



# WHITE PAPER

## Decent Domestic Work

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## **For decent domestic work**

Respected, well paid and with working conditions

### **Technical sheet**

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## List of acronyms and abbreviations

- ACT - Authority for Working Conditions [Autoridade para as Condições de Trabalho]
- CESU - *Chèque Emploi Service Universel*
- CIET - International Conference of Labour Statisticians  
[Conferência Internacional dos Estatísticos do Trabalho]
- CNCESU - National Centre of *Chèque Emploi Service Universel*  
[Centro Nacional do Chèque Emploi Service Universel]
- CRC - Code of Contributory Schemes [Código dos Regimes Contributivos]
- CRP - Constitution of the Portuguese Republic [Constituição da República Portuguesa]
- CT - Labour Law [Código de Trabalho]
- DL - Act [Decreto-Lei]
- ETC - Full-time equivalent [Equivalente a tempo completo]
- M – Men
- MW - Men and women
- IAS - Social Support Index [Indexante de Apoios Sociais]
- INE - National Statistics Institute [Instituto Nacional de Estatística]
- IRCT - Collective Labour Regulation Instrument  
[Instrumento de Regulamentação Coletiva de Trabalho]
- IRR - Ruben Rolo Institute [Instituto Ruben Rolo]
- ISS, I.P. - Social Security Institute, I.P. [Instituto da Segurança Social, I.P.]
- LCT - Labour Contract Law
- W - Women
- NERA - National Authority for Labour Rights
- NUGW - Norwegian Union for General Workers
- ILO - International Labour Organisation
- RCSD - Legal Framework for Labour Relations Arising from the Domestic Service Contract  
[Regime Jurídico das Relações de Trabalho Emergentes do Contrato de Serviço Doméstico]
- DDS - Decent Domestic Service [Serviço Doméstico Digno]
- NMW - National minimum wage
- STAD - Union of the Services of Concierge, Surveillance, Cleaning, Domestic and Miscellaneous Activities [Sindicato dos Serviços de Portaria, Vigilância, Limpeza, Domésticas e Atividades Diversas]
- CJEU - Court of Justice of the European Union
- TPCO – Employees [Trabalhadores(as) por conta de outrem]
- EU - European Union
- UGT - General Workers' Union [União Geral dos Trabalhadores]
- URSSAF - Union for the Collection of Social Security Contributions and Family Allowances [União de Cobrança das Contribuições de Segurança Social e de Abonos de Família]

# Introduction

This study is being carried out as part of the Decent Domestic Work (DDS) project, funded by the EEA Grants, and implemented by the Union of Workers in Concierge, Surveillance, Cleaning, Housekeeping and Miscellaneous Activities (STAD) in partnership with the Norwegian Union for General Workers (NUGW), the Ruben Rolo Institute (IRR) and PPLL Consult.

The general aim of this project is to carry out an in-depth study of the reality of domestic workers in Portugal in order to:

- Gain an in-depth understanding of the current reality of economic activity and the employment of paid domestic work;
- Ensure that the legal framework of labour legislation is adapted and appropriate to the reality of paid domestic work, providing identical levels of protection;
- Facilitate access to social protection, guaranteeing the implementation of the legal framework and eliminating existing barriers;
- Inform, train, mobilise and organise workers and social partners to defend their rights and promote decent work.

This White Paper, the final product of the DDS project, aims to provide an integrated overview of existing policies and measures relating to the paid domestic work sector, in order to respond to the diversity and specificities of this sector, seeking to contribute to an adequate Portuguese legal system and public policies in the field of paid domestic work, greater mobilisation and organisation of domestic workers, and increased social protection coverage for these workers.

This White Paper therefore has a first chapter which presents the definition of domestic work, its need for protection and the methodology developed during the project.

The second chapter analyses both Portuguese legislation and the legislation of other European countries, seeking to identify improvements to be made in order to adapt the Portuguese legal system to the International Labour Organisation's (ILO) Decent Work for Domestic Workers Convention (No. 189).

The third chapter analyses the social protection of domestic workers in Portugal in order to identify measures to promote formalisation. To this end, and given that innovative responses have been developed in some European countries in recent years that have facilitated domestic workers' access to social protection, creating incentives for them to register and eliminating administrative barriers, good practices in promoting social protection coverage for domestic workers are presented.

The fourth chapter provides a general characterisation of the economic and social reality of paid domestic work at national and international level, using international studies and national statistical databases from various sources.

The fifth chapter seeks to gain an in-depth understanding of the reality of paid domestic work in Portugal by analysing the results of the questionnaire survey administered to domestic workers as part of the project and the *focus groups* and interviews conducted with both domestic workers and employers.

The sixth chapter, which focuses on trade union action, identifies measures for the challenges and problems of formalising, mobilising, organising and representing workers, including immigrant workers.

Finally, recommendations for improvements in the sector are presented.



# Chapter 1.

## Paid domestic work



# Chapter 1. Paid domestic work

## 1.1 Definition of domestic work

Paid domestic work has undergone several significant transformations over the years. The first turning point for domestic service was during capitalist industrialisation, a period in which the labour market was consolidated (Crompton, 2006 cit. by Abrantes, 2013). The entry of women into the labour sphere was an important milestone, which triggered a series of important social changes to consider when analysing domestic work and how it is positioned in society (Blétière, 2008).

In the last two decades, there has been an increase in demand for the services provided by domestic workers, due to factors such as the massive integration of women into the labour force, the ageing of societies, the intensification of work and the frequent absence or inadequacy of policy measures to facilitate the reconciliation of family and professional life. Despite the exponential demand for paid domestic work, the profession is undervalued and poorly regulated, due to the lack of prerequisites for particular skills, and falls into the category of "unskilled labour", mostly carried out by the lower social classes (Blétière, 2015).

The ILO has defined domestic work, according to Article 1 of the 1996 Home Work Convention C177, as work carried out by a person in an employer's home in exchange for remuneration, for the *"realisation of a product or service corresponding to the employer's specifications, whatever the origin of the equipment, materials or other elements used for this purpose, unless this person has the degree of autonomy and economic independence to be considered a self-employed person under national law"*.

Ten years after the first definition, the ILO's Decent Work for Domestic Workers Convention (No. 189) in 2011 redefines the concept of domestic work in Article 1 as work carried out in one or more households, defining a domestic worker as *"any male or female person who performs domestic work within the framework of an employment relationship"*. The Convention excludes from domestic work people who carry out this activity on an occasional or sporadic basis without making it their profession. Convention No. 189, together with Recommendation No. 201 (on domestic workers), came about in an attempt to improve national legislation and the practice of member states in this area<sup>1</sup>, so it tries to cover the vast majority of workers, even though the functions performed by domestic workers vary from country to country. Nevertheless, the main activities carried out by the sector are: cleaning, cooking and caring for children, the elderly and people with disabilities, as well as gardening, driving and household security. Paid domestic service can be provided externally or internally, i.e. domestic workers who work externally have a full-time or part-time schedule, with the possibility of working in more than one household or job. Domestic workers who work internally perform the same duties as those who work externally, except that their working hours are full-time and they live in the home where they work

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<sup>1</sup> For a more detailed analysis of Convention No. 189 and Recommendation No. 201, see Chapter 2.

(Chumbinho, 2018). Given the heterogeneity of tasks, the workplace of domestic workers, whether internal or external, is the household (ILO,2021).

In Portugal, the Instituto de Segurança Social, I.P. (ISS, I.P.) defines a domestic worker as one who:

*"regularly provides others, under their direction and authority, with activities intended to satisfy the needs of a household (cooking, washing clothes, cleaning the house, looking after children or the elderly, tending the garden or animals, sewing, etc.) in return for which they receive regular remuneration."* (ISS, 2024)

From the perspective of domestic workers, paid domestic work is defined as *"a way of making a living in the economy and in society"* (Abrantes, 2013).

In the context of the study, paid domestic work is work that includes cleaning, cooking, caring for children, the elderly and people with disabilities, as well as gardening and driving, in which the workers carry out these tasks in one or more households, in a private capacity, regardless of whether they provide similar services for cleaning companies or carry out other professional activities.

## 1.2 The need to protect domestic work

According to the ILO, domestic workers make up a significant part of the informal labour force and are among the most vulnerable groups of workers worldwide (ILO, 2021). This vulnerability, in general terms, stems from a number of factors, such as (Carls, 2012):

- Their work is "invisible", under-recognised and often underpaid. They often work unregulated and unpaid overtime and are not entitled to days off or holidays.
- They often work for private households, often without clear terms of employment and without any registration, i.e. informal work, and are thus unprotected from labour laws and social protection.
- When they have formal employment relationships, labour and social protection laws often give them reduced rights compared to other workers. In some countries, the exploitation of domestic workers can be partly attributed to flaws in national labour and employment laws, which often reflect discrimination based on gender, race or even caste.
- They work under strong conditions of personal dependence and emotional involvement, especially if they are residents of the employer's household and/or carers (for children, the elderly, etc.).
- Monitoring and enforcing existing standards by labour inspectorates in the workplace is difficult, as private homes are protected by privacy rules.

- Their work is characterised by highly fragmented workplaces, which makes it difficult for unions to reach them. Isolated workplaces and fragmentation make it difficult for domestic workers to organise collectively and mobilise for work-related struggles.
- They are vulnerable to physical, mental and sexual abuse and restrictions on their freedom of movement. This is exacerbated in the case of illegal immigrant domestic workers (who represent a large percentage of Europe's domestic workers) who may be threatened with deportation.

In Portugal, as in the other member states, the economic activity of domestic work is associated with an individual with a set of similar/common characteristics. As well as the work activity being intrinsically associated with the female gender, as we will see throughout this study, it is also associated with individuals with low levels of schooling and migrants, which could lead to a categorisation of the domestic worker's profile, establishing stereotypes associated with the predominant characteristics of the profession that could lead to discriminatory factors that could be obstacles to a social trajectory in the future (Blétière, 2008).

On the other hand, more recently, the constraints imposed by COVID-19 have affected the working lives of domestic workers in terms of employment, working hours and wages. The pandemic has highlighted the main weaknesses of this economic activity, to the extent that, during the pandemic, a domestic worker was more likely to lose their job than other workers, especially domestic workers in informal employment, who due to their professional situation were even more affected (ILO, 2021).

The ILO found that during the pandemic, specifically from 2019 to 2020: (i) a decrease in the number of domestic workers was noticeable; (ii) a lack of personal protective equipment was noted, even when providing services to large and vulnerable households; (iii) domestic workers who were exposed to the virus did not have access to adequate health services; (iv) the number of hours per week of domestic work in certain situations was increased due to the need for more recurrent and intense cleaning; (v) wages were affected due to the employer's inability to pay or the termination of duties for fear of infection by the virus (ILO, 2021).

Despite the statistical data provided by the ILO, there is a lack of reliable data due to the high incidence of undeclared domestic work, the lack of discrimination in the statistical data (e.g. national statistical data does not discriminate against domestic service personnel, recording them as community, social and personal service activities), as well as the existence of different definitions of domestic work established in statistical studies. The aim of this study is to contribute to a better understanding of paid domestic work in Portugal, with the inclusion of recommendations for greater protection of domestic workers.

## 1.3 Methodology

As part of the DDS project that led to this White Paper, a methodology was applied using different sources and techniques for collecting and analysing information.

### *Analysing documents and legislation*

Studies on the subject were analysed, as well as national and international legislation on paid domestic work.

### *Analysing statistical data*

National databases were analysed from three main sources: PORDATA, Instituto Nacional de Estadística (INE) and ISS, I.P. Within the scope of the project, two specific requests were made: to INE to obtain data on domestic workers collected within the scope of the Employment Survey, and to ISS, I.P., to obtain more detailed and up-to-date data on the registration of domestic workers with Social Security. The INE said that it was not possible to obtain data on domestic employment within the scope of the employment survey, so the 2001, 2011 and 2021 censuses were used. The ISS, I.P. data was received in November 2023.

### *Questionnaire survey*

A questionnaire survey of domestic workers was carried out between April and September 2023 with the aim of gaining an in-depth understanding of the current labour/employment situation of domestic workers.

The survey was carried out in person by STAD employees and managers, who had been trained for the purpose. A non-representative convenience sample was set up based on the contact network of STAD employees and managers and the domestic workers who answered the questionnaire, resulting in a sample of 100 valid questionnaires. The information was analysed and processed using IBM SPSS Statistics® and MsExcel® statistical analysis software, using univariate and bivariate descriptive statistics.

### *Focus group/interviews*

Two types of *focus group* were held:

- *Focus group* with employers of domestic workers with the aim of gathering information about the employment of these workers in their household, finding out what problems they face, how they solve these problems and discussing measures that could be implemented to prevent them from occurring. It took place in January 2024, via Zoom, with eight people taking part.
- *Focus group/interviews* with domestic workers with the aim of listening directly to domestic workers, finding out more about the problems and difficulties they face in carrying out their professional activity and jointly discussing possible measures to improve it, both through legal initiatives and trade union actions. Initially, only *focus groups* were planned, but it proved very difficult to reconcile the availability of domestic workers, so it was decided to also hold collective

and individual interviews in order to hear from all the domestic workers who were willing to take part in the study. These *focus groups/interviews* took place between January and February 2024 in various parts of the country, in person in Lisbon, Porto, Coimbra and Ponta Delgada and by telephone in Faro. A total of 41 domestic workers took part.

A major obstacle faced by the DDS project, both in the application of the survey and in the *focus group/interviews*, was the refusal of domestic workers to take part in the study. In fact, even though the information collected was guaranteed total anonymity and confidentiality, many of the domestic workers contacted refused to take part for fear of the possible "consequences" (such as reporting situations of non-registration to Social Security) that this could have for them or their employers, especially in the case of informal work. The fact that they were contacted by the union was also a deterrent in some cases, for fear that their employers would find out and disapprove of this contact.

# Chapter 2

## The Portuguese legal regime for paid domestic work in Portugal



## Chapter 2. The Portuguese legal regime for paid domestic work in Portugal

### 2.1. The domestic work contract: a brief analysis of a special contract

In an era marked by the technological revolution, by the automation of processes in which workers are gradually replaced by machines, domestic work appears to be a potential "*survivor of an industrial society*"<sup>2</sup>. The answers given for this can be attributed to the relationship of trust and intimacy that exists between the domestic worker and the employer, which is unlikely to be replaced by the coldness of artificial intelligence<sup>3</sup>. This survival is also due to the aforementioned new role of women in society associated with social change: previously they were the carers of the domestic home and therefore had no need to hire a worker for this purpose, and now they are recognised as "*economic citizenship of women*" (Agría, 1968, p.58) in which, once they have won their place in the labour market, if the family's income level allows it, they hire a domestic worker. Demographic changes can also be added as a factor in the resilience of this contract, with a tendency for the population to age<sup>4</sup> and consecutive falls in the birth rate, which leads to the need for daily care for elderly people who are dependent on the care of domestic workers.

In view of the social and labour metamorphosis experienced over time, the domestic work contract is presented as a "resilient case"<sup>5</sup> within the special work contracts that stand out from the Labour Code (CT) (regulated by Law 7/2009 in its current wording) whose concern and aims were directed towards responding to industrialisation. This is why it was argued that the domestic work relationship, given its special nature, justified excluding domestic workers from the application of both national and international legislation.

In fact, the domestic work contract concluded in a family context of an intimate nature "*seems to be formatted to protect the intimacy of the private life of the employer and the household*" (Henriques, 2017, p. 93), which provides a conviviality that creates bonds of proximity that are not found in other labour relations<sup>6</sup>, so this contract and its regime have moved away from the traditional labour relationship that

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<sup>2</sup> An expression inspired by and similar to Silva (2001, p. 85).

<sup>3</sup> In the same vein, Ventura (2023, p.13).

<sup>4</sup> INE projections suggest that the ageing rate in Portugal will almost double from 159 to 300 elderly people per 100 young people by 2080. [https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine\\_destaques&DESTAQUESdest\\_boui=406534255&DESTAQUESmodo=2](https://www.ine.pt/xportal/xmain?xpid=INE&xpgid=ine_destaques&DESTAQUESdest_boui=406534255&DESTAQUESmodo=2).

<sup>5</sup> Amado (2014) refers to this contract as a "*classic case*" (p.83)

<sup>6</sup> In the same vein, Ventura (2023, p.30). According to Maria do Rosário P. Ramalho, the special nature of the domestic service contract that justifies its separate regulation is twofold: the type of duties performed by the worker and the family community, as a labour organisation, in which the worker is inserted (Ramalho, 2019, p. 266).

is experienced in the business relationship, in which there is an "*industrialised conviviality*" (Ventura, 2023, p.30), the typical relationship described in the Labour Code.

However, the particularities of this contract cannot constitute grounds for legislative inertia in favour of these workers who "*play a role similar to those living beings that we consider insignificant, but which are absolutely essential to the stability of the entire ecosystem*" (Ventura, 2023, p.16)<sup>7</sup>. It is common ground that due to the specific nature of the employment relationship of domestic workers, which has already been characterised, the employment contract regime outlined in the CT does not apply in full, but the special nature of this contract can no longer serve as a basis for segregating these workers.

