due time on the days and hours of work affected	
NL	As a general standard, the work schedule should be communicated at least <i>28 days in advance</i> . <i>Derogations</i> by collective agreement are possible (Article 4:2 Working Time Act). The VVT collective agreement also mentions 28 days, but the employee may agree to changes to the work schedule that are proposed by the employer within the period of 28 days (Article 3(2))	For domestic LTC workers, the same provisions of the Working Time Act and the VVT collective agreement apply. Article 4:2 Working Time Act does not apply to live-in domestic workers (Article 5.10:2(1)). Nevertheless, the same provision of the VVT collective agreement applies
PL	Works schedule is provided for the settlement period (max 4 months)	The work schedule is provided for the settlement period (max 12 months). The work schedule should be provided at least <i>seven days</i> before the settlement period
PT	PLC: the employer should inform the employee in writing on the regular working hours per day and week, specifying the cases where it is defined in average terms. (cf. Proposal of Law No. 15/XV reinforces the employer's information duty. Additional to the information referred to above, the employer shall inform the employee about the regime applicable to overtime work and the organisation of work in shifts)	No specific regulation applies
RO	The work schedule is established in the employment contract. Stand-by duty is determined in advance by the head of the unit	The working schedule is set in the employment contract
SE	The Working Time Act states that the employer must present any changes to the ordinary work schedule at least <i>two weeks in advance</i> (para 12). The same Act provides for an obligation for the employer to keep records of on call-time and overtime (para 11)	Act on Domestic Workers The employer is required (para 6) to keep records on overtime and make those accessible to the employee and trade union (if applicable). Furthermore, if employed on a more regular basis (not temporarily), the employee is entitled to <i>two weeks' notice</i> on changes to his/her ordinary work schedule
SI	Distribution of working time and the rules for temporary redistribution of working time must be set in the contract of employment, workers must be informed in advance, regular information and consultation with trade unions and elected workers' representatives must take place. Additional, more specific rules on how working time can be (re)distributed in certain specific cases, special (additional) protective rules for certain categories of workers, such as working parents, etc.	Distribution of working time and the rules for temporary redistribution of working time must be set in the contract of employment, workers must be informed in advance, regular information and consultation with trade unions and elected workers' representatives must take place

4.1.1.7 Regulation and compensation of inconvenient hours and shift work of LTC workers

According to the national reports, inconvenient hours and shift work of domestic LTC workers are compensated in all countries except for **four MS (CY, EL, ES, LU)**. In **Ireland**, inconvenient hours and shift work of all LTC workers (both nurses/personal assistants and domestic LTC workers) are not compensated, although nightly working hours are regulated in working time regulations.

The regulation and compensation of inconvenient hours and shift work is reportedly applicable to all categories of LTC workers in **eleven MS (BE, CZ, DE, EE, FI, HR, HU, IE, LV, NL, SI)**.

The lack of specific regulation on compensation of inconvenient hours and shift work of domestic LTC workers was reported for **seven MS (AT, BG, FR, MT, PT, RO, SK)**.

Table 14 provides an overview of the existing national regulation and compensation of inconvenient hours and shift work of LTC workers in all MS.

Table 14. Overview of the regulation and compensation of inconvenient hours and shift work of LTC workers EU wide

Country	Nurses/personal assistants	Domestic LTC workers
AT	Not in the Working Time Act, only in collective agreements bonus for night shifts	No specific regulation
BE	A schematic overview of the allowances for irregular work follows, although there are points of difference per joint subcommittee: Day-time work on Saturdays: 26 per cent, Day-time work on Sundays and public holidays: 56 per cent, Night-time work on Sundays and public holidays: 56 per cent, Night-time performance on Saturdays and public holidays: 35 per cent, Interrupted services: 50 per cent, Evening performances on weekdays: 20 per cent	
BG	No special regulation	
CY	Yes. Not specified in the national report.	The contract of employment may provide for this. The domestic worker is entitled to relevant information on the essential elements of the contract and the main working conditions if these do not appear in the contract formalised in writing, which include wage benefits in kind, when agreed and the the duration and distribution of stand-by time, as well as the system of remuneration or compensation. The conditions for the

		overnight stays must be stated. However, this is often not observed. There are no inspections in homes.
CZ	<p><i>Night-time work (22:00-6:00)</i></p> <ul style="list-style-type: none"> • <i>limits</i> - the length of a night worker's shift shall not exceed 8 hours within 24 consecutive hours; where this is not possible for operational reasons, the employer shall be required to distribute the fixed weekly working time so that the average length of the shift does not exceed 8 hours within a period of not more than 26 consecutive weeks, the calculation of the average length of a night worker's shift being based on a five-day work week; • <i>protection</i> <ul style="list-style-type: none"> o mandatory medical examinations paid by the employer, periodic exams at least once every two years; o obligation to transfer the employee to a different type of work if the employee is found incapacitated to perform night-time work by a provider of occupational health services; o employers' obligation to ensure sufficient social services, especially refreshments to night workers, to equip workplaces at which night workers perform work with first aid kits as well as items ensuring the ability to call emergency services; o employers' obligation to keep records of night work, present these to employees and labour inspection officers upon request, a breach of which is sanctioned by a fine of up to CZK 400,000 (EUR 15,800). • <i>remuneration</i> – a premium to the worker's wage/salary of at least 10 per cent of the employee's average earnings, unless otherwise agreed. <p><i>Shift work</i></p> <p>The Labour Code defines a 'shift' as working time excluding overtime work. Therefore, all employees work shifts. Apart from that, the Labour Code defines a 2-shift regime, a multi-shift regime and continuous regime. A '2-shift regime' is defined as a regime of work in which employees regularly succeed each other in 2 shifts within 24 consecutive hours; a 'multi-shift regime' is defined as a regime of work in which employees regularly succeed each other in 3 or more shifts within 24 consecutive hours; a 'continuous regime' is defined as a regime of work in which employees regularly succeed each other in shifts in the employer's continuous operation within 24 consecutive hours while 'continuous operation' is defined as operation requiring performance of work 24 hours per day, 7 days per week. These definitions are closer to the meaning of shift work as understood by EU law.</p> <p>Multi-shift regimes and continuous regimes constitute a second (or possibly third) category of work, giving rise to stricter rules on medical examinations</p>	
DE	Night work: 10 hours/day; 48 hours/week within a 1-month reference period; "appropriate" wage supplement; Sunday rest can be replaced by another weekly rest day in exhaustively enumerated cases	
DK	There are several ways to calculate inconvenient hours. One option is pay supplements, and some supplements come with pension benefits	<p>Ordered overtime is compensated with a 50 per cent supplement to the basic wage.</p> <p>For inconvenient hours, the BPA worker is entitled to pay supplements</p>

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EE	General rules determined in the ECA. In addition, the collective agreement: Night-time work – additional payment of 35 per cent (usually 25 per cent). Working on Saturdays and Sundays –additional payment of 50 per cent (not envisaged in ECA)	
EL	Presidential Decree 88/1989: night work is paid at 25 per cent higher than the regular wage; no specific compensation for shift work is envisaged	All domestic workers are excluded from regulations on working time
ES	<p><i>Civil servants/public employees:</i> when daily rest is not respected, the worker is entitled to an alternative rest period of at least the same duration, which cannot be replaced by economic compensation (Article 54 of Law 55/2003), although this compensatory rest is not applicable to the weekly rest period.</p> <p><i>Private employees:</i> There is a salary supplement to compensate work on Christmas and New Year (Article 45 of the Framework Collective Agreement)</p>	
FI	The Working Time Act ensures compensation for extra work.	
FR	<p>(i) <i>Continuous shift work</i></p> <p>In industries or industrial undertakings, a company or establishment agreement or, failing that, an extended branch agreement may provide for the possibility of organising work on a continuous basis for economic reasons and of allocating weekly rest by rotation.</p> <p>In the absence of an extended collective labour agreement or company agreement, a derogation may be granted by the labour inspector after consultation with the trade union representatives and the opinion of the social and economic committee, if any, under conditions determined by decree in the Council of State. (Article L. 3132-14 of the French Labour Code).</p> <p>(ii) <i>Stand-in team</i></p> <p>In industries or industrial undertakings, a company or establishment agreement or, failing that, an extended collective labour agreement, may provide that the operating staff shall work in two groups, one of which called a substitute team, shall have the sole function of replacing the other during the day or days off granted to the first group.</p>	

	<p>The weekly rest period for employees in the substitute team shall be allocated on a day other than Sunday.</p> <p>This derogation shall also apply to staff required to supervise this team (Article L. 3132-16 of the French Labour Code).</p> <p>The remuneration of employees in the stand-by team shall be increased by at least 50 per cent in relation to the remuneration that would be due for an equivalent amount of time worked according to the company's regular working hours. This increase does not apply when the employees in the stand-by team are required to replace employees who have gone on leave during the week (Article L. 3132-19 of the French Labour Code).</p> <p>(iii) Night work</p> <p>The daily working time of a night worker may not exceed eight hours, except for a few derogations (Article L. 3122-6 of the French Labour Code).</p> <p>Night workers shall receive compensation for periods of night work during which they are employed in the form of compensatory rest and, where appropriate, in the form of salary compensation (Article L. 3122-8 of the French Labour Code)</p>	
<p>HR</p>	<p>LA regulates night work and shift work (Articles 69-72). Article 72 regulates employer's obligations towards night and shift workers. Among others, the employer is obliged to provide night workers with a health assessment before their assignment and thereafter at regular intervals, Article 17(4) and 53 of the CASA (The employee's basic salary will be increased:</p> <ul style="list-style-type: none"> - for working at night 40% - for overtime work 50% - for work on Saturdays 25% - for working on Sundays 35% - for double shifts with a break of 90 min. and longer 10% - for shift work 10% - for work in rotation 10% - for work only in the second shift - 10%.); <p>Articles 28(6), 28(7) and 49 of the CAHC (The employee's basic salary will be increased:</p>	

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	<p>- for working at night 40%</p> <p>- for work on Saturdays 25%</p> <p>- for working on Sundays 35%</p> <p>- for overtime work 50%</p> <p>- for work in the second shift 10%, if the worker works in shifts or in rotations (12-24-12-48);</p> <p>Articles 74, 75, 108(5) and 155 of the CAPHC (entitlement to an increased remuneration: - for night work 40%</p> <p>- for overtime work 50%</p> <p>- for work on Saturdays 25%</p> <p>- for working on Sundays 35%</p> <p>- for work due to difficult working conditions (e.g., working in the 2nd shift or working double shifts with an interruption longer than 1 hour 10 %, Art 155 of the CAPHC)</p>	
HU	Night work and shifts are regulated, extra pay is regulated	
IE	Not compensated, but nightly working hours are regulated in section 16 OWTA	
IT	<p>The law establishes limits on the duration of night work and provides for verification of the worker's physical fitness. Night work can never be performed by minors and pregnant women (Articles 11 ff. of the Legislative Decree of 8 April 2003, No. 66).</p> <p>National Health Service: specific discipline and allowance for night work (Article 47 CCNL)</p>	<p>Specific rules about discontinuous nightly personal care services. In any case the daily rest must be guaranteed.</p> <p>Domestic LTC workers: breakfast, dinner and a suitable accommodation for the night must be guaranteed.</p> <p>(Article 10 CCNL)</p>
LU	Night work, i.e. work between 22:00 and 06:00, is paid at a 25 per cent higher rate (Article 12 CCT-SAS)	No legal pay premiums for night or shift work
LV	Article 67 of the Labour Law – higher pay for night work; Article 68 of the Labour Law – increased pay for overtime work and work on public holidays	
MT	<p>If in the private sector, the Hospitals and Clinics Wage Council Wage Regulation Order, 1977, applies but nothing is specified in this case.</p> <p>If in the public sector, the collective agreement applies</p>	Unless provided for in the employment agreement, no mention in the law
NL	<p>For <i>working during irregular hours</i>, the following additional compensation to the hourly wage is provided (Article 4.4):</p> <ul style="list-style-type: none"> Between 06:00 and 07:00 and between 20:00 and 22:00 on Monday to Friday: 22 per cent; 	The same provisions of the VVT collective agreement apply equally to live-in and domestic LTC workers

