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## The employment rights of domestic workers, especially women, in Europe

### Report<sup>1</sup>

Committee on Social Affairs, Health and Sustainable Development

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### Summary

The domestic work sector, which employs hundreds of thousands of migrant women, is constantly expanding due to the increasing demand for domestic and care services throughout Europe.

Despite the outstanding importance of this type of work, household workers often find themselves in a disadvantaged situation, being denied basic social and labour rights, and being exposed to violence and adverse working conditions. The present report investigates violations of their employment rights and urges national parliaments to change the relevant legislation with a view to ensuring the right to decent working conditions for this vulnerable category of workers.

Bearing in mind that everyone should be entitled to labour rights, the Parliamentary Assembly urges the member States, *inter alia*, to recognise domestic work as “real work”, extend the scope of social and labour protection to domestic workers, and ratify and implement the ILO Domestic Workers Convention 2011 (No. 189) without delay.

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1. Reference to committee: [Doc.13400](#), Reference 4111 of 6 March 2015.



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## A. Draft resolution<sup>2</sup>

1. Domestic workers represent a significant part of the European workforce and are essential to the smooth running of national economies. Nevertheless, the domestic work sector, known for its informality and stereotypes, is wrongly perceived as having low economic and social value. Domestic workers find themselves amongst the most vulnerable groups of workers: they perform activities in the privacy of households, often have only precarious status, and are thus often invisible, underpaid and/or undeclared – and not covered by labour legislation. There is an urgent need to recognise domestic work as “real work”, and agree on a clear and common definition to be adopted across Europe.
2. Thousands of domestic workers, most of whom are migrant women, come to Europe every year in search of a better life for themselves and their families, but some of them find themselves trapped in exploitative or abusive work situations. It is high time for Europe to step up its efforts to protect this vulnerable category of workers by promoting social justice and combating the discrimination, social exclusion and mistreatment which can give rise to modern slavery and forced labour. All domestic workers should be treated equally and fairly, regardless of their origin, nationality, race, sex, religion or migrant status.
3. With regard to the legal framework, the Parliamentary Assembly thus calls on member States to:
  - 3.1. put a stop to all forms of abuse of domestic workers and guarantee their social protection and labour rights, including by promptly ratifying and implementing, if they have not yet done so, Convention No. 189 on domestic workers, and applying Recommendation No. 201 on domestic workers, adopted by the International Labour Organization (ILO) in 2011;
  - 3.2. extend the scope of social and labour protection to domestic workers in accordance with the European Social Charter (revised) (ETS No. 163) and, by reviewing the legal frameworks, guarantee, *inter alia*, the right to dignity at work, normal hours of work, periods of daily and weekly rest and annual leave, minimum wage coverage, social security protection, occupational safety and health and decent working and living conditions;
  - 3.3. establish a platform for international exchange and co-operation on the basis of ILO and Council of Europe expertise, with a view to sharing best practices to ensure decent work for domestic workers, and to undertaking further studies on the effects of legislative reforms in order to assess constraints encountered by domestic workers, as well as to comprehend the socio-economic behaviour and the decision-making processes of both employers and workers;
  - 3.4. set up mechanisms to enforce the law, including:
    - 3.4.1. multilingual labour inspectorate teams trained in the specificity of domestic work, collection of data and investigation techniques;
    - 3.4.2. providing an affordable and easily accessible complaint mechanism, set up with careful consideration of domestic workers’ needs;
    - 3.4.3. providing legal assistance to domestic workers, including via diplomatic missions as appropriate;
    - 3.4.4. launching general awareness-raising campaigns on the importance of domestic work in order to stimulate formal arrangements, inform workers about their rights and the ways in which they can effectively use their rights, and disseminate good practices among employers;
    - 3.4.5. providing incentives and simplified procedures for households to formalise the employment of domestic workers, taking into account good practices already in place (for example service employment cheques).
4. With regard to the high representation of women in the domestic work sector, the Assembly calls on member States to:
  - 4.1. take concrete measures to advance gender equality in the world of work and ensure women’s equal rights and protection in national labour legislation;
  - 4.2. guarantee protection of female domestic workers against all forms of abuse, violence and harassment, by taking appropriate measures bearing in mind the specificity of their workplace and the challenges the labour inspectorates face while performing their supervisory duties;

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2. Draft resolution adopted unanimously by the committee on 24 April 2017.

4.3. extend maternity protection and work–family balance to the domestic work sphere, including paid maternity and parental leave, adequate rest periods, time for breastfeeding, childcare facilities and freedom from maternity-based discrimination and ensure that pregnant working women are practically supported during their pregnancies to safeguard their health and well-being and that of their unborn child; and that in no circumstances pregnant working women are put under pressure by their employers to terminate their pregnancy;

4.4. establish referral and support centres, with a view to disseminating information on domestic workers' rights and work safety and providing counselling, legal aid, psychological help, integration and family reunion services;

4.5. put in place accessible and affordable high-quality services at home or in reception facilities for children and elderly people in need of care, with a view to deterring households from turning to informal care service arrangements for lack of access to affordable alternatives.

