AGF Arbeitsgemeinschaft der deutschen Familienorganisationen e.V.

Support from foreign care workers in the home – ambivalences from the family perspective in the host and sending countries

Report of the AGF European Expert Meeting
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Content

Background

In many European countries, care for elderly people in private households by care workers from abroad, so-called 24-hour or live-in care, is an often used form of support that has both advantages and disadvantages. Estimates suggest that between one and two million predominantly female workers are employed in this field in Western Europe. Very often, they do not have the same protection under labour law as women in regular employment and are often paid below existing minimum wages. Their working situation can be exploitative. In addition, these women themselves often have underage children or relatives in need of care in their home countries whom they cannot look after during the weeks or months when they are abroad.

Despite the well-known critical situation of care workers, live-in and 24-hour care arrangements are perceived as a positive care option by many families with elderly relatives in need of care. One of the reasons for this is that formal/official outpatient care services are not considered to be sufficiently tailored to the specific demands of those in need of round-the-clock care. Sometimes, however, such precarious live-in support is chosen for purely financial reasons.

About 35 experts from European countries met on 23 September 2021 to look at the situation of families with relatives in need of care in Western Europe, as well as that of care workers and their families in the sending countries. They discussed the family policy challenges posed by these kinds of care arrangements.

The European expert meeting was originally planned as an exchange to discuss the different perspectives and to learn from one another in preparation for considering the fundamental further development or redesign of the European care systems, without immediate pressure to act. For the German discussion, however, the situation changed from one in which there is no pressure to act to one in which there is significant pressure to act, owing to the ruling of the Federal Labour Court in June 2021 on pay and on-call time for live-in carers. Since then, there has been a high degree of uncertainty, not only among care workers, those in need of care and their families but also among provider agencies and politicians regarding necessary changes to the system of live-in carers.

In the European expert meeting of the AGF, the following questions were discussed, among others:

- What is the situation in selected European countries in households with live-in carers? What are the problems of needs-based care?
- What is the situation of live-in care workers? What is their motivation? What problems exist? What are the barriers to self-organisation and improving one's own situation?
- What repercussions does live-in employment have on the families of care workers in the sending countries?
- What (family) policy demands can be derived from this at national and EU level??

The following summaries were prepared by the speakers themselves. The summary of the discussion was written by the AGF.

Summary of key results

Consider perspectives of families in recipient and sending countries	An ethical treatment of this topic is only possible if the perspectives and interests of the persons in need of care and their families as well as the care workers and their families are considered equally.
Income disparities between states drive care migration	Care migration is primarily an effect of the very large income inequalities that exist in the EU. Despite earning below the general level of wages in the host country, careworkers earn a high income compared with their country of origin. They often accept substandard wages and the stressful working conditions to financially support their families significantly.
Often missing basic workers' rights	Problems arising in these arrangements are often: Paying for and dealing with on-call time, as well as denying the careworker's right to rest periods, time off, labour protection rules and the insufficient retirement provision.
Missing quality control	The work of live-ins often takes place outside of common quality standards of care and support. Live-ins are a sector that is cut off from the quality requirements demanded of care and support in other sectors.
The carers mostly have families of their own in their country of origin.	Long absences from the carers' homes have negative consequences for their families: this has an impact on the situation of children and partners left behind, as well as of elderly parents who need care.
Families in host countries see live-ins as a way to remedy the care shortage in the current situation	Germany and other host countries have a major problem in meeting the care needs of older people, who want to remain in their own homes and be cared for there. Formalised services and quality-controlled facilities are experiencing a shortage of skilled workers. There are hardly any outpatient services for long-term care on a 24-hour basis that families regard as affordable.
The live-in arrangements often carry unknown risks for the host families	Contractual arrangements may carry high financial risks for the host families, because of their often incorrect assumption that they are not contractually bound to the careworkers living in their household. Following the German Federal Labour Court's ruling (June 2021), the families may well have to pay back wages, if they don't comply with the ruling on paying minimum wages and the recognition of on-call time .
Improving the care systems in receiving and sending countries	Fundamentally, societies need to consider how to organize their care systems. The expansion of day and night care, short-term care and needs-oriented, community-based collective care and nursing services is still far from adequate to meet the need.
Improving the situation of careworkers	Protection against exploitation of care workers, working time regulations and minimum wage payments should be enforced. Access to counselling must be made easier for both careworkers and those in need of care and their families.

The contributions of the expert discussion

The European care border regime: inequalities and the marketisation of care

Dr. Zuzana Uhde, Czech Academy of Science, Institute of Sociology

Recently, the pandemic has sadly shown how Central and Eastern European lives matter less when there is a need to secure a flow of cheap migrant labour to the wealthier EU member states. This can be seen in the solutions that were dominated by a Western-centric perspective which proposed exceptions from public health protection measures, organised transports of seasonal agricultural workers and "care corridors" for cross-border care workers. The unfolding pandemic, which included the closing of borders, or vaccine and health nationalism, exposed the care deficits and highlighted how caring is squeezed between the privatization of healthcare, the marketization of care, or persistent nationalist protectionism amid increasing inequalities brought by global capitalism.

It is worth reminding ourselves what the pandemic has brought to light in order to start rethinking the future of care.

