

Opinion of the European Economic and Social Committee on ‘The rights of live-in care workers’

(own-initiative opinion)

(2016/C 487/02)

Rapporteur: **Adam ROGALEWSKI**

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1. Recommendations

1.1. There is a need to start a discussion on the introduction of a common occupational definition of ‘live-in’ care work in Europe, recognised as a form of homecare provision. The definition of live-in care work should cover working arrangements for workers (employed or self-employed) living in private residences where their work primarily involves provision of care services to older and disabled people. Live-in care workers, regardless of their employment or self-employment status, should be treated as part of the system of long-term care (LTC) provision. The introduction of a common occupational definition aims at recognising the existence of live-in carers in the European labour market and improving the quality of the LTC services they deliver.

1.2. For the purpose of informing policymaking, Eurostat should gather adequate data on live-in care workers.

1.3. The EESC calls on the European Commission to conduct research on the situation of these workers, including their numbers, nationality, migration status, cross-border mobility, effective inclusion in labour and social protection, working and social conditions and qualifications, as well as their actual and potential contribution to European economies.

1.4. The EESC emphasises that live-in care workers should be treated in a similar way to other care workers. This means that they should enjoy similar protection, such as limits on working time (including stand-by) and protection against bogus self-employment. Employed live-in care workers must not be excluded from relevant EU and Member State employment-related regulations, including, among others: proper remuneration, health and safety protection, social security and the right to freedom of association and collective bargaining.

1.5. Supply shortages in LTC in Europe should be positively addressed by ensuring decent pay and working conditions, reversing the lack of investment, ensuring that free movement principles are observed, removing barriers that prevent workers from exercising their labour rights and creating pathways for migrants to access regular employment.

1.6. The EESC calls on the European Union to work closely with Member States to coordinate supply and mobility of live-in care workers as part of an approach to improve the overall capacity of the sector to deliver quality care. Specific measures should include:

- improving safeguards in the Employers' Sanctions Directive (2009/52/EC) to protect labour rights of undocumented workers in order to tackle irregular employment. The Victims' Rights Directive (2012/29/EU) must be rigorously applied to provide effective support for live-in care workers who are victims of exploitation, regardless of their migration status;
- bringing all relevant EU directives into line with International Labour Organisation (ILO) Convention No 189 providing rights for domestic workers;
- including the rights of live-in carers and their care recipients in future revisions or proposals of European and Member States' legislation;
- prioritising the reform of live-in care arrangements in the European Platform Against Undeclared Work, an initiative welcomed by the EESC;
- bringing care workers' rights into the European Semester and including them in 'New start for work-life balance' consultations;
- initiating a Europe-wide information campaign on the rights of live-in care workers addressed to care users and providers;
- promoting and supporting the establishment of organisations and cooperatives of live-in care workers;
- implementing processes for recognition, harmonisation and transferability of qualifications and experience acquired by live-in care workers, using instruments for the recognition of qualifications, including those newly introduced by the Agenda for new skills and jobs ⁽¹⁾;
- redirecting European funds to finance training courses for current and potential live-in care workers in order to improve the quality of care;
- monitoring and improving posting of live-in carers by implementing the principle of equal pay for equal work.

Moreover, it should be noted that the Commission's proposal for the European Pillar of Social Rights (EPSR) does not contain any reference to the situation of live-in care workers. The inclusion of their social rights should be considered in the further preparation of the EPSR, on which the EESC is currently drawing up an opinion.

1.7. Member States should ensure that the rights of care recipients and workers, including live-in care workers are protected. Specific measures should include:

- ratifying and implementing ILO Convention No 189 ⁽²⁾ and regularising the status of undocumented live-in care workers;
- initiating support measures, including acting as intermediaries to assist care recipients in finding live-in care workers;

⁽¹⁾ COM(2010) 682 final: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0682&from=EN>

⁽²⁾ ILO Convention No 189 entered into force on 5 September 2013 and has thus far been ratified by Belgium, Germany, Finland, Ireland, Italy, Portugal and Switzerland, in addition to 14 countries outside Europe.