5. Having regard to the considerable increase in demand for domestic services in Europe, the member States should recognise the outstanding importance of the sector and its contribution to the socio-economic well-being of the host societies. The growing demand in this specific field is based on the transformation from single to dual wage-earning families, together with a rapid increase of an ageing population and an increase in the cost of living in the home countries that pushes people to seek work abroad. Having acknowledged that upskilled workers deliver better quality services, the member States should facilitate the integration of the domestic workers by:

5.1. putting in place professionalisation policies for domestic workers, while ensuring their equal access to flexible vocational and professional training programmes and language courses;

5.2. establishing comprehensive and rapid procedures for recognition of foreign diplomas and acquired skills;

5.3. reconsidering tied-visa policies, with a view to regularising the situation of migrant workers who hold temporary residence permits and granting them freedom to change employers;

5.4. raising awareness amongst employers that keeping the identity and travel documents of their employees is an unacceptable practice that goes against the basic legal principles regulating any employment relationship.

6. Furthermore, member States should ensure the adequate participation of domestic workers in the social dialogue and uphold their right to create and join organisations of their own choosing. Trade unions should help domestic workers overcome social isolation and make their collective voice heard. Domestic workers' organisations should be encouraged to promote practical tools, which are available for workers and employers (model contracts, schedule of tasks, tools to record working time and breaks, etc.), facilitate employment negotiations and assist in the process of filing complaints.

## B. Explanatory memorandum by Mr Viorel Riceard Badea, rapporteur

### 1. Introduction

1. On 28 January 2014, together with other members of the Parliamentary Assembly, I tabled a motion for a resolution entitled “The employment rights of female workers from Eastern Europe” (Doc. 13400). The motion raised concerns regarding the discrimination which female household workers from eastern Europe are facing in some western European countries.

2. According to a recent study undertaken by the International Labour Organization (ILO), northern, southern and western Europe account for 19% of the total migrant domestic workers living in Europe. It is estimated that there are 2.2 million migrant domestic workers living in Europe, although this data is likely to be much higher bearing in mind the informal nature of the sector, irregular migration and the unclear boundaries between domestic and care work.

3. There seem to be numerous cases of non-compliance with the existing recommendations on foreign labour in the domestic work sector. A variety of work has been carried out by the Assembly and other international organisations on the subject, and exhaustive guidelines have been compiled for member States to protect domestic workers from violations and abuse. Most recently, in its [Resolution 1993 \(2014\)](#) “Decent work for all”, the Assembly stressed the need to “provide for safeguards and tough sanctions against irregular employment and improve contractual social guarantees for posted, young, migrant and domestic workers”.

4. The Assembly’s [Recommendation 1663 \(2004\)](#) “Domestic slavery: servitude, au pairs and mail-order brides” had explicitly underlined the urgency of the recognition of domestic work in private households as “real work”, to which full employment rights and social protection applied, including the minimum wage, sickness and maternity pay and pension rights. Equally, the rights of domestic workers to health insurance, to family life and to leisure and personal time were to be ensured. Furthermore, the Assembly had recommended introducing a system of accreditation for agencies placing domestic workers, which would commit them to respecting certain minimum standards.

5. With a view to countering the problem of domestic slavery (of which migrant workers may potentially be victims, given the appalling violations of their rights), the Assembly made a number of recommendations to member States via the Committee of Ministers in [Recommendation 1523 \(2001\)](#) on domestic slavery, *inter alia* by advising them to provide domestic workers with accurate information about the risks of working abroad. In a subsequent resolution, the Assembly recalled that all permanent and seasonal workers, whether men or women, are entitled to respect and human dignity. In this respect, the Assembly urged the member States to sign and/or ratify the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.<sup>3</sup>

6. The ILO’s immense effort in ensuring better protection for domestic workers deserves special attention. On 16 June 2011, the ILO adopted a historical set of international standards aimed at improving the working conditions of tens of millions of domestic workers worldwide – the Domestic Workers Convention No. 189 and Recommendation No. 201. Last but not least, the ILO research papers, good practices, case studies and guidelines for improving national legislation, which have been drafted with careful consideration of the national contexts and particularities, represent excellent tools to empower policy makers.

7. Nevertheless, the issue is far from being effectively and duly tackled. Whether it is due to the lack of political will or the extreme complexity of the sector, migrant domestic workers in Europe remain vulnerable and many continue to be exploited. In this connection, I would like to recall Articles 2 and 26 of the European Social Charter (revised) (ETS No. 163), which establish the right to dignity and to just conditions of work. The Assembly must address this issue without delay and give a thorough follow-up as to the progress in member States, which are committed to translating the Parliamentary Assembly’s recommendations into real policies.

### 2. The situation of migrant domestic workers

8. Migrant domestic workers are often victims of direct or indirect discrimination because of their foreigner status. Traditionally, work in households has been regarded as a sector of the labour market accessible for low-skilled workers. Numerous factors such as low socio-economic status, the isolated nature of the workplace, and a weak collective voice make this category of workers particularly vulnerable to exploitation and adverse working conditions.