During the pandemic, care workers have become visible as essential workers for maintaining the functioning of society. Doctors and nurses have been praised for their hard work under conditions in which they risk getting infected themselves. But European society has also suddenly become aware of hundreds of thousands of workers caring for older people who are usually invisible inside private homes and residential care facilities. Moreover, an abrupt closing of borders has exposed the fact that these care workers are often migrant workers who come from Central and Eastern EU member states and also from outside of the EU. Allowing cross-border mobility of care workers became overnight a top priority for inter-governmental negotiations, as many wealthier European countries faced a risk of an acute lack of care workers. Many European media called for solidarity with EU member states from which migrant care workers come, such as Bulgaria, Romania, Slovakia, Poland or the Czech Republic. Precarious working conditions, low wages, violations of labour rights, the increased financial cost of commuting owing to having to pay for COVID-19 tests or to go into unpaid quarantine, as well as the emotional costs of being far from their own families, were usually neglected in portrayals of heroic, selfless carers.

At the height of the pandemic, however, Germany's top labour court delivered a ground-breaking decision that live-in care workers must be paid the minimum legal wage for the whole time they spend on the job, which includes time spent on standby. This puts the practice of employing migrant care workers under the spotlight, especially in 24-hour live-in service, which is quite prevalent, even though it is often specified differently in a contract. It also opens up the possibility to radically rethink how high-quality care for older people that preserves the dignity and rights of both carers and older people can be organised.

Austria, by contrast, embarked on a different path several years ago. Austria has one of the most formalised 24-hour homecare legislation. The most significant aspect here is that care workers are formally self-employed (working on a trade licence). This exempts 24-hour homecare from several labour-law protections, including the minimum wage, regulated overtime and obligatory breaks and other employees' rights in relation to employers.

Things look different depending on the angle from which we view them. From the perspective of the families and older people themselves the situation looks different than when adopting the perspective of mobile

cross-border care workers. Moreover, recruitment or placement agencies have their own agenda and priorities. I am quite aware that if one is immersed in day-to-day caring responsibilities for older relatives, practicalities and economic concerns dictate all the decision-making to a significant degree. However, I would argue that it is important and beneficial to take a bird's eyes view and scrutinise the institution of 24-hour live-in care work from a theoretical analytical point of view and in the context of the larger social structures that we all live in.

I suggest that this outlook sheds a clear light on the fact that this arrangement is by definition unsustainable and unreformable. In Europe today, borders producing a marginalized labour force for the care market coexist with a narrative of a borderless Europe. The recent pandemic has, however, fully revealed that the regime of open borders within the EU Schengen zone, coupled with trends towards the marketization of care, creates a distinct European care border regime that capitalizes on regional inequalities. The care border regime creates a structural position of the low-paid mobile European guest care workers, mostly women, who come from Central and Eastern EU member states. This is built on formalized paths for a subtle combination of inclusion – through open borders within the EU and access to the local labour market – and exclusion – from equal labour rights protection and entitlement to social rights. Countries receiving migrant care workers have built institutionalised and legal mechanisms for the use of cheap care labour, which benefit from open inner-European borders, as mobile care workers are neither fully migrants nor fully fledged members on a par with citizens. With increasing anti-migrant attitudes in the EU, this in-between position of EU migrant workers reveals also nuanced layers of power hierarchies within the concept of whiteness as a global position of privilege. The pandemic has shown how the bordering processes of opening and closure, which categorise people, their transnational mobility regime and rights entitlements, work to delay a care crisis in global capitalism – or at least how this care crisis is experienced in wealthier countries – while critically undervaluating care. And this differentiated categorisation of people – by letting some migrant workers in – also consolidates the migration management that restricts the access for people from outside the EU.

It is the power of borders that keeps privatized market-based home eldercare viable. There is an urgent need not only to rethink how we envision ageing in dignity but also what importance we as a society give to care. The indispensability of care and social reproduction and at the same time its undervaluation or non-recognition is one of the fundamental structural contradictions of capitalism. The political economy of social reproduction in late capitalist society involves not only the expropriation of unpaid care reproduction and domestic work, performed predominantly by women, but also the economic undervaluation of paid-for care.

Moreover, care politics that takes into consideration the rights and needs of all involved actors cannot be formulated at the level of the nation–state. As much as the older people are in a vulnerable position, migrant care workers will also be older and in need of care at some point in their lives. It is important to improve working conditions and transnationalized access to social rights to help the situation of cross-border care workers in the "here and now". However, this does not address the causes of the social-reproductive contradictions of global capitalism. It also does not remove the inherent problems of 24-hour live-in care, notably that care workers are deprived of a private life. Improving the whole system of care provision requires substantial investments not only in public care provision and facilities but also in the rest of the care infrastructure. Ageing in place is not sustainable for everybody and we need to design a robust public model of care that is based on the public provision of a variety of care facilities (e.g. for children, the sick, older people or those with disabilities), public assistance and other services that socialise care and certain types of housework. This can take the form of collectively owned and participatory institutions, state, city or non-profit institutions, voluntary community care or public home assistance (i.e. care workers are public employees). A public model of care redistributes the caring responsibility between the private and public sectors and secures access to care on a solidary basis accord to need.

It differs from a traditional model of care, which is supported through care and family allowances and is primarily dependent on women's unpaid work, and a market model of care, in which families and those in need of care buy care services on the market.