Although the Portuguese legislator regulates the domestic service contract, as will be analysed below, domestic workers only find real protection in the legislation, because while it is strictly speaking the relationship of cohabitation that gives the domestic work contract its specificity, the truth is that it is this very characteristic that also leads to abuses and limitations on the rights of these workers, because it cannot be overlooked that they are also subordinate and therefore have the same problems as other workers<sup>8</sup>. One of the characteristics of these workers seems to be their isolation<sup>9</sup>, since they have very few opportunities to contact inspectors such as the Authority for Working Conditions (ACT), or to file complaints under the cloak of anonymity (Cf. Carvalho, 2019, p. 50) when compared to the possibility of filing a complaint under the cloak of anonymity (Cf. Carvalho, 2019, p. 50). 50) when compared to the power enjoyed by other workers, not least because it should not be forgotten that inspection visits to domestic workers' workplaces are different<sup>10</sup> from inspections of other workplaces. In the first case, the inspection will take place at the employer's home, a place protected by the right to privacy<sup>11</sup> which has to be reconciled with the workers' right to carry out their work in decent conditions that respect their rights. In fact, ILO Convention 189 reflects on this in Article 17:

*"1 - Each Member State shall establish effective and accessible complaint mechanisms and means to ensure compliance with national legislation on the protection of domestic service workers;*

*2 - Each Member State shall formulate and implement measures on labour inspection, enforcement and sanctions, taking due account of the particular characteristics of domestic work, in accordance with national legislation.*

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<sup>7</sup> In the same vein, Alda Maria Pereira Júlio "*not only that, but also because these workers get up before everyone else and are the last to go to bed, because their intimacy cannot be totally private and because entire families depend on them even though they seem invisible.*" (Júlio, 2004, p.30).

<sup>8</sup> In the same vein, and noting that "*it is true that this idea represents a romantic image of reality, because the domestic worker will not fail to experience the typical problems of most subordinate workers*" (Ventura, 2023, p. 34).

<sup>9</sup> In this sense, Carvalho (2019, p. 45-46) points to informality and isolation as characteristics. And Ventura (2023, p. 25).

<sup>10</sup> See the provisions of Decree-Law no. 102/2000, of June 2, Statute of the General Labour Inspectorate, article 11, no. 1 al. a): "*In the exercise of his activity, the labour inspector may: a) Visit and inspect any workplace, at any time of the day or night and without the need for prior notice, without prejudice to the provisions of criminal procedural law on house searches.*"

<sup>11</sup> See Ventura, (2023, p. 25, note 40) indicating that ACT requests are residual, which is understandable because an on-site inspection represents a home inspection that is subject to the assumptions applicable in criminal proceedings (article 11, no. 1 of Decree-Law no. 102/2000 of 2 June).

*3 - To the extent compatible with national law, such measures shall specify the conditions under which access to the household's home may be authorised, with due respect for privacy."*

However, when we look at the national data, despite the fact that the ACT has inspection powers, in line with the ILO convention, we can see that its intervention is residual, not least because according to the ACT Labour Inspection Activity Report for 2019, in the category identified as "*Activities of households employing domestic staff and production activities of households for their own use*" there were 27 requests for intervention (0.18%), eight infractions (0.08%) and 43 inspection actions (ACT, 2020, pp.104-109).

It can thus be seen that domestic workers are confined to isolation, not only in terms of the reduction of guarantees regarding the supervision of their working conditions by a public authority<sup>12</sup>, but also in terms of their negotiating power, with trade union action involving a single union representing these workers (the STAD) and non-existent negotiation of better working conditions through collective labour regulation instruments, as there is no known collective agreement<sup>13</sup>.

Despite all these vicissitudes, the resistance of the domestic service contract to changing social paradigms and digital evolution<sup>14</sup> is a symbol that these workers need adequate protection that recognises the essentiality of the functions they perform in society.

## 2.2 Analysing national legislative developments: legislative helplessness

### 2.2.1 From the Civil Code of 1867 to Decree-Law no. 235/92 of 24 October

*"Historically, domestic workers have mostly been excluded from the scope of national labour laws. The exclusions represent a lack of recognition of domestic work as real work, both in law*

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<sup>12</sup> In the same vein, Cláudia Campos Rodrigues, Victor Ventura, *A insustentável leveza do contrato de trabalho doméstico ou o caso da (in)exigibilidade de parecer da CITE em caso de despedimento de trabalhadora doméstica grávida, puérpera ou lactante.*

<sup>13</sup> For more on this topic, see chapter 5.

<sup>14</sup> Moreira (2016) refers to domestic work "*as one of the activities best placed to survive the devastation of employment caused by the technological revolution*" (pp. 249ff).

*and in the eyes of society at large. For this reason, legal recognition of domestic work has been one of the main demands of domestic workers around the world." (ILO, 2021, p. 54) <sup>15</sup>*

In Portugal, the domestic service contract was regulated in the Civil Code of 1867<sup>16</sup>, in Chapter IV "*Do contrato de prestação de serviço*", Section I "*Do serviço doméstico*" more specifically in Articles 1370 to 1390 "*from a purely civil perspective and without any concern for the worker's defence*" (Pinheiro, 2006, p. 294), relegating the contours of the relationship to the private autonomy of the parties<sup>17</sup>. And this remained the case even after the emergence of the law that regulated the individual employment contract for the first time - Law no. 1952 of 10 March 1937<sup>18</sup> - and remained the case in the Employment Contract Law (LCT of 27/05/1966) given its exclusion in both laws<sup>19</sup>.

Throughout the evolution and conquest of labour and social rights by workers, domestic workers have been segregated from various pieces of legislation. An example of this is the legislative provision on the limits of normal working hours and the system of absences, public holidays and holidays.

In fact, with regard to the limits on normal working hours, Decree no. 5516 of 07 May 1919 published in Diário do Governo no. 95/1919, Series I opened the decree in Article 1 by excluding domestic workers from the maximum limits on normal working hours:

*"The maximum daily working hours, whether day, night or mixed, of workers and employers of the State, of administrative corporations and of commerce and industry, with the exception of rural and domestic workers, on the mainland of the Republic and adjacent islands, may not exceed eight hours a day or forty-eight hours a week." <sup>20</sup>*

And with regard to absences, public holidays and holidays, Decree-Law no. 874/76 of 28 December stands out. Following the provisions of ILO Convention 182, it set a minimum limit of twenty-one consecutive days for annual holidays, but once again, excluding domestic workers, as can be seen in Article 1:

*"The legal regime for holidays, public holidays and absences defined by this statute shall apply to employment relationships provided under an individual employment contract, with the*

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<sup>15</sup> It is currently estimated that more than 95% of domestic workers in the Americas and in Europe and Central Asia are covered by some form of labour legislation (ILO, 2021, pp. 92-93).

<sup>16</sup> For further developments and historical references, see Silva (2001, p. 83 ff).

<sup>17</sup> Article 1372 of the Civil Code of 1867 read as follows: "*The contract for the provision of services shall be regulated at the pleasure of the parties, subject to the following provisions.*"

<sup>18</sup> Cf. Presidency of the Council - National Institute of Labour and Welfare, Government Gazette no. 57/1937, Series I of 1937-03-10.

<sup>19</sup> With the exception of article 15 of Law no. 1952 of 10 March 1937 concerning the dismissal of employees, which specifically stated that "*the provisions of the sole paragraph of article 12 shall apply to domestic service contracts, reducing the period provided for therein to one month.*"

<sup>20</sup> Cf. Ministry of Labour - General Directorate of Labour - Department for the Defence of Labour, Government Gazette no. 95/1919, Series I of 1919-05-07.

*exception of rural employment relationships, domestic service and work on board ship, which shall be the subject of specific statutes."*<sup>21</sup>

Domestic workers only gained spurious dignity<sup>22</sup> when Decree-Law no. 508/80 of 21 October came into force (which repealed articles 1370 to 1390 of the Civil Code and article 15 of Law no. 1952 of 10 March 1937). The Constitutional Commission's Opinion no. 9/78, which prompted Resolution no. 56/78 of 18 April to pave the way for the regulation of domestic service contracts, which took place in 1980, is believed to have contributed to this achievement:

*"The Council of the Revolution, preceded by the opinion of the Constitutional Commission, recommends to the competent legislative bodies, under the terms and for the purposes of the provisions of Article 146(b) and Article 279 of the Constitution, the issuance of the necessary legislative measures to enforce, with regard to domestic service workers, the rule contained in Article 53(d) of the Constitution of the Republic, which confers on all workers the right to rest and leisure, to a maximum limit on working hours, to weekly rest and to periodic paid holidays."*<sup>23</sup> .

Therefore, from the beginning of the Constitution of the Portuguese Republic (CRP), until 1980, domestic workers were left outside the protection granted by the rights constitutionally recognised in Article 53 of the CRP. For this reason, the explanatory memorandum to Decree-Law no. 508/80 of 21 October sought to maintain the special nature of *"the domestic service contract, which generates a personal relationship of a quasi-family type, not entirely identifiable with the relationship of subordination arising from the individual employment contract"* with a content that was *"sufficiently innovative to break with the secular weight of the lack of appropriate legal protection."* The legislator wanted to keep his distance from the LCT, as he clearly stated in Article 22 that *"Doubts and omissions will be resolved by order of the Minister of Labour."*

A decade and two years later, Decree-Law no. 235/92 of 24 October came into force, approving the legal framework for employment relationships arising from domestic service contracts (henceforth RCSD), in which an approximation was made to the general legal framework for subordinate workers with regard to absences, holidays and the respective allowances. However, as can be seen from the preamble to the aforementioned Decree-Law (DL), the legislator continues to persist in regulating the legal relationship of domestic work through a special regime with the following justification:

*"The fact that domestic work is carried out for family households, and therefore generates professional relationships of a highly personal nature that require a permanent climate of*

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<sup>21</sup> Cf. Ministry of Labour, Official Gazette no. 300/1976, Series I of 1976-12-28.

<sup>22</sup> As Carlos Alegre rightly put it, *"the ankylosis of 113 years of immobility"* (Alegre, 1981, p. 50).

<sup>23</sup> Cf. Council of the Revolution, Diário da República no. 90/1978, Series I of 1978-04-18, pages 738 - 738.

*trust, requires, in addition to taking into account the economic specificity of those households, that its regime continue to be configured as special in certain matters."* <sup>24</sup>

Therefore, the legislator emphasises the personal and fiduciary nature of this labour relationship given the specific context in which it is provided - the household's home - in order to maintain the regulation of this regime with a special nature and in separate legislation.<sup>25</sup>

Even with the entry into force of Law no. 7/2009, in which the regulation of the common employment contract was codified in the Labour Code, the domestic service contract continued to be regulated in separate legislation, with the usual separation of regimes between domestic workers and other workers.

## 2.2.2 The decent work agenda

One cannot fail to highlight the legislative immobility with regard to the RCSD, as it reveals the legislator's lack of interest, given that twenty-three amendments (including rectifications) have been made to the Labour Code, Portugal has ratified ILO Convention 189 and, therefore, 31 years have passed without the RCSD being amended, which only came about with Law 13/2023, of 3 April, following a bill presented by the government that was called the "*Decent Work Agenda*". Even so, the domestic work contract was still regulated by special legislation and not included in the Labour Code, as it was rejected by the majority of political parties<sup>26</sup>.

Under Law no. 13/2023, of April 3, several articles were amended and several provisions of the RCSD were repealed<sup>27</sup> which, given the changes made, it can be concluded that the legislator's intention was to finally harmonise the RCSD with the provisions of the CT<sup>28</sup>, and this was confirmed with the addition of article 37. This made it possible to put an end to discussions about which *rules should be applied in* cases of omission, harmonising with the content of article 9 of the CT, which also provided that "the

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<sup>24</sup> Cf. Preamble to Decree-Law no. 235/92 of 24 October

<sup>25</sup> See Carvalho (2019, pp. 46-47).

<sup>26</sup> In the parliamentary working committee, only the Left Bloc, which presented the proposal, and the PCP were in favour of this approach.

<sup>27</sup> Under Law no. 13/2023 of 3 April, the legislator amended articles 13, 14, 17, 24, 28, 30, 32 and 36 and repealed various provisions of Decree-Law no. 235/92 of 24 October, namely articles 4 (minimum age to provide service), 8(1), (3) and (4), (trial period, maintaining that if the contract is terminated during the trial period, the worker must be given a period of no less than 24 hours to leave the accommodation), article 10(2) (minimum guaranteed remuneration for domestic service workers is that set by special statute), article 12 (Christmas bonus), article 13 (Christmas bonus), article 14 (Christmas bonus), article 15 (Christmas bonus) and article 16 (Christmas bonus). Articles 12 (Christmas allowance), 16 (holiday entitlement), 18 to 23 (holiday allowance, holiday not taken due to termination of contract; taking and scheduling holiday; breach of holiday entitlement; non-renunciation of holiday entitlement and absences) and 25 (suspension of employment contract). Article 25 (on the suspension of the employment contract due to a worker's prolonged impediment), points a), b) and e) of paragraph 1 and paragraph 2 of Article 28 (no longer providing for the suspension of the employment contract due to a worker's prolonged impediment). Articles 28(1)(a), (b) and (e) and 28(2) (no longer providing for the contract to lapse on expiry, due to the supervening, absolute and definitive impossibility of the employee performing their work or the employer receiving it and also due to the employee's retirement due to old age or invalidity), 34 (abandonment of work), 35 (documents to be given to the employee) and 36(3) (proceeds of fines revert to the IGFSS).

<sup>28</sup> In the same vein, Viana (2022, p. 1564).

*general rules of this Code that are compatible with its specificity shall apply to employment contracts with a special regime*".<sup>29</sup>

However, we believe that uniformity in terminology has not been achieved, as the law continues to refer to this contract as a "*domestic service contract*". The definition presented in article 2 (which already comes from the previous diploma) truly calls for the notion of a labour contract, since the definition<sup>30</sup> of a domestic service contract calls for the legal subordination of the worker "*under authority and direction*", which is precisely the feature that distinguishes the labour contract from other related figures. On the other hand, the legal nomenclature also departs from what is laid down in the CT when it refers in article 27 to the ways in which the contract can be terminated and states in paragraphs c) "*By termination by either party, with just cause*"; and in paragraph d) "*By unilateral termination by the employee, with prior notice*", when what should have been provided for was a conceptual harmonisation distinguishing between cases of dismissal, termination and denunciation.

With regard to the changes in this area, we would highlight the legislative change regarding the Christmas bonus, making it clear that the general rule contained in the Labour Code (the value of a monthly salary paid until 15 December) applies<sup>31</sup> and, with regard to the normal working period, it was only with this law that it was stipulated that the normal weekly working period cannot exceed 40 hours (replacing the 44 hours previously established), as stipulated in the Labour Code (article 203). Also with regard to rest, I would highlight the change in night rest from eight to eleven consecutive hours, as in the general regime of the Labour Code.

As far as dismissal by the employer is concerned, a set of facts and behaviours that are culpable on the part of the employee is now provided for, so the reference to the employee's fault has now been added. In addition, as far as the employee is concerned, Article 32(1)(i) enshrined the practice of harassment by the employer, other members of the household or other employees as grounds for terminating the contract with just cause, in the event of a culpable breach of the legal guarantees or guarantees contained in the employment contract. And paragraph 2 of the same article, in clear protection of the worker, now admits that, with the exception of the employer's change of residence to another location (32.1.a), all the situations provided for in paragraph 1 regarding termination with just cause by the worker grant the right to compensation corresponding to one month's pay for each full year of service or fraction thereof. Also noteworthy is the matter of administrative offences, since there are no longer any minor offences and now a distinction is made between very serious offences (concerning remuneration) and serious offences (payment of remuneration, working hours, meal and rest breaks, weekly rest, public holidays, health and safety at work, termination of the contract by expiry and termination with just cause).

It should be pointed out that, even within the framework of the decent work agenda, the RCSD has maintained the expiry of the domestic service contract for obvious economic insufficiency on the part of

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<sup>29</sup> For more on the changes, see Viana (2022, pp. 1560-1564).

<sup>30</sup> Article 2 of the RCSD states: "*A domestic service contract is one whereby a person undertakes, in return for payment, to provide others, on a regular basis, under their direction and authority, with activities designed to meet the specific needs of a household, or equivalent, and its members, namely (...)*".

<sup>31</sup> For a view on the tacit repeal of this provision, see point 4.3.4 Christmas Allowance of this study.

the employer. The life of a household is dynamic, which is why it is considered that no household that, for a supervening reason, is no longer able to pay the salary can be prevented from ending the contract<sup>32</sup>. The problem lies in identifying, recognising and (com)proving this manifest economic insufficiency so that it does not constitute a means of terminating the contract in this way.

Thus, in the wake of Carlos Alegre, the same concerns are shared: "*There may be no money to pay an employee because it is used for other expenses and these may not be essential*" (Alegre, 1981, p.39). There are situations that are peacefully recognised as justifiable for allowing the employer to terminate the contract, namely unemployment<sup>33</sup> or loss of social benefits<sup>34</sup>. It should not be forgotten that this situation can also arise when the employer is a non-profit legal person, so in these cases the situation is easier to prove and analyse. The problem therefore lies in the manifest economic insufficiency of the household, which means that it is necessary, on the one hand, to protect domestic workers and, on the other, to manage the family budget, concerns that have not been addressed by the legislator.