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3. [Recommendation 1781 \(2007\)](#) on agriculture and illegal employment in Europe.

9. Evidence shows that some employers take advantage of the vulnerable position of the people seeking employment, who are prepared to make serious compromises for the chance to improve their living conditions and those of their families left at home. The differences in the respective national legislation and the absence of any European regulations on the matter make such abuse possible. Foreign workers in households often suffer from a lack of information about their rights and possible remedies against abuses and, when aware of them, often hesitate to file a complaint, which would most likely result in repercussions in their relationship with their employers, and possibly could also affect their residency status.

10. In fact, the sector is far from being homogeneous. Domestic and care work varies significantly in terms of work content (cleaning, housekeeping, elderly care, childcare), work arrangements (live-in, live-out, single or multiple employers, service agencies, informal, formal), workplace (work in one's own home, in other people's homes and in nursing homes) and underlying legislation (au pair programmes, cultural exchanges, or labour legislation).<sup>4</sup>

11. With this in mind, I should mention that there is no clear legal framework to determine employment conditions for this category of workers. Their situation is often characterised by heavy workloads, low wages, and unlawful payments. The working hours of private household workers in Europe are among the longest and most unpredictable, and can be between 14 and 18 hours a day, seven days a week, which clearly represents a breach of Article 2 of the European Social Charter (revised) which guarantees "reasonably daily and weekly working hours, as well as a weekly rest period". The disadvantaged status of domestic workers also manifests itself in the lack of paid holidays and lack of benefits such as maternity leave, pension funds and compensation for injuries, as well as the deprivation of social and family life. Several cases of rights violations experienced by migrant domestic workers in diplomats' households were brought to my attention; they range from minor labour law infringements to forced labour and slavery-like practices. It was almost impossible for victims to seek justice, as their employers were protected by diplomatic immunity.<sup>5</sup>

12. The reality appears to be even grimmer in the case of undeclared work, which represents a major problem in Europe, accounting for 18.4% of the European Union's gross domestic product in 2012.<sup>6</sup> As a matter of fact, domestic workers can often be invisible for purposes of social security registration or other compulsory declaration requirements. This fact undermines decent working standards, as workers are deprived of entitlements under national labour laws and, even where social protection schemes for domestic workers exist, they are not covered by social security – therefore, people in undeclared work are denied basic social and labour rights.

13. Domestic workers from outside the European Union are at greater risk of abuse because of restrictive immigration-sponsorship policies that link their visas to their employers. Employers control a worker's immigration status and ability to change jobs, and sometimes even whether or not the worker can return home.<sup>7</sup> For instance, in the United Kingdom, domestic workers from outside the European Economic Area (EEA) are bound to their employers through tied-visa systems, which prevents them from leaving to seek employment elsewhere even if they are subjected to violence and exploitation.<sup>8</sup>

14. The domestic and care work sector employs hundreds of thousands of migrant women throughout Europe. It is difficult to obtain any reliable data on the extent of domestic work in Europe, particularly due to its informal character.<sup>9</sup> According to European Parliament estimates based on ILO statistics, 2.5 million people are employed as domestic workers in the European Union, 88% of them women.<sup>10</sup> Some studies estimate a further one million undocumented (often migrant) workers who are doing this work in Europe alone.<sup>11</sup>

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4. Maria Kontos, *Between Integration and Exclusion: Migrant Women in European Labour Markets*, 23 March 2011, Migration Policy Institute, [www.migrationpolicy.org/](http://www.migrationpolicy.org/).

5. Angelika Kartusch and Heike Rabe "Domestic Workers in Diplomats' Households", June 2011.

6. The informational website of the European Parliament, [www.europarl.europa.eu/news/en/](http://www.europarl.europa.eu/news/en/).

7. *Protect Domestic Workers from Violence*, Human Rights Watch, 24 November 2008.

8. London City Hall, <https://www.london.gov.uk/>.

9. *Decent Work for Domestic Workers: The state of labour rights, social protection and trade union initiatives in Europe*, a report by the Programme for Workers' Activities (ACTRAV) of the International Training Centre (ITC) of the ILO, in co-operation with the European Trade Union Confederation (ETUC) and the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT).

10. *Recognizing rights of domestic workers and carers in the EU*, European Parliament, [www.europarl.europa.eu/news/](http://www.europarl.europa.eu/news/).

11. "Domestic Workers in Europe: Getting Organised!", EFFAT, [www.effat.org/](http://www.effat.org/).