	<ul style="list-style-type: none"> • Between 06:00 and 08:00 and between 12:00 and 22:00 on Saturdays: 38 per cent; • Between 00.00 and 06.00 and between 22.00 and 24.00 on Monday to Friday: 44 per cent; • Between 00:00 and 06:00 and between 22:00 and 24:00 on Saturdays: 49 per cent; • Between 00:00 and 24:00 on Sundays and public holidays and between 18:00 and 24:00 on 24 and 31 December: 60 per cent; <p>With regard to <i>night shifts</i>, Article 3.5 of the VVT collective agreement provides that:</p> <ul style="list-style-type: none"> • The employee may work a maximum of five consecutive night shifts unless he/she agrees to work more night shifts with a maximum of seven consecutive night shifts. • The minimum rest time after a series of three or more night shifts is 46 hours. • The employee may not work more than 35 night shifts in a 13-week period. • In each 13-week period, the employee may not work more than 40 hours per week on average. • The employee may work a maximum of 9 hours in a night shift unless there is an incidental unforeseen change in circumstances. In that case, the employee may work a maximum of 10 hours per night shift 	
PL	<p>Additional allowance for work at night (45 per cent of the base salary). Additional allowance for work on Sunday and holidays (45 per cent of the base salary)</p>	<p>Additional allowance for work at night (20 per cent of the national minimum wage)</p>
PT	<p>PLC: night work is paid at a 25 per cent higher rate; no specific compensation for shift work is envisaged. LGTFP: as a rule, night work is paid at a 25 per cent higher rate; a specific compensation for shift work is envisaged. Collective agreements: specific compensation for shift work is envisaged in certain collective agreements</p>	<p>No specific regulation in the Domestic Work Regime. PLC rules apply to domestic workers</p>

RO	No	No
SE	The Working Time Act regulates nightshifts (paras 13 a and 14). The provisions limit the number of hours of nightshifts, but the industrial partners can replace the provisions through collective agreements (also <i>in pejus</i>), as long as the provisions of the Working Time Directive are respected (para 3). A very recent amendment to the working time parts of the collective agreement on care workers will come into force as of 1 October 2023	Act on Domestic Workers There is no statutory legislation on any such compensation. Collective agreements provide for levels of compensation (see for example PAN 20, § 13)
SI	There are special rules for night work and shift work. KPDZSV sets minimum amounts of supplement payments (for shift work: 10 per cent of the basic salary; 15 per cent or 20 per cent for divided working time in two parts; 50 per cent for night work; for work on Sundays: 100 per cent supplement; 50 per cent for overtime work, etc.)	
SK	None reported.	

4.1.1.8 Emergency rules applied in the context of the COVID-19 pandemic

As the COVID-19 pandemic increased the challenges of the structural weaknesses of the LTC systems, many MS adopted measures to address such issues.

Measures described in the national reports related to the deployment of non-qualified staff in the health care sector (**BE**), the permission of derogations from working time rules, especially overtime, maximum working time and rest periods (**DE, FI, LU** (for nurses/personal assistants), **LV, NL, PL** (for nurses/personal assistants), **SE** (regional application of derogations), the continuity of work during lock-downs due to the classification as essential activities (affecting nurses and personal assistants in **EL** and **PT**), the establishment of flexibility in working schedules (**SI**) or special salary rights (**RO**).

Table 15 provides an overview of the emergency rules for the LTC sector adopted in the context of the COVID-19 pandemic across the MS.

Table 15. Overview of emergency rules applied in the context of the COVID-19 pandemic applicable to LTC workers

Country	Nurses/personal care workers	Domestic LTC workers
BE	Two temporary Royal Special Powers Decrees Nos. 9 and 16 of 19 April 2020 and 29 April 2020 respectively, allowed for the deployment of non-qualified staff in the health care sector and the requisitioning of health care staff by the government	
CY	Some imposed	No

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DE	According to the COVID-19 Working Time Regulation (Covid-19-ArbZV) of the Federal Labour Ministry, applicable April-June 2020, LTC workers could be requested to work up to 12 hours/day and 60 hours/week. Daily rest could be reduced to 9 hours, and the reference period for weekly rest was extended to eight weeks	
EE	General rules according to the Occupational Health and Safety Act	
EL	<p>No rules on working time were applied in general. The rules on working time in the public sector depended on the regions, i.e. the situation varied between them. The media reported on massive overtime to deal with a really difficult situation at the worst of times, due to the limited staff available (temporary disabilities greatly affected the workers in the health sector) and the increase in patients.</p> <p>In the case of private employees, the government did not apply specific rules.</p> <p>All LTC work was classified as 'essential activities', so they continued to work during the lockdown (March to June 2020)</p>	None regarding working time. Extraordinary unemployment benefits were introduced during the pandemic, but not intended for LTC workers specifically, but for all domestic workers (Article 30 Royal Decree 11/2020)
FI	To ensure health care during the pandemic, the Emergency Powers Act was amended to permit temporary deviation from the rest period and overtime provisions in the Working Time Act as well as provisions on annual leave in the Annual Holiday Act	
HR	Civil Protection Headquarters of the Republic of Croatia has issued a large number of decisions on necessary epidemiological measures: In retirement homes staff groups rotated every two weeks (see, for instance: https://czss-dugaresa.hr/wp-content/uploads/2014/06/Odluka-epidemija-COVID-19.pdf)	
HU	<p>The employer could unilaterally deviate from some designated articles of the Labour Code during the first State of Emergency law.</p> <p>The agreement of the employee and the employer could deviate from all articles of the Labour Code during the first State of Emergency law</p>	
IT	No specific rules on working time of nurses in the context of the COVID-19 pandemic were issued, although some health care facilities changed the structure of shifts for organisational reasons	No specific rules
LU	According to the collective agreement, in the event of unforeseeable large-scale events, i.e. cases of force majeure, the staff representatives and the employer may, by mutual agreement, derogate from certain rules of the agreement on working hours (Article B.8 CCT-SAS).	<p>The derogation introduced during the pandemic (see left) covered the entire care sector and thus also applied to domestic caregivers.</p> <p>However, it seems unlikely that requests for derogation were made or even granted by the Minister</p>

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	In addition, in view of the pandemic, the legislator introduced a temporary derogation to maximum working time. ⁷⁸ The maximum working time could be extended to 12 hours a day and 60 hours a week for employees working in the health care sector and in the care sector. Prior ministerial approval was required ⁷⁹	
LV	Article 311(3) of COVID-19 Spread Governance Law – municipal social care workers could be employed up to 60 hours per week	No specific rules
NL	The Working Time Act does not apply to work performed in connection with a disaster or crisis (Article 2:2 Working Time Act). What is meant by a disaster or crisis is stated in the Security Regions Act . A crisis is a situation in which a vital interest of society is affected or at risk of being affected (Article 1 Security Regions Act). The COVID-19 pandemic qualified as such a crisis. As a result, for care work related to the COVID-19 pandemic, it was possible to deviate from the working time rules	The exception of Article 2:2 Working Time Act also applied to (live-in or not) domestic workers, on the condition the work was related to the COVID-19 pandemic
PL	Possibility to request working hours that exceeded the maximum working hours allowed. Infringement of rest time was not a violation of law	None reported
PT	Some emergency rules related to essential services were applicable to LTC workers	No specific rules
RO	During the state of emergency, the staff of the residential centres benefited from special salary rights (Military ordinance No. 8/2020)	Some LTC workers benefited from a salary increase (risk incentive, according to Government Emergency Ordinance No. 43/2020)
SE	Both the Working Time Act and collective agreements provide for special arrangements if a natural disaster or similar occurs (emergency overtime para 9 Working Time Act), and for example, Emergency Agreement (Krislägesavtal , SKR). The Emergency Agreement was activated during the pandemic in some parts of Sweden (health care is organised in regions)	Act on Domestic Workers No specific COVID provisions were enforced. No such legislation was passed for this specific group (but for general recommendations)
SI	On a temporary basis, special rules were introduced, allowing more flexibility in work schedules	
SK	Act No. 69/2020 Coll	

⁷⁸ <https://www.legilux.public.lu/eli/etat/leg/loi/2020/10/29/a868/jo>

⁷⁹ It was reported that the derogations introduced during the pandemic suited some employees, who were able to finish their weekly quota in (just over) three working days, so some regret that the system is no longer in place.

4.2 The live-in LTC work arrangement

Rights and conditions for live-in domestic LTC workers may be set by general or specific rules in national law, and by applicable collective agreements setting rights and conditions for live-in domestic LTC workers.

These rules concern:

- The specific working time arrangements of live-in LTC workers in **eight MS (AT, DE, EL, ES, IE, IT, NL, PT)**;
- The conditions of accommodation in **six MS (AT, EL, ES, IE, IT, LU)**;
- The rules to ensure privacy and the protection of personal life in **five MS (AT, EL, IE, IT, LU)**;
- Accommodation and board as payments in kind in **nine MS (AT, CZ, ES, IE, IT, LU, RO, PT, SI)**;
- Termination of employment in **seven MS (AT, ES, IT, LU, NL, PT, RO)**;
- Specific rules on the protection against violence and abuse in **four MS (AT, ES, IT, LU)**;
- Special rules on access/inspection from labour inspectorate in **seven MS (AT, BE, DE, ES, IE, IT, LU)**.

4.2.1 Specific working time arrangements of live-in LTC workers

Table 16 provides an overview of the existing specific working time arrangements for live-in LTC workers, in those MS where this is relevant according to the national reports.

Table 16. Specific working time arrangements for live-in LTC workers

Country	Domestic LTC live-in workers
AT	There are specific working time arrangements (Domestic Care Act). ⁸⁰
DE	This is disputed for live-in (an exception from working time law is envisaged under Section 18 (1) 3 ArbZG). Although part of the literature considers this exception applicable to live-in carers, the prevailing opinion calls for a narrower interpretation.
EL	All domestic workers are excluded from regulations concerning working time.
ES	Royal Decree 1620/2011. The minimum rest between the end of a working day and the beginning of the following one is set in 12 hours, but it could be reduced up to 10 for the live-in workers. However, the rest up to 12 must be compensated in a four-week period.

⁸⁰ For more information on this Act, see for example Table 4 in section 2.4 of this synthesis report.