Thus, the late changes made by the legislature attempted to shorten the distance that existed between workers and domestic workers and, to this end, resorted to an attempt to harmonise some labour matters, but it is believed that the achievement of rights by these workers still falls short of what is internationally desired.

## 2.3 International law

### 2.3.1 Convention 189 and Recommendation 201

At the 110th session of the International Labour Conference, held in Geneva on 16 June 2011, the ILO, aware of the aforementioned characteristics attributed to domestic work (precariousness, insecurity, undeclared work, etc.), adopted the aforementioned Convention No. 189 and Recommendation No. 201 on Decent Work for Domestic Workers, under the slogan *work like any other, work like no other*. As Toni Moore, Technical Adviser and Alternate Delegate of the Workers of Barbados, said at the 100th Session of the International Labour Conference, on behalf of the Workers' Vice-President of the Committee on Domestic Workers:

*"The instruments we have in front of us are robust, practical and humane, and have enormous potential to bring domestic workers out of the shadows. They give a face to these*

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<sup>32</sup> In the same vein as Carlos Alegre, "*those who don't have money can't have employees to whom they can pay wages*" (Alegre, 1981, pp. 47-48).

<sup>33</sup> In this sense Gomes (2021, p. 31).

<sup>34</sup> In this sense, Ventura (2023, p. 212). The Porto Court of Appeal has already ruled in case no. 22377/16.6T8PRT.PQ/CJ that the employer's daughter's large expenses and travel within the scope of the ERASMUS programme and tutoring for the 12th grade final exam were temporary, so they cannot be invoked to cause the contract to lapse on the grounds of manifest economic insufficiency, and evidence was produced that led the court to conclude that they had a relatively unburdened life because they went on holiday.

*workers who have been invisible for too long, who hardly counted in the statistics until recently, and they make it possible to put domestic workers on the Decent Work Agenda."*

Therefore, what the Convention established, which is binding on the countries that ratified it, was a set of principles and measures that constitute minimum protection for domestic workers and, on the other hand, Recommendation 201 is a (non-binding) instrument that provides practical guidelines. The need to promote the protection of human rights for all domestic workers permeates both pieces of legislation (Preamble to the ILO Convention Article 3), starting with respect and protection for the fundamental principles and rights at work: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the abolition of child labour; and (d) the elimination of discrimination in employment and occupation<sup>35</sup>. The law calls for the normal period of work, rest and holidays to be equal to that of other workers, as well as the payment of a uniform minimum wage for domestic workers and other workers, and the recognition that a safe and healthy working environment must be ensured.<sup>36</sup>

Convention no. 189 was ratified by Portugal by Decree of the President of the Republic no. 31/2015 of 27 April, and came into force on 17 July 2016, but as seen above, the regulation of domestic work did not change until 2023. When Portugal ratified the convention, Decree-Law no. 235/92 was in force, which at the time complied with some of the points set out in the ILO convention, namely regarding health and safety at work; the minimum wage (applicable without discrimination to domestic workers and other workers from 2004); maternity protection and even freedom of association and the right to collective bargaining.

However, as already mentioned, Decree-Law no. 235/92 at the time of ratification provided for a longer working week (44 hours) for domestic workers, compared to the 40 hours per week provided for in the Labour Code, and it is also worth highlighting the different length of rest breaks for domestic workers compared to other workers, in clear non-compliance with the requirements of Articles 10 to 12 of the Convention.

Finally, the Convention stipulates that there must be effective protection against all forms of abuse, harassment or violence (Article 5), but it was only with Law 13/2023 of 3 April that, as already mentioned, the practice of harassment by the employer, other members of the household or other workers was established as grounds for termination with just cause.

### **2.3.2 European Union law**

If the national legislature can be criticised for its legislative inertia, the European legislature cannot be praised for its conduct either, since at EU level there have been several directives that have excluded

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<sup>35</sup> Articles 3, 4 and 11 of the Convention.

<sup>36</sup> Articles 10, 11, 12 and 13 of the Convention.

domestic workers from their scope of application in essential matters of labour rights such as health and safety, working conditions, protection of minors and even insolvency.

With regard to the application of measures to promote the improvement of workers' safety and health at work, we would highlight the Council Directive of 12 June 1989 (89/391/EEC), which laid down a set of general obligations for employers to avoid occupational risks, but which excluded domestic workers from its scope "*for the purposes of this Directive: (a) worker shall mean any person employed by an employer, including trainees and apprentices, with the exception of domestic servants*" (Article 3 a)).Article 3a).

With regard to the protection of young people at work, Council Directive 94/33/EC of 22 June 1994 allowed Member States to exclude domestic service carried out in a household from its application, and Directive 2008/94/EC of 22 October on the protection of employees in the event of the insolvency of their employer allowed Member States under Article 1(3)(a) to exclude domestic workers employed by a natural person.

What emerges from the actions of European and national legislators is a segregation of the class of domestic workers.

## 2.4 The current legal paradigm

### 2.4.1 Concept of domestic service contract: scope of application

Article 2 of the RCSD states that:

*"1 - A domestic service contract is one whereby a person undertakes, in return for payment, to provide others, on a regular basis, under their direction and authority, with activities designed to meet the specific needs of a household, or equivalent, and its members, namely: a) Cooking meals; b) Washing and treating clothes; c) Cleaning and tidying the house; d) Watching over and assisting children, the elderly and the sick; e) Caring for domestic animals; f) Carrying out gardening services; g) Carrying out sewing services; h) Other activities enshrined in custom; i) Coordinating and supervising tasks of the type mentioned in this paragraph; j) Carrying out external tasks related to the above.*

*2 - The regime provided for in this statute applies, with the necessary adaptations, to the provision of the activities referred to in the previous paragraph to non-profit-making legal persons, or to family households, on their behalf, provided that they are not covered by a legal or conventional regime."*

As already indicated, even with the amendment of Law no. 13/2023, of 3 April, the legislator kept the nomenclature "*domestic service contract*", but in the wake of Carlos Alegre, it is considered that "*the*

*domestic service contract is an authentic employment contract, and is therefore not included in the gallery of types of service contracts"* (Alegre, 1994, p.17). It is a subordinate labour relationship, albeit with the specificities inherent in social progress, but there is no doubt that the domestic worker is under the orders and authority of the entity receiving her tasks, and the latter is obliged to pay the respective remuneration. Furthermore, the presumption of employment provided for in the CT (article 12 CT) is also applicable to domestic workers, and it is enough to verify any of the characteristics listed in that provision to make the presumption operate and allow an employment contract to be recognised.<sup>37</sup>

Thus, in addition to the characteristics of legal subordination and onerousness of the contract, it is clear from the concept set out in the RCSD that domestic work is work performed for the functioning of family life, with a view to meeting the needs of a household, or equivalent. The touchstone is the performance of duties with a view to meeting typical family needs, but the law does not presuppose the existence of a household<sup>38</sup>, hence the expression "*or equivalent*", allowing the provision of activities to non-profit organisations (article 2.2 RCSD)<sup>39</sup>.

Furthermore, the article is not exhaustive in terms of the tasks typically performed by domestic workers, but rather exemplary.

When analysing article 2, no. 3 RCSD, it presents a decategorisation of domestic work, in other words, what the legislator believes is not considered domestic work: "*no. 3 (...) the provision of work of an accidental nature, the performance of a specific task on an intermittent basis or the performance of domestic work on an au pair basis<sup>40</sup>, autonomously or as a social volunteer.*" Therefore, all work that is accidental, i.e. sporadic or unforeseen, is not considered domestic work. Think of the need to hire a cleaning service after a party, or a couple who hire a *babysitter* to look after their child for one night<sup>41</sup>.

Furthermore, this decategorisation provided for in the RCSD must be combined with the scope of protection provided for in article 117 of the Code of Contributory Regimes (CRC), which tells us:

*"1-Persons linked to the employer by the following family ties are excluded from the scope of this subsection: a) The spouse; b) Descendants up to the 2nd degree or equivalent and the like; c) Ascendants or equivalent and the like; d) Siblings and the like.*

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<sup>37</sup> In this regard, see judgement 30/6/2022 TRE, rapporteur Paula Colaço, case no. 1135/20.9T8BJA.E.1 available at [www.dgsi.pt](http://www.dgsi.pt).

<sup>38</sup> The problematisation of the exercise of management power by several members of the household, which leads to the reflection on the plurality of employers developed by Ramalho (2019, p. 272), and Henriques (2017, p. 97), will not be addressed.

<sup>39</sup> Domestic work can be considered to be that which is performed for legal persons in which there are relationships with needs similar to family relationships. For this reason, case law has already held that a contract concluded with a non-profit sports group is not a domestic work contract, as the needs that are met are 3rd degree. See Judgement of 31/1/2013 of the Évora Court of Appeal, case no. 163/08.7TTFAR.E1., rapporteur Paula do Paço.

<sup>40</sup> This foreignness is related to a cultural exchange programme, so situations in which foreigners, in exchange for room and board to learn the Portuguese language and stay for the duration of the programme, provide services in the home where they are hosted are excluded from the domestic service contract.

<sup>41</sup> Example from Ventura (2023, p. 64).

*2 - Persons who are in a de facto relationship with the employer because they have been living with the employer for more than two years under conditions similar to those of spouses are also excluded."*

Therefore, the legislator wanted to prevent the employer from having a family or similar relationship with the worker, ruling out the possibility of the domestic service contract being concluded between family members as a way of accessing social benefits.

It should also be noted that there has been an increase in the number of companies<sup>42</sup> providing domestic services, so in these cases we are not dealing with a domestic service contract, as the workers have a relationship with the company providing the services and not with the household, so in these cases the relationship established between the company and the worker is not the special relationship we are dealing with here.

To summarise, the domestic service contract is a subordinate, onerous contract that must be provided to a household or equivalent in order to satisfy the needs of that household on a regular, non-occasional basis.

## 2.4.2 Form and methods

Article 3 of the RCSD states that "*The domestic service contract is not subject to a special form, except in the case of a fixed-term contract.*" Therefore, it is only when a fixed-term contract is concluded that the legislator has required it to be formalised in writing. The RCSD states that a fixed or uncertain term may be added to the contract when there are situations of a transitory or temporary nature. However, Article 5(2) allows a fixed-term contract to be signed if both parties agree, provided that the duration, including renewals, does not exceed one year. Therefore, unlike the fixed-term contract regime provided for in the Labour Code, which only allows it to be signed for temporary needs, the domestic service contract, by its literal content, does not require the verification of a temporary need, the mere agreement is enough. What's more, the domestic service contract can be concluded with or without accommodation and with or without food, on a full-time or part-time basis (article 7 RCSD).

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<sup>42</sup> The ILO also reports that digital platforms that provide domestic services through a website or digital application are also on the rise. After a period of slow growth in the first decade of the 21st century, the number of digital labour platforms in the domestic work sector worldwide has increased eightfold, from 28 in 2010 to 229 in 2020. Cf. Seiffarth et al. (2023, p. 13).

## 2.4.3 Rights of domestic workers

### 2.4.3.1 Holidays, public holidays and absences

#### *Holidays*

With the amendment of Law no. 13/2023 of 3 April, the legislator repealed most of the legal provisions of the RCSD regarding holidays and stipulated that the rules of the CT apply to everything that is not provided for in the RCSD. It is therefore clear that domestic workers, like all other workers under the terms of Article 237 of the CT, which applies in the alternative, are entitled to a period of paid holiday, which falls due on 1 January.

In the case of fixed-term domestic workers with an employment contract of less than six months, they are entitled to two working days holiday for each full month of the contract, counting all consecutive or interpolated days of work<sup>43</sup>.

According to article 17 RCSD, pay during the holiday period may not be less than what the worker would receive if he or she were working. And domestic workers who are provided with board and lodging, or only board and lodging, are entitled to receive the remuneration corresponding to the holiday period in full in cash in the amount equivalent to the board and lodging (or only lodging) unless, by agreement, they maintain their entitlement to it during the holiday period. And, unless otherwise agreed in writing, holiday pay must be paid before the start of the holiday period and proportionally in the case of interpolated holiday periods.

#### *Bank Holidays*

Law no. 13/2023 of 3 April also brought about a significant change in this field, since in the previous wording of article 24 RCSD only the full-time housed worker and the non-housed worker were entitled, without prejudice to their remuneration, to take the compulsory holidays provided for in the general regime of the individual employment contract. Therefore, part-time domestic workers were excluded. With the current wording, all domestic workers are entitled, without prejudice to their pay, to take the public holidays provided for in the Labour Code.

However, and without prejudice to the provisions of the CT, with regard to the work of minors, with the worker's agreement, work may be carried out on public holidays, of a duration equal to the normal daily working period, entitling the worker to paid compensatory rest, to be taken in the same week or the following week (Article 24(2) RCSD). The provisions of Article 24(3), in which it is stipulated that when, for reasons of the family's interest, compensatory rest is not feasible under the terms of the previous paragraph, the worker is entitled to the corresponding remuneration, seem to be criticised<sup>44</sup>, as the

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<sup>43</sup> The provisions of Article 239(4) of the Labour Code apply.

<sup>44</sup> In the same vein, the General Workers' Union (UGT), in its opinion on Bill 15/XV/1st, amends labour legislation as part of the decent work agenda.

legislator's use of the indeterminate concept "*not feasible*" leaves it up to the employer to prevent compensatory rest, preferring to pay the corresponding remuneration.

It should be noted that domestic workers cannot suffer a reduction in pay for taking the compulsory public holidays provided for in Article 234 of the Labour Code.

### **Faults**

With the legislative change made as part of the Decent Work Agenda, article 23 of the RCSD was repealed<sup>45</sup>, thus ending the distinction between the absence regimes for domestic workers and other workers. Therefore, the rules laid down in Article 248 et seq. of the Labour Code apply.

#### **2.4.3.2 Working and rest time**

It was only with Law no. 13/2023 of 3 April that domestic workers saw their working hours brought into line with those already provided for other workers, as they had been relegated for years.<sup>46</sup>

#### **Normal working hours**

As already mentioned, with Law no. 13/2023, of 3 April, the limit on normal working hours came to be harmonised with what was already provided for in the CT, so the RCSD with the legislative change now provides that the normal weekly working period cannot exceed 40 hours.

However, even with the change made by the aforementioned law, Article 13(2) distinguishes between housed and unhoused domestic workers, as it considers that only actual working hours are taken into account for the purposes of the maximum limit (40 hours per week). Accommodated workers are hired in this way to fulfil the employer's needs involving supervision or assistance, for example for children, the elderly or sick people (article 2 RCSD). This type of work, carried out in the employer's home, raises difficulties in reconciling the performance of the duties with the rights of domestic workers to have breaks and rest periods, daily rest, compulsory weekly rest, public holidays, holidays, etc. While it is true that the housemaid has the right to non-working time, there are also exceptions to this right, when the interests of the employer are taken into account.

We need to bear in mind Article 14 of the RCSD, which tells us that:

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<sup>45</sup> Article 23 Absences "1 - Absence is the absence of the worker during the normal working period to which he is obliged. 2 - Absences may be justified or unjustified, under the terms of the general regime of the individual labour contract. 3 - Absences may be deducted from the remuneration paid in cash, except when motivated by marriage, death of the spouse and of relatives, with reference to the limits and degrees of kinship enshrined in the general regulations of the individual labour contract."

<sup>46</sup> As mentioned, the normal working period was reduced from 44 hours to 40 hours with Law 21/96 of 23 July, but as with various rights, this law excluded domestic workers from its scope. And with the labour codification that maintained the maximum working hours, the legislator no longer ruled on the limit of normal working hours in the domestic service contract. There were those who defended a current interpretation in the sense that the 40-hour week also applied to domestic workers, but the fact is that there is recent case law applying the 44-hour week. See, in this regard, Judgement 15/11/2021 of the TRP, case no. 4280/17.4T8MTS.P3 available at [www.dgsi.pt](http://www.dgsi.pt).

*"1 - Domestic service workers shall be entitled to meal and rest breaks each day, without prejudice to the surveillance and assistance duties to be provided to the household.*

*2 - Without prejudice to the provisions of the Labour Code, with regard to the work of minors, the worker accommodated has the right to a night's rest of at least eleven consecutive hours, which must not be interrupted, except for serious, unforeseen or force majeure reasons, or when they have been hired to look after patients or children up to the age of three.*

*3 - The organisation of meal and rest breaks shall be established by agreement or, in the absence thereof, set by the employer within the limits laid down in the Labour Code."*

Unlike other workers in a business context who, under the terms of Article 197 of the Labour Code, can also be called upon to provide work in case of need, domestic workers in an accommodation regime make it difficult to assess the separation of working time from rest time<sup>47</sup>, as there are periods when the domestic worker is not actually working but is available to do so, as they are in a "state of vigilance".

Based on what has been analysed in relation to ILO Convention 189, Article 10(3)<sup>48</sup> states that:

*"Periods during which domestic service workers cannot freely dispose of their time and remain at the disposal of the household for any need for their services shall be regarded as working time to the extent provided for by national legislation, collective agreements or any other means compatible with national practice."*<sup>49</sup>

Unlike the national legislator, the international law has taken into account the fact that, despite having their own space, independent from the household space, the housed worker is continuously at their workplace and does not have total freedom to use their time as they see fit.