One more reason to challenge methodical nationalism in defining social care policies is that the perspective from which we approach any problem importantly limits its imaginaries of possible solutions. Only from the perspective of wealthy states and their citizens does the arrangement of 24-hour home care seem reformable. But a fair model in this 24-hour individualized setting would require four fully paid-up carers per person so that care workers are not deprived of a private life. Only a fraction of older people would be able to afford to pay adequate wages for four people. This clearly demonstrates that the model is inherently based on underpaid labour (as little as two to four euros per hour). We can maintain the illusion that this market-based care arrangement is sustainable only if we accept hidden assumptions that naturalize profound economic intra-European and global inequalities and internalise colonial mentalities categorising people in terms of nationality, racial- and ethnicity-based hierarchies, mediated by borders.

Live-in care as a model of care: spotlights on the perspectives of care workers

Justyna Oblacewicz, Fair Mobility

Fair Mobility is a counselling network that has been in existence since 2011. From the beginning, people seeking advice from the so-called 24-hour care sector have found their way to the counselling centres of Fair Mobility. The work of the counsellors at currently 11 locations throughout Germany is mainly financed by funds from the Federal Ministry of Labour and Social Affairs (BMAS), as well as the DGB Federal Executive Committee and individual trade unions. The counselling offered by Fair Mobility is not only aimed at those seeking advice in the 24-hour care sector, but also at workers from Central and Eastern Europe who are working in Germany within the framework of the free movement of workers and the freedom to provide services and who have problems and questions relating to labour law and social law. The counselling characteristically takes place in the mother tongue of those seeking advice, is free of charge and is low-threshold.

In order to situate home care in the overall care situation in Germany, a few facts are essential. According to the Federal Statistical Office, there are currently 4.1 million people in need of care in Germany. One fifth are cared for in the approximately 15,400 nursing homes. About four out of five people in need of care, i.e. 3.3 million, are cared for at home, mostly by relatives (56%), who are often supported by an outpatient care service, of which there are about 14,700 in Germany. Additionally, home care is provided by workers from Eastern European countries. These live with the families during their work; hence, they are known as live-in carers or, informally, as live-ins. There are no valid figures on the number of live-ins in Germany, but estimates from different sources vary between 300,000 and 600,000. What is certain is that the number of live-ins is growing continuously, as is also indicated by the increasing number of agencies. Stiftung Warentest (a German consumer organisation) counted about 60 agencies in 2009, rising to 266 in 2016. Most of the live-ins are female and come from Eastern Europe. Women from Poland are mostly between 50 and 67 years old, those from other EU countries tend to be younger. German language skills are an advantage for communication and should be at

an intermediate level. However, most live-ins hardly speak German.

The scope of duties of the live-ins is varied and includes some housework, as well as the care of the client individual but (officially) no medical care. Depending on the contract, the tasks may include preparing and assisting with meals, assisting with personal hygiene, dressing and undressing and help with using the toilet and with getting up and going to bed. In addition, keeping the person company and running the household are fixed elements of the work. In reality, the caregivers also take on nursing duties. In the contract, a live-in may be called, among other things, caregiver, home help, caregiver or care assistant, which demonstrates that this work can be interpreted in many different ways. The live-ins usually stay in the family two to three months, in exceptional cases several years.

The types of contracts under which live-ins from Eastern Europe work in Germany are diverse. They range from full-time employment to a mini-job (german contract form of employment with an average monthly payment of no more than €450) or to sole self-employment. In the employer model, a full- or part-time employment contract is concluded between the caregiver and the family or between the caregiver and a care service. The employment relationship is thus socially insured in Germany and the provisions of German labour law apply with regard to the minimum wage, holidays and working hours. Non-profit providers such as Caritas or Diakonie offer the families additional support in dealing with the bureaucracy as an employer and charge a corresponding lump sum for this. They also act as mediators when difficulties and problems arise. The employer model also includes the so-called minijob (maximum 450 euros per month) and midijob (450.01 to 1,300 euros per month). The advantage of the midijob over the minijob is inscription into the German social security system, which gives access to social benefits and health insurance. However, the contributions paid into the social security system are based on a gross income of only about 600 euros per month. The rest of the wage is paid in the form of tax- and social insurance-free allowances or completely undocumented, which entails serious losses of social benefit entitlements.

In the so-called secondment model (EU posting), the live-in is employed by a company in her country of origin and is temporarily sent to Germany. The household of the person in need of care, on the other hand, concludes a placement contract with a German agency that establishes contact between the live-in directly and the family and charges high fees for the placement. The live-in's salary is usually made up of the minimum wage applicable in the country of origin and secondment allowances. The social security contributions and taxes paid are only based on the amount of the minimum wage, as the allowances are paid free of tax and social security contributions. This has a particularly negative impact on social benefits paid in the country of origin, such as sickness or injury benefits and pension entitlements. Both wage components together, the minimum wage of the country of origin and the posting allowances, then add up to approximately the amount of the German minimum wage.

Care workers from Poland in particular sign a service contract under civil law instead of an employment contract. This means that they are considered freelancers and are not entitled to the protection rights of employees. Although the care workers are socially insured in Poland, despite the contract's being under civil law, the amount of social security contributions is based on the minimum wage in the country of origin, as in the secondment model. Because of the contractual relationship between the care worker from Poland and a usually Polish placement agency, on the one hand, and the contractual relationship between the family and a usually German agency, on the other, this employment model is also highly problematic from a labour law perspective. For the assessment of the employment relationship, it is not the name of the contract, in this case the service contract under civil law, that is decisive, but how the employment relationship is lived in practice. Under these conditions, Fair Mobility regularly finds that the care workers receive their instructions from the family or the person being cared for, even though the care workers are

freelancers and there is no formal contractual relationship between them and the family.