	Live-in domestic workers should enjoy at least two hours for the main meals, but this time does not count as working time.
IE	The statutory Code of Practice on persons employed in other people's homes (S.I. No. 239 of 2007) stipulates, in accordance with the Terms of Employment (Information) Act 1994, that one of the particulars to be supplied in the written statement is "hours of work".
IT	The duration of 'working time is freely agreed by the parties and in any case up to a maximum of 54 hours per week for live-in carers, consisting of 10 non-consecutive daily hours. Live-in carer is entitled to a rest of at least 11 consecutive hours within the same day and to paid intermediate rest in the afternoon hours normally not less than two hours (Article 16 <i>Contratto collettivo nazionale (National collective agreement) colf e badanti</i>).
NL	The general obligations of the Working Time Act (Articles 4:1-4:3) and the more specific obligations concerning working time (Articles 5:3-5:11) do not apply to live-in domestic workers. Instead, the employer has to comply with a specific, detailed provision on uninterrupted rest periods (Articles 5.10:1-5.10:2 Working Time Decree).
PT	<p>The Domestic Work Regime (Decree-law No. 235/92, of 24 October) provides that:</p> <ul style="list-style-type: none"> • The <i>weekly</i> working period of domestic workers <i>cannot exceed 44 hours</i>; in the case of live-in domestic workers, only the time of effective work is considered for this purpose; • Live-in domestic workers have the <i>right to take breaks for meals and rest</i>, without prejudice to the duties of surveillance and assistance to be provided to the household; • Live-in domestic workers have the <i>right to a night rest of at least 8 consecutive hours</i>, which must not be interrupted, except for serious and unforeseen reasons or motives of force majeure, or when they have been hired to care sick persons or children under the age of three. <p>(Proposal of Law no. 15/XV currently under discussion contains some amendments to these rules).</p>

4.2.2 Conditions of accommodation

The conditions of accommodations of live-in LTC domestic workers are regulated in **AT, EL, ES, IE, IT** and **LU**.

Table 17 provides an overview of the specific rules concerning the conditions of accommodation of live-in LTC domestic workers, in the MS where these were reported to exist.

Table 17. Overview of the specific conditions of accommodations of live-in domestic LTC workers

Country	Domestic LTC live-in workers
AT	Specific rules: The Domestic Workers Act in § 8 provides that employer shall ensure that neither the required tasks nor the tools and work premises endanger the life, health, morals and property of the employee. In fulfilling this duty, the employer shall give due consideration to the age, sex and general condition of the employee.

EL	Pursuant to Article 663 of Greek Civil Code if a worker has been engaged and lives in the dwelling of the employer, the latter shall be bound to make such arrangements concerning adobe and sleeping quarters, care, periods of work and rest as to secure the health and morality as well the exercise of the religious and civil rights of the worker.
ES	No specific rules in general. However, in case of temporary disability Article 10.3 of the Royal Decree 1620/2011 provides that the live-in domestic worker has the right to stay in the house at least during 30 days.
IE	The Code of Practice on persons employed in other people’s homes stipulates that employees should be provided with “a private secure room with a bed”.
IT	Working environment must not be detrimental to worker's physical and moral integrity. Board must ensure adequate nutrition in quality and quantity. The employer must provide for a suitable accommodation in order to safeguard his dignity and privacy. Article 31 https://www.inps.it/docallegatiNP/Mig/Allegati/701Nuovo_CCNL_colf_badanti_Ebilcoba.pdf
LU	A 2019 law ⁸¹ applies to any dwelling or room that is rented out (for a fee) or simply "made available for habitation" (for free; <i>mis à disposition</i>). Violations of this law are punishable by a fine of up to EUR 125,000 and imprisonment of up to 5 years. A decree ⁸² prescribes the details of healthiness (e.g. presence of a window, sanitary facilities), safety (e.g. fire and evacuation) and habitability (e.g. presence of certain furniture, lighting). The area of a room may not be less than 9 m ² per occupant. The Labour Code makes these rules explicitly applicable to accommodation and rooms rented or made available by the employer to an employee away from his or her usual place of work (Article L. 291-2 CT). ⁸³

4.2.3 Rules to ensure privacy and the protection of personal life

Rules to ensure privacy and the protection of personal life of the live-in LTC domestic workers were reported only in some countries (**AT, EL, IE, IT** and **LU**).

Table 18 provides an overview of the rules to ensure privacy and the protection of personal life of live-in LTC domestic workers, in the countries where these exist.

Table 18. Overview of the specific rules to ensure privacy protection of personal life of live-in domestic LTC workers

⁸¹ [Loi du 20 décembre 2019](#) relative aux critères de salubrité, d’hygiène, de sécurité et d’habitabilité des logements et chambres donnés en location ou mis à disposition à des fins d’habitation.

⁸² [Règlement grand-ducal du 20 décembre 2019](#) déterminant les critères minimaux de salubrité, d’hygiène, de sécurité et d’habitabilité auxquels doivent répondre les logements et chambres donnés en location ou mis à disposition à des fins d’habitation.

⁸³ This clarification is not necessary, as the 2019 law is of general application, whether there is an employment relationship or not.

Country	Domestic LTC live-in workers
AT	The general duty of care of the employer includes the duty to ensure privacy/protection of the personal life of the worker.
EL	Pursuant to Article 663 of Greek Civil Code if a worker has been engaged and lives in the dwelling of the employer, the latter shall be bound to make such arrangements concerning adobe and sleeping quarters, care, periods of work and rest as to secure the health and morality as well the exercise of the religious and civil rights of the worker.
IE	The Code of Practice on persons employed in other people's homes stipulates that employers must respect the dignity and privacy of employees and lays down certain rules in regard to matters such as searches and surveillance.
IT	The employer must provide for a suitable accommodation to safeguard his dignity and privacy. Article 31 https://www.inps.it/docallegatiNP/Mig/Allegati/701Nuovo_CCNL_colf_badanti_Ebilcoba.pdf
LU	The room will constitute a "domicile", and be protected as such by the Criminal Code (unlawful trespass).

4.2.4 Accommodation and board as payments in kind

Eleven national reports provided information on whether accommodation and board are allowed as payments in kind for live-in domestic workers.

In **nine MS**, accommodation and board are reported to be allowed as forms of payment in kind. While in **five MS (CZ, ES, LU, RO, SI)**, this is a result of general labour law provisions, in **four MS (AT, IE, IT, PT)**, this depends on specific *ad hoc* provisions.

Conversely, in **two MS (DE, EL)**, accommodation and board are not considered to be forms of payment.

Table 19 provides an overview of the rules concerning whether accommodation and board are allowed as payments in kind for live-in domestic workers, in the MS where these exist.

Table 19. Overview of the rules on accommodation and board of live-in LTC workers

Country	Domestic LTC live-in workers
AT	The minimum wage scale provides for two different wage levels – one for live-in domestic workers that are provided with board and lodging and another for those not living in the household of their employer.
CZ	Under Section 109 and 119 of the Labour Code, it is possible to provide salary in kind. This is not restricted to LTC workers.
DE	Payments in kind are disregarded for the question of compliance with the statutory minimum wage (as confirmed by the Federal Labour Court in 5 AZR 505/20).
EL	Accommodation and board do not constitute a part of the worker's salary.

ES	Yes. The minimum wage (EUR 1,000 /month for 2022) must be paid in cash. Payment in kind cannot exceed 30 per cent of the total wage (Article 8 Royal Decree 1620/2011).
IE	The National Minimum Wage Order 2022 (S.I. No. 500 of 2022) provides that the national minimum hourly rate of pay may include prescribed allowances for board and/or lodgings. This is also recognised in the Code of Practice on persons employed in other people's homes.
IT	Conventional values are set out. Minimum wages and conventional values of accommodation and board as determined by collective agreement, are varied by 80% of the change in the cost of living for the families (surveyed by ISTAT for contractual minimum wages) and to an extent equal to 100% for conventional values of board and accommodation. Article 33 https://www.inps.it/docallegatiNP/Mig/Allegati/701Nuovo_CCNL_colf_badanti_Ebilcoba.pdf
LU	Since 2006 the Labour Code no longer specifies that wages must be paid in cash. Provided that it has been agreed between the parties, at least part of the salary can be in the form of benefits in kind, such as accommodation or meals. There are no valuation rules or limits set by law, nor is there any case law that has set limits. In view of the high rents in Luxembourg, the value of the provision of accommodation can very quickly absorb the majority of a small salary, if one refers to the market price to evaluate the benefit in kind.
RO	Even if the employee receives meals, the amount in money cannot be lower than the national minimum wage (Article 165 of the Labour Code).
PT	Pursuant to the Domestic Work Regime, the remuneration of the employee may be paid in cash and partially in kind (through the provision of accommodation and food, or only accommodation or only food). Whenever, on a weekly rest day or public holiday, the employer does not provide a meal to the live-in worker nor allows the latter to prepare it with foodstuffs provided by the employer, the worker is entitled to receive the value corresponding to foodstuffs in kind, which shall be added to the remuneration in cash. Regarding the remuneration due the vacation period, the worker employed with accommodation and board shall be entitled to receive the remuneration entirely in cash, unless the worker is still entitled to such benefits during the vacation period. For this purpose, the law states that the amounts of the accommodation and board shall be those determined by reference to the amount of the minimum national wage.
SI	General labour legislation allows such kind of payment. According to Art 139 of the ZDR-1, if an employment contract lays down the worker's accommodation as a form of remuneration, the worker shall have the right to accommodation during the entire employment relationship and also during periods in which he does not work and is entitled to wage compensation.

4.2.5 Specific rules on the termination of employment

According to national reports, specific rules concerning the termination of employment of live-in LTC workers exist in **seven MS (AT, ES, IT, LU, NL, PT, RO)**.

Table 20. Overview of the specific rules on termination of employment of live-in LTC workers

Country	LTC live-in workers
AT	There is a statutory notice period of 14 days in the Domestic Workers Act (may be limited to one week by way of agreement); if services of "higher order" are provided for, the notice period is 6 weeks (may be limited to one month by way of agreement).
ES	Yes. The termination may not be effective between 5 p.m and 8 a.m. on the following day, unless it is motivated by a very serious breach of the duties of loyalty and trust.
IT	The employment relationship ends with the death of one of contracting party. Either party may terminate the employment contract giving a notice. In the case of failure to give notice, an indemnity is payable (equal to the salary corresponding to the period of notice not granted). Article 35 https://www.inps.it/docallegatiNP/Mig/Allegati/701Nuovo_CCNL_colf_badanti_Ebilcoba.pdf
LU	There is no specific protection. The tenancy law ⁸⁴ even specifies that if a dwelling has been made available, even free of charge, to a person solely because of an employment contract between the parties, the eviction of the occupant can be ordered by the courts if the employer proves that the employment contract has ended. Only if the employee dies and had free accommodation at his disposal some of his family members may continue to occupy it free of charge for three months (Article L. 125-1(2) CT).
NL	Based on the Regulation of home services and Article 7:671 (1)(d) Dutch Civil Code , no prior permission is needed to terminate the employment agreement of a domestic worker who works for the care recipient for 3 days a week or less. This is also applicable to both live-in and domestic carers. Normally, termination of an employment agreement is only possible after prior permission of the court or UWV .
PT	The Domestic Work Regime states that the domestic employment contract may be terminated by (i) agreement between the parties, (ii) expiry, (iii) termination by either party in the event of just cause or (iv) unilateral termination by the employee, with prior notice.
RO	In addition to the general cases provided for in the Labour Code, the employment contract of the non-professional personal assistant terminates by law in the event of the death of the severely disabled person (Article 39 (4) of Law No. 448/2006) or the end of the validity of the disability certificate. The contract of the professional personal assistant is suspended or terminated in the cases provided for in the Labour Code, in the case of the withdrawal or cessation of the professional personal assistant certificate, as well as in the case they have no one to care for (Article 12 (4) of Government Decree No. 548/2017).