15. In western European countries, household workers who find themselves in a disadvantaged situation, come from other EU and non-EU countries. The majority of this section of the labour force comes from both members (Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Poland, Romania and the Slovak Republic) and non-members (Republic of Moldova, Russia, Ukraine, Western Balkan countries, neighbouring Arab countries and African and Asian countries) of the European Economic Area.<sup>12</sup>

16. Migrant domestic workers are not spread uniformly across Europe, but rather live predominantly in the States of southern Europe; they are mostly concentrated in Italy (27.5%), Spain (25%) and France (23%), as well as in Germany (8.5%) and Portugal (5.1%). In Italy, more than 80% of registered domestic workers are foreigners; in France, roughly 28% of the 250 000 domestic workers (*employés de maison*) and 11% of the more than 540 000 household workers (*aides à domicile*) are migrants.

17. It is estimated that jobs and services provided for families represent 4.9% of European jobs, which demonstrates the economic significance of this type of service.<sup>13</sup> Domestic work will continue to be a sector with an important economic impact on European societies, along with a significant source of employment and income for a growing section of the labour force. A plethora of factors, including demographic, cultural and socio-economic aspects, determine a growing need for these services.<sup>14</sup>

18. The nationality of a worker can often be seen as the source of discrimination, which can provoke differences in treatment between different nationalities. These differences in treatment can be related to employers' positive or negative stereotypes about the value and quality of their work as well as to the bargaining power of the countries of origin and their ability to push for greater protection for workers. In this context, I would like to give you an example. According to interviews with Polish employers,<sup>15</sup> Ukrainian migrant domestic workers are often seen as more hard-working, honest, reliable, docile, "cheaper" and less prone to argue about their work than their Polish counterparts.<sup>16</sup> Those who preferred the Polish over the Ukrainian workers pointed to their higher standards of cleaning (they were more familiar with the newest cleaning appliances and detergents). Some Polish employers avoided hiring Ukrainian women to care for their children due to the "bad accent problem" that can influence a child's language development at a critical age (a reason already noted by other researchers) or to care for the elderly which may introduce an additional difficulty of communication into an already challenging situation. Employers often look for workers who are docile and hard-working, because they find them easier to exploit.

19. The three interrelated factors shaping the demand for domestic care are:

- following the transformation from single to dual wage-earning families, households face difficulties in combining work with family responsibilities; the rise in women's economic participation has put greater pressure on women with family responsibilities;
- rapid population ageing and increasing life expectancy are putting a strain on traditional care arrangements (there are fewer adults to look after the sick and the elderly). This, combined with tight fiscal policies, has significantly weakened public care services and, as a consequence, home-based care has become a preferable solution;
- the increasing cost of living and limited employment opportunities, along with other factors, leave many people with no other choice but to seek employment abroad – hence the availability of a cheap migrant labour force in the sector.

20. States therefore need to deploy efforts to promote the economic and social value of domestic work in Europe. Hiring a migrant domestic worker fulfils the need for affordable personal care; it thus offers a solution to women who struggle to combine domestic and professional work and who, otherwise, would have to leave the labour market.<sup>17</sup>

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12. Eurostat, <http://ec.europa.eu/eurostat/statistics-explained/>.

13. Report on women domestic workers and carers in the EU (2015/2094(INI)), Rapporteur: Kostadinka Kuneva, 5 April 2016.

14. Maria Gallotti, *The Gender dimension of Domestic Work in Western Europe*, ILO, 2009.

15. Kordasiewicz A. (2010), *Etniczny wymiar funkcjonowania rynku usług domowych w Warszawie* [The ethnic dimension of the market for domestic services in Warsaw], Instytut Spraw Publicznych, Warsaw.

16. Marie-Jose Tayah, *Decent work for migrant domestic workers: Moving agenda forward*, ILO, Conditions of work and Equality Department, Geneva, 2016.

17. A. Triandafyllidou and S. Marchetti, *Europe 2020: Addressing Low Skill Labour Migration at times of Fragile Recovery*, Robert Schuman Centre for Advanced Studies, May 2014.

21. Given the economic and social importance of the sector, States should adapt professionalisation policies for domestic workers, putting a special focus on migrants' needs. Enhancing such mechanisms would allow domestic workers with high degrees of professional and educational attainment to have their skills and diplomas recognised.<sup>18</sup> Policy measures guaranteeing domestic workers' equal access to specific vocational and professional training programmes, as well as language courses, should be put in place. In the meantime, alternatives to unofficial domestic services are still needed, for instance making available good quality full-day child/elderly care, especially for the low income population, gender-balanced solutions for parental leave, etc.

### 3. Female workers – the most vulnerable group

22. Foreign women working in households are among the most vulnerable workers, sometimes exposed to violence in the workplace and discrimination based on their gender and origin. In this regard, I would like to recall Article 2 of the European Social Charter (revised) and Article 1 of Protocol No. 12 to the European Convention on Human Rights (ETS No. 177) that provides for “the enjoyment of any right set forth by law without discrimination on any ground”. Women may face all types of psychological and physical abuse, including shouting, insults, threats and beatings for work performance, unannounced absence from the household or refusing sexual advances from an employer. The lack of occupational safety standards, health risks, inadequate accommodation and the deprivation of family life are among other hazards.<sup>19</sup> Awareness-raising campaigns with a special focus on men should advocate for domestic work free of discrimination and abuse.