See, with interest, the judgement of the Porto Court of Appeal, confirmed by the Supreme Court of Justice on 15/11/2021<sup>50</sup> where the relationship established between a worker who claimed the existence of an employment contract was assessed, having proved that she provided care for the employer's mother, who suffered from Alzheimer's disease, as a geriatric assistant, in her home, for a monthly salary of €1,500.00, for six days of work a week with a weekly rest on Sunday, eight hours a day. It was

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<sup>47</sup> Victor Ventura considers that the current 12(3) RCSD is incompatible with the case law of the Court of Justice, restricting the scope of the concept of working time provided for in Directive 2003/88/EC of 4 November, with the current interpretation of the case law on that piece of legislation (Ventura, 2023, pp. 110 to 113). One of the biggest concerns regarding hosted domestic workers is the possibility of being subject to a kind of "demand "round-the-clock" service", as pointed out by the study ILO (2011).

<sup>48</sup> In the same vein is Recommendation 201, paragraph 9

<sup>49</sup> In the same vein, see ILO Recommendation no. *With regard to the periods in which domestic workers do not freely dispose of their time and remain at the disposal of the members of the household to meet possible demands for their services (periods of immediate availability for work), Members, to the extent determined by national legislation or collective agreements, should regulate: (a) the maximum number of hours per week, month or year that the domestic worker may be required to remain immediately available for work and the way in which these hours may be calculated; (b) the compensatory rest period to which the domestic worker is entitled if the normal rest period is interrupted by the obligation to remain immediately available for work; and (c) the rate at which the period of immediate availability for work should be remunerated."*

<sup>50</sup> Rapporteur Jerónimo Freitas, case no. 4280/17.4T8MTS.P3 and confirmed by the Supreme Court of Justice, report Mário Belo Morgado on 22/6/2022.

proved that the worker had to be available 24 hours a day, day after day, with the exception of Sunday, obeying the orders and instructions given to her by the employer, always staying overnight in the next room and using the equipment and tools belonging to the employer. The judgement concluded that by always staying overnight in the employer's mother's room to meet any need, it presupposes that the worker is on guard against the occurrence of any situation that required the fulfilment of a task, so the worker's personal availability was only recovered in the 24 hours off a week. The judgement states that if article 197 of the CT were to be applied, it would have to be concluded that all 24 hours of each day, day after day, in which the worker was available in the home to ensure that whatever was necessary was monitored, would be considered working time, but as the relationship was classified as a full-time domestic service contract for a live-in worker, the judgement decided that the specific regime established in article 13(2) and article 14(1), (2) and (3) of the RCSD should be applied.

In view of the decision handed down, it can be concluded that the fact that the worker is housed leads to a much greater promiscuity between working time and rest time and, consequently, it is difficult to ascertain the actual working time of the housed worker.

A final note to mention that under the terms of Article 14(3) RCSD, when there is agreement from the worker, the normal working period can be observed in average terms within the limits laid down in the Labour Code, thus referring to the individual adaptability regime (Article 205 Labour Code).

### ***Meal and rest breaks***

Article 14 RCSD regulates meal and rest breaks, stipulating that the organisation of these periods is established by agreement or, in the absence thereof, set by the employer within the limits laid down in the CT.

The same article gives domestic workers the right, as already mentioned, to take breaks each day for meals and rest, without prejudice to the supervision and assistance they provide to the household.

And, without prejudice to the provisions of the Labour Code regarding the work of minors<sup>51</sup>, hosted workers have the right to a night's rest of at least 11 consecutive hours, which must not be interrupted, except for serious, unforeseen or force majeure reasons, or when they have been hired to look after patients or children up to the age of three. Therefore, as seen above, surveillance and assistance duties can limit rest periods and, ultimately, lead to continuous labour.

Furthermore, article 15 of the RCSD stipulates that non-staying full-time workers and stay-at-home workers have the right to a weekly rest day, without prejudice to their pay, and that the parties may agree to a half-day or a full day's rest in addition to the compulsory weekly rest day. Domestic workers who do not have a full-time contract are therefore not entitled to compulsory weekly rest.

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<sup>51</sup> The rule invokes the provisions of Article 78 of the Labour Code.

Lastly, the legislator defined that the weekly rest day should coincide with Sunday, and may fall on another day of the week when serious and non-regular reasons in the life of the household justify it.

### **2.4.3.3- Retribution**

In return for their work, domestic workers receive the corresponding remuneration. The domestic service contract, under the terms of Article 9(2) RCSD, also allows for mixed remuneration, i.e. part in cash and part in kind, namely through accommodation and food or just one of these. And these amounts are measured by reference to the value of the national minimum wage (SMN).

In line with Victor Ventura (Ventura, 2023, p. 147) and even what is defended in Article 12 of ILO Convention 189<sup>52</sup>, it is understood that the limit laid down in Article 259(2) of the Labour Code should be applied, i.e. just like other workers, the value of non-cash benefits for domestic workers cannot exceed that of the cash part, not least because there is no collective bargaining agreement in the sector. The application of this limit is essential because it prevents remuneration from being paid entirely in kind.

With regard to this aspect, it should also be noted that, with regard to the worker who is accommodated, if the employer does not provide a meal on the weekly rest day or public holiday, nor allows it to be prepared by the worker with food provided by the employer, the worker is entitled to receive the amount corresponding to the food in kind, which will be added to the remuneration in cash (article 9, no. 3 of the RCSD). On the other hand, also with regard to workers with accommodation and meals, or with meals only, they are also entitled to receive remuneration corresponding to the holiday period in cash, in an amount equivalent to those benefits, unless, by agreement, they remain entitled to them during the holiday period (article 17, no. 2 of the RCSD).

### **2.4.3.4.- Christmas allowance**

Until Law no. 13/2023 of 3 April, article 12.1 RCSD stated that:

*"1- Domestic service workers are entitled to a Christmas allowance of not less than 50/prct. of the pecuniary portion of the remuneration corresponding to one month, which must be paid by 22 December each year.*

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<sup>52</sup> "1 - Domestic service workers shall be paid directly in cash at regular intervals and at least once a month. Unless the form of payment is provided for in national legislation or collective agreements, payment may be made by bank transfer, by bank cheque or postal order, by money order, or other legal means of monetary payment, with the consent of the workers concerned. 2 - National legislation, collective agreements or arbitration awards may provide for the payment of a limited percentage of the remuneration of domestic service workers in the form of payments in kind which are no less favourable than those generally applicable to other categories of workers, provided that measures are taken to ensure that the payments in kind have the worker's agreement, are intended for the worker's personal use and benefit, and that the monetary value attributed to them is fair and reasonable".

2 - *When the worker reaches five years of seniority, the amount of the allowance provided for in the previous paragraph will be equal to the salary corresponding to one month."*

In the meantime, Decree-Law no. 88/96 of 3 July introduced the Christmas allowance corresponding to one month's pay, to be paid by 15 December, and the aforementioned law indicated in its scope of application<sup>53</sup> that it included domestic workers. Doctrine<sup>54</sup> therefore rightly argued that Article 12(1) of the RCSD had been repealed. It wasn't until 2023, in the context of the Decent Work Agenda, that the legislator expressly repealed Article 12, making the provisions of Article 263(1) of the Labour Code applicable, i.e. until 15 December, domestic workers are entitled to a Christmas allowance corresponding to their salary.

## 2.5 Comparative study of legal regimes for domestic service contracts: from international law to some state regimes

The European Parliament Resolution of 28 April 2016 on domestic workers and care workers in the European Union (EU) (2015/2094(INI)) considers that domestic work is characterised by "*job insecurity, geographical mobility, ad hoc working hours, seasonal work patterns, shifts, lack of job security, temporary employment and, above all, undeclared work*"<sup>55</sup>. It was the recognition of these characteristics that turned the international spotlight on domestic workers.

### 2.5.1 The domestic work regime in various European states

After analysing the legislation in force in Portugal and the international law "produced" by the ILO and the EU, an analysis will then be made of the legislation regulating domestic work in some European countries.<sup>56</sup>

#### 2.5.1.1 Germany: from the general labour contract regime to minijobs

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<sup>53</sup> "Article 1 Scope 1 - This statute applies to workers bound by an employment contract to any employer, including rural, on-board and domestic service workers."

<sup>54</sup> In this sense, Ramalho (2019, p. 127 and 128).

<sup>55</sup> See European Parliament resolution of 28 April 2016 on domestic workers and carers in the EU (2015/2094(INI)), point G.

<sup>56</sup> The analysis of the legal regimes regulating domestic work summarised in this section of the text is based on the study "*Domestic work: national and international framework*" prepared by the Parliamentary Legislative Information Division of the Assembly of the Republic, from which excerpts are transcribed (DIPL, 2020).

German law has no specific legislation for the domestic sector, with general labour and social security legislation and rules resulting from collective bargaining applying.

The national minimum wage was introduced in Germany in 2015 through the Minimum Wage Act and has been 21.41 euros/hour (gross) since 1 January 2024, which also applies to domestic work. This figure is higher in many sectors of activity as a result of collective bargaining.

There is one particular feature of the German system that is not specific to the domestic service sector, and that is "*minijobs*". There are two types of "Minijobs"<sup>57</sup> : (a) *minijob* with an earnings limit and (b) short-term employment, so it is restricted to certain time limits from its start (70 working days or three months in a calendar year) and can be used either in commerce and services or in private households. This type of contract with a simplified process is coordinated by a specific centralised service - the *Minijob-zentrale*. Employers must register with *Minijob*, using a form signed by the worker (a) and the employer, and it is to this service - *Minijob-zentrale* - that the contributions due are paid (which it then forwards to the relevant authorities).

In Minijobs with an earnings limit, remuneration is dynamic, based on the minimum wage and a working week of 10 hours. Currently, the limit is €538 per month (on average) and you can earn a maximum of €6,456 (six thousand four hundred and fifty-six) per year.

Workers can have more than one employer, maintaining the *Minijob* regime if the sum of the remuneration or duration of the various jobs does not exceed those limits. They can also switch from one type to another (although employers must notify the authorities accordingly).

It is not compulsory to sign an employment contract under the *Minijob* scheme. However, it is up to the employer to provide written proof of the essential working conditions.

As far as holidays are concerned, *minijobs* are entitled to paid holidays of at least four weeks or 24 working days a year if they work six days a week; if they work fewer days, holidays are calculated on a pro rata basis.

The principle of equal treatment applies, so the worker with the "*minijob*" cannot be treated less favourably than the other full-time workers. Exceptions are possible if there are objective reasons for unequal treatment, such as: performance, qualifications, professional experience, among others.

The Protection of Occupational Health and Safety Act<sup>58</sup> (*ArbSchG*) expressly excludes domestic workers who work in private households.

### **2.5.1.2 Belgium: the domestic work contract and the "service voucher" system**

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<sup>57</sup> Data taken from [https://www.minijob-zentrale.de/DE/die-minijobs/kurzfristige-beschaeftigung/kurzfristige-beschaeftigung\\_node.html#doc43cb376f-5e0b-4602-88c2-ba7d0b8d901abodyText4](https://www.minijob-zentrale.de/DE/die-minijobs/kurzfristige-beschaeftigung/kurzfristige-beschaeftigung_node.html#doc43cb376f-5e0b-4602-88c2-ba7d0b8d901abodyText4).

<sup>58</sup> Cf. Section 1, (2) *Gesetz über die Durchführung von Maßnahmen des Arbeitsschutzes zur Verbesserung der Sicherheit und des Gesundheitsschutzes der Beschäftigten bei der Arbeit*, available at: [https://www.gesetze-im-internet.de/englisch\\_arbschg/englisch\\_arbschg.html#p0012](https://www.gesetze-im-internet.de/englisch_arbschg/englisch_arbschg.html#p0012)

Belgian law regulates domestic work in the *Loi du 3 juillet 1978 relative aux contrats de travail*. According to Belgian law (Article 5), a domestic work contract is one in which a domestic worker undertakes, for remuneration, to carry out, under the authority of an employer, mainly manual tasks for the needs of the employer's household or family. According to the *Service Public Fédéral Emploi, Travail et Concertation Sociale*<sup>59</sup>, drivers, gardeners or nurses are not considered to be domestic workers.

Articles 108 to 118 of the same law contain the specific rules applicable to domestic work contracts. According to Article 110, the employer must provide the domestic worker with the necessary clothing to carry out the work; ensure that the work is carried out in suitable conditions from the point of view of hygiene and comfort and, finally, guarantee the necessary means for the domestic worker to store their personal belongings. Still in the field of obligations, Article 111 states that if the employer temporarily relocates the household without hiring the domestic worker, in addition to guaranteeing the right to remuneration, he or she is also obliged to provide the benefits in kind that he or she provided prior to the relocation, or to pay a daily allowance corresponding to that amount.

Finally, since 2004 Belgium has promoted the "Service Voucher"<sup>60</sup> (TS, *Titres-services/Dienstencheque*) in which there is a three-way relationship between the household (beneficiary and user of the service), an accredited company and the domestic worker. The employer is not the household, but an accredited company that concludes the labour contracts with the domestic workers.

The Belgian government has selected a company, Pluxee (formerly SODEXO), which is not the employer, to manage the service voucher. In practice, households must register with the company in order to purchase the vouchers, which are available in electronic or paper format. The workers receive the service vouchers in return and send them to the contracting company, which asks Pluxee to collect them.

It is important to note that the "service voucher" has benefited from strong state aid<sup>61</sup> and, to make this model more attractive, users (households) using the "service voucher" can obtain tax benefits in two ways: a tax reduction on the purchase of the vouchers and a tax deduction every year depending on the regions<sup>62</sup>.

The employment contracts all include service vouchers, a measure that has made it possible to better control the needs and quality of the sector, while to some extent professionalising this activity.<sup>63</sup>

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<sup>59</sup>Cf. [https://emploi.belgique.be/fr/themes/contrats-de-travail/contrats-de-travail-particuliers/contrat-de-travail-domestique#toc\\_heading\\_1](https://emploi.belgique.be/fr/themes/contrats-de-travail/contrats-de-travail-particuliers/contrat-de-travail-domestique#toc_heading_1)

<sup>60</sup> France had a similar system, which is described in the next chapter.

<sup>61</sup> For a more in-depth analysis, see IDEA CONSULT (2020).

[https://www.google.pt/url?sa=t&source=web&rct=j&opi=89978449&url=https://economy-employment.brussels/media/898/download&ved=2ahUKEwje\\_eSKqsKFaxUSxQIHVVFxAScQFnoECBIQAQ&usq=AOvVaw2sGz7RoD8pdm-m\\_wGW40JC](https://www.google.pt/url?sa=t&source=web&rct=j&opi=89978449&url=https://economy-employment.brussels/media/898/download&ved=2ahUKEwje_eSKqsKFaxUSxQIHVVFxAScQFnoECBIQAQ&usq=AOvVaw2sGz7RoD8pdm-m_wGW40JC)

<sup>62</sup> Take, for example, the benefits in the Flemish area <https://dienstencheques.vlaanderen.be/burger/info/fiscale-aftrek/aftrekbaar-bedrag>.

<sup>63</sup> In 2011, there were around 857,000 users of this system.

### **2.5.1.3 Spain: the domestic work contract treated as an employment contract**

The legal regime of domestic work is regulated by Royal Decree 1620/2011, 14 November, *regulating the labour relationship of family home service*, amended by Royal Decree 16/2022, 6 September, *for the improvement of working conditions and Social Security of persons working in family home service*<sup>64</sup>.

With regard to the form of the contract, the presumption of the indefinite nature of the employment relationship has been established when the contract is not in writing for whatever the duration of the contract (Article 5). If the contract is not formalised in writing, the worker must receive information on the essential elements of the contract and the conditions of performance, which must include salary benefits in kind (when agreed); the duration and distribution of working time and respective remuneration and the household accommodation regime in the event of an overnight stay.

With regard to the termination of the employment contract, Article 11 has eliminated most of the differences that existed previously and which meant that the protection against unfair dismissal was much lower than that established for other workers. In addition to the causes laid down in the Workers' Statute, the following are also causes for termination of the employment relationship: a) Decrease in the family unit's income or increase in its expenses due to supervening circumstances; b) Substantial change in the family unit's needs that justify doing without the domestic worker; c) The domestic worker's behaviour that reasonably and proportionally justifies the employer's loss of trust.

Termination of the contract by the employer must be communicated in writing to the employee with a clear indication of the reason for the decision, accompanied by compensation equivalent to the salary corresponding to 12 days per year of service with a limit of six months. Depending on the employee's length of service (more than one year), the employer must give at least 20 days' notice, in other cases only seven. Alternatively, the employer can replace the notice period with compensation equivalent to the salary for that period.

Also noteworthy is the fact that Royal Decree-Law 16/2022 has made legislative changes that impose the obligation for employers to contribute to a Wage Guarantee Fund that provides compensation cover for domestic workers, as well as the contribution rules for access to unemployment benefit.

Royal Decree-Law 16/2022 of 6 September established the equalisation of working conditions and social security for domestic workers with other employees.

The current legal regime was strongly influenced by the ruling of the Court of Justice of the EU on 24 February 2022, case C 389/20, because it was after this ruling that Spanish domestic workers were recognised as having working conditions very similar to those of other workers and, in terms of social protection, it was also recognised that domestic workers cannot have a lower level of protection or less favourable treatment than other workers.