⁸⁴ Art. 12 (4) de la loi modifiée du 21 septembre 2006 sur le bail à usage d'habitation.

4.2.6 Specific rules on the protection against violence and abuse

Only **two MS (ES, IT)** there are specific rules on the protection of live-in LTC domestic workers against violence and abuse. Conversely, in **two MS (AT, LU)**, general rules are applicable to live-in domestic LTC workers instead.

Table 21 provides an overview of the rules on the protection against violence and abuse of live-in domestic LTC workers, in the MS where these were reported to exist.

Table 21. Rules on the protection against violence and abuse of live-in domestic LTC workers

Country	Domestic LTC live-in workers
AT	No specific rules, only the rather general duty of care of the employer applies.
ES	All domestic workers (not only live-in carers) have the right to an effective protection concerning violence against women (Additional Provision 18 ^a of the Law on Health and Safety at work).
IT	Law 15 January 2021 No 4 applies to all sectors, both private and public, in the formal and informal economy. This implementation of Convention ILO applies to violence and harassment occurring on the occasion of work, in connection with work or arising out of work: (a) in the workplace, including public and private spaces where these are a workplace; ... (e) within accommodation provided by employers.
LU	There is a general framework on violence at work, based on European texts, but no specific rules for live-in workers. The rules on domestic violence in turn (expulsion from home, criminal sanctions) only apply in the context of cohabitation in a family setting.

4.2.7 Rules on access/inspection from labour inspectorate

Only in **eight national reports (AT, BE, DE, ES, IE, IT, LU, NL)**, information on the rules for access/inspection of the labour inspectorate in the private homes of the care receivers was provided.

Table 22 provides an overview of the information collected as regards the rules for access/inspection of the labour inspectorate in the private homes of the care receivers.

Table 22. Overview of the specific rules on access/inspection from labour inspectorate for control purposes of the working conditions of live-in LTC workers

Country	LTC live-in workers
AT	Specific rules: persons working in private households are exempted from the Act on Workers Safety, therefore the labour inspectorates are not allowed to inspect private households.
BE	<p>Article 27 of the Criminal Social Code of 6 June 2010: Unlike workplaces, social inspectors have access to inhabited premises only in the following cases:</p> <ul style="list-style-type: none"> - when the social inspectors enter the premises to establish an infringement in flagrante delicto; - at the request or with the consent of the person having actual use of the occupied premises. Such request or consent must be given in writing and in advance; <ul style="list-style-type: none"> • in case of call from that place; • in case of fire or flood; <p>and on the condition that the social inspectors are in possession of a visitation authorisation issued by an investigating judge. With such an authorisation, they are allowed to enter the house, but not fully examine it. This is in contrast to a search warrant issued as part of a judicial investigation.</p>
DE	According to Article 13 of the Basic Law (GG), the private home is "inviolable". Inspections will thus take place only in exceptional circumstances, not only because of the low "efficiency" of inspecting workplaces of one single worker each, but also to avoid a disproportional interference with constitutionally protected fundamental rights
ES	There are no specific rules, but labour inspectorates can monitor the observance of the relevant regulations. However, the entry into a home without the consent of the holder is always an issue due to the right to inviolability of the home enshrined by the Constitution (Article 18.2).
IE	Although WRC inspectors have wide powers, under section 27 OWTA, of entry to places of work and inspection of documents therein, they can only enter a "dwelling" with the consent of the occupier or pursuant to a warrant granted by a judge of the District Court.
IT	Labour Inspectorates are not allowed to enter in private houses (Article 8 D.P.R. 19 March 1955, n. 520).
LU	<p>Normally, the Labour Inspectorate may enter professional premises at any time and without prior notice if there are "sufficient indications" or "legitimate grounds" to conclude that an inspection is necessary.</p> <p>This right does not apply to premises used for living purposes, including rooms made available to employees (Article L 291-1 CT). The entry of labour inspectors is in this case more restrictive and subject to the following conditions (L. 614-3(1) CT):</p> <ul style="list-style-type: none"> • There must be serious indications that an offence falling under the jurisdiction of the Labour inspectorate is present in these premises intended for habitation. • The visit can only take place between 6.30 am and 10 pm • Two labour inspectors are required. <p>A warrant from an investigating judge is required (<i>ordonnance du juge d'instruction</i>)</p>

NL	The labour inspectorate can only enter private households in case of a criminal investigation – identifying exploitation, human smuggling and large-scale fraud in the field of social security and care/ in collaboration with the public prosecutor.
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4.3 Digital Transformation of LTC work: the case of LTC platform work

Only in **Greece** national regulation on platform work was mentioned as potentially covering the LTC sector, but this seems not to have an important impact on working conditions in the LTC sector. Although **Spain** has regulation on platform work, this is not applicable to LTC workers because the rebuttable presumption only extends to “delivery or distribution of any consumer product or commodity” and its impact is argued to be highly uncertain.

According to the ETUI Internet and Platform Work Survey, **Ireland** has a relatively high proportion of platform workers in comparison to other EU countries, and the use of on-location platform work, which is dominated by the provision of care services, is most common in the country. The issue of platform work, although not specifically in relation to the LTC workforce, was addressed in a report “Examination of Bogus Self-Employment” published in July 2021 by the Joint Committee on Social Protection, Community and Rural Development, and the Islands.

Table 23 describes the relevant measures in the two countries (**EL, ES**).

Table 23. Regulation on platform work – potential coverage of the LTC sector – Impact on working conditions of LTC workers

Country	National regulation of platform work	Coverage of LTC sector	Impact of platform work on LTC working conditions
EL	Law 4808/2021 established a protective framework for those employed on such platforms. Two ways of working with the platforms are recognized, the contract of employment and the contract of independent services. Trade union rights are guaranteed even for the self-employed platform workers. The platform is also responsible for the health, welfare and safety of any kind of worker.	Legislative provisions concerning platform work cover LTC sector. There is no case law concerning platform work in LTC sector.	There is an upward trend to some platforms acting as intermediate (e.g., Nannuka). Besides home care, they may also offer care services other than LTC, including babysitting. No important impact of platform work regulation on working conditions in LTC sector (no a remarkable number of platform workers). No case law nor academic/policy discussions on this issue.
ES	Royal Decree-Law 9/2021, 11 May, on labour rights of delivery service workers linked to digital platforms, which was afterwards converted into Law 12/2021, 28 September, amended the Labour Code to introduce a <i>rebuttable presumption</i> in favour of	Not applicable, because that rebuttable presumption only extends to ‘delivery or distribution of any consumer product or commodity’ (i.e., Glovo, Uber Eats, etc.).	The impact is highly uncertain. There are two types of platforms: digital placement agencies and on-demand platforms. The first ones focus on LTC care and live-in carers constitute 50 per cent of their turnover. On-demand

	<p>considering that delivery platform workers are employees.</p>		<p>platforms, however, focus on services ad-hoc and for very short periods.</p> <p>There may be an impact in terms of transparency between the worker and the platform, but the key issue, the employment status, is not at stake.</p> <p>Some concerns may arise if the platform qualifies as the true employer of the LTC worker. It does not seem probable if the placement agency acts simply as such. However, if the undertaking organises the work and has decision-making powers the answer would be different (this is not a specific issue for this sector, but it affects all placement agencies in any sector).</p>
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5 Issues of enforcement

This section will discuss the implementation of EU labour law in the LTC sector from an enforcement perspective, as the national reports identified the implementation and enforcement gaps of EU labour laws relating to the LTC workforce.

The main problems in terms of enforcement of labour rights of LTC workers (both nurses/personal care workers and domestic LTC workers) concern limited enforcement of rights and compliance with working time regulations in cross-border performance of LTC work.

Furthermore, enforcement issues related only to domestic LTC workers were primarily reported in connection with the phenomenon of undeclared work resulting in circumvention of labour law rules.

Labour inspectorates are usually the first line of enforcement of LTC workers' labour rights while judicial enforcement seems to be less relevant for LTC workers. National case law also seems to be sparse in this area according to the available information included in the national reports.

5.1 Application of *law de jure* and *de facto*

Five national reports (**CY, DE, ES, RO, SI**) signalled discrepancies between the law and its application to LTC workers as a whole: here, although no explicit exclusions from the scope of application of EU labour law were reported to exist in the national legal framework, the reported practice followed in these countries disregards EU rules.

In **Cyprus**, the application of the WTD appears to deviate from national legislation, according to which working time rules must apply to all LTC workers, including domestic workers. However, this is reportedly not the case in practice, as some studies show that no proper monitoring, inspection and enforcement takes place, with violations concerning patterns of working time that exceed that provided in the contract of LTC workers, violations of maximum working hours and breaks and the absence of set working time.⁸⁵

In **Germany**, the system of "partial insurance", which does not cover all of the beneficiary's recognised care needs, reportedly creates a problem whenever a beneficiary with significant care needs neither has significant personal savings nor a healthy, preferably retired spouse who can care for them: in all these cases, the only options to avoid involuntary institutionalisation are either a heavy care burden on other relatives, which risks compromising (notably female) labour market participation, or the organisation of informal private care. In 2021, the Federal Labour Court's landmark judgment 5 AZR 505/20 for the first time assessed a typical situation of live-in care work, involving a worker who had been posted from Bulgaria. It was found that that stand-by hours constituted working time in accordance with the CJEU's case law on Article 2 WTD, and that these hours had to be remunerated at the level of at least the statutory minimum wage, and that when the care recipient's medical condition indicated a need for constant availability of a carer and the live-in was clearly expected to provide the required care, working time could be determined to cover all hours except those during which the beneficiary was visited or accompanied by a relative. There is reportedly little doubt among observers that the circumstances as described in this case constitute the rule rather than the exception.

⁸⁵ Nasia Hadjigeorgiou (2020) [Helping those that help us: Challenges faced by foreign domestic workers in the Republic of Cyprus](#), Report for PRIO Cyprus Centre; Nasia Hadjigeorgiou (2020) *Report on the status of foreign domestic workers in Cyprus*, Commissioner for the Administration and the Protection of Human Rights, Cyprus Ombudsman, (Research conducted by Despina Mertakka, Officer A', Office of the Commissioner for Administration and the Protection of Human Rights), 18, December, 2020, Report funded by the London School of Economics Hellenic Observatory.

Various agencies continue to offer “24-hour care” for prices that constitute a fraction of the amount needed to pay 24/7 work at the minimum wage level.

Similarly, in **Romania**, personal assistants for disabled persons, although hired under an employment contract to work eight hours per day, reportedly work almost continuously for the benefit of the care recipient. In this regard, it was noted how some have requested payment of certain increments for overtime and night work before the courts, but these requests were rejected with the reasoning that their obligations as employees are linked to those arising from the kinship relationship with the care recipient (e.g., Bucharest Court, Decision No. 628 of 21 January 2013).