23. Several factors contribute to the particularly vulnerable position of female domestic workers:

- circumstances conducive to violence: domestic workers are seen as simple “helpers” who are part of the family;
- unequal power relations between the sexes suppress women and girls; women cannot properly defend themselves, and are moreover perceived to be better at mitigating and coping with aggressive incidents;
- sense of impunity of the employer: female workers have no legal protection and may fully depend on the job from the standpoint of their income or their residence permit.

24. One important aspect of the protection of female migrant workers is related to ensuring their rights as mothers. Many parents migrate in the hope of mitigating the effects of poverty by supporting their families through money transfers. The absence of paid annual leave, restrictive work migration policies and travel costs extend the separation period into years, sometimes decades.

25. The widespread phenomenon of “white orphans”, children left in the care of relatives while their parents go abroad in search of work, has emerged as a consequence of an enlarged Europe. A European Commission study conducted in 2012, covering 25 countries, found that 500 000 children had been left behind in Romania, Poland and the Baltic States. According to a UNICEF study, over 350 000 Romanian children had at least one parent abroad in 2008, which would account for 7% of the population under 18 years old. Around 126 000 children under the age of 10 had both parents abroad.<sup>20</sup> More importantly, children of migrant workers have been found to be at a higher risk of relational, behavioural and psychological problems. Such distress impacts children's psychological development by generating feelings of abandonment, vulnerability and reduced self-esteem.

26. Maternity remains a source of discrimination when it comes to access to employment, treatment at work, and employment termination. In domestic work, the frequency and occurrence of dismissal on grounds of pregnancy is alarmingly high.<sup>21</sup> Additionally, for women during and after pregnancy, a special protection from workplace risks is required. Yet, very often, as a result of the lack of information on their rights, female domestic workers continue to perform hazardous domestic chores involving exposure to chemical agents, extreme temperatures, carrying heavy loads, work involving physical strain, night work, or lack of daily and weekly rest, etc.

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18. Maria Gallotti and Jesse Mertens, Promoting integration for migrant domestic workers in Europe: A synthesis of Belgium, France, Italy and Spain, ILO, 2013.

19. Labour inspection and other compliance mechanisms in the domestic work sector: Introductory guide, International Labour Office, 2015.

20. “White Orphans, the enlargement's children”, <https://www.balkanicaucaso.org/eng/Areas/Romania/White-Orphans-the-enlargement-s-children-77630>.

21. “Meeting the needs of my family too”, Maternity protection and work-family measures for domestic workers, Policy brief, ILO.

27. In one case that was recently brought to my attention, a Roma worker in Germany was put under pressure to have an abortion when her employers discovered that she was pregnant. When the worker refused, she was treated increasingly badly, and forced to complete tasks that should not be undertaken by pregnant women, including the lifting of heavy objects and working extremely long hours, while being reimbursed only on the basis of a part-time job. When the woman gave birth, her employers tried to prevent her from receiving maternity leave. Such behaviour is completely unacceptable since employers must treat pregnant women with care, and be flexible where necessary to ensure that their health and that of their unborn babies are not endangered by their work routine.

28. Domestic workers labour legislation should include the right of women to maternity protection and work–family balance, including paid maternity leave, adequate rest periods, time for breastfeeding, childcare facilities and freedom from maternity-based discrimination. Therefore, the member States should extend maternity protection to the domestic work sphere, while identifying the gaps in current legal and policy frameworks.

#### **4. Making the formalisation of the sector a reality in Europe**

29. The specificities of domestic work make any government regulatory and compliance approach quite challenging, as the sector is characterised by widespread informality and stereotypes. The relationship between domestic workers and their employers is unusual, as work is performed in the privacy of the household, in an environment which does not resemble a typical workplace. The lack of registries and evidence of abuses, the absence of complaints, restrictions on inspection visits and cultural differences are among the most serious challenges, making the work of labour inspectorates and other supervisory mechanisms particularly difficult.

30. Although many countries' legislation grants domestic workers rights in line with those of other workers, significant compliance and implementation gaps do exist in this respect. In some cases, the law does not satisfactorily cover the sector or, even where it does, domestic work is not subject to mechanisms such as labour inspection.

31. There are many reasons for the reluctance of both householders and domestic workers to formalise their employment relations. Very often, employers simply see no financial benefit in formalising the employment of domestic workers and do not want to bear the burden of dealing with financial/administrative formalities, such as organising social and health insurance contributions. Additionally, domestic work is often perceived as a form of sporadic help rather than a normal regular job. In other words, the effort of undergoing the bureaucratic procedures required for the formalisation of domestic workers' employment is justified by very minor incentives.