- putting in place a comprehensive support system for recipients of care and their families, including fiscal incentives or subsidies;
- providing training programmes for live-in caregivers, who should benefit from paid leave in order to attend them;
- promoting freedom of association and collective bargaining in the sector, including by supporting the rights of live-in caregivers and their employers to join or form associations;
- tackling social dumping and exploitation;
- proactively regulating the long-term care sector, especially in relation to compliance with employment laws, to ensure care recipients as well as live-in care workers are protected. This must allow labour inspectorates and other relevant state and non-governmental organisations to access workplaces in private households.

1.8. The EESC stresses that financial support for care recipients relying on live-in care workers needs to be met through adequate long-term and sustainable public investment.

1.9. Trade unions, employers and civil society organisations need to be involved in policy planning at Member State and EU levels. Social and civil dialogue should be promoted with all stakeholders at all levels.

1.10. The EESC should play an active role in promoting the development of European policies aiming to support carers, care recipients and their families by, amongst other things, organising a conference on the future of live-in care work in Europe.

2. Background

2.1. Labour market shortages in the healthcare sector are a 'ticking bomb'. There is an ongoing crisis⁽³⁾, and labour shortages will increase unless appropriate policy responses are pursued. As early as 1994, care was defined as a strategic sector by the European Commission. In 2010, the European Commission warned that a supply shortage of two million healthcare workers would emerge by 2020 if urgent action was not taken to redress supply shortfalls of up to one million workers in LTC⁽⁴⁾.

2.2. Live-in care workers represent a numerically significant yet marginalised section of the LTC workforce. They are highly mobile and positioned at the bottom of the labour hierarchy within the sector. Live-in care workers are often excluded from LTC sector planning considerations at European and Member State levels.

2.3. The exact number of live-in care workers is uncertain due to a lack of data; they are often overlooked in data collection systems. In the context of a poorly recognised and remunerated care workforce, live-in care workers have for too long remained invisible to policymakers.

2.4. Live-in care workers are present across all Member States. Many are migrants from third countries while others are European citizens working in their home countries or abroad. Some work irregularly as undocumented migrants and some are engaged in circular or temporary migration. Many work in precarious labour conditions including bogus self-employment.

⁽³⁾ UNI Europa UNICARE (2016).

⁽⁴⁾ European Commission (2013).

2.5. As there is currently no occupational definition of live-in care workers, their situation is equated to that of domestic workers⁽⁵⁾. According to the ILO, domestic work, including care work, accounts for between 5 % and 9 % of all employment in industrialised countries⁽⁶⁾.

2.6. Some Member States have moved forward with formalisation and inclusion of undocumented migrant care workers by signing ILO Convention No 189.

2.7. The EESC has already contributed to policymaking on long-term care by drawing up opinions on the labour rights of domestic workers⁽⁷⁾, on the need for social investment⁽⁸⁾ and on long-term social care and deinstitutionalisation⁽⁹⁾. The present opinion builds on those positions, focusing on the distinctive situation of live-in care workers.

3. Labour shortages, austerity, migration and live-in care workers

3.1. Homecare is rapidly expanding, influenced by a growing preference for care in the home, the prohibitive costs of residential care for many people and the lack of adequate investment in care sector infrastructure.

3.2. Austerity measures undertaken in most Member States reduced existing limited infrastructure and labour supply of LTC. The EESC believes that investment in LTC needs to be embraced positively as an economic opportunity and as a priority area for job creation, social support for families and gender equality. Investment in the sector enhances workforce participation rates and provides a possible way out of the economic crisis⁽¹⁰⁾.

3.3. Workforce shortages are prevalent in care occupations in many Member States. Recruitment of both regular and undocumented live-in care workers alleviates shortages in LTC. Southern European care systems, in particular, rely heavily on live-in care workers. In Italy, migrant live-in care workers represent about three-quarters of the home care workforce⁽¹¹⁾.

3.4. Central and Eastern European (CEE) countries are also affected by the labour shortages in the care sector as well as by rising demand for care in Western Europe. For instance, Poland supplies many live-in care workers to other countries, despite a depleted domestic care workforce. These shortages are met with the arrival in Poland of workers from the Ukraine and other countries outside the EU.