Also in **Slovenia**, while the overall legal framework regulating employment relationships in the LTC sector was reported not to be problematic, the national report highlighted potential issues with the situation in practice (low wages and poor working conditions, shortage of LTC workers, which, consequently, means a heavier work load for those employed in this sector and who are often overburdened), and with the organisation/management of the sector, for instance the outdated Rules on Standards and Norms for Social Assistance Services (*Pravilnik o standardih in normativih socialnovarstvenih storitev*, OJ RS No 45/10 et subseq.). Additionally, the situation has reportedly deteriorated further since COVID-19.

In **Spain**, the so-called ‘labour relationships of a special nature’ (listed in Article 2 of the Labour Code), includes domestic helpers (*empleados de hogar*): each of these ‘special relationships’ have their own rules which may affect the form of the contract, the duration of the employment relationship, the working hours, the right and duties of the parties and even the termination of the contract. The amendments to the Labour Code do not directly apply to these labour relationships of a special nature, but rather only indirectly or partially, through frequent references to the Labour Code. These rules, introduced in the 1980s, are reportedly the outcome of a national endeavour to provide special rules for particular groups of workers, rather than an attempt at evading EU law, irrespective to actual adherence to minimum standards under EU labour law.

5.2 Nurses and personal care workers

In general, no major issues in the enforcement of EU labour law were reported for nurses and personal care workers in the majority of MS (AT, BE, BG, CY, CZ, DK, EL, ES, FR, HR, HU, IE, IT, LT, MT, PT, RO, SE and SK). Nurses and personal care workers are usually employed legally/regularly in institutional care and residential services. Enforcement issues in the private sector were prevalent compared to the public sector where no issues have been reported. The differences between civil servants/public and private sector employees on enforcement issues have been highlighted in **Cyprus** (non-unionisation in private sector hospitals, older persons’ residential homes and rehabilitation centres) and **Spain**. In **Greece**, when nurses/personal care workers are employed legally in institutional care/residential care services, the work is monitored by the competent authorities. Some of these LTC workers may be independent workers who offer their services to persons requiring care: according to the national report, this latter kind of work is often undeclared. Similarly, LTC workers in **Lithuania** can also be employed as self-employed persons (in the private sector) in which case the national labour law regulations and EU rules do not apply. In both these cases the misclassification of the contractual relationship (e.g. (bogus) self-employment) was reported to be highly relevant to the effective enforcement of labour rights.

In **six MS (DE, FI, LU, LV, NL, PL)**, issues relating to the enforcement of EU labour law for nurses and personal care workers in the LTC sector have been reported:

- In **Germany, Luxembourg, Latvia, the Netherlands and Poland**, inadequate enforcement of working time regulations for nurses and personal care workers were mentioned (for more details, see section 5.5 below).
- Furthermore, two interconnected trends that can influence the enforcement of labour rights have been identified in the **Netherlands**. On the one hand, the amount of self-employed healthcare workers in the country, who fall outside the scope of Dutch labour law, is increasing and is therefore outside the scope of application of EU labour law. In addition, current staff shortages represent a challenge with regard to nurses and personal care workers' labour conditions. If there are not enough people to perform the work that needs to be carried out, working hours and rest periods may be compromised. Moreover, self-employed healthcare workers can demand more favourable working hours, especially in a tight labour market, leaving night shifts and other less desirable work to healthcare workers with an employment contract.
- In **Finland**, an extensive transformation is ongoing regarding the organisation of public healthcare, social welfare and rescue services. The reforms address the responsibility for organising these services which were transferred from municipalities to counties that offer new well-being services on 01 January 2023 (Helsinki being an exception). The key objective of the reform has been to improve the availability and quality of basic public services. The change of employer from a municipality to a county is considered a transfer of undertaking and the question of wage harmonisation must be addressed on a larger scale. It is also a reform which has dimensions that concern different types of work and different types of employment contracts, which also involves part-time work, fixed-term work and questions about the equal treatment of workers. Due to the scale of the reform, its implementation is challenging according to the national report because a transfer of competences in enforcement might also be necessary in view of the reform.

5.3 Domestic LTC workers

As regards domestic LTC workers, some countries have not identified any challenges relating to the enforcement of their labour law rights, probably because (live-in) domestic LTC workers are scarcely present. These countries include **Belgium, Bulgaria, Croatia, Czech Republic, Denmark and Lithuania**. Experts from 11 MS (**AT, CY, DE, EE, EL, IE, IT, LV, MT, RO, SI**) highlighted a number of issues in the enforcement of labour rights of domestic LTC workers, including live-in carers, which are described in detail in the following sections (sections 5.4 - 5.6).

5.4 LTC workforce mobility – the case of migrant and mobile workers

5.4.1 The relevance of LTC workers movements for enforcement

According to the national reports, some countries are identified as countries of origin of LTC workers (e.g. BG, HR, LT, PL, RO, SI) while others (e.g. AT, BE, DE, LU) are destination countries. Problems related to working conditions of mobile LTC workers are often visible in countries of destination, where the work is actually performed. Notably these workers are often not (sufficiently) registered. As a consequence, available data is scarce.

The phenomenon of LTC workforce mobility appears to limitedly affect other Member States. However, the particular difficulty in enforcing labour rights in certain circumstances, e.g. for live-in carers, makes it difficult to get a clear

picture. There is indeed a greater risk of a worker not being identified and granted his/her full labour rights for work being provided in the care recipient's private home.

5.4.2 The challenge of the live-in LTC working model

Specific issues concerning the enforcement of labour law in relation to live-in LTC workers were only mentioned by the national reports for **Austria, Germany** and **Malta**. Specific issues relating to the working time of domestic workers were indicated by the national report for **Romania**.

The **Austrian** literature states that migrant care work in private households remains a highly precarious arrangement, with vulnerabilities on the part of both the care recipient and the care worker. In practice, the quality of the arrangements and of care work is co-determined by the role of intermediaries that coordinate the contractual relationships.⁸⁶ Registration and a voluntary quality certificate for intermediaries remain the only systematic measures of quality assurance in this sector.⁸⁷ Live-in domestic workers are classified as self-employed persons, a status that may be false⁸⁸ but is not challenged as the entire LTC system in Austria depends on this live-in LTC working model, i.e. migrant LTC workers who work in private households as self-employed (likely to be of bogus nature).

Similar problems to those reported in Austria with regard to the challenges of live-in LTC working model were reported in **Germany** with alleged misclassifications of domestic LTC workers, such as bogus self-employment, bogus posting, illegal temporary agency work, as well as likely breach of minimum wage rights, working time law, etc. The simple non-application of protective standards can be assumed to be pervasive in relation to live-in care,⁸⁹ the German policy approach to which has been summed up as "consistently disregarding" its existence.⁹⁰ Note also that Article 13 of the Basic Law (Grundgesetz - GG) stipulates that the private home is "inviolable". Inspections will thus only take place in exceptional circumstances, not only because of the low "efficiency" of inspecting workplaces of a single worker separately, but also to avoid a disproportionate interference with constitutionally protected fundamental rights.⁹¹

In the same vein, the rights of live-in carers appear to be not properly enforced in **Malta**, where reportedly the labour rights of live-in LTC workers, particularly third country national workers, are likely to be violated, with one such case reaching the headlines.⁹²

⁸⁶ Leiber et al, Yet another black box: brokering agencies in the evolving market for live in migrant care work in Austria and Germany, *International Journal for Care and Carung*, 2021, pp. 187 et seqq.

⁸⁷ Trukeschitz et al, Austria's Long-Term Care System, *Journal of Long-Term Care* 2022, p.93.

⁸⁸ Famira-Mühlberger, Die Rolle der 24-Stunden-Betreuung im österreichischen System der Altenpflege, *WiPol* 1/2018, p. 109.

⁸⁹ Christiane Brors & Marta Böning (2015), Rechtliche Rahmenbedingungen für 24-Stunden-Pflegekräfte aus Polen in Deutschland. *NZA (Neue Zeitschrift für Arbeitsrecht)* 2015, 849 et seq.

⁹⁰ Lothar Knopp (2021), Gesetzlicher Mindestlohn für ausländische Betreuungskräfte in der häuslichen Pflege. Zugleich Besprechung von BAG v. 24.6.2021 – 5 AZR 505/20, *NZA* 2021, 1617.

⁹¹ Theresa Tschenker (2022), Regulierungsperspektiven nach den Urteilen zur Vergütung in der Live-In-Pflege – dient Österreich als Vorbild?, *AuR (Arbeit und Recht)* 2022, 642.

⁹²

https://www.maltatoday.com.mt/news/court_and_police/41740/man_denies_trafficking_exploiting_fathers_carer.

5.4.3 Regularisation of migrant LTC workers

In **Italy**, many migrant care workers reportedly have irregular contracts, and the quality of their employment conditions is poor overall. A regularisation procedure for immigrants, carers and domestic workers was introduced during the pandemic (D.L. 34/2020 converted into Law 77/2020). To make thousands of people who live and/or work in the Italian territory 'visible', and to consequently improve the poor working and living conditions of migrant workers, which became even more precarious during the pandemic, Italy's government in May 2020 regularised the status of illegal migrants working in certain sectors.

This regularisation scheme was limited to employment contracts concluded in agriculture, fishing, care and domestic work sectors. The regularisation process only covered irregular migrants who were already on Italian territory. The objective of strengthening international cooperation imposed the need to rethink inspection activities, in particular to improve the fight against transnational irregularities and to guarantee the rights of Italian or cross-border workers, as cross-border data on international fraud are crucial to prevent undeclared work.⁹³

5.4.4 Relationship between labour law and migration rules

In **Cyprus**, the vulnerability of domestic workers is worth mentioning as well. No labour inspectorates monitor domestic work.⁹⁴ A complaint system has been set up so domestic workers can file complaints and leave their workplace and continue to reside in the country, but they must find new work within a short period of time, otherwise they will be declared illegal migrants. Domestic work, which is the field of occupation for around half of Cyprus' migrant labour force, is not unionised and lacks any monitoring or inspection mechanisms. Migrant domestic carers have demanding duties, such as the expectation of 24-hour availability, or undertaking the duties of a nurse. This must be recognised by the law and be reflected in the salary they earn. A new standardised Contract of Employment for LTC domestic migrant workers⁹⁵ has been introduced, which was drafted by the Migration Department of the Ministry of Interior having exclusive competence over the working conditions of migrant workers details (in English and in the employee's native language) the necessary qualifications for this position, the precise description of duties to be carried out and the rights of the employee.

⁹³ <https://www.ispettorato.gov.it/it-it/notizie/Documents/INL-relazione-e-rapporto-2021-19082022.pdf>

⁹⁴ This is also the case in several other countries. See Table 22 regarding the national regulations of the inspections in private households (section 4.2.7 of the present synthesis report).

⁹⁵ The Ministry provides a standard contract of employment, the substantial terms of which places these workers at a disadvantage, particularly when combined with their immigration status, the absence of unionisation and the low status they have in Cypriot society. The fact that they are designated in Cyprus as 'domestic assistants' and not 'domestic workers' is indicative of their status which denies them even recognition as 'workers'. Although labour law in theory includes domestic workers in Cyprus, the state supports an employment regime with a very exclusive personal scope which only applies to non-EU nationals who possess a domestic worker visa, the employment contract for which diverges significantly from the generally applicable statutory regulation and collective agreements. This is a highly restrictive regime limiting change of employers, threatening the migrant with deportation in case of a breach of the employment contract, no possibility to negotiate a salary increase and prohibiting freedom of association. The standard contract was revised in 2019 under pressure of the outrage following the discovery of the murders of seven migrant women and girls; the new contract no longer prohibits political activity and the references to migration restrictions were toned down, but no substantive changes have been made. The contracts signed before the 2019 modification continue to remain in force, with no effort being made to revoke them.