32. For the legislators, there are two main steps to take in order to ensure the formalisation of the sector. Firstly, it is paramount to extend the scope of labour and social security legislation so that it covers and recognises domestic workers. The ILO Convention plays a key role in this process: following its adoption, some 30 countries<sup>22</sup> have adopted policies and legislative and institutional reforms aimed at extending or improving the protection of domestic workers' labour rights and working conditions.<sup>23</sup> The next step would consist in setting up appropriate mechanisms to implement and enforce the law. It would be important to train government staff, raise awareness and promote a commitment among the target population to comply with the new standards. Moreover, further substantive studies on the effects of legislative reforms are required in order to comprehend the socio-economic behaviour and the decision-making process of both employers and workers.

33. In practice, two general approaches are used to promote compliance with the existing standards and stimulate formal arrangements. The first one is related to detection, deterrence and sanctions, while the other focuses on removing barriers and strengthening the benefits of formal jobs. These approaches work better in tandem.

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22. International Trade Union Confederation, <https://www.ituc-csi.org/domestic-workers-601>.

23. Formalising domestic work, ILO, 5 December 2016.

#### **4.1. Detection, deterrence and sanctions**

34. The first approach is designed to monitor and enforce compliance with labour regulations. The measures include:

- labour inspections;
- complaint mechanisms;
- advice and support to employers and workers and, in particular, providing legal assistance for those in need;
- dispute settlement systems.

35. Labour inspections have proven rather inefficient in light of the specificity of domestic work, since inspectors rarely have access to private households. Labour inspectorates generally mention that there are currently no specific methods or procedures used to monitor or enforce the applicable legislation in the domestic sector.<sup>24</sup> Hence, inspectorates need more reliable information and knowledge of domestic workers and their situations, which could be acquired through specific training. The sector particularly requires effective collaboration between labour inspection services and the judiciary, social partners and civil society organisations. One solution in this regard is to improve the labour legislation by allowing labour inspectorates to have access to private households in order to check if the rights of domestic workers are duly observed by the employers. A complaints hotline where concerned workers can anonymously request labour inspectorates to investigate certain practices of their employers could be another viable solution.

36. Nevertheless, good practices exist in Ireland where a pilot programme for the supervision of working conditions of domestic workers has been introduced.<sup>25</sup> The Irish National Employment Rights Authority (NERA) has been set up to monitor and secure compliance with employment laws.<sup>26</sup> Inspectors have the right to interview an employer and employee outside the home and to demand access to documentation. At first, the employer is contacted by post with a request to co-operate by allowing the inspectors to enter the domicile. If the employer denies access to the household, he has to provide an alternative meeting place. In order to overcome language barriers with workers, Ireland relies on inspectors who are fluent in Lithuanian, Russian, Polish, French, Czech and Slovak. In the period from January to September 2012, a total amount of 3 140 inspections were completed.<sup>27</sup>

37. Domestic workers also need affordable legal assistance in order to be protected from any employer abuses that may occur during their contract of employment. Bearing in mind that the diplomatic missions have the duty to represent the interests of their citizens who are working abroad, they should make legal assistance available to the workers to ensure that their rights are fully observed.

38. Regarding the complaint mechanism, there is a variety of reasons for domestic workers' failure to file complaints: a lack of knowledge of their rights, social isolation and the fear of being fired, to mention but a few. Under these conditions, prevention measures appear to be more efficient. Trade unions could also assist in the process of filing complaints on behalf of domestic workers.

#### **4.2. Strengthening the benefits and incentives of formal jobs**

39. The second so-called "enabling" approach focuses on removing existing barriers to the formalisation of jobs, while strengthening the benefits and incentives of formal jobs. The main instruments include income tax reductions or tax credits, VAT reductions, wage subsidies, lower social security contributions and exemptions. These tools are more efficient when coupled with the simplification of bureaucratic procedures.

40. In particular, voucher schemes significantly facilitating the formalisation of domestic workers have been put in place in France, Belgium and the Swiss canton of Geneva. In 2006, France introduced the universal service employment voucher (Chèque emploi service universel or CESU), a scheme that makes it easier for private citizens to pay for services to individuals. In total, the scheme covers 21 services. Such a procedure simplifies significantly the administrative formalities for employers: no registration of domestic workers is required, and there is no need to draft an employment contract (if the employee works less than eight hours per week).<sup>28</sup>

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24. Regional knowledge-sharing forum on labour inspection and the domestic work sector, ILO, 11-12 October 2012, [www.ilo.org/wcmsp5/groups/public/](http://www.ilo.org/wcmsp5/groups/public/).

25. J. Pintado Nunes, Domestic work and Labour Inspection, PPT Presentation, 9 July 2013.

26. J. Smyth, Inspections find abuses of domestic workers, *The Irish Times*, 6 July 2011, [www.irishtimes.com/](http://www.irishtimes.com/).

27. S. McHugh, "Prosecutions by NERA result in fines of over €100 000 in first nine months of 2012", 11 January 2013.

41. The voucher book can be obtained free of charge from any bank. Vouchers comprise two segments; the first segment serves as an ordinary bank cheque to pay an employee. Otherwise payments can also be made in cash, by normal cheque or by bank transfer. The net wage paid to domestic workers cannot be below France's index-linked all-sector minimum wage (*SMIC*). The second segment serves to declare the hours worked and to calculate the social contribution. It should be sent to the Centre national du chèque emploi-service universel (CNCesu) or declared online via a personal account.