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<sup>64</sup> See Royal Decree-Law 16/2022 <https://www.boe.es/buscar/act.php?id=BOE-A-2022-14680>

#### **2.5.1.4 Sweden: the emergence of demand for domestic services and the ratification of ILO Convention 189**

Sweden's Domestic Work Act dates back to 1970 (Domestic Work Act on (1970:943)) and contains provisions on domestic work carried out in the employer's home, including working hours (not to exceed 40 hours per week on average); provisions on the need to provide information to the domestic worker on duties, salary, wage benefits, working period and the applicable collective agreement. Either the worker or the employer can terminate the contract with immediate effect if they seriously breach their obligations to each other. If the grounds for termination are other, at least one month's notice must be given to both the employer and the domestic worker. If the domestic worker has been employed for at least five years, the notice period increases to two months, while if the worker has been employed for at least three years, the notice period is three months.

According to the ILO, domestic workers are also covered by labour legislation, including the 2009 "Environment Act", which stipulates that employers of private households that benefit from cleaning, maintenance and laundry must ensure that work is carried out in a healthy and safe environment, regardless of whether the employer is a company or a private household<sup>65</sup>. On 4 April 2019, Sweden became the 28th ILO member state to ratify Convention 189 which, as analysed above, requires this category of workers to have access to decent working conditions and fundamental protection equivalent to that of other workers. Sweden's ratification of Convention 189 reaffirms its commitment to the ILO's principles of gender equality and decent work.

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<sup>65</sup> ILO, Sweden ratifies Domestic Workers Convention, 2011 (No. 189), available at [https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/specific-categories-of-workers/WCMS\\_685648/lang--en/index.htm](https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/specific-categories-of-workers/WCMS_685648/lang--en/index.htm)

# Chapter 3

## Social protection and promoting formalisation



## Chapter 3. Social protection and promoting formalisation

### 3.1. Social protection for domestic workers in Portugal

As was analysed in the previous chapter, DL no. 235/92 of 24 October established the RCSD, which brought domestic workers closer to the general legal framework for subordinate workers in terms of absence, holiday and allowance schemes. However, a special regime persists in the regulation of the legal relationship of domestic work, with the following justification:

*"The fact that domestic work is carried out for family households, and therefore generates professional relationships of a highly personal nature that require a permanent climate of trust, requires, in addition to taking into account the economic specificity of these households, that its regime continue to be configured as special in certain matters."* <sup>66</sup>

Under the cover of the speciality of this contract, the close relationship between the employer and the domestic worker (Ventura, 2023, p. 239), an absence of social protection was allowed, which was believed to be the case:

*"Social protection mechanisms were, as a rule, internalised, with the expectation that, in exchange for their dedication to their employers, they would not be abandoned in sickness and old age"* (Loureiro, 2010, pp. 230-231).

In Portugal, domestic workers were included in the social security system with Decree-Law 81/73 of 2 March. However, Decree-Law 169-D/75 of 31 March, which instituted unemployment benefit, excluded domestic workers from its scope (article 3, no. 1, point c).

It should be noted that the global COVID-19 pandemic left domestic workers extremely unprotected until the approval of Ordinance no. 250-B/2020 of 23 October, which determined that *"people who find themselves in a situation of economic and social unprotection and in a situation of cessation of activity as employees, including in domestic service, as a result of the SARS-CoV-2 epidemic, can access support"* (article 2). It was only with this law that the conditions were established for domestic workers to have access to extraordinary social protection support.

Currently, domestic workers are protected under the Code of Contributory Regimes (CRC) of the Social Security System (article 116 ess), with differentiated contribution rates (a lower amount than other

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<sup>66</sup> Cf. Preamble to Decree-Law no. 235/92 of 24 October.

workers), the aim of which is to reduce informal work<sup>67</sup>. Therefore, given the informal nature of the labour, social security contributions are an essential element in establishing the contract.

According to the CRC (article 29), the employer is responsible for registering with Social Security and, because this communication is so important, with the Decent Work Agenda, Law 15/2001 of 5 June was amended<sup>68</sup> and employers who fail to comply with the duty to notify Social Security of the hiring of workers (under the terms of paragraphs 1 to 3 of article 29 of the CRC) are punished with imprisonment of up to three years or a fine of up to 360 days (article 105(1)). This criminalisation of undeclared work appears to be an attempt to combat precariousness.

In order to examine the social protection granted to domestic workers, it is essential to analyse the personal scope provided for in the CRC, namely Article 116, as opposed to the aforementioned Article 117, which establishes the negative delimitation, i.e. the people excluded from the scope of application of that regime. Thus, for the purposes of the social security system (Article 116):

*"Workers who provide remunerated services to others on a regular basis, under their direction and authority, are covered by the general regime, with the specificities set out in this subsection, under the terms defined in their own legislation."*

Strictly speaking, the provision of domestic work is not dependent on the existence of a household, it can be provided for just one person, and DL no. 235/92<sup>69</sup>, of 24 October provides for the provision of work to non-profit-making legal persons<sup>70</sup>. However, the fortuitous or occasional provision of domestic work is already clearly excluded from the scope of this protection, given the expression "*on a regular basis*".

In view of Article 117 CRC, already mentioned in the previous chapter, they are excluded from social protection:

*"1 - Persons linked to the employer by the following family ties are excluded from the scope of this subsection:*

- a) The spouse;*
- b) Descendants up to the 2nd degree or equivalent and relatives;*
- c) Relatives in the ascending line or equivalent;*
- d) Siblings and relatives.*

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<sup>67</sup> The European Foundation for the Improvement of Living and Working Conditions has estimated the incidence of undeclared work in households in the EU at 19% (Eurofound, 2008). And the ILO has estimated that 61.4 million (81.2%) are in informal employment. The high proportion of informal employment among domestic workers is a strong indicator of how few domestic workers enjoy rights and protection in practice (ILO, 2021, p.17). For further developments, see ILO (2018, pp. 75 ff).

<sup>68</sup> Article 106-A was added to the General Regime of Tax Offences under the heading "*Omission to communicate the hiring of workers*", inserted in Chapter IV on crimes against Social Security.

<sup>69</sup> The regime set out in this statute applies, with the necessary adaptations, to the provision of the activities referred to in the previous paragraph to non-profit legal persons, or to family households, on their behalf, provided that they are not covered by a legal or conventional regime. - Cf. article 2 no. 2 of Decree-Law no. 235/92 of 24 October.

<sup>70</sup> The courts have already ruled that cleaning, laundry and other services for the Red Cross cannot be considered domestic service, as the service was intended to fulfil the needs of third parties. See judgement of 28/1/1988 TRE.

*2 - Persons who are in a civil partnership with the employer because they have been living with the employer for more than two years under conditions similar to those of spouses are also excluded."*

Therefore, the provisions of Article 117 CRC are in line with the principle enshrined in the Portuguese legal system of equality between spouses, and the legal subordination of the domestic contract is not compatible with this principle. With regard to other family ties, it is clear that the legislator's aim is to combat the conclusion of false contracts with the intention of obtaining social benefits, as has already been mentioned.

Thus, the CRC establishes that domestic workers are covered by the general system (with specific features that will be indicated), i.e. they are entitled to protection in the event of illness (sickness benefit), parenthood, occupational diseases, invalidity, old age and death, which is concretised in Article 118(1) of the aforementioned law. However, the specifics are contained in Article 118(2):

*"Domestic service workers are entitled to protection in the event of illness, parenthood, occupational diseases, invalidity, old age and death (no. 1). Domestic service workers are also entitled to protection in the event of unemployment when the contribution base corresponds to remuneration actually earned under a full-time monthly employment contract (no. 2)."*

Article 118(2) of the CRC states that protection against unemployment depends on the worker making Social Security deductions on the remuneration actually earned under a full-time monthly employment contract, which substantially reduces the scope of domestic workers eligible for this benefit<sup>71</sup>, since it is usual for these people to work for several households in hourly or part-time work situations.

Article 119(5) of the CRC states that the monthly number of hours to be declared cannot be less than 30 for each worker and their employer<sup>72</sup>. This rule has been criticised (Loureiro, 2010, pp. 246 ess), as a part-time domestic worker needs to declare 30 hours or, if they work in more than one household, they need to declare 30 hours for each employer, otherwise they will be removed from the social security system. In practice, this system is detrimental to domestic workers who don't have a full-time monthly employment contract, because if the worker doesn't work a total of 30 hours in all households, they won't have access to unemployment benefit, even though in total they may work more than 30 hours a week. So a domestic worker who works 10 or 20 hours a month for each employer will be forced<sup>73</sup>, if they want to have access to unemployment protection, to declare 30 hours with the corresponding

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<sup>71</sup> See the commentary on Article 118 in Carvalho et al. (2022, pp. 301 ess). Critically, see Carvalho (2019, pp. 41-51).

<sup>72</sup> Victor Ventura (2023). believes that the legislator wanted to prevent situations in which the hours declared were very low just to gain access to social benefits (pp. 245 ess). The legislation itself even invoked the possibility of fraud - see Decree-Law 124/84, of 18 April "On the other hand, the difficulty of fully verifying the effective exercise of activity, especially when referring to periods far removed in time, allowed for clear situations of fraud, which were more frequent in schemes with a lower contributory weight, such as domestic service."

<sup>73</sup> In the same vein, Ventura (2023, pp. 245 ess).

contribution rate. According to article 121 of the CRC, if the material scope of protection doesn't include unemployment protection, the rate is 28.3%, i.e. 18.9% for the employer and 9.4% for the worker; if it does, the rate is 33.3%, 22.3% and 11% for the employer and worker, respectively.

According to Article 120(3) of the CRC, in situations where domestic workers with a monthly contract do not provide services for the entire month, due to admission, termination of employment, sick leave or any other cause, the remuneration corresponding to the number of days actually worked is taken into account.

Thus, despite the fact that the social security legislator has enshrined a specific subsection for domestic workers - subsection III - which, with the exception of unemployment benefit, is only available to workers who make deductions from their real remuneration and who have a full-time monthly contract, other domestic workers enjoy social protection in cases of illness, parenthood, occupational diseases, invalidity, old age and death. Even so, it doesn't comply with Article 14 of ILO Convention 189<sup>74</sup>, because if the aim is to dignify domestic work on the basis of national legislation that takes into account the specific characteristics of domestic work, then the legislator should have taken into account the fact that the majority of domestic workers don't benefit from a full-time monthly employment contract, which means that many of these workers are left unprotected in a situation of unemployment. According to João Carlos Loureiro, this regime is unconstitutional and should "*be assessed from the worker's point of view, within a framework of a fragmented multiplicity of relationships*" (Loureiro, 2010, pp 246 ess).

The domestic worker must choose whether to declare the real salary or a conventional salary (the equivalent of the Social Support Index (IAS)<sup>75</sup>). If the domestic worker opts for the conventional salary, the contribution will be lower and the holiday and Christmas bonuses are not subject to social security deductions (article 48, e) CRC); if she opts for the real salary (which will be at least the SMN<sup>76</sup>), she will be subject to deductions on the receipt of these allowances.

With regard to the protection of domestic workers, I would also like to highlight the need, under the terms of Article 26 of the RCSD, for employers to take out occupational accident insurance to cover any accidents suffered by domestic workers during the course of their work or on the journey between their home and the workplace.

To summarise, but always bearing in mind the specifications set out above, domestic workers in Portugal are protected in the situations shown in the following table.

**Table 1. Situations covered by Social Security for domestic workers in Portugal**

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<sup>74</sup> Each Member State shall adopt appropriate measures, in accordance with national law and taking due account of the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions no less favourable than those applicable to workers in general as regards social security, including maternity.

<sup>75</sup> For the year 2024 it is €509.26.

<sup>76</sup> Decree-Law no. 107/2023, of 17 November, which updated the value of the NMW to €820.00.

Situations	Examples of Social Security products
Family expenses	<ul style="list-style-type: none"> <li>- Pre-Natal Family Allowance</li> <li>- Family Allowance for Children and Young People</li> <li>- Childhood Guarantee</li> <li>- Funeral allowance</li> </ul>
Unemployment	<ul style="list-style-type: none"> <li>- Unemployment benefit*</li> <li>- Initial or Subsequent Unemployment Benefit</li> <li>- Partial Unemployment Benefit</li> </ul>
Death	<ul style="list-style-type: none"> <li>- Survivor's pension</li> <li>- Dependency supplement</li> <li>- Death Benefit</li> <li>- Reimbursement of Funeral Expenses</li> </ul>
Illness	<ul style="list-style-type: none"> <li>- Sick pay</li> <li>- Compensation payments for holiday, Christmas or similar allowances (only in the case of real salary).</li> </ul>
Invalidity	<ul style="list-style-type: none"> <li>- Invalidity pension</li> <li>- Dependency supplement</li> <li>- Spouse Pension Supplement</li> </ul>
Occupational illnesses	<ul style="list-style-type: none"> <li>- Guaranteed protection in cases of occupational illness</li> </ul>
Parenthood	<ul style="list-style-type: none"> <li>- Pregnancy Medical Risk Allowance</li> <li>- Pregnancy Interruption Benefit</li> <li>- Parental Allowance (Initial Parental Allowance, Exclusive Initial Parental Allowance for the Father, Exclusive Initial Parental Allowance for the Mother and Initial Parental Allowance to be used by one Parent in the event of the other's impossibility)</li> <li>- Extended Parental Allowance</li> <li>- Adoption Allowance</li> <li>- Childcare Allowance</li> <li>- Allowance for children with disabilities or chronic illnesses</li> <li>- Grandchildcare Allowance</li> <li>- Sickness Benefit for Children under 12 and Disabled Children</li> <li>- Grandparents' Special Absence Allowance</li> </ul>
Old age	<ul style="list-style-type: none"> <li>- Old Age Pension - Dependency Supplement - Spouse Pension Supplement Position</li> </ul>

\*Only domestic workers who are paying social security contributions on the remuneration actually earned under a full-time monthly employment contract are entitled to unemployment benefit.

Source: ISS, I.P. (2024).

### 3.2 Comparative study of legal systems for the social protection of domestic workers: from international law to some specific features of state systems

This section makes a brief reference to international law and a comparative analysis of the legal systems of social protection for domestic workers.

### 3.2.1 The ILO and the EU in the defence and promotion of the principle that domestic workers must not have inferior social protection to other workers

The European Parliament resolution of 28 April 2016 on domestic workers and carers in the EU (2015/2094(INI)) considered that:

*"Domestic and care work (...) is poorly and unevenly regulated, so domestic workers are often not considered typical or regular workers, and their rights to employment and social protection are severely limited."<sup>77</sup> .*

Article 14 of ILO Convention 189, already mentioned above, states the following:

*"Each member shall take appropriate measures, in accordance with national laws and regulations and taking into account the specific characteristics of domestic work, to ensure that domestic workers enjoy conditions which are no less favourable than those applied to workers in general as regards social security protection, including maternity protection."*

The expression "*no less favourable*", as defended by the ILO (2016, p.9), simply means that the national legal system must grant domestic workers treatment that, although it may not be identical, must be equivalent in effect to that enjoyed by other workers.

With regard to the European level, it is important to highlight the recent judgment of the Court of Justice of the European Union (CJEU) of 24 February 2022, case C 389/20, which, in a case involving a Spanish domestic worker, ruled that social security rules which place female workers in a situation of inequality in relation to male workers and which are not justified by objective factors unrelated to any discrimination on grounds of sex, are not compatible with Community law. The Court analysed the provisions of Article 4(1) of Council Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security and held that Article 4(1) of the Directive was not compatible with Community law:

*"It must be interpreted as precluding a national provision which excludes unemployment benefits from the social security benefits granted to domestic workers by a statutory social security scheme, in so far as that provision places female workers at a particular disadvantage in relation to male workers and is not justified by objective factors unrelated to any discrimination on grounds of sex."*

By analysing the aforementioned directive, this ruling has revealed that any differentiated treatment in the field of social security that affects mostly women is contrary to Council Directive 79/7/EEC of 19

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<sup>77</sup> For a global analysis, see ILO (2021, pp 124-149).

December 1978, as it constitutes indirect discrimination on grounds of sex. Any member state could therefore be faced with a similar decision.

### 3.2.2 Social security schemes for domestic work: typology and comparative overview

The social protection of domestic workers is one of their fundamental rights, which is why the system's reception of domestic workers will be an essential contribution to dignifying the profession.

According to ILO data (Seiffarth et al., 2023, p.18) there is a coverage deficit for domestic workers, with an estimated 60.7% of the 168 countries analysed providing some legal coverage for domestic workers in at least one branch of social security and, worldwide, almost half of all domestic workers (49.9%) are covered by law in at least one branch of social security. What can be drawn from the analysis carried out by the ILO (2021) is that countries with a high rate of social protection coverage use a combination of several factors: mandatory (rather than voluntary) coverage requirements; the contribution system for domestic workers is different from that of other workers; they create enrolment schemes for domestic workers who have multiple employers or part-time contracts and, finally, they rely on tax support and incentives.

The ILO, in its study *Social Protection of Domestic Work: Policy Trends and Statistics* (2016), analysed social protection schemes for domestic workers in a sample of countries and found that there are significant differences in practices regarding the configuration and application of social security schemes for the domestic work sector.