In **Ireland**, MRCI's (Migrant Rights Centre Ireland) consultations with migrant domestic LTC workers highlighted their lack of employment contracts, that they do not receive the national minimum wage, have no annual leave, no sick pay, work long hours and have no job security. They also revealed a reluctance to complain "for fear of becoming jobless, homeless and losing one's immigration status".⁹⁶

5.5 Working time issues

Five national reports (DE, LV, LU, PL, RO) highlighted likely problems of enforcement of the working time regulations with regards to nurses and personal care workers as well as domestic LTC workers.

5.5.1 Nurses and personal care workers

In general, overtime work at short notice was reported in **Germany**.

Latvia also reported potential issues with the observance of maximum weekly working time, because under the Labour Law, a maximum 40-hour work week applies to each employment contract (per employer) but not to each worker. In other words, a nurse might work in a formal municipal long-term care institution full time and, in addition, work part time in another care institution under another employment contract. A nurse might also, for example, be officially employed full time in a formal municipal or state long-term care institution and in addition provide care for private persons as a domestic care worker in an undeclared relationship.

A 'technical' problem pointed out in **Luxembourg** was that it is difficult in the LTC sector to comply with the requirements of the Labour Code on part-time work, in particular the obligation to set out the modalities in the contract of the distribution of working time between the days of the week; a possible modification of this distribution can only take place by mutual agreement of the parties to the contract (L. 123-4 CT). The complex organisation of working time in the care sector means that this provision cannot always be followed to the letter. However, this was reported as a purely national issue since European law does not make such a requirement.

A key area that was reported as requiring attention in **Poland** was working time. Despite existing regulations, frequent violations of the standards in force occur (for example, nurses often work longer hours than is currently permitted). The primary reason for this is the insufficient number of nurses and personal care workers. The second significant difficulty with implementing EU legal standards is the absence of control of adherence to working time limits, in view of the general application in Poland of opt-out clauses (regulated in the Act of 15 April 2011 on medical activities) permitting work for longer periods of time.⁹⁷ There is also an absence of implementing verification procedures in practice by the respective audit bodies (labour inspectorate).

5.5.2 Domestic LTC workers

The **Romanian** national report highlighted the situation of formal caregivers, who conclude an employment contract as a domestic LTC worker. Any monitoring is mostly non-existent, and consistent overtime is tacitly accepted by all actors involved, including control bodies. Furthermore, the legislation itself appears incomplete. The checks that are made, exclusively focus on whether the LTC worker is fulfilling his/her obligations of care and they

⁹⁶ [Migrant Rights Centre Ireland \(MRCI\), *Migrant Workers in the Home Care Sector \(2020\)*](#).

⁹⁷ Pursuant Article 22 of Directive 2003/88 (Working Time Directive).

are intended to ensure the protection of the beneficiary against any abuse by the care staff. No checks are made as regards the worker's living and working conditions. Notably, in the case of caregivers who are family members, the boundary between the obligations that arise from the employment contract and those arising from the family relationship can be considered unclear.

5.6 The phenomenon of undeclared work in LTC

Undeclared work has been defined at EU level as any paid activities that are lawful as regards their nature, but not declared to public authorities, taking into account differences in the regulatory system of Member States. This definition links undeclared work with tax and/or social security fraud and covers diverse activities ranging from informal household services to clandestine work by illegal residents but excludes criminal activities.⁹⁸

One of the drivers of undeclared work is considered the growing demand for household and care services as a result of socio-demographic changes. **Thus, undeclared work primarily affects domestic LTC workers.** In most of the countries that reported the existence of undeclared work, the implications of this phenomenon for the enforcement of labour law rights concerned indeed domestic LTC workers.

A quantification of LTC work is difficult due to the lack of both statistical data and case law as undeclared work is usually not officially observed nor registered. Moreover, the competent inspection bodies cannot perform comprehensive checks in private households as there are limitations to access to private homes and only exceptional controls are permitted.⁹⁹ Undeclared work as a phenomenon in the domestic LTC sector was formally mentioned by **seven national reports (EE, EL, IT, LV, PT, RO, SI)**. The **Estonian** and **Portuguese** national reports stated that the biggest challenge in implementing and enforcing EU labour law in the case of domestic LTC workers, including live-in carers, arises from the existence of a significant amount of undeclared work. At the same time, in Estonia this type of workers seems to play a limited role overall in the provision of LTC.

In **Greece**, the lack of control by the labour inspectorate is one of the biggest problems with reference to domestic workers. As they are undeclared, they are not affiliated with the national security system, even for health risks. Given that the majority of undeclared domestic workers are reportedly TCNs, they work and stay in the country illegally due to the slow regularisation processes in the country in combination with the large flows of migrants and refrain from contacting the competent authorities for fear of expulsion. On the other hand, the labour inspectors do not check LTC workers' workplaces because these include private residences which inspectors are not entitled to enter without permission from the owner, in this case the employer. Labour inspectors do not generally check individual households, as they are not allowed to enter them without a warrant in the context of criminal proceedings. Therefore, even if the fine for undeclared work is high (EUR 10,500), this has no actual impact on the control of live-in caregivers and their working conditions.

⁹⁸ According to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Stepping up the fight against undeclared work, COM/2007/0628 final, p. 2. See also European Labour Authority (ELA) and its specialised European Platform tackling undeclared work.

⁹⁹ For an overview of the legal frameworks and the limitations of inspections in private homes in different EU MS see Table 22 regarding the national regulations of the inspections in private households (section 4.2.7 of the present synthesis report).

In **Italy**, domestic work has a record irregularity rate of 52.3 %, more than double that of agriculture (24.4 %) and more than four times the Italian average (12 %).¹⁰⁰ Fighting undeclared work is therefore the sector's priority, and it is no coincidence that **Domina Observatory's IV Report on Domestic Work**, which was presented and discussed in the Senate on 20 January 2023, is dedicated to this particular topic.

The possibility for the **Latvian** State Labour Inspectorate to effectively enforce the rights of domestic workers is highly unlikely due to the lack of resources for inspecting single undeclared employment cases and because of the protection of the right to private life – inspections in private homes have not been carried out.

In **Romania**, undeclared work among LTC domestic workers is a problem that has remained almost completely unaddressed by the labour inspection and control bodies.

Domestic LTC workers in **Slovenia**, in particular live-in carers, seem to be more exposed to the risk of non-observance of their rights and, more generally, non-recognition of their employment status.

At the same time, in these three just cited MS the phenomenon of domestic (live-in) care workers seems, as for Estonia, limited.

Please note that considerations on the likely occurrence of bogus self-employment in some MS (see section 2.3.2.) are also relevant in assessing various forms of undeclared work.

6 Level of labour rights awareness among LTC workers

No survey results are available in the majority of MS (AT, BE, BG, CZ, EE, EL, FI, FR, HR, HU, LT, LV, MT, NL, PL, PT, SE, SI) on whether LTC workers are sufficiently aware about their labour rights, and/or whether care recipients are aware of LTC workers' labour rights.

In **three MS (CY, DE, SI)**, however, some issues were reported in relation to LTC workers' awareness about their labour rights.

In **Cyprus**, according to the national report, domestic LTC workers are not sufficiently aware about their labour rights. One of the main problems is access to remedy. Also, there is no proper monitoring of the integration of vulnerable domestic LTC workers because there are no competent trade unions and no enforcement mechanisms in place.

For live-in carers, available surveys in **Germany** indicate that the level of awareness of labour rights is low not only among workers, but also among care recipients. For instance, agencies that place live-in carers (which are expected to advise care recipients about the rights of their caregiver) gave vague and contradictory answers when asked about the concept of working time and rest, and virtually all respondents considered the worker to be responsible for limiting and recording his/her own working time.¹⁰¹

The major obstacle to awareness of labour rights among domestic LTC workers in **Slovenia** is linked to the fact that this type of work (even if the prevalence of such work is low) is undeclared and therefore fully outside of effective labour law protection (see Section 5.5 above). Since the majority of such workers are usually from vulnerable groups, with little

¹⁰⁰ Osservatorio Nazionale Domina – IV Rapporto annuale sul Lavoro Domestico. Edizione 2022, available at: <https://www.bollettinoadapt.it/osservatorio-nazionale-domina-iv-rapporto-annuale-sul-lavoro-domestico-edizione-2022/>

¹⁰¹ Bernhard Emunds & Eva Kocher (2019), Modelle der Live-In-Pflege. Rechtswissenschaftliche und sozioethische Vorschläge zur Weiterentwicklung einer personenbezogenen Dienstleistung. Projekt 2019-313-4, available https://www.boeckler.de/pdf_fof/104014.pdf, p. 8 et seq.

legal knowledge and awareness about their labour rights, they usually also do not claim these rights or the status of employee.

Interesting approaches to awareness raising were mentioned in **seven other MS (DK, ES, FI, IE, IT, LU and RO)**.

In **Denmark**, for example, although no survey results on LTC workers' awareness about their labour rights are available, it is reported that most LTC workers are well-educated, and there is a high unionisation rate of LTC workers in the country. Knowledge or access to knowledge on labour rights is easily available through trade union membership. Trade unions enforce rights through collective agreements for their members based on the mandatory dispute resolution mechanisms under Danish law.

Spain takes a different approach. Although no relevant surveys of a general scope are available, some limited scope surveys have been conducted (approximately 1,000 interviews), but they are hardly representative of the full LTC workforce.¹⁰² The results of these surveys, although not representative of the full LTC workforce, provide a guidance and highlight that more efforts are required. Accordingly, the government published a 'guide' to inform about the rights of domestic workers.

The **Finnish** Occupational Safety and Health Authorities raise awareness of various aspects of labour exploitation on their website. They emphasise that it can occur in different sectors. For example, they report that in 2017, the District Court of Helsinki dealt with a case involving Philippine workers who had agreed with their employer to provide full-time care work in Finland. When they arrived, they had only been given part-time cleaning work in homes and offices. The employer couple was fined by the District Court of Helsinki for extortionate work discrimination (see [here](#)).

In **Ireland**, no survey results are available on either LTC workers' awareness about their labour rights, and/or care recipients' awareness of LTC workers' labour rights. Health Service Executives (HSE) workers and those in the community/voluntary sector should be sufficiently aware of their rights given the level of trade union organisation among them. In an initiative reported in the national report, the Social Partnership Agreement known as 'Towards 2016', the parties agreed on the need for "special measures" to support the labour rights of persons engaged in other people's homes. This was achieved by means of a statutory Code of Practice: S.I. No. 239 of 2007. The Code sets out certain labour rights and protections, and encourages good practice and compliance with the law. The Code has not been updated to take account of the amendments to the Terms of Employment (Information) Act 1994 issued in 2018 and 2022 for the purpose of transposing Directive 2019/1152/EU. The Code also aims at *increasing awareness of the application of relevant legislation and codes of practice with regard to the sector to which the Code applies*. There is no evidence as to whether this has been successful or not.