3.5. Despite growing awareness of the importance of the care sector for economic prosperity, the contribution of live-in care work to the European economy is unmeasured and should be addressed by Europe-wide research.

3.6. Many European women are trapped in the so-called 'sandwich' position, expected to look after their parents as well as their children. They increasingly rely on paid care to do this work. In a world of globalised care labour, the consequence is the rise of global care chains⁽¹²⁾. Migrant care workers who move for work reasons often need to find carers for their own family members and employ carers who are drawn from other, often poorer, contexts.

⁽⁵⁾ Domestic work as defined by Eurostat includes the activities of households as employers of domestic staff, such as maids, cooks, waiters, valets, laundresses, gardeners, caretakers, governesses, babysitters, tutors, secretaries, etc.

⁽⁶⁾ International Labour Organisation (2012).

⁽⁷⁾ OJ C 21, 21.1.2011, p. 39, OJ C 12, 15.1.2015, p. 16, OJ C 242, 23.7.2015, p. 9.

⁽⁸⁾ OJ C 271, 19.09.2013, p. 91, OJ C 226, 16.7.2014, p. 21.

⁽⁹⁾ OJ C 332, 8.10.2015, p. 1.

⁽¹⁰⁾ OJ C 226, 16.7.2014, p. 21.

⁽¹¹⁾ European Parliamentary Research Service (2016).

⁽¹²⁾ Hochschild, A. R. (2000) 'Global Care Chains and Emotional Surplus Value' in Hutton, W. and Giddens, A. (eds) *On The Edge: Living with Global Capitalism*, London.

4. Working conditions of live-in care workers

4.1. The low status of live-in care workers is a product of gender assumptions that care work is low-skilled 'women's work'. It is also sustained by the structural marginalisation of migrant women. In various labour surveys, domestic workers are classed as low-skilled or unqualified. However, significant numbers of live-in care workers possess skills and qualifications resulting from years of experience or from unrecognised formal training and certification programmes. Live-in care workers are often required to demonstrate care experience and to have qualifications before they are hired, and yet their working conditions do not reflect these.

4.2. Many live-in care workers experience unregulated working arrangements and many work irregularly. They are often excluded from exercising their labour rights and face exploitation. Conditions can be similar to modern slavery: workers can be isolated, subjected to violence or abuse, forced to work 24/7 and not provided with basic living conditions such as private personal space. Others work as bogus self-employed people. In many cases, labour and other state inspectorates, as well as trade unions, have no access to care-givers in their workplaces (i.e. private homes).

4.3. Measures for the regularisation and legalisation of live-in care workers must be supported to ensure legal pathways into the care sector. Such an approach is not without precedent: in Spain and Italy, some 500 000 undocumented domestic workers have been regularised since 2002⁽¹³⁾. Labour migration policies that enable third-country nationals to work regularly in the care sector, with equal treatment and the right to change employer, must be developed.

4.4. Live-in care workers are one of the most highly mobile sections of the LTC workforce. Live-in care workers from CEE countries tend to be middle-aged women with family obligations of their own⁽¹⁴⁾. It is common for CEE care workers to work for up to three months at a time in Western European countries and then return to their home countries.

4.5. Migration of qualified live-in care workers to host countries represents a significant workforce drain for countries of origin. When the qualifications of workers are not recognised in the host countries, this constitutes a social and economic loss at a time of overall labour shortages in the European and global health care sectors.

4.6. All these conditions reflect the fact that the rights of live-in care workers are not adequately protected under the existing legal frameworks at European and Member State levels.

4.7. Live-in care workers should be encouraged and supported by Member States to avoid working irregularly.

5. The role of care recipients and their families

5.1. Care recipients and their families face difficulties in finding care workers. In the majority of cases, recruitment of care workers occurs through informal networks of family or friends. There is often little guarantee of the quality of care delivered by carers recruited under such circumstances. Families are often faced with a situation of having no clear guidelines on how to employ carers legally.