42. In Belgium, the authorities have selected a company which manages the voucher scheme. Individuals wishing to use the scheme must first register with this company, and then purchase service vouchers. Domestic workers paid with service vouchers have a normal employment contract with some specific features.<sup>29</sup> In the long run, the State benefits from the voucher system through the reduction of unemployment benefits, increased revenue from social insurance contributions, and increased VAT revenue (as people who find jobs via this service potentially consume more).

43. The vulnerability of migrant domestic workers related to the lack of knowledge of their rights is often matched by the similar vulnerability of their employers, who are often left alone in facing difficulties with compliance with labour regulations and paperwork. It would therefore be important to disseminate good practices and share information among employers as well as workers, while promoting the advantages of official employment.

44. Trade unions are currently leading most actions aimed at raising awareness on the subject and promoting the rights of domestic workers, among others through collective bargaining. On the workers' side, self-organising processes which raise awareness and enhance knowledge about labour and social rights should be supported and accompanied.<sup>30</sup> Whether or not such platforms for negotiation are available, the working conditions of domestic workers are best regulated through the use of practical tools that are accessible to both workers and employers. For instance, a model contract and a schedule of tasks to be performed should be negotiated and agreed upon, along with tools designed to record working time and breaks.

## 5. National legislation and international standards

45. Migrant workers who are willing to take on the jobs which nationals are reluctant to take as a rule face a very complex set of migration and labour regulations. Consequently, irregular migration and informal work are expanding inside the households.

46. In many European Union countries it can be difficult, sometimes even impossible, to hire a migrant domestic worker legally; major obstacles are related to national policies on labour migration. In countries like Denmark, Finland, the Netherlands and Germany, households are not able to hire a foreigner (from a non-EU country) legally. In Belgium, France and Spain, although this is possible in principle, a strict application of the market-test (requiring proof that no national is willing to take a given job) discourages employers. Countries where legal hiring is possible may still have very different regulations in terms of the recruitment system: in Italy, Belgium and the United Kingdom, the employer needs to offer financial support to the worker in order to sponsor his/her trip and stay.<sup>31</sup>

47. Domestic workers lack specific legal protection in countries such as Greece, the United Kingdom, Denmark, Spain and the Netherlands. The general labour law is the only source of regulation for domestic work in Bulgaria, Latvia, Lithuania and Romania. In Poland, domestic work is not considered employment, but rather a "personal service". On the other hand, Italy, Austria, Belgium, France, Portugal and Sweden are positive examples of countries where the employment of domestic workers is regulated by a specific collective agreement.

48. Domestic workers enjoy comprehensive rights in France through the labour law and through three collective agreements. In Italy, new provisions of a renewed collective agreement include a minimum wage increase, regulation of remuneration for holidays and paid annual leave, the right to paid leave to pursue

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28. Formalizing domestic work through the use of service vouchers: The particular cases of France, Belgium and the canton of Geneva, ILO, 14 January 2013.

29. European Foundation for the Improvement of Living and Working Conditions: Service vouchers, Belgium, 2 June 2013, <https://www.eurofound.europa.eu/>.

30. E. Castagnone, Promoting integration for migrant domestic workers in Italy, International Migration Papers No. 115, ILO, 2013.

31. A. Triandafyllidou and S. Marchetti, Europe 2020: Addressing Low Skill Labour Migration at times of Fragile Recovery, Robert Schuman Centre for Advanced Studies, May 2014.

training and the right to be informed about any health and safety risks. Since 2015, domestic workers in Germany have been enjoying the right to the general minimum wage. In the same spirit, Finland has amended the Act on the Employment of Household Workers and extended the Working Time Act to domestic workers.<sup>32</sup>

49. The ILO, in ensuring the labour rights of domestic workers, represents a particular interest. In order to address the specific challenges which foreign domestic workers face, the ILO launched a “Global Action Programme on Migrant Domestic Workers and their Families” in 2013 (2013-2016). The programme sought to promote the human and labour rights of domestic workers by strengthening the capacities of policy makers.<sup>33</sup> It concentrated on 10 countries through five main migration corridors, including that of Ukraine–Poland.

50. An international treaty, the ILO Domestic Workers Convention No. 189, and Recommendation No. 201 provided the first global standards to protect domestic workers.<sup>34</sup> The Convention highlights the importance of ensuring compliance with laws and regulations protecting domestic workers (including accessible complaint mechanisms), and stresses the necessity of developing and implementing labour inspection, enforcement measures and penalties.