In **Italy**, Domina Observatory's IV Report on Domestic Work devotes the final section of the survey to employers' and workers' awareness about the importance of regular domestic work. Initial data analysed show that on a scale of 1 to 10 in the order of 'harm to society', not paying social security contributions to domestic workers is considered a very serious harm by both employers (average score 9.2) and employees (average score 9.4). However, this awareness is not matched by the same rigidity in its practical application or, at least, there seems to be much more tolerance in practice than in theory. The Italian Social Security Institute has launched awareness-raising activities to promote knowledge of domestic workers' rights among both employers and employees.

¹⁰² For example, see Dema Moreno, S., and Estebanez Gonzalez, M., 'Informe sobre las condiciones laborales del personal auxiliar del servicio de ayuda a domicilio'

No statistics or surveys on this particular issue are available in **Luxembourg**. Employees who work for contracted care providers benefit from the advice provided by the staff delegation, and they often have access to trade unions that can assist them. The CCT-SAS collective agreement is generally applicable. According to Article 6 of the CCT-SAS, every person hired shall be informed of his or her rights and duties when taking up employment. They shall receive a copy of the collective agreement, either in printed form or electronically. The situation of employees hired directly by the person requiring care is worth mentioning. Like many other employees, they often have a lack of information about their rights. This risk is further heightened by their isolation in their work environment. The low rate of unionisation makes it impossible for them to call on unions for help. Thus, to obtain information, they can only use traditional channels such as information on websites on workers' rights (e.g. itm.public.lu, guichet.lu), some free information services offered by the court and bar, the Labour Inspectorate's hotline, or the possibility of submitting complaints to the Labour Inspectorate, legal assistance (*assistance judiciaire*), and help and advice offered by certain associations, e.g. ASTI for immigrant workers or mobbing asbl in case of problems with harassment.

In **Romania**, there are also no surveys that have specifically focussed on LTC workers, but the majority of employees are not aware about their rights. The new Social Dialogue Law No. 367/2022 provides for employers' obligation to organise annual public information sessions for employees about their individual and collective rights (Article 33). This could reportedly lead to increased knowledge and awareness of rights that arise from labour legislation.

7 Overview of good practices in promoting and enforcing labour rights in the EU's long-term care sector

The thematic review identified good practices in different MS that promote and enforce labour rights in the LTC sector. These good practices are classified under three policy strands:

- Policies to improve the working conditions of LTC workers;
- Policies to promote the regulation of undeclared work in the LTC sector;
- Policies to promote alternative forms of collective organisation of LTC workers.

The following section provides an overview of these good practices which are grouped under the aforementioned policy strands and based on the national experiences in the 27 MS. No such policies were reported in **Bulgaria, Cyprus, Czech Republic, Estonia, France, Lithuania** and **Slovakia**.

7.1 Improving LTC workers' working conditions

The majority of MS has emphasised the staff shortages in the LTC sector, which result from the low attractiveness of this type of work, namely the difficult working conditions (low level of remuneration, heavy workload, evening, night or weekend shifts, having to deal with difficult behaviour of LTC recipients). MS have adopted initiatives or policies aimed at improving the working conditions of LTC workers to address these challenges. An overview of these is presented in the following tables, distinguished by:

- pilot projects/programmes in **Greece** and **Slovenia** (Table 24),
- action/strategic plans and advisory groups in **Ireland, the Netherlands** and **Spain** (Table 25),

- trade union initiatives in **Denmark, Finland and Italy** (Table 26),
- facilitation of access to justice in **Austria and Portugal** (Table 27),
- awareness raising on rights of LTC workers in **Austria, Italy and Malta** (Table 28),
- improvement of staff rations and reform of VET (vocational education and training) in the LTC sector in **Germany** (Box 1),
- ensuring protection of domestic LTC workers with an LTC statutory insurance in **Luxembourg** (Box 2).

Table 24. Policies to improve LTC workers' working conditions through targeted pilot projects/programmes

Country	Good practices
EL	<p><i>Pilot programme – personal assistants</i></p> <p>In 2022, a pilot programme for personal assistants for persons in need of LTC in the Attica Region was launched. Personal assistance will be provided to those in need for a duration two years. The programme is being implemented in Greece for the first time and targets citizens aged 16 to 65 years, who have a certified disability. The monthly salary of personal assistant amounts to EUR 1 200, which is much higher than the minimum salary. This salary is paid by the public budget. The assistant is registered with the competent services.</p>
SI	<p><i>Pilot projects – transition to the reformed LTC system</i></p> <p>The government financed pilot projects to support the transition to the implementation of the new Long-term Care Act.¹⁰³ The pilot project's key objectives were to test the key tools, mechanisms and services related to the implementation of the new LTC system by means of a comprehensive approach and a defined model of integrated, coordinated and user-oriented care. An important part of these pilot projects was also devoted to the survey of the working conditions of those LTC workers involved in the pilot projects. A questionnaire for employees was used to measure the quality of the workers' working life.</p>

Table 25. Policies to improve the working conditions of LTC workers through action/strategic plans

Country	Good practices
ES	<p><i>Strategic Plan for Gender Equality</i></p> <p>The Strategic Plan for Gender Equality 2022–25 as a 'line of work' includes 'recognition of the right to care and a reorganisation of care and times that can be considered socially just'. The reorganisation should result in 'making visible, recognising and giving social value' to LTC work as well as 'professionalising' all forms of LTC work, even unpaid (non-professional) types of LTC work.</p> <p><i>State Care Strategy Roadmap</i></p> <p>The 'State Care Strategy Roadmap' of October 2022 aims to create a 'State system of care' as a key component of the welfare state. According to the roadmap, this</p>

¹⁰³ In December 2021, the Long-Term Care Act ('*Zakon o dolgotrajni oskrbi (ZDOsk)*', Official Journal of the Republic of Slovenia (OJ RS), Nos 196/21 and 163/22) was adopted. Most of its provisions do not yet apply, however, and have been postponed. Following considerable criticism from nearly all relevant stakeholders that the new law had been poorly prepared, was characterised by numerous loopholes, uncertainties and inadequate solutions, and that it would cause more problems than solve, the decision was taken by the new coalition government in 2022 to further postpone the ZDOsk to improve the system and introduce the new LTC system in an appropriate way.

	new system should lead to the acknowledgement that LTC workers have the right to work under 'dignified conditions'.
IE	<p><i>Strategic Workforce Advisory Group on Home Carers</i></p> <p>In 2022 a cross-departmental Strategic Workforce Advisory Group (SWAG) on Home Carers was established in Ireland. This Group was assigned to investigating strategic workforce challenges in publicly and privately provided frontline carer roles in in-home assistance and nursing homes, and making recommendations to the competent Minister.¹⁰⁴ One of the recommendations concerned in-home support and residential care services that are provided either by the Health Service Executives (HSE) or by one of its "approved providers". HSE approval means that the provider must comply with the 2018 Tender Specifications, which include not only that the provider ensures that staff are trained and are familiar with current policies, procedures and codes of practice, but also that a management structure and clinical governance oversight is in place. The SWAG on Home Carers recommended that future HSE invitations to tender should stipulate that approved providers should remunerate in-home assistant workers for time spent travelling between service users and reimburse any reasonable travel expenses incurred.</p>
NL	<p><i>Care Agreement</i></p> <p>In 2022, the Care Agreement (<i>Integraal Zorgakkoord</i>) was published, which aimed to ensure good, accessible and affordable care for the future. For this purpose, agreements (i.e., an action plan agreed between the participating organisations to help realise this aim) have been concluded between the Ministry of Social Affairs and Employment and a large number of health care organisations, including organisations of hospitals, mental health facilities and care providers for the older persons. This agreement also discusses better labour conditions for LTC workers. In the Care Agreement, the relevant parties express their intent to implement measures that can lead to an improved healthcare system. Although the agreement in itself does not lead to better labour conditions for LTC workers, it is a starting point for discussions between organisations relevant to the healthcare system.</p>

Table 26. Policies to improve LTC workers' working conditions through initiatives involving trade unions

Country	Good practices
DK	<p><i>Initiative towards full-time employment</i></p> <p>The widespread use of part time employment is considered a challenge due to difficulties of recruiting workers in the LTC sector. Against this backdrop, a joint initiative between the Danish municipalities and the main organisation of public trade unions has been established, which aims to increase the amount of full-time employees in the municipal sector ("A future with full-time", KL and forhandlingsfællesskabet, 2020). Some municipalities now only advertise full-time positions in the LTC sector, albeit without restricting the possibility of being employed part time.</p>
FI	<p><i>Campaign against violence at work – nurses</i></p> <p>TEHY (Union of Health and Social Care Professionals in Finland) has launched a campaign against violence at work, highlighting that in the nursing sector, there is a risk of violence at work. According to TEHY, every fourth nurse experiences violence at work either from patients and/or their relatives.</p>
IT	<p><i>Empowerment of domestic LTC workers</i></p> <p>Initiatives to empower domestic LTC workers through training, also with collaboration of trade unions, have been introduced.</p>

¹⁰⁴ Report of the Strategic Workforce Advisory Group (SWAG) on Home Carers and Nursing Home Healthcare Assistants (2022).

Table 27. Policies to improve LTC workers' working conditions through facilitation of access to justice

Country	Good practices
AT	<p><i>Initiatives of the statutory representative body of workers</i></p> <p>The Chamber of Labour as the statutory representative body of all workers in Austria provides information as well as legal services including representation before the labour courts to promote LTC workers' rights. The unions negotiate collective agreements in the sector for those not working in private households.</p>
PT	<p><i>Initiation of legal proceedings in case of bogus self-employment</i></p> <p>To protect and better enforce the rights of bogus self-employed workers, lawsuits can be initiated by the Public Prosecutor (since 2013), with the aim of ensuring that the nature of the employment relationship is recognised as a result of an inspection by the Portuguese Labour Authority (Law No. 63/2013, of 27 August). This lawsuit does not require any initiative by the self-employed worker and the existence of an employment contract can be declared by the court, regardless of the interest or not of the self-employed worker in pursuing the lawsuit.</p>

Table 28. Policies to improve LTC workers' working conditions through awareness raising of the rights of migrant and mobile LTC workers

Country	Good practices
AT	<p><i>Initiatives of the statutory representative body of workers</i></p> <p>The statutory representation of the interests of self-employed LTC providers includes extensive legal information in a number of different languages. In addition to the information being provided in English, it is also available in a number of Eastern European languages, as many LTC providers originate from there.</p>
IT	<p><i>Multidimensional support for domestic/migrant LTC workers</i></p> <p>The initiatives identified in Italy that have been reported as good practices include:</p> <ul style="list-style-type: none"> ○ Information and support for the regulation of working conditions, enjoyment of rights/fees (support for families and workers); ○ Networking and self-help activities among domestic workers/caregivers and migrant women in general; ○ Awareness-raising for policymakers and families employing domestic and care workers; ○ Measures for social inclusion and participation in public life to support domestic workers/caregivers and immigrants in general; ○ Measures aimed at socio-educational inclusion and psychological support for children of migrant workers.
MT	<p><i>Training of LTC workers on their rights in an accessible language</i></p> <p>Migrant workers are often also vulnerable workers with a poor knowledge of English (and no knowledge at all of Maltese). The Maltese government has set up agencies (Jobsplus, for example) that regularly run training courses in English as well to reach migrant LTC workers. The Directorate of Industrial and Employment Relations (DIER) also runs a very simple but effective website that lists all of the workers' rights.¹⁰⁵ It is very simple to read and to follow and explains in a plain layout the rights of workers and the categories of workers.</p>

Box 1. Improvement of staff ratios & reform of the VET in the LTC sector in Germany

Reform of the determination of staff ratios and extension of labour rights of VET in the LTC sector

¹⁰⁵ <https://dier.gov.mt/en/Pages/home.aspx#> - accessed by clicking:- "employment conditions".