As a sole self-employed person, the caregivers have to register a business – mostly in Germany. Requirements such as client acquisition, invoicing and tax declaration are not done by the caregiver herself but by an agency, for a high fee. The working conditions are also not negotiated by the caregiver with the family, but are determined by the agency.

A large number of employment relationships in domestic care are undocumented, but it is impossible to quantify the exact extent. Mediation between families and caregivers is usually done through informal channels and word of mouth.

Regardless of the type of contract, the most serious problems in home care include in particular the excessive working hours and the unpaid on-call times with a monthly wage of about 1,700 euros gross (1,400 Euros net). The advertising promise of round-the-clock care promoted by the agencies raises the expectation of permanent availability, 24 hours a day, seven days a week, among the client families. Thus, the live-ins may be required to be available round the clock, no matter what working hours have been contractually agreed. Service contracts from Poland are also characterised by particularly short notice periods as well as high contractually agreed penalties that are very disadvantageous for the care workers. The consequence for countless live-ins in the event of premature termination of the assignment is the often a contractual penalty in the form of the unlawful withholding of wages by the agency.

Other problems include psychological and physical stress resulting from the lack of qualification and preparation for the sometimes difficult health conditions of the people being cared for. The isolation of the live-ins in the households, the round-the-clock deployment and a lack of support from the agencies in conflict situations are further problems with which care workers turn to Fair Mobility. With regard to labour disputes, the lack of documentation of working hours, the dependency on the household, the risk of a lawsuit and the fear of no longer being able to find employment in the sector mean that caregivers often decide against taking legal action and accept the loss of wages.

Because the working conditions in 24-hour care have not yet been clarified with legal certainty, the ruling of the Federal Labour Court (BAG) of 24 June 2021 (ref.: 5 AZR 505/20) plays an important role for the entire sector. In the case of a care worker posted from Bulgaria who sued for payment of the German minimum wage for 24 hours of daily working time, the BAG ruled that care workers were entitled to the German minimum wage, not only for active working time but also for on-call time. However, this regulation applies only to care workers who are employees. The majority of self-employed and freelance workers have not benefited from the ruling so far. This gap also shows the urgent need for politicians to finally enact regulation for employment in the 24-hour care sector.

Deficits / voids in care provision and live-ins – perspectives of families with elderly people in need of care

Ulrike Kempchen, BIVA – Bundesinteressenvertretung für alte und pflegebetroffene Menschen

Strictly speaking, the German long-term care insurance system encompasses only two types of care: outpatient care in one's own home (also residential community) and inpatient care in a facility. If a person in need of care is cared for on an outpatient basis, this can be done by professional carers or by informal carers such as relatives or other third parties. For care provided by licensed professionals, care benefits in kind are available depending on the degree of care, which are settled directly with the long-term care insurance. People who are cared for informally receive a care allowance, pos-

sibly in combination with care benefits in kind. In addition, for both forms of outpatient care, the relief amount is available as well as partial inpatient services. The home care situation can become problematic for the if they have very extensive care and support needs. In this case, even combined benefits plus a respite allowance and partial inpatient care are often not sufficient, as it is not possible to organise and finance round-the-clock care, care services often do not have sufficient staff capacities, relatives are not available and there are no options for support in everyday life or day care. In many regions, there are also only a limited number of home places available. And even if someone has a place in a home, inpatient care cannot guarantee adequate round-the-clock care owing to existing staff shortages. Often, admitting a live-in carer into the family household is therefore the only way to compensate for this care-intensive situation, especially since the majority of those affected wish to remain in their own homes.

However, this wish can often not be satisfied because of the financial and family situation. In this respect, the offer of a foreign caregiver in the family home falls on fertile ground. However, this kind of caregiving lacks authorisation under the long-term care insurance system, and it is only the care allowance that can be used for this informal form of care. So the "low budget offers" tempt people to hire workers from Eastern European countries, which directly leads to low wages. However, it is possible that the BAG ruling issued in June 2021 will reverse this low-wage trend. For the first time, it was clearly mandated that not only are live-ins entitled to the minimum wage but also that on-call times have to be taken into account. In this respect, an increase in the cost is to be expected in the future, at least for reputable intermediaries. This in turn leads to new problems: Since assistance for long-term care does not apply in the case of a care arrangement with Eastern European workers, because the German social welfare agency does not officially accept the quality of care in this context, those families with low financial resources can no longer afford this support. Therefore, a (further) migration into the black market is feared.

Already, people in need of care who want to take in a caregiver are confronted by and often overwhelmed with the problem of the legal terms of the employment relationship. Roughly speaking, there are three models in use: the secondment model, the self-employed model and the employer model. The orientation of the contract according to the model entails various consequences, such as the obligation to pay social security contributions, of which the family is often not even aware, which in turn runs the risk of promoting undeclared work. The BAG ruling may already have an impact here. For example, the "intermediate placement" in Germany could be eliminated in the future, resulting in people in need of care having to deal exclusively with foreign contract partners, which can lead to further excessive demands.