5.2. Care recipients and their families should receive relevant support from the state. In the short-term this should include an information campaign and continuous support in matters regarding employment and welfare rights of live-in care workers. In the long-term, Member States should take steps to ensure supervision and the presence of an intermediary to assist care recipients in finding live-in care workers.

⁽¹³⁾ Platform for International Cooperation on Undocumented Migrants (2013).

⁽¹⁴⁾ Testimony of a live-in care worker, Alina Badowska (2016), at the SOC/535 public hearing.

5.3. Care recipients and their families should be provided with a range of support services, according to the needs of the care recipient and the family, which can include home care services on a part-time or full time basis. All care arrangements must ensure decent conditions for those employed or self-employed.

5.4. Care recipients and their families should also be encouraged to be more aware of the needs of live-in care workers and to treat them as workers who deserve respect and rights. Care work is highly demanding, both physically and emotionally. Live-in care workers should be provided with proper accommodation and private space, and, in the case of employed carers, limits on their working time, including standby, must be respected.

5.5. At the same time, the rights of care recipients to adequate care should be respected. This is particularly the case with vulnerable groups and those with special needs, such as those with dementia.

6. The role of employers

6.1. A large number of small enterprises including labour hire agencies are increasingly active in the live-in care sector, operating alongside a highly unregulated informal sector.

6.2. The care sector can contribute to the creation of decent work in private households and growth in the European economy. Only quality jobs can guarantee the quality of the care service provided.

6.3. Lack of regulation relating to the cross-border employment of live-in care workers allows some enterprises to offer lower prices for the same work, which contributes to social dumping. This is particularly apparent in Polish or Slovak agencies sending live-in carers to Western Europe⁽¹⁵⁾. The persistence of this situation of unfair competition is detrimental to workers, employers and the European economy.

7. The role of civil society

7.1. Community-based organisations, faith groups⁽¹⁶⁾ along with public and private employers play a pivotal role in delivering care at various levels. Many community-based organisations contributed to the regularisation of migrant live-in carers⁽¹⁷⁾.

7.2. However, in many Member States, support for care is inadequate. The recent economic crisis has resulted in underinvestment in care services across Europe, leading to negative trends such as deteriorating care quality and working conditions.

7.3. Organisations of care providers should be properly funded to meet the needs of growing demand for care. Given their experience, they need to be involved in a genuine social and civil dialogue resulting in a set of industry regulations on how care should be organised and delivered.

8. The role of Member States and the European Union

8.1. Sweden is a good example of quality care provision involving all stakeholders. This system relies on a high level of public support financed by taxation⁽¹⁸⁾. Voucher systems, such as those implemented in France and Belgium, have contributed to formalisation of domestic work, and, in some cases, have improved the working conditions of workers in household services. In the case of Belgium, care work is excluded from this system⁽¹⁹⁾.

⁽¹⁵⁾ Experiences from the DGB Fair Mobility Project: www.faire-mobilitaet.de.

⁽¹⁶⁾ In particular, in Germany *Caritas* and *Diakonie* play an important role in supporting live-in carers and care recipients.

⁽¹⁷⁾ For instance: www.gfambh.com.

⁽¹⁸⁾ Sweden.se (2016).

⁽¹⁹⁾ International Labour Organisation (2013).

8.2. Austria has developed a system of self-employed live-in carers in order to meet the needs for long-term care and set legal requirements regarding quality and framework conditions for service provision. In 2015 further improvements in quality standards and transparency were adopted. This system is widely used by the Austrian population; it is however criticised by Austrian trade unions as undermining employment standards.

8.3. Since best practice models for quality care provision are not always fully transferable to all Member States, a holistic approach at all levels, which is inclusive of all stakeholders, should be coordinated at European level.

8.4. The EESC believes that the European Union should monitor the supply and mobility of live-in care workers within Europe, and promote approaches to improve the overall capacity of the sector to deliver quality care and create decent jobs.

8.5. Care labour supply shortfalls in Europe need to be placed at the top of the EU policy agenda. Attention needs to be drawn to live-in care workers who are largely overlooked in current policy paradigms.

Brussels, 21 September 2016.

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