The five most common types of social protection schemes for domestic work were identified, based on four categories:

- Legal configuration - whether the scheme has compulsory or voluntary coverage and whether it is considered a professional category equivalent to other categories of salaried labour;
- Institutional organisation - domestic workers are included in the general system or in a special system, whether or not it has centralised administration and collection;
- Financing aspects - whether or not the contribution system is different from that for employees;
- Enrolment - the ability to integrate domestic workers with more than one employer and those who work part-time.

**Table 2. Types of social security schemes for domestic work**

Legal configuration	Institutional organisation	Financing aspects	Enrolment	Country examples
<ul style="list-style-type: none"> <li>• Compulsory cover;</li> <li>• TD assimilated to the category of salaried labour</li> </ul>	<ul style="list-style-type: none"> <li>• General regime</li> <li>• Unified administration/collection</li> </ul>	<ul style="list-style-type: none"> <li>• Non-differentiated contributions</li> </ul>	<ul style="list-style-type: none"> <li>• Full-time TD only</li> <li>• A single employer</li> </ul>	Cape Verde; Ecuador; Mauritius; Turkey

Legal configuration	Institutional organisation	Financing aspects	Enrolment	Country examples
<ul style="list-style-type: none"> <li>• Compulsory cover</li> <li>• TD assimilated to the category of salaried labour</li> </ul>	<ul style="list-style-type: none"> <li>• General regime</li> <li>• Non-unified administration/collection</li> </ul>	<ul style="list-style-type: none"> <li>• Differentiated contributions</li> </ul>	<ul style="list-style-type: none"> <li>• Full-time TD only</li> <li>• A single employer</li> </ul>	Costa Rica; Philippines
<ul style="list-style-type: none"> <li>• Compulsory cover</li> <li>• TD assimilated to the category of salaried labour</li> </ul>	<ul style="list-style-type: none"> <li>• General regime</li> <li>• Unified administration/collection</li> </ul>	<ul style="list-style-type: none"> <li>• Differentiated contributions</li> </ul>	<ul style="list-style-type: none"> <li>• Multiple employers</li> <li>• Part-time</li> <li>• "Service voucher" (in Belgium, France, Switzerland)</li> </ul>	Argentina; Uruguay; Italy; Spain; Belgium; France; Geneva, Switzerland
<ul style="list-style-type: none"> <li>• Voluntary cover</li> <li>• TD not assimilated to the category of paid labour</li> </ul>	<ul style="list-style-type: none"> <li>• General regime</li> <li>• Unified administration/collection</li> </ul>	<ul style="list-style-type: none"> <li>• Non-differentiated contributions</li> </ul>	<ul style="list-style-type: none"> <li>• Full-time TD only (single employer)</li> </ul>	Malaysia; Singapore
<ul style="list-style-type: none"> <li>• Voluntary cover</li> <li>• TD not assimilated to the category of paid labour</li> </ul>	<ul style="list-style-type: none"> <li>• Special regime</li> <li>• Unified administration/collection</li> </ul>	<ul style="list-style-type: none"> <li>• Non-differentiated contributions</li> </ul>	<ul style="list-style-type: none"> <li>• Full-time TD only (single employer)</li> </ul>	El Salvador; Honduras; Mexico

Source: ILO (2016, p. 27).

The study concludes that the countries included in the third category have the highest coverage rates compared to the other categories, mainly because they have a differentiated contributions system and allow domestic workers with more than one employer and part-time workers to enrol.

The following table systematises the main strategies of the social security systems applied in a group of 15 countries where common elements can be observed.

Table 3. Summary of international practices of social security schemes for domestic work

Practical	Germany	Argentina	Cable Green	Costa Rica	Ecuador	Spain	France	Israel	Italy	Malaysia	Mauritius	Philippines	Singapore	Turkey	Uruguay
<b>Aspects of institutional organisation</b>															
General regime		✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓	✓
Specific legislation for domestic work	✓	✓				✓	✓		✓			✓			✓
<b>Financing aspects</b>															
Differentiated (reduced) contribution rates	✓	✓	✓	✓		✓	✓	✓	✓			✓			✓
Contributions based on reference salaries	✓		✓			✓			✓	✓	✓	✓			
State subsidies				✓										✓	
Tax incentives for employers	✓	✓			✓	✓	✓		✓	✓			✓		
Contribution rate based on hourly wage		✓					✓		✓						
Contribution rate according to the worker's age		✓						✓		✓			✓		
Contribution rate based on household composition															✓
Contributions in nominal amounts		✓				✓			✓		✓				
<b>Enrolment practices and coverage promotion</b>															
Single, centralised registration system	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Access to credit for those enrolled				✓						✓		✓	✓		
Multiple employer scheme	✓	✓			✓	✓	✓	✓	✓				✓		✓
Inclusion of hourly labour	✓	✓			✓	✓	✓	✓	✓				✓		✓
Electronic services via a web platform	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓		✓
<b>Collection of contributions</b>															
Single, centralised collection system	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Use of the service voucher	✓						✓		✓						
Online service for paying contributions	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Application of presumed income mechanisms		✓													

Source: ILO (2016, p. 46).

### 3.2.3 Case studies of special protection schemes for domestic workers

The table in the previous point provides a comparative analysis of the social security systems for domestic workers in Argentina, Cape Verde, Costa Rica, Ecuador, France, Germany, Israel, Italy, Malaysia, Mauritius, the Philippines, Singapore, Turkey, Spain and Uruguay.

Below we analyse some specific case studies of special social protection schemes applicable to domestic workers.

#### 3.2.3.1 Germany: the special social security scheme for minijobs

As mentioned in the previous chapter, in Germany there is no legislation for the domestic work sector, and general labour and social security legislation and the rules resulting from collective bargaining apply.

Registration of domestic workers for social protection benefits is the responsibility of the employer and is compulsory. Cover for each eventuality (illness, accident at work, parenthood, unemployment, retirement) is provided, as is the case for workers in general, through different bodies at federal and regional level.

As already mentioned, in Germany *minijobs* exist in the form of (a) earnings limits and (b) short-term employment (70 working days or three months in a calendar year). According to information provided by *Minijob Zentrale*<sup>78</sup>, for domestic workers with earnings limits who work in private households, the contribution rates are a maximum of 14.94% of wages. The employer has to pay flat-rate contributions for health insurance (5%) and pension insurance (5%); contribution to occupational accident insurance (1.6% which covers accidents at the workplace and on the commute to work); a levy for compensation in the event of illness, the so-called U1 levy; a levy as compensation for expenses in the event of pregnancy or maternity (1.1%) the so-called U2 levy; a flat-rate tax, i.e. a uniform tax rate (0.24%) and unemployment insurance has no levy<sup>79</sup>.

As for short-term *minijobs* who work in their employer's private residence, they incur the following fees: a fee as compensation for expenses in the event of illness, the U1 fee (1.1%); a fee as compensation for expenses in the event of pregnancy or maternity, the U2 fee (0.24%); a contribution to occupational accident insurance (1.6%) and do not have to pay social security or pension insurance fees.<sup>80</sup>

Germany is committed to tax incentives, so the employer of the *minijob* can deduct up to 20% of the costs of the domestic worker from income tax, with a maximum limit of €510.00 per year. And if the domestic worker, hired through the *minijob*, is responsible for looking after a child in the household who

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<sup>78</sup> Cf. [https://www.minijob-zentrale.de/EN/Home/home\\_node.html](https://www.minijob-zentrale.de/EN/Home/home_node.html)

<sup>79</sup> Cf. [https://www.minijob-zentrale.de/DE/die-minijobs/kurzfristige-beschaeftigung/kurzfristige-beschaeftigung\\_node.html#doc43cb376f-5e0b-4602-88c2-ba7d0b8d901abodyText4](https://www.minijob-zentrale.de/DE/die-minijobs/kurzfristige-beschaeftigung/kurzfristige-beschaeftigung_node.html#doc43cb376f-5e0b-4602-88c2-ba7d0b8d901abodyText4)

<sup>80</sup> *Ibid.*

has not yet reached the age of 14, it is possible to deduct two thirds of the total care costs, with a maximum of €4,000 per child<sup>81</sup>.

### 3.2.3.2 France: vouchers or service vouchers for domestic work

France was the first country to use the "service voucher"<sup>82</sup> in 1993, which was replaced in 2006 by the Employment Cheque - Universal Service (CESU, *Chèque Emploi Service Universel*). Through the CESU, the employer can both pay for the services provided by a domestic worker and pay social security contributions.

In order to use the service voucher, a household, as an employer, must register electronically through the offices of the Union for the Collection of Social Security Contributions and Family Allowances (URSSAF), which is an organisation responsible for collecting social security contributions. After registering, employers have the option of declaring the salaries of their employees via a receipt book or on a website, while also authorising the National CESU Centre (CNCEU) to collect the contributions by direct debit. Once registration has been completed, URSSAF CESU calculates social security contributions; employer and wage contributions and issues employment certificates directly.

There are two types of declarations: "real value" or "fixed value". In the first case, contributions are calculated on the basis of the salary actually paid, while in the "flat-rate" declaration, contributions are calculated on the basis of a minimum hourly wage. Thus, using the CESU, the salary cannot be lower than the minimum wage in force in France (national minimum wage), and domestic workers also benefit from health, maternity, retirement, accident at work and unemployment insurance.

Through CESU, service vouchers can be used for tasks associated with housework, small gardening jobs and DIY: school support; assistance for elderly or frail people, with the exception of care related to medical acts.

With regard to tax advantages, the CESU provides benefits allowing employers to obtain a tax credit for expenses incurred during the year with the employee, the tax benefit is 50% for annual salaries below €12,000, i.e. a maximum tax benefit of €6,000. There are also specific benefits that can go beyond this limit, depending on age, state of health, for example if the employer is aged 70 or over; has a recognised disability or is the beneficiary of other subsidies due to their personal or family situation.

### 3.2.3.3 Spain: equalising social security for domestic workers with employees

As mentioned in the previous chapter, the legal framework for domestic work is regulated by Royal Decree 1620/2011, 14 November, regulating *the labour relationship in the service of the family home*,

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<sup>81</sup> Data from 2024 collected at *Minijob Zentrale*. For more information see: [https://www.minijob-zentrale.de/EN/Home/home\\_node.html](https://www.minijob-zentrale.de/EN/Home/home_node.html)

<sup>82</sup> For another example of a service voucher, see point 2.5.1.2 of the previous chapter on the Belgian case.

amended by Royal Decree 16/2022, 6 September, for the *improvement of working conditions and Social Security for people working in the service of the home*.

The aforementioned ruling by the Court of Justice (Third Chamber) on 24 February 2022 was the driving force behind the Spanish reform. In the case in question, after a Spanish domestic worker found it impossible to access unemployment benefit because it was not granted in Spain, she went to court to have this right recognised by proving that gardeners, private drivers, agricultural workers or workers employed by cleaning companies were all covered by unemployment protection, even though their contribution rates were in some cases lower than those applicable to domestic workers. Invoking Article 4(1) of Directive 79/7, the worker proved that in Spain domestic work is mostly carried out by women. The court therefore held that Article 4(1) of Directive 79/7 must be interpreted as precluding a national provision that excludes unemployment benefits from the social security benefits granted to domestic workers by a statutory social security scheme, since that provision is particularly prejudicial to female workers compared to male workers and is not justified by objective factors unrelated to any discrimination on grounds of sex.

The CJEU ruling of 24 February 2022 enshrined that domestic workers cannot be deprived of access to unemployment benefit, which is why Royal Decree-Law 16/2022 amended article 251 - with the deletion of paragraph d) - of the consolidated text of the General Law on Social Security, so that unemployment protection is not excluded from the protective action of the Special Scheme for Domestic Workers. The law states that:

*"Household workers are the only labour group that lacks protection in a situation of unemployment, since the majority of them find their occupation in part-time and intermittent jobs, which are often faced with a situation of sudden termination of their work due to the resignation of their employers and with a special termination regime that allows arbitrary and untimely dismissals, without any objective justification. In this context of special vulnerability, the provision of unemployment is, from the perspective of social justice, an inescapable necessity."*

Royal Decree-Law 16/2022 of 6 September established that the working and social security conditions of domestic workers are the same as those of other employees and that domestic workers are therefore entitled to protection in the event of illness, parenthood, occupational diseases, invalidity, old age and death, and unemployment. The Spanish legislator, through the Royal Decree, created transitional provisions<sup>83</sup> to allow contributions to unemployment and the Wage Guarantee Fund in the Special System for Domestic Workers, established in the General Social Security System, until 31 December

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<sup>83</sup> It has been determined that the contribution bases for the unemployment contingency and for determining contributions to the Wage Guarantee Fund in this special system will be those corresponding to contingencies for accidents at work and occupational diseases, as established in article 19.3 of the recast text of the General Social Security Law, approved by Royal Legislative Decree 8/2015, of 30 October, and their determination, between 1 October and 31 December 2022, will be in accordance with the provisions of article 106. Four.1 of Law 22/2021, of 28 December, on General State Budgets for the year 2022. The contribution rates applicable for the unemployment contingency and to determine contributions to the Wage Guarantee Fund in this special system, between 1 October and 31 December 2022, will be as follows: a) The unemployment contribution rate will be 6.05%, of which 5% will be borne by the employer and 1.05% by the employee. b) The contribution rate for the Wage Guarantee Fund will be 0.2% borne exclusively by the employer.

2022 and made contributions to the unemployment contingency and the Wage Guarantee Fund compulsory from 1 October 2022 for workers included in the Special System for Domestic Workers, established in the General Social Security System.

In 2023, the aforementioned Royal Decree 16/2022 provided for contributions to be levied on the monthly salaries of domestic workers at the rates shown in the table below.

**Table 4. Incidence of contributions on the monthly earnings of domestic workers in Spain, 2023**

Section	Monthly salary Euros/month				Contribution base Euros/month
1.º	Until	269,00			250,00
2.º	Since	269,01	Until	418,00	357,00
3.º	Since	418,01	Until	568,00	493,00
4.º	Since	568,01	Until	718,00	643,00
5.º	Since	718,01	Until	869,00	794,00
6.º	Since	869,01	Until	1.017,00	943,00
7.º	Since	1.017,01	Until	1.166,669	1.166
8.º	Since	1.166,67			Monthly salary

Source: Real Decreto-ley 16/2022, de 6 de septiembre, para la mejora de las condiciones de trabajo y de Seguridad Social de las personas trabajadoras al servicio del hogar. Available at: BOE-A-2022-14680 Real Decreto-ley 16/2022, de 6 de septiembre, para la mejora de las condiciones de trabajo y de Seguridad Social de las personas trabajadoras al servicio del hogar.

# Chapter 4

## The economic and social reality of paid domestic work



# Chapter 4. The economic and social reality of paid domestic work

## 4.1. Domestic work in the international context

The recent estimates presented by the ILO on domestic work cover "domestic workers", as established in the definition agreed by the 20th International Conference of Labour Statisticians (CIET), adopted in 2018, to be in line with the definition of Convention No. 189.

Thus, the estimates include domestic workers employed directly by a household or households, and employed through or by a service provider; as well as domestic workers who provide direct and indirect care services. The estimates do not include domestic workers under the age of 15 (ILO, 2021).

It is estimated that 75.6 million people aged 15 and over work in the domestic sector worldwide, representing around 2.3% of total employment and around 4.5% of salaried employment. Women continue to be the majority in the sector (76.2%), corresponding to 4.5% of female employment worldwide or 8.8% of employed women.

It should be noted that of the 75.6 million domestic workers, 61.4 million are in informal employment (81.2%), with the proportion of informal employment in the sector being double the percentage of informal employment of other employees.

At EU, according to data from the European Commission, there are around 8 million people in the personal and domestic services sector in the EU-28<sup>84</sup>. According to the ILO's current estimates for Northern, Southern and Western Europe (2021), 2.4 million people are employed directly by households.

**Table 5. Number of domestic workers in Northern, Southern and Western Europe (hired directly by households)**

In thousands			% of total employment			% of employees		
Total	Women	Men	Total	Women	Men	Total	Women	Men
2 356	2 101	255	1,1	2,2	0,2	1,3	2,5	0,2

Source: ILO (2021).

It should be noted that in this European region, (i) women account for 89.2% of total domestic employment, (ii) migrants account for 54.6% of domestic work and (iii) informal work accounts for 35.3% of domestic work.

<sup>84</sup> Source: <https://www.cedefop.europa.eu/en/data-insights/personal-service-workers-skills-opportunities-and-challenges-2023-update>.

The COVID-19 pandemic has had a major impact on domestic service employment, with a reduction in employment, the level of service provision and income. Between the fourth quarter of 2019 and the second quarter of 2020, the number of domestic workers fell by 15% in the UK and 13% in Portugal. There was also a strong impact on working hours, which fell by 47% in the UK and Portugal and by 21% in Italy.

In the context of estimates of the importance of domestic work, the data presented by the ILO for Portugal in 2008, of 175,500 domestic workers, 173,400 in the case of women and 2,000 in the case of men, is very relevant. According to these estimates, employment in domestic work accounts for 3.4% of the total, 7.2% for women and 0.1% for men.

They are shown in Table 6 the ILO estimates for some European countries, including Portugal.