Even now, there are often language problems with the use of live-ins, which make it difficult to live and work together satisfactorily. In addition, the families do not receive any legal clarification about the contract structure, which goes beyond the direct contract with the providers, who have a vested interest. The different legal systems in the country of origin of the live-in and the place of deployment, as well as the agreement of contracts according to foreign law, add to the problem. In addition, in the area of the deployment of foreign care workers who are not licensed in Germany, there is a lack of defined binding minimum content for contracts or minimum standards for implementation. In fact, the staff do not provide specialised 24-hour nursing-type care, for which they are not qualified, but at best general support. Treatment care, for example, may not be provided at all. The long-term care insurance does not "know" the system of foreign live-ins and therefore does not contain any explicit regulations on this, not even on financing. In this respect, there are also no controls at the regulatory level to maintain quality. In the implementation of the contracts, there are always problems, e.g. with regard to the authority to issue instructions, to failures of the relationship of trust, to deployment and on-call times and to contact between members of the household, which is sometimes very close when there is a live-in caregiver. Addition-

ally, the home is often not at all suitable to accommodate a caregiver. There are hardly any opportunities for the clients to intervene, so there is always the situation that the deployed workers return to their home country at short notice and the person in need of care remains at least temporarily unprovided for.

Since a large number of people in need of care currently still require care by live-ins, measures for quality assurance and financing would be necessary in the short term. In the long term, however, alternatives and innovations are needed, e.g. at the municipal level and through the use of other professions, in order to ensure the provision of services of general interest nationwide and to avoid exploitation.

Impact on families of the origin and destination countries of care workers

Silvia Dumitrache, Associazione Donne Romene in Italia - ADRI

Of the 446.8 million residents in the EU-27 as of 1 January 2019, there were 21.8 million foreign citizens (4.9%), most of them third-country nationals. Romanians, Poles, Italians and Portuguese made up the four main groups of EU-27 citizens residing in other EU member states in 2019.

More than five million Romanians are living and working abroad, according to 2019 Organization for Economic Co-operation and Development (OECD) data. In Italy, there are 1,190,091, of whom 670,975 (57.7%) are women. Most of the Romanian workers abroad are not accompanied by members of their families. In 2020, women accounted for 52.7% of the total number of migrants residing in Italy, and migrant women accounted for 8.6% of the total female population. The most numerous foreign residents are the Romanians. The riskiest, least professionalised and lowest paid jobs are still occupied by migrants, and about two out of three migrants are in unskilled jobs.

Domestic work involves over two million people, of whom only 859,000 are employed legally. This exempts the Italian state's welfare system from supporting 1.5 million Italian families, saving a total of 10 bn euros each year. Official statistics say that seven out of 10 retirees cannot pay a caregiver, while most of them would need three to cover all their needs. Currently only 10% of the elderly can afford help with their retirement only.

During the COVID-19 pandemic, the employment rate among female immigrants fell by 4.9 percentage points, more than twice the rate among foreign men (-2.2) and eight times that of Italian women, who often are able to reconcile family needs with professional ones, thanks to the support of foreign workers, rather than to an equal sharing of gender roles in the family.

Migrant care workers played a key role during the COVID-19 crisis in ensuring that elderly people who would otherwise be isolated received the needed care and assistance. Nonetheless, they still suffer from poor labour standards and less social protection, as they are subject to specific unfavourable regulations. Exceedingly long working hours remain a feature, which effectively hinders their right to a family life of their own and affects live-in'- domestic workers particularly severely.

"Italian Syndrome": More painful than being a migrant away from home is the longing to be with one's own children. Furthermore, when moving to the EU, migrant care workers often have no choice but to leave their children behind in the care of relatives or neighbours. This dramatic change and the lack of parental care may lead to depression, sometimes suicide, violence or the abuse of children.

It is estimated that, at the beginning of the 2010s, some half a million children were left behind by their parents working in the EU. Most of these children live in Romania, Bulgaria, Poland and Hungary.

In Romania, the "Home Alone" phenomenon affects about 350,000 children, with serious consequences: physical, psychological and emotional vulnerability, increasing risks of sexual abuse and harassment, of trafficking and prostitution and an early start to sexual life. It is not only the women working in Italy who are affected by the consequences of their migration — the impact is also felt in their families and in Romanian society as a whole.

Romania is the country with the largest number of adolescent mothers and newborns abandoned in maternity units in Eastern Europe (many of them with their mothers away for work abroad) and also a steeply rising incidence of infant mortality. Five out of 10 mothers under 18 have never had a gynaecological check-up. One of the reasons is the lack of support and supervision for young women who have parents working abroad. Some of the girls think that they are not loved in the family. Children whose parents are working abroad feel their absence deeply. Many children have trouble sleeping, have low self-esteem, become aggressive and develop deviant behaviour, all because they lack guidance and role models. Often, they skip classes or even drop out of school entirely.

Today there are no public policies and integrated services dedicated to children left behind in Romania. As a result, there is an increase in trafficking in human beings for sexual and labour exploitation. A 2018 European Commission Report showed that almost three quarters of trafficking victims in the EU came from Romania.

Since Romania's entry into the EU, the mass media have reported more than 120 murders and suicides among members of the transnational family, mostly children who took their own lives as a result of being away from their mothers or their parents.

It would be desirable for the EU to take stronger action to safeguard the rights of transnational families.