51. The Convention provides a clear definition of domestic work as “work performed in or for a household or households” and a domestic worker as “any person engaged in domestic work within an employment relationship”. The Convention enshrines basic rights and minimum standards with a view to making decent work a reality for domestic workers, among others:

- enjoyment of fair terms of employment and decent working and living conditions;
- the right to receive information on the terms and conditions of employment in an appropriate, verifiable and easily understandable manner, preferably through a written contract;
- protection against all forms of abuse, violence and harassment;
- the right to a safe and healthy work environment;
- equal treatment between domestic workers and workers generally in relation to normal hours of work;
- overtime compensation, periods of daily and weekly rest and paid annual leave;
- inclusion in minimum wage coverage; regular payment, at least once a month, in cash or, with the consent of the worker, by other lawful means;
- enjoyment of conditions not less favourable than those applicable to other workers in respect of social security protection, including with respect to maternity;
- effective access to courts, tribunals and other dispute resolution and complaint mechanisms;
- the right of domestic workers to create and join organisations of their own choosing, whose members should be free of any kind of pressure and persecution;
- the right to keep their identity and travel documents in their possession.

52. Recommendation No. 201 supplements the Convention and provides practical guidance useful for the implementation of the principles and rights set out in it. It offers measures and tools for addressing informality through model contracts, working time records and procedures for payment of social security contributions.

53. By the European Union Council Decision of 28 January 2014, European Union member States were authorised to ratify the latter Convention.<sup>35</sup> So far, it has been ratified by only 23 countries worldwide, including Belgium, Finland, Germany, Ireland, Italy, Portugal and Switzerland.<sup>36</sup> Over 30 countries have extended protection to domestic workers, and at least 18 States are working to this end, considering law or policy reform to extend protections.<sup>37</sup>

54. Ensuring the ratification of this vital Convention by all member States will be a long and strenuous process. For those who have already ratified it, progressive implementation is key. The Convention should be implemented by extending or adapting existing laws and regulations, or by developing new and specific

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32. International Trade Union Confederation, <https://www.ituc-csi.org/domestic-workers-601>.

33. European Commission, <https://ec.europa.eu/europeaid/case-studies/>.

34. ILO, [www.ilo.org/travail/whatwedo/publications/](http://www.ilo.org/travail/whatwedo/publications/).

35. EU law and other public EU documents, <http://eur-lex.europa.eu/legal-content/>.

36. ILO, [www.ilo.org/](http://www.ilo.org/).

37. Decent work for domestic workers: achievements since the adoption of C189, ILO, 14 June 2016.

measures for domestic workers. In its 2012 Employment Package, the European Commission underlined the role of the implementation of the Domestic Workers Convention in improving working conditions in personal services.<sup>38</sup> Therefore, the Assembly should encourage member States to ratify and implement the ILO documents, in accordance with the European Social Charter (revised).

55. Equally importantly, in 2016, the European Parliament adopted a resolution on women domestic workers and carers in the European Union, which calls on the European Union to recognise their employment and social rights. A number of measures were proposed, including granting official status to domestic workers and carers in the European Union; ensuring adequate inspection methods; the inclusion of domestic workers and carers in all national labour, health care, social care and anti-discrimination laws, as well as the possibility to join trade unions; and promoting the professional recognition of the skills and qualifications of domestic workers and carers. The resolution encourages all member States to urgently ratify ILO Convention No. 189 and to ensure that it is applied stringently.<sup>39</sup>

## 6. Conclusions and recommendations

56. The effective protection of the employment rights of migrant domestic workers is still a major challenge worldwide, including in Europe.<sup>40</sup> In general, working conditions for domestic workers are significantly below the minimum level of protection guaranteed by law. The key issues that need to be addressed by the legislators concern fixing minimum wages for domestic workers, providing weekly days off and paid annual leave, protecting them from physical and sexual abuse and ensuring social security. The Assembly should encourage the drawing up of a comprehensive set of initiatives and prevention measures aimed at ensuring that domestic workers' labour rights are upheld in all member States.

57. Given the significant economic importance of the sector, there is an urgent need to promote the public acceptance of domestic work as "real" work and make sure that employers are interested in the formalisation of the employment of workers. General awareness raising along with specific education and training programmes for workers could help tackle the issue. Meanwhile, substantial support should be given to the organisation of household workers and to a greater involvement of trade unions.

58. In order to enhance the protection of domestic workers through labour law, it is important to assess the domestic work sector in the country concerned, conduct a thorough analysis of existing national law and identify areas where better protection is needed. ILO Domestic Workers Convention No. 189 is the key comprehensive instrument, providing guidance on law and policy making aimed at improving the design of the labour law for domestic workers. The Assembly should recommend an immediate and meaningful ratification and implementation of the latter Convention by all member States.

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38. Working conditions: time for member States to implement the ILO domestic workers convention, Press release, Brussels, 28 January 2014, <http://europa.eu/>.

39. Report on women domestic workers and carers in the EU (2015/2094(INI)), Rapporteur: Kostadinka Kuneva, 5 April 2016.

40. Rights of migrant domestic workers in Europe, United Nations Office of the High Commissioner for Human Rights, [www.europe.ohchr.org/Documents/Publications/Study\\_Domestic\\_Migrant\\_webversion.pdf](http://www.europe.ohchr.org/Documents/Publications/Study_Domestic_Migrant_webversion.pdf).