**Table 6. Importance of domestic work in some European countries**

Countries	Year	Domestic employment			Domestic employment in total (%)		
		MW	W	M	MW	W	M
Portugal	2008	175 500	173 400	2 000	3,4	7,2	0,1
Spain	2010	747 000	683 500	63 500	4,0	8,4	0,6
France	2009	589 900	500 600	89 300	2,3	4,1	0,7
United Kingdom	2010	667 000	606 300	60 700	0,5	0,9	0,1
Italy	2008	419 400	370 200	49 300	1,8	4,0	0,4
Belgium	2008	42 100	38 500	3 500	0,9	1,9	0,1
Germany	2009	203 000	191 000	12 000	0,5	1,1	0,1
Switzerland	2009	69 000	59 000	10 000	1,5	2,8	0,4
Greece	2009	88 500	85 300	3 300	2,0	4,8	0,1
Finland	2008	8 200	4 200	4 000	0,3	0,3	0,3
Norway	2008	2 000	1 000	1 000	0,1	0,1	0,1
Denmark	2007	3 900	3 600	300	0,1	0,3	0,1
The Netherlands	2008	6 000	5 000	-	0,1	0,2	<0,1

Source: ILO (2013).

Note: MW - Men and women; W - Women; M - Men.

Based on the most recent information from the ILO (2021) from 2018, there are 109,000 domestic workers in Portugal, or around 2.2% of total employment. In comparative terms, the situation in some European countries, in terms of thousands of domestic workers and their percentage of employment, is as follows: Spain 615 thousand people and 3.3%; France 370 thousand people and 1.4%; Italy 763 thousand people and 3.3%; Germany 218 thousand people and 0.5% and Switzerland with 50 thousand people and 1.1%.

## 4.2. Domestic work in Portugal

### 4.2.1 Domestic work and social security registration

In Portugal, according to 2022 Social Security data available on PORDATA, the number of entities and individuals with paid Social Security contributions is around 540,000 in domestic work (see Table 7).

It should be noted that in that year there were 475,000 domestic service employers with Social Security pay declarations and only around 63,000 individuals with paid contributions.

Compared to 2001, there are now 14.4% fewer domestic service organisations and individuals with declarations paid to Social Security, i.e. a total decrease of around 91,000. It should be noted that between 2001 and 2022, the number of organisations hardly changed (an increase of 0.6%, corresponding to 1,900 fewer organisations), while the number of individuals fell significantly (a decrease of 58.9%, corresponding to 102,700 fewer individuals).

**Table 7. Employers and individuals in domestic service with remuneration declarations to Social Security**

Years	Total: Entities and Individuals	Annual Variation	Employers	Annual variation	Individuals with paid contributions	Annual variation
	NO.	(%)	NO.	(%)	NO.	(%)
2001	629147	-	454558	-	174589	-
2002	631734	0,41	459283	1,04	172451	-1,22
2003	623436	-1,31	454106	-1,13	169330	-1,81
2004	610037	-2,15	452013	-0,46	158024	-6,68
2005	602942	-1,16	450837	-0,26	152105	-3,75
2006	590736	-2,02	450277	-0,12	140459	-7,66
2007	589538	-0,20	453715	0,76	135823	-3,30
2008	596641	1,20	455164	0,32	141477	4,16
2009	579831	-2,82	444179	-2,41	135652	-4,12
2010	563624	-2,80	435199	-2,02	128425	-5,33
2011	547944	-2,78	429363	-1,34	118581	-7,67
2012	522569	-4,63	417604	-2,74	104965	-11,48
2013	500581	-4,21	408072	-2,28	92509	-11,87
2014	491683	-1,78	406824	-0,31	84859	-8,27
2015	497582	1,20	415627	2,16	81955	-3,42
2016	498480	0,18	419181	0,86	79299	-3,24
2017	505208	1,35	427644	2,02	77564	-2,19
2018	510536	1,05	438633	2,57	71903	-7,30

Years	Total: Entities and Individuals	Annual Variation	Employers	Annual variation	Individuals with paid contributions	Annual variation
	NO.	(%)	NO.	(%)	NO.	(%)
2019	525118	2,86	453361	3,36	71757	-0,20
2020	520448	-0,89	452639	-0,16	67809	-5,50
2021	523413	0,57	457391	1,05	66022	-2,64
2022	538335	2,85	475221	3,90	63114	-4,40

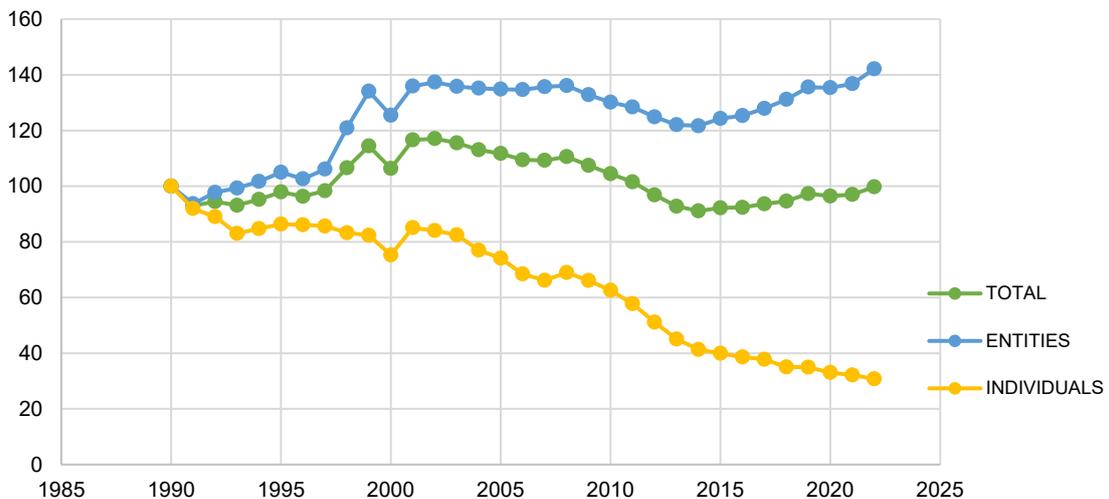
Source: PORDATA

Last updated: 2023-03-20

Data rectified by the responsible entity between 2020 and 2022 (20/03/2023)

It should be pointed out that, looking at the last 30 years, the trend in the number of domestic service organisations and individuals declaring their remuneration to the Social Security system has in fact been quite different, with a systematic decrease in the number of individuals declaring their remuneration to the Social Security system, especially since 2001, as can be seen in Graph 1.

**Graph 1. Employers and domestic workers declaring remuneration to Social Security between 1990 and 2022 (1990=100)**



Source: PORDATA

Last updated: 2023-03-20

Data rectified by the responsible entity between 2020 and 2022 (20/03/2023)

Thus, between 1990 and 2022, the number of domestic workers with Social Security declarations fell by 69%, from 205,000 to just 63,000. On the other hand, in the same period, the number of domestic service employers increased by 42%, from 334,000 to 475,000.

It therefore seems clear that domestic workers have given less and less importance to paying social security contributions on their own behalf, with employers taking on this responsibility, and that there may also have been an increase in undeclared work, although there is no data to verify this.

However, the situations that occurred with the pandemic, in which the absence of declared work made it impossible to receive aid and social support and, to a certain extent, the recent legislation on domestic work presented in the previous chapters have led to a movement towards greater awareness and the regularisation of less legal situations. In the first three months of the Decent Work Agenda coming into force, there was an increase of more than 194% compared to the same period last year in the number of domestic service registrations with Social Security<sup>85</sup>.

Analysing more detailed data provided by the ISS, I.P., in November 2023 for the Dignified Domestic Service project, it can be seen that, in line with international trends, the majority of domestic workers in Portugal are female (98.6% in 2010 and 98.2% in 2022).

**Table 8. Individuals with domestic service qualification, with declared contribution, by sex and reference year of remuneration**

Sex	Individuals with Declared Contributions (by Domestic Service)												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Female	126 666	116 975	103 491	91 209	83 625	80 703	77 974	76 263	70 742	70 589	66 690	64 952	63 022
Male	1 761	1 611	1 476	1 303	1 238	1 260	1 334	1 318	1 211	1 249	1 192	1 198	1 144
<b>Total</b>	<b>128 427</b>	<b>118 586</b>	<b>104 967</b>	<b>92 512</b>	<b>84 863</b>	<b>81 963</b>	<b>79 308</b>	<b>77 581</b>	<b>71 953</b>	<b>71 838</b>	<b>67 882</b>	<b>66 150</b>	<b>64 166</b>

Source: data provided to the project by Social Security, November 2023.

The vast majority of domestic workers are aged between 45 and 64 (62.7% of the total in 2010 and 74% in 2022). It should be noted that the proportion of younger domestic workers has decreased (in 2010, up to 34 years old: 11.7% of the total; in 2022, up to 34 years old: 5.5%), while the proportion of older domestic workers has increased (in 2010, aged 55 or over: 34.1% of the total; in 2022: 50.7%). Domestic workers aged 65 and over accounted for 3.6% of the total in 2010 and 7.5% in 2022, i.e. their weight has more than doubled. This certainly reflects a worsening of subsistence conditions and the intensity of poverty among older women, which leads them to maintain or seek to remain active in the labour market.

**Table 9. Natural persons with domestic service qualification, with declared contribution, by age group and reference year of remuneration**

Age group	Individuals with Declared Contributions (by Domestic Service)												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Up to 24 years old	2 136	1 714	1 319	1 015	867	736	719	580	390	417	424	489	400

<sup>85</sup> ISS, I.P. data available at <https://www.portugal.gov.pt/pt/gc23/comunicacao/noticia?i=registo-de-trabalhadores-domesticos-triplica-com-a-agenda-do-trabalho-digno>.

25 to 34 years old	12 830	10 925	8 758	7 137	6 138	5 473	5 110	4 766	3 940	3 819	3 404	3 292	3 099
35 to 44 years old	28 426	25 494	21 624	18 397	16 145	14 929	14 026	13 213	11 453	10 939	9 850	9 129	8 310
45 to 54 years old	41 191	39 249	35 948	32 207	29 869	28 391	27 414	26 607	24 298	24 008	22 091	20 971	19 818
55 to 64 years old	39 269	37 186	33 861	30 631	28 091	27 510	27 167	27 429	26 952	27 757	27 362	27 536	27 696
65 and over	4 575	4 018	3 457	3 125	3 753	4 924	4 872	4 986	4 920	4 898	4 751	4 733	4 843
<b>Total</b>	<b>128 427</b>	<b>118 586</b>	<b>104 967</b>	<b>92 512</b>	<b>84 863</b>	<b>81 963</b>	<b>79 308</b>	<b>77 581</b>	<b>71 953</b>	<b>71 838</b>	<b>67 882</b>	<b>66 150</b>	<b>64 166</b>

Source: data provided to the project by Social Security, November 2023.

The following table shows the number of national and foreign domestic workers. In recent years, the weight of immigrants in the total number of domestic workers has doubled (8.4% in 2010 and 17% in 2022). On the other hand, there is also a greater concentration in the higher age brackets and a lower concentration in the lower brackets, especially in the case of national domestic workers. In fact, national domestic workers aged 55 and over accounted for 36.1% of the total in 2010 and 55.4% in 2022, while domestic workers of other nationalities accounted for 10.6% in 2010 and 23% in 2022.

At the same time, in the case of domestic workers up to the age of 34, there is a higher percentage among domestic workers of other nationalities, since in this age group nationals accounted for 9.7% of the total in 2010 and 2.7% in 2022, while domestic workers of other nationalities up to the age of 34 accounted for 34.6% in 2010 and 21.7% in 2020.

**Table 10. Natural persons with domestic service qualification, with declared contribution, by nationality and reference year of remuneration**

Nationality	Age group	Individuals with Declared Contributions (by Domestic Service)												
		2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Portugal	Up to 24 years old	1 472	1 197	975	789	670	504	428	302	165	154	136	130	96
	25 to 34 years old	10 046	8 641	7 137	5 931	5 073	4 366	3 817	3 282	2 497	2 162	1 770	1 575	1 383
	35 to 44 years old	25 542	22 943	19 547	16 758	14 658	13 397	12 308	11 246	9 468	8 569	7 427	6 629	5 783
	45 to 54 years old	38 605	36 887	33 928	30 557	28 341	26 811	25 705	24 711	22 337	21 674	19 758	18 550	17 183
	55 to 64 years old	38 274	36 136	32 819	29 684	27 176	26 521	26 069	26 175	25 653	26 155	25 695	25 809	25 855
	65 and over	4 509	3 944	3 378	3 025	3 642	4 788	4 730	4 820	4 738	4 672	4 508	4 456	4 540
	<b>Total</b>	<b>118 448</b>	<b>109 748</b>	<b>97 784</b>	<b>86 744</b>	<b>79 560</b>	<b>76 387</b>	<b>73 057</b>	<b>70 536</b>	<b>64 858</b>	<b>63 386</b>	<b>59 294</b>	<b>57 149</b>	<b>54 840</b>
Other countries	Up to 24 years old	664	517	344	226	197	232	291	278	225	263	288	359	304
	25 to 34 years old	2 784	2 284	1 621	1 206	1 064	1 107	1 292	1 484	1 443	1 657	1 634	1 717	1 716
	35 to 44 years old	2 884	2 551	2 076	1 639	1 487	1 531	1 717	1 966	1 984	2 369	2 422	2 499	2 526

Nationality	Age group	Individuals with Declared Contributions (by Domestic Service)												
		2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
	45 to 54 years old	2 586	2 362	2 020	1 650	1 527	1 579	1 709	1 896	1 961	2 334	2 333	2 421	2 635
	55 to 64 years old	995	1 050	1 042	947	915	989	1 098	1 254	1 299	1 602	1 667	1 727	1 841
	65 and over	66	74	79	100	111	136	142	166	182	226	243	277	303
	<b>Total</b>	<b>9 979</b>	<b>8 838</b>	<b>7 182</b>	<b>5 768</b>	<b>5 301</b>	<b>5 574</b>	<b>6 249</b>	<b>7 044</b>	<b>7 094</b>	<b>8 451</b>	<b>8 587</b>	<b>9 000</b>	<b>9 325</b>

Source: data provided to the project by Social Security, November 2023.

Social security contributions totalled 22.5 billion euros in 2022, while domestic service contributions totalled 23.1 million euros, or around 0.1% of the total.

**Table 11. Annual evolution of declared social security contributions, domestic service and total (values in Euros)**

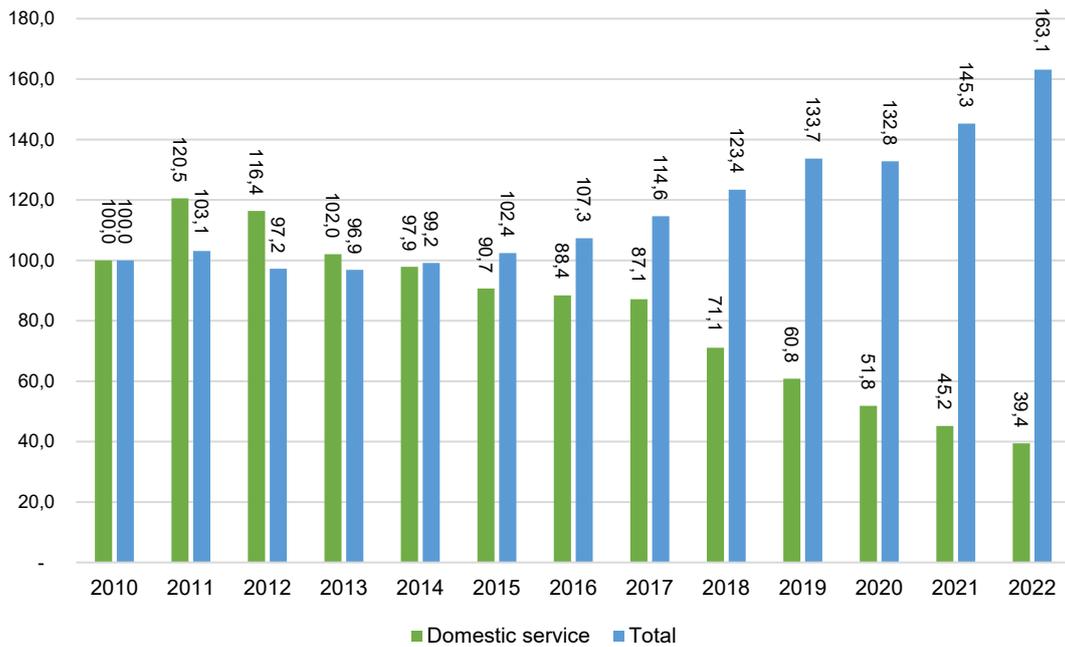
Year	Domestic Service	Total
2010	58 580 444	13 821 233 219
2011	70 603 739	14 250 422 218
2012	68 178 917	13 438 785 693
2013	59 763 680	13 387 927 166
2014	57 321 020	13 705 757 104
2015	53 111 888	14 157 268 748
2016	51 798 212	14 836 941 714
2017	51 038 756	15 842 984 154
2018	41 644 055	17 055 256 036
2019	35 635 407	18 476 136 314
2020	30 359 742	18 350 842 537
2021	26 467 247	20 077 364 030
2022	23 098 062	22 546 716 875

Source: data provided to the project by Social Security, November 2023.