On 19 March 2021, the Parliamentary Assembly of the Council of Europe (PACE) unanimously adopted Resolution 2366 "The impact of labour migration on 'left-behind' children". The parliamentarians called for a series of measures, including social and educational support for children left behind, fair family reunification policies and more legal avenues for migration to reduce the risk of exploitative working conditions.

"It is the responsibility of the European Union to ensure that the dignity and human rights of migrants are protected." European Commission, 2021.

Transnational care work across continents: the situation in Spain

Prof. Dr. Magdalena Díaz Gorfinkiel, Universidad Carlos III de

Marketization of home care provision has been present in Spain for a long time, which addresses many dilemmas related to social equality and to the process of globalization of care. To be able to understand care arrangements in Spain from a transnational perspective, two main elements should to be taken into consideration: the social organization of care and the immigration process.

Starting with the latter, the migration process, the short immigration history of Spain is worth noting, as the country did not start to receive relevant numbers of people from abroad until the early 1990s. From then on, the figures have become similar to those in other European countries (around 12% per cent of population being of migrant origin), although with a difference in the profile of the migrant population. In the first place, Latin America is the largest region of origin, based on some

historical and cultural characteristics in common, such as the language. In the second place, and related to the aforementioned phenomenon, the geographical distance makes migration a more stable experience, with fewer possibilities for circular mobility. Finally, the feminization of these migrant communities is notorious, which implies a much closer relationship with care activities.

With regard to the social organisation of care, Spain is a familistic welfare state, meaning that most care responsibilities are based on families, rather than on public institutions. As traditional gender division of care stipulates, women have traditionally been in charge of most domestic and care tasks, although changes in gender roles during recent years have brought new demands for caregivers. Women within the families (wives, mothers, daughters) are often no longer available for caring, so the market is now fulfilling the demands for care. Domestic employment has, therefore, been increasing from a quantitative and qualitative perspective and has been adopting different modalities: caring for children, for the elderly, on an hourly basis, as a live-in... It is important to notice that this process of marketization implies, among other things, an individual answer to a social need that is becoming more crucial with every passing year.

The provision of care at home is considered, socially and legally, as falling within the domestic work sector. Because of the lack of public services, many elderly people are taken care of at home by migrant workers living with the family, whose roles are extremely vague and have low social value. As there are no precise specifications of tasks or particular qualifications required, care work can include all kinds of activities, from general supervision of the elderly to providing assistance with personal hygiene. The general low social value of the role is exacerbated by the fact that the sector is highly feminized and with a clear ethnic profile, which produces a loop between the low position given to the activity and to its workers. Additionally, care work is offered inside private homes and based on individual negotiations.

Spain has a law on domestic work (which includes care work) passed in 2011 (RD 1620/2011), which covers most rights of the general worker. Nevertheless, some legal discrimination is still in place, the most relevant examples being the lack of unemployment benefits and a cheap and quick route to dismissal. The sector is thus less economically attractive and creates specific vulnerabilities for its workers, contributing to the idea that care activities are less valuable and less essential for society at large. The COVID-19 crisis sparked a big debate about care and its relevance to sustainable societies, but, some months after the first pandemic waves, social priorities turned to the old schemes and, although the debate is still on the public agenda, it is considerably less visible.

Another specific issue in relation to the global domestic sector is the phenomenon of global care chains. This concept revels the transnational connections that get formed around care activities, considering them both in a commodified and a non-commodified way. Women from the global South migrate to economically more developed countries in order to get involved in care activities, at the same time transferring their own responsibilities for caring to other women (grandmothers who take care of their children, sisters who get paid to take care of parents, …). Issues related to social equality and to the right to family life, among others, have emerged as new social processes.

Tackling the current issue of care work urgently requires combining a transnational perspective and national care agendas. The aim should be to integrate different networks of care. Broadening the implementation of reconciliation policies and improving the professionalization of the domestic sector should also be considered, together with measures to raise awareness of the area of care and support and to ensure compliance with the law. Finally, Spain should ratify ILO Convention 189 to guarantee basic rights to domestic workers.

Experiences with different legal regulatory mechanisms

Michael Leiblfinger, Johannes Kepler University Linz and LeiblfingerResearch

The "Decent Care Work – Transnational Home-Care Arrangements" project compared the forms of employment in home care in Germany, Austria and Switzerland. The results were published in, among others, the paper "Völlig legal!? Rechtliche Rahmung und Legalitätsnarrative in der 24h-Betreuung in Deutschland, Österreich und der Schweiz [Completely legal!? Legal framing and legality narratives in 24h care in Germany, Austria and Switzerland]" and in an edited volume entitled "Gute Sorge ohne gute Arbeit? Live-in care in Deutschland, Österreich und der Schweiz [Good care without good work? Live-in care in Germany, Austria and Switzerland]".

As the situation in Germany had already been discussed in Ms Oblacewicz's talk, the presentation focused on the situation in Austria and Switzerland.

Live-in care that is transnationally provided has become an established part of the care regimes in Germany, Austria and Switzerland. The establishment of live-in care is a consequence of the geographical proximity of those countries to the former Eastern bloc as well as the specific interaction of gender, migration and care regimes in those three countries. On the one hand, the German, Austrian and Swiss care system remains bound to a familistic model that is characteristic of conservative welfare states and which gives families a central role in care work. On the other hand, however, since the 1990s there has been a shift at the European level away from the male–earner/female–carer model towards more equally distributed labour market participation by both men and women, regardless of their respective care responsibilities.