Between 2015 and 2017, three “Care Reinforcement Laws” (PSG) were passed in Germany. They increased staff ratios in formal LTC work and cash benefits for LTC beneficiaries (with possible positive effects for wages of privately organised carers).

The 2017 PfIBG, which has been fully operational since 2020, reformed the framework for VET (vocational education and training) in analogy to the dual education (apprenticeship) system. This means, inter alia, that the three-year basic VET period for a recognised care sector diploma is subject to the right to pay and the application of the majority of labour laws (Section 19 PfIBG).

In July 2021, the Healthcare Development Law (GVWG) reformed the determination of staff ratios for providers again with the aim of gradually introducing a uniform determination at federal level. This allows LTC providers in regions where understaffing has so far been widespread to significantly improve their staff ratios without risking their cost calculation to be rejected due to regionally uncommon staff costs. Additionally, the mandatory adaptation of wages to collectively agreed levels was introduced. However, the law falls short of the more ambitious plans that had been announced earlier, notably as concerns wages.

Box 2. Ensuring the protection of domestic LTC workers through the LTC statutory insurance in Luxembourg

The LTC statutory insurance performs checks on the competence, capacity and places where the services are to be provided for domestic LTC workers.

Moreover, the system in Luxembourg is designed to ensure that a maximum number of people are insured. This insurance, in turn, fosters genuine formal work, on the one hand, and the provision of services by organised, centralised and legitimate care networks. The system ensures control and protection even for the small share of employed in-home carers and encourages compliance with the rules through measures such as tax deductibility, financial support or simplified membership.

7.2 Policies to promote the regulation of undeclared LTC work

One of the LTC workforce’s challenges in relation to the situation of domestic LTC workers, especially live-in caregivers, who are usually mobile or migrant workers and, in many cases vulnerable, is LTC workers’ engagement in undeclared LTC work. Such workers face particularly difficult working conditions, including undeclared work, non-compliance with essential labour protection rules and irregular forms of employment.¹⁰⁶

Measures to promote the regulation of undeclared LTC work were reported in **nine MS** only:

- In six MS, such measures are incorporated in the general regulation of undeclared work (**Greece, Hungary, Italy, Romania, Portugal and Spain**), see **Table 29**;
- In three MS (**Austria, Croatia and Finland**), the policies target LTC workers, see **Table 30**.

Table 29. Overview of the main national policies to promote the regulation of undeclared work in general, including the LTC sector

Country	Good practices to address undeclared LTC work
EL	Greece has introduced a New Framework for Undeclared Work Fines to induce the conversion of undeclared work into declared work by combining deterrence with preventive measures. A social dialogue procedure was initiated, consisting of four meetings of the Supreme Labour Council. The aim of this dialogue was to discuss

¹⁰⁶ See Council Recommendation of 8 December 2022 on access to affordable high-quality long-term care 2022/C 476/01, OJ C 476, 15.12.2022, preamble para. 19.

	the way forward and culminated in legislation (Law No. 4554/2018), which was enacted in August 2018 at the national level and amended recently with Law 4635/2019. The New Framework imposes lower fines on employers that subsequently hire the undeclared worker but penalises employers by imposing heavier fines if further cases of undeclared work are detected. However, these policies are of a general nature and do not specifically address the LTC sector.
ES	The Strategic Plan for the Labour Inspectorate 2021–2023 incorporates one specific objective (1.6) to monitor effective compliance with labour regulations.
HU	Tax rebate: Act 90 of 2010 allows employers of registered domestic workers to pay a daily registration fee of HUF 1,000 (less than EUR 3), which exempts them from all taxes and social security contributions. Such workers, however, are not entitled to any social security services on the basis of this registration fee.
IT	Voucher-based work: Individuals can use vouchers to pay for household services, such as domestic chores and the provision of care (Article 54-bis Legislative Decree 24 April 2017, No. 50). Regularisation: Hiring of domestic workers spiked for the first time in March 2020 (during the first COVID-19 lockdown), and again in 2021–2022 presumably attributable to the regularisation of domestic workers who would have been otherwise prevented from continuing their work due to the restrictive measures. The new National Plan against undeclared work 2023–2025 proposes the introduction of a monthly bonus to cover part of the total labour costs incurred for domestic workers (including LTC workers). Some regional laws provide incentives for employers to regularly hire domestic workers.
RO	Law No. 111/2022 provides for the possibility of employers using household services vouchers to pay workers. Employees can use these vouchers to pay domestic workers who work in their household, including caregivers of persons in need of care in their own family. The law will enter into force in 2024. It aims to reduce undeclared domestic work.
PT	The legal framework of entry, stay and removal of foreigners from the national territory (Law No. 23/2007, of 4 July) was recently amended by Law No. 18/2022, of 25 August, introducing certain measures aimed at simplifying the regularisation process of migrants. The relevance of this amendment for the LTC sector (especially concerning domestic workers), is the simplification of the procedure to issue visas to citizens from the Member States of the Portuguese Speaking Countries Community. Although this legislative measure seems to be an important step for reducing undeclared work, in practical terms, such regularisation processes continue to take a long time, due to the lack of capacity of the SEF (" <i>Serviço de Estrangeiros e Fronteiras</i> ") to analyse and process a very high number of cases.

Table 30. Overview of the main national policies to promote the targeted regulation of undeclared LTC work

Country	Good practices to undeclared LTC work
AT	A state subsidy to support those who employ a live-in domestic care worker is only paid if the LTC worker is officially registered. It seems that undeclared LTC work is not prevalent. Live-in LTC work is usually provided by self-employed persons, thus minimum rights as well as minimum wages do not apply.
FI	Carers Finland's goals for 2023 is to strengthen the understanding of informal caregiving and raising awareness that this issue is not only being considered in social and health policies, but also in other relevant areas of society, including education, employment and the economy, as well as in housing, the environment and transport; and promoting support for informal carers by developing care solutions.
HR	Priority in employment of so-called "geronto-homemakers", who provide assistance in the maintenance of the household and formal in-home care (by fixed-term female employees of NGOs or the local government who earn minimal wages that are financed by the European Social Fund (ESF), and by asylum seekers or other vulnerable groups (homeless, persons with disability, victims of human trafficking).

7.3 Policies to promote alternative forms of collective organisation of LTC workers

Policies that promote alternative forms of collective organisation of LTC workers were only reported in five countries. An overview of these cases is provided in the following table.

Table 31. Overview of the main national policies to promote alternative forms of collective organisation of LTC workers

Country	Good practices to address the collective organisation of LTC workers
AT	There are a number of grass roots organisations that coordinate live-in caregivers, often along ethnic lines, which provide information and assistance in different forms. Many of them are organised in the umbrella organisation IG 24-.
DE	Part 4 of the AEntG contains specific rules to enable a collective determination of minimum standards for the care sector, in which both commercial and church-based non-profit organisations (which are not subject to regular labour law) play an important role. It provides for the establishment of a commission composed of eight members, two of which are nominated, respectively, by private and church-based workers' and employers' organisations. The commission's recommendations, which include wage scales, are published as a ministerial regulation and are binding for the entire sector, i.e., they also posted workers in accordance with Article 3 PWD. Codifying a Federal Social Court decision of 2013 (B 3 P 2/12 R), the law now expressly prohibits social security institutions from rejecting an LTC provider's cost calculation because of excessive wage costs when the latter are based on a collective agreement which the provider is bound by. Since 2022, providers not bound by a collective agreement must pay their staff in accordance with regionally prevailing collective agreements and cannot be rejected if paying up to 110 per cent of those wage levels (Sections 82c and 84 SGB XI).
IT	The new National Plan against undeclared work promotes a nationwide information campaign by the Ministry of Labour and Social Policies, carried out in cooperation with the National Labour Inspectorate and the National Authority for Active Labour Policies, which directly involves the social partners and the main civil society organisations.
MT	The National Strategic Policy for Active Ageing (2023–2030) also lists (amongst others) issues relating to employees in different care homes for older persons. Although the scope entails older persons, the discourse can be transposed to other sectors of LTC work.

8 Conclusions

The thematic review explores the applicability of EU labour law to LTC workers in terms of personal scope and material rights, as well as the enforcement of labour rights in the EU Member States. In doing so, it contributes to address knowledge gaps as concerns the composition, legal status and working conditions of the LTC workforce across the EU Member States.

As concerns the identification of national definitions and classifications of LTC workers in national law, no uniform definition of LTC workers can be deduced from examining the legal orders of the Member States. Rather, the specific organisation of national LTC systems impacts the composition of the LTC workforce and the applicability of the respective regulatory framework to LTC workers. In this regard, there are important differentiations between employees in the public and private sector, both regarding working conditions and labour protection (see [Section 2](#)). As a consequence of the complexity of the organisation and structure of LTC work, a wide range of types of employment of LTC workers can be observed, ranging from full-time publicly employed nurses covered by collective agreements, to part-time and fixed-term domestic workers employed by and working in the care recipient's household. Furthermore, the occurrence of bogus self-employment in the LTC sector was identified in some Member States. The existence of multiparty employment relationships was reported in some instances. These reportedly only rarely happen in the context of temporary agency work or platform, being instead more frequent in the context of agencies, i.e., intermediaries recruiting LTC migrant workers and placing them in certain Member States' labour market.

As concerns the personal scope of the EU labour law, in most of the countries LTC workers (especially nurses and personal carers) are regular employees and enjoy an equivalent level of protection as workers in other sectors. Exceptions from these regulations were mainly reported for domestic LTC workers, who are regulated by national legal frameworks concerning the broader category of domestic work, where the latter exists, without accounting for the particularities of domestic care work (see [Section 3](#)). In some Member States, the existence of different rules or specific exemptions for domestic workers appear to be linked to the fact that the LTC workers are directly employed by care recipients / private households. Furthermore, some reports highlighted additional distinctions between domestic LTC workers and live-in carers, with the latter category appearing particularly vulnerable. The question of a better protection or extension of substantial rights for live-in carers and domestic LTC workers arises, to different degrees, depending on Member States.

As concerns issues in relation to the material rights of LTC workers, and those concerning the enforcement of existing labour law, several issues in relation with the situation of the sector were reported. In particular, staff shortages in certain Member States reportedly have an impact on the heavy workload and overtime of the LTC workforce. Furthermore, although in most of the countries, the legal protective framework for LTC workers exists, there are concerns regarding the application of this framework in many Member States, underlying the significant challenges in terms of effective enforcement of labour rights of LTC workers, notably for live-in LTC workers or caregivers in situations of undeclared work.

To address these challenges, some Member States attempted to reform their LTC systems in order to improve the working conditions in the sector and increase its attractiveness through a range of different policies. These include the introduction of targeted pilot projects, programmes or strategic plans for improving the working conditions and training opportunities, facilitating the access to justice of LTC workers, awareness raising of the rights of migrant and mobile LTC workers, and measures to address undeclared LTC work.

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