In contrast to Germany, both Austria and Switzerland have a legalised model for home care. However, this is regulated very differently in the two countries. In Austria, self-employment in home care is the dominant model, whereas Switzerland has only legalised employment models for this field.

Employment in **Switzerland** can take two forms, either directly with the family that is merely arranged by an agency, or with the agency, which then offers staffing or -leasing to the family. Self-employment and secondment are prohibited in Switzerland for domestic care. Agencies must register and deposit a large sum of money or a guarantee for any legal disputes. But this must be seen against the background of very liberal labour laws in Switzerland. For example, on-call time must be paid for, but there is no minimum for this. Lawsuits have been pending for some time against agencies, among others, because of the often relatively low number of hours per week allocated to actual working time (20–30 hours) compared to the high number of on-call hours.

In **Austria,** both self-employment and employment for home care have been legalised, but there are approximately 60,000 self-employed people compared with only a few hundred employees. On the one hand, many cannot afford the employee model, and on the other hand, the self-employment model offers more flexibility. In the case of the self-employed, the household does not have to worry about rest periods. Those are an enforceable right and can make a second person necessary. In addition, self-employed workers are neither entitled to paid vacation nor to continued payment during sick leave. In addition, this model is much easier in regards to the contract design. It should be noted, however, that in Austria, unlike in Germany, all self-employed people are enrolled in the social insurance system. There is a public fund for all self-employed individuals for health and accident insurance and a pension plan. The range of tasks of care workers has been very broadly defined. It includes both domestic and nursing

tasks. In nine out of ten households, care workers perform delegable nursing as well as simple medical tasks. There are no legal working time restrictions for self-employed people in Austria, and for employed care workers exceptions have been introduced by the Occupational Health and Safety Act. The model of self-employed care is not uncontroversial. For example, most of the legal literature assumes that this is not self-employment, because workers cannot make the free decisions about their work that are necessary for them be defined as "self-employed". This is subject to judicial clarification.

In Austria, the model of home care is in fact mainly for the middle and upper classes, and in Switzerland largely confined to the upper classes. If the financial resources of those in need of care are insufficient, they are occasionally supplemented by their children.

The care workers see it as positive in Austrian regulation that they are included in the social insurance system. However, there are often problems with claiming a pension transnationally.

Despite major differences in the concrete legal arrangements, the live-in arrangement has become an increasingly established and formalised model of care and nursing for older people in Germany, Austria and Switzerland. What the respective regulations have in common is that they produce arrangements in all three countries that are characterised by long working hours, little free time and low wages.

In further developing regulation to prevent exploitation, into account that there must be a limitation on the number of working time hours, unlike in the Austrian model of independent care. Furthermore, regulation must be controllable to a minimum extent in the home, even if this entails a slight encroachment on the rights of those in need of care.

Trade union experiences and perspectives in Germany

Dietmar Erdmeier, ver.di

ver.di has outlined central problems and possible solutions for live-in care in its position paper "Statt systematischem Gesetzesbruch mit Live-in-Kräften: Pflegeleistungen ausweiten, Unterstützung im Haushalt bieten, Pflegeversicherung weiterentwickeln" ["Instead of systematically breaking the law with live-in workers: extend care benefits, provide support in the home, further develop care insurance"].

The promise of "24-hour care" – supposedly available "around the clock" and at affordable prices – seems extremely tempting for relatives who are worried about the care and support of their loved ones. The fact that this can only be done with systematic violations of occupational health and safety laws, personal rights and at the expense of the quality and safety of care is often pushed into the background. In 2015 and 2016, the Hans Böckler Foundation commissioned a study by the iso-Institut Saarbrücken under the direction of Dr. Hielscher. According to the study, every tenth household has chosen an arrangement with an Eastern European caregiver, who works an average of 69 hours per week doing housework, nursing and supervision. Working time and occupational health and safety laws are being violated.

Furthermore, professional guidance for carers is usually lacking. There is no quality assurance and the consequent health risks for those in need of care are sometimes not recognised. The vast majority of these colleagues are not trained carers, although they often (have to) carry out care activities. The distinction between domestic and nursing activities is usually not clear. In contrast to home care workers, nursing staff who are recruited from abroad to work in hospitals are sometimes given a great deal of preparation, good integration into the company and practical training.

Should long-term care insurance pay for the existing system of live-ins? Long-term care insurance is underfunded, there is too little infrastructure in the outpatient sector and there is a shortage of skilled workers. Arrangements for home care are today partly financed with money that the person in need of care gets from the care allowance. But then this activity should be linked to similar conditions to those that exist in outpatient care services. If live-ins were to be included in the solidarity-based care system, they should not form an unregulated system parallel to the current care workers regulations set out in §43 b SGB XI. Qualification and documentation requirements would apply to them. Likewise, the improvement of the language skills of home care workers would have to be financially supported by the placement agencies.

How can clarity be ensured with regard to on-call times after the ruling of the Federal Labour Court? The employment of live-in workers often arises "out of necessity". In addition to regulating employment relationships in private households, it is therefore crucial to further develop the benefits of long-term care insurance as a whole, as well as the long-term care infrastructure. From the point of view of ver.di and the DGB, care tasks should be left to qualified care workers, and access to domestic work should be improved, for example through tax incentives. The former services should be covered by public care, the latter by private households. Household-related services should be further professionalised and must be subject to regulations on occupational health and safety and limitations on working time. The DGB advocates a tax subsidy model, which is also being considered in the current coalition negotiations (see box below) and is already being tested in Belgium as well as in a model project in Baden-Württemberg. The separation of care and domestic work can also be combined with career opportunities for Eastern European workers for both sectors.

Care should be organised in municipal service agencies, where people in need of care can call up their needs in a case management system and approved providers are placed in a quality-assured employment relationship. In the future, visiting workers will also be able to work under a collective agreement and thus have better working conditions. In addition, there must be nationwide and comprehensive counselling services in order to determine need in the area of housework in addition to long-term elderly care and healthcare and to pave the way for access to corresponding support services

Household-related services in the coalition agreement 2021:

"By promoting household-related services, we support the reconciliation of family and work, the participation of spouses and partners in the labour market, and at the same time create more jobs with social insurance. We facilitate the use of family and everyday support services through an allowance and voucher system and the possibility for accompanying tax-free employer subsidies. The allowances and the existing tax subsidy will be offset. It serves to promote employment in the household that is subject to social security contributions. Initially, single parents, families with children and relatives in need of care are to benefit, gradually all households."

Coalition agreement 2021–2025 between the Social Democratic Party of Germany (SPD), BÜNDNIS 90/DIE GRÜNEN and the Free Democrats (FDP). (https://www.bundesregierung.de/breg-de/service/gesetzesvorhaben/koalitionsvertrag-2021-1990800) Berlin, November 2021, p. 70.

Discussion and conclusion

In the following discussion, some points from contributions were taken up, as well as basic and summarising thoughts.

Consider perspectives of families in recipient and sending countries

It was emphasised that an ethical treatment of this topic is only possible if the perspectives and interests of the persons in need of care and their families as well as the care workers and their families are considered equally.

One focus was the contractual constructs and the form of care relationships. Currently, the construct in reality encompasses the withholding of workers' rights, adequate pension provision, acceptance of a shortage of care for elderly relatives and the neglect of children in the countries of origin. However, due to the great income inequality and the difficult income situations in the (mostly Eastern) European countries of origin, for some care workers those arrangements is one of the few possibilities to financially support their families, despite the stressful working conditions. One participant described the situation as immoral behaviour in the richer receiving countries such as Germany, Austria and Switzerland, which promotes neocolonial conditions in the EU.

However, it was also emphasised that the situation was similarly unsatisfactory for the host families, because the contractual constructs to legitimise 24-hour care by one person served to legitimise situations that were contrary to labour law. These situations entail high financial risk for the older people and their families, because of the incorrect assumption that they are not contractually bound to the careworkers living in their household. The families may well have to pay back wages.

Development requirements

The participants emphasized, that in a long-term perspective, solutions have to be found, that do justice to careworkers and their families, as well as to older people in the host countries, without leaving older people unprovided-for in the transitional period. In Germany, when implementing the Federal Labour Court ruling, there should no new legal constructs be permitted that do not fundamentally change the current illegal regulations. Participants confirmed, that in fact in most Western European states the provision of 24/7 support has to be reorganized and the provision of home care needs to be improved.

However, it was highlighted that the care systems in both in the sending and the receiving countries need to be significantly improved. This would include financial relief for people in need of care and their families. Additionally, the provision of day and night care, short-term care and needs-oriented, outpatient care and nursing services must be expanded. At the same time, innovative ways would have to be found to establish community-based care and household-related services and to ensure access for older people regardless of their financial situation. In any case, a clearer distinction between nursing, care and domestic needs was suggested. For each of these needs, it must be ensured that the respective established quality standards are met and that they are provided by appropriate professionals. For these needs, it must be ensured that the respective established quality standards are met and that they are provided by appropriate professionals. The work of live-ins shouldn't support a system that takes place outside of common quality standards of care and support. It was also suggested that there should be ways found to make it easier for domestic workers to obtain further formal qualifications. Austria already offers such routes to qualification.

In Germany, the additional financial burden for the families that comes along the ruling of the Federal Labour Court has to be taken into account. The participants assesse, that the families may well have to pay back wages. Up to now, many families set up Live-In arrangements with an incorrect assumption that they are not contractually bound to the careworkers living in their household and therefore the labour risks would lie exclusively with the intermediary placement agencies.

At the same time, more protection against exploitation must be guaranteed and the positions of careworkers/live-ins must be improved in the short term The reference to the "private" nature of the household as a place of work should not be misused to legitimise undercutting minimum labour standards and resisting quality control in the home. Counselling plays a role in this, and access to it must be made easier for careworkers, as well as for those who need care and their families. Better international networking is also an important starting point for counselling work. Here, existing structures of counselling centres in both sending and receiving countries in Europe can be built upon.

Strengthening the European debate

Representatives from Eastern and Central European countries in particular emphasised that, in line with these considerations, German family organisations should show solidarity with the families of careworkers and not just focus on the situation of families in Germany. For the European level, it was emphasised that against the background of the very different income and welfare levels, this also is a task for international cooperation, in which different family perspectives from the different states must be taken into account. COFACE - Families Europe could play an important initiating and coordinating role in this process.

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