It should be noted that between 2010 and 2022, the evolution of total contributions and domestic service contributions was quite different: while the former increased during this period by 63% (from 13.8 to 23.1 billion euros), domestic service contributions fell by 61% (from 58.6 to 23.1 million euros).

The following graph shows a comparison of the evolution from 2010 to 2022, taking 2010=100 as the base year. In recent years there has been a growing increase in the differences between total contributions and domestic service contributions.

**Graph 2. Annual evolution of declared Social Security contributions, domestic service and total (2010=100)**



Source: data provided to the project by Social Security, November 2023.

According to the Social Security data made available to the project, the average monthly discount for domestic service was €89.58 in 2022, i.e. around 23.4% of the respective value for the total contributions of all workers, which was €382.33.

The following table also shows the respective average monthly deductions for domestic service and for all workers, for the years 2012 and 2017. It should be noted that the average per capita discount for domestic workers was only around 23% of the *per capita* discount for workers in general (90 euros compared to 382 euros *per month*).

**Table 12. Average discount value (per capita), domestic service and total number of workers**

Type of Qualification	(*) AVERAGE_CTR_VALUE (in €)		
	2012	2017	2022
1. TOTAL	302,41	321,79	382,33
2. Domestic service	71,68	76,16	89,58
3. = (2/1x100) =Domestic service in total %	23,7%	23,7%	23,4%

Source: data provided to the project by Social Security, November 2023.

Note: (\*) VAL\_CTR\_MEDIA = Average monthly value for the year of total contributions (in €)

Analysing the number of domestic workers by pay scale shows that, in 2022, the vast majority of domestic workers earned 460 euros or less (74.1%) and a very small number earned more than 760 euros (3.2% of the total).

**Table 13. Number of domestic workers with declared contribution, by monthly earnings bracket and year**

Year	Monthly pay scale						Total
	<=460€	]460€, 610€]	]610€, 760€]	]760€, 910€]	]910€, 1060€]	>1060€	
2012	109 415	2 982	264	97	55	32	112 845
2017	78 618	4 329	733	200	102	168	84 150
2022	52 623	11 553	4 619	1 381	341	540	71 057

Source: data provided to the project by Social Security, November 2023

For the various districts, the situation is very similar and the weight of domestic workers earning 460 euros or less in 2022 varies from 83% in Castelo Branco to 62.6% in Viseu, with 79% of the total in Lisbon, 78.1% in Setúbal, 69.3% in Aveiro, 65.5% in Braga and 73.9% in Porto.

**Table 14. Number of domestic workers with declared contribution, by monthly earnings bracket district of residence and year**

District of residence	2012		2017		2022	
	<=460€	Total	<=460€	Total	<=460€	Total
Aveiro	5 170	<b>5 341</b>	3 709	<b>4 028</b>	2 297	<b>3 315</b>
Beja	1 038	<b>1 089</b>	680	<b>753</b>	385	<b>572</b>
Braga	6 820	<b>7 264</b>	4 956	<b>5 642</b>	3 383	<b>5 163</b>
Bragança	617	<b>650</b>	412	<b>467</b>	250	<b>384</b>
Castelo Branco	1 622	<b>1 694</b>	993	<b>1 088</b>	659	<b>794</b>
Coimbra	4 455	<b>4 557</b>	3 138	<b>3 316</b>	1 980	<b>2 706</b>
Evora	1 866	<b>1 948</b>	1 258	<b>1 376</b>	740	<b>1 062</b>
Faro	3 006	<b>3 275</b>	2 000	<b>2 401</b>	1 202	<b>1 802</b>
Guard	724	<b>794</b>	471	<b>562</b>	304	<b>436</b>
Leiria	2 528	<b>2 664</b>	1 791	<b>1 972</b>	1 109	<b>1 580</b>
Lisbon	34 848	<b>35 514</b>	25 668	<b>26 710</b>	17 833	<b>22 565</b>
Portalegre	1 293	<b>1 331</b>	852	<b>922</b>	466	<b>681</b>
Porto	18 285	<b>18 838</b>	13 061	<b>14 113</b>	9 161	<b>12 384</b>
Santarém	3 826	<b>4 003</b>	2 497	<b>2 739</b>	1 301	<b>1 980</b>
Setúbal	9 086	<b>9 264</b>	6 321	<b>6 635</b>	4 243	<b>5 432</b>
Viana do Castelo	2 494	<b>2 571</b>	1 778	<b>1 908</b>	1 371	<b>1 781</b>
Vila Real	1 547	<b>1 610</b>	1 064	<b>1 154</b>	748	<b>962</b>
Viseu	3 252	<b>3 369</b>	2 353	<b>2 519</b>	1 306	<b>2 085</b>
RA Madeira	2 653	<b>2 673</b>	2 006	<b>2 063</b>	1 383	<b>1 887</b>
RA Azores	4 285	<b>4 396</b>	3 610	<b>3 782</b>	2 502	<b>3 486</b>
<b>Total</b>	<b>109 415</b>	<b>112 845</b>	<b>78 618</b>	<b>84 150</b>	<b>52 623</b>	<b>71 057</b>

Source: data provided to the project by Social Security, November 2023

The breakdown of domestic workers by type of pay - daily, hourly and monthly - is shown in the following table.

**Table 15. Number of domestic workers with declared contribution, by type of remuneration and year**

Time Unit:	2012		2017		2022	
	NO.	%	NO.	%	NO.	%
Daily	7 111	6,3	5 945	7,1	6 335	8,9
Hours	74 917	66,4	54 299	64,5	44 149	62,1
Monthly	30 791	27,3	23 906	28,4	20 573	29,0
Total	112 819	100,0	84 150	100,0	71 057	100,0

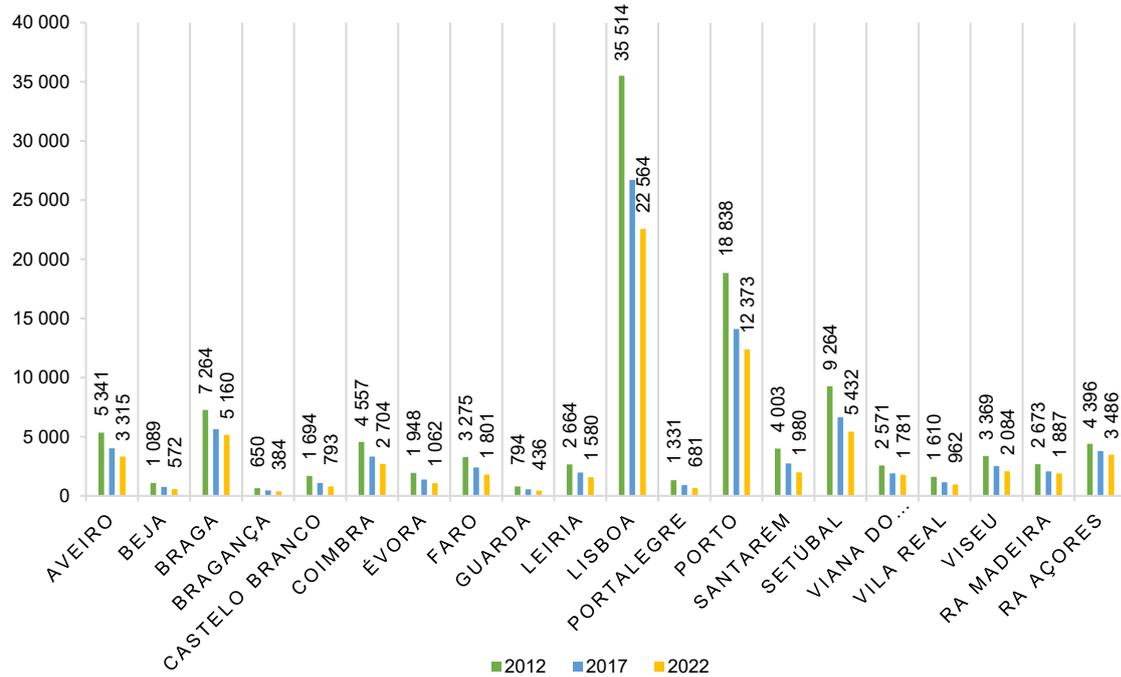
Source: data provided to the project by Social Security, November 2023

In 2022, domestic workers paid by the hour accounted for 62% of the total; those paid by the month 29% and those paid by the day around 9% of the total. It should be noted that these proportions have remained similar over the last decade.

Finally, it should be noted that the number of domestic workers - with a declared contribution - evolved as follows: between 2012 and 2017, they fell by around 28,700, i.e. by 25% (from 113,000 to 84,000); between 2017 and 2022, they fell by 13,100, i.e. by 16% (from 84,000 to 71,000). Thus, over the 10-year period (between 2012 and 2022), the drop in the number of domestic workers with a declared contribution was around 42,000, i.e. 37% less (from 113,000 to just 71,000).

The distribution of domestic workers with a declared contribution by district for the years 2012, 2017 and 2022 shows that for the years 2012 and 2022 there is a general drop in the number of workers in all districts. On the other hand, you can also see the concentration of domestic service in the most important districts (in 2022: Lisbon with 32%, Porto with 17%, Setúbal with 8% and Braga with 7%). Together these four districts concentrated 64%, i.e. almost two thirds of domestic workers, which is the same percentage as 10 years earlier, in 2012 (63% instead of 64%).

**Graph 3. Number of domestic workers with declared contribution, by district**



Source: data provided to the project by Social Security, November 2023

Finally, the following table shows the distribution of the number of domestic workers with a declared contribution, with and without protection in the event of unemployment, by district of residence and year.

**Table 16. Number of domestic workers with declared contribution, with and without protection in the event of unemployment, by district of residence and year**

District	2012	2017		2022	
		10 - 000 - Domestic staff without protection in the event of unemployment	10 - 999 - Domestic staff with protection in the event of unemployment	10 - 000 - Domestic staff without protection in the event of unemployment	10 - 999 - Domestic staff with protection in the event of unemployment
Aveiro	5 341	3 691	337	2 871	444
Beja	1 089	674	79	487	85
Braga	7 264	4 915	724	4 313	847
Bragança	650	402	65	300	84
Castelo Branco	1 694	986	102	709	84
Coimbra	4 557	3 114	201	2 464	240
Evora	1 948	1 255	121	920	142
Faro	3 275	1 962	438	1 395	406
Guarda	794	465	97	347	89
Leiria	2 664	1 778	194	1 379	201
Lisbon	35 514	25 608	1 102	21 054	1 510
Portalegre	1 331	851	71	618	63

District	2012	2017		2022	
		10 - 000 - Domestic staff without protection in the event of unemployment	10 - 999 - Domestic staff with protection in the event of unemployment	10 - 000 - Domestic staff without protection in the event of unemployment	10 - 999 - Domestic staff with protection in the event of unemployment
Porto	18 838	13 000	1 101	10 962	1 411
Santarém	4 003	2 482	257	1 734	246
Setúbal	9 264	6 302	333	4 982	450
Viana do Castelo	2 571	1 773	135	1 598	183
Vila Real	1 610	1 061	93	865	97
Viseu	3 369	2 343	175	1 831	253
RA Madeira	2 673	2 000	63	1 770	117
RA Azores	4 396	3 599	183	3 217	269
<b>Total</b>	<b>112 845</b>	<b>78 261</b>	<b>5 871</b>	<b>63 816</b>	<b>7 221</b>

Source: data provided to the project by Social Security, November 2023

In general terms, unemployment protection has increased, as between 2017 and 2022 the number of domestic workers with unemployment protection increased from 7% in 2017 to 10% in 2022.

#### 4.2.2 Domestic work in national employment

Based on INE's national accounts, it can be seen that employment (full-time equivalent) in "activities employing domestic staff and activities involving the production of goods and services by households for their own use"<sup>86</sup> reached 76,000 people (full-time equivalent) in 2020, representing around 1.6% of total employment.

The figures between 1995 and 2020, the annual percentage changes and the share of employment in this sector in total employment are shown in Table 17.

**Table 17. Total employment by industry**

<sup>86</sup> According to INE's Portuguese Classification of Economic Activities (Ver. 3 of 2007) this sector is included in "Other service activities" and "comprises the activities of domestic servants as workers for households and the production of personal goods and services for the households' own use"

Years	Line of business		Annual variation in %	% of total employment
	Total (thousands)	Activities of households employing domestic staff. Activities of households producing goods and services for their own use (in thousands)		
1995	4 316,26	81,90	-	1,9
1996	4 389,52	86,77	5,9	2,0
1997	4 510,60	91,59	5,6	2,0
1998	4 664,46	87,50	-4,5	1,9
1999	4 739,59	87,81	0,4	1,9
2000	4 864,10	86,83	-1,1	1,8
2001	4 924,83	86,80	-0,0	1,8
2002	4 943,37	88,79	2,3	1,8
2003	4 880,17	88,59	-0,2	1,8
2004	4 846,15	86,41	-2,5	1,8
2005	4 828,36	89,43	3,5	1,9
2006	4 829,77	88,27	-1,3	1,8
2007	4 825,19	95,29	8,0	2,0
2008	4 836,65	98,23	3,1	2,0
2009	4 698,47	98,90	0,7	2,1
2010	4 644,62	96,71	-2,2	2,1
2011	4 527,73	92,30	-4,6	2,0
2012	4 285,75	88,97	-3,6	2,1
2013	4 178,88	87,46	-1,7	2,1
2014	4 246,75	87,22	-0,3	2,1
2015	4 327,57	83,96	-3,7	1,9
2016	4 426,86	82,74	-1,5	1,9
2017	4 579,16	79,01	-4,5	1,7
2018	4 720,44	78,94	-0,1	1,7
2019	4 807,47	81,04	2,7	1,7
2020	4 701,37	76,26	-5,9	1,6

Source: PORDATA

Data Sources: INE - Annual National Accounts (Base 2016)

Last updated: 2022-09-26

Notes: Full-time employment

Full-time equivalent (FTE) - Thousands

Employment: total and by branch of activity, full-time equivalent (base=2016)

According to the data available from the 2011 Census, total employment in the activities of households employing domestic workers amounts to around 82,000 people, of whom around 58,000, or 70.9% of the total, are employees.

It should be noted that a comparison of the 2001, 2011 and 2021 Censuses, in terms of the number of people in the activities of households employing domestic staff, also shows a sharp drop (28% less in 2011 than in 2001 and 23% less in 2021 than in 2011).

**Table 18. Population employed in activities of households employing domestic staff and production activities of households for their own use**

		Annual variation (%)
2001 Census	113 000	-
2011 Census	81 585	-27,8
Census 2021	62 793	-23,0

Source: INE, 2001, 2011 and 2021 Censuses

It should be noted that women account for 98.5% of the total in this industry.

With regard to working hours, 38% of domestic workers work less than 20 hours a week. This significantly penalises the income of domestic workers, since income is proportional to working hours.

**Table 19. Employed population in the "activities of households employing domestic staff" branch and hours worked in the reference week**

Weekly hours	Total		Bosses		TPCO		% of TPCOs by weekly hours
	MW	M	MW	M	MW	M	
1-4 hours	3491	37	86	2	2114	18	4,3
5-14 hours	9478	86	222	3	6575	65	11,6
15-19 hours	18302	69	180	3	13114	44	22,4
20-34 hours	6556	59	83	4	4478	38	8,0
35-39 hours	8266	168	138	4	6167	144	10,1
40-44 hours	23443	550	353	19	18894	474	28,7
45 or more	12046	229	289	11	6504	174	14,8
<b>Total</b>	<b>81582</b>	<b>1198</b>	<b>1351</b>	<b>46</b>	<b>57846</b>	<b>957</b>	<b>100</b>

Source: INE, Census 2011, Definitive Results Portugal

Note: TPCO - Employees

Since there are some domestic workers who have provided or are providing, simultaneously or in rotation, services in industrial cleaning, it will be of some interest to know that, according to the 2011 Census, employment in cleaning totalled 85,000 people, of which around 69,600, or 81.7% of the total, are employees. It should be noted that women account for 90% of the total in the cleaning sector.

**Table 20. Employment in cleaning activities**

Total		Bosses		TPCO	
MW	M	MW	M	MW	M
85192	8438	3121	890	69586	6923

Source: INE, Census 2011, Results

Note: MW - Men and women; M - Men; TPCO - Employees

### 4.2.3 Income of domestic workers

In general, it can be said that domestic workers are covered by the SMN, and that this remuneration has increased significantly over the last few years.

**Table 21. Nominal and real national minimum wage between 2015 and 2024 (2015=100)**

Years	National minimum wage		Inflation (%)	Real national minimum wage (€)	Δ Purchasing Power (%)	Real Salary Annual (€)
	€	Annual increase (%)				
2015	505	2,9 *	0,5	505	-	7070
2016	530	5,0	0,6	527	4,4	7383
2017	557	5,1	1,4	551	4,5	7713
2018	580	4,1	1	566	2,7	7922
2019	600	3,4	0,3	580	2,4	8116
2020	635	5,8	0	612	5,5	8565
2021	665	4,7	1,3	641	4,7	8969
2022	705	6,0	7,8	671	4,7	9391
2023	760	7,8	5,4	673	0,4	9424
2024	820	7,9	3,6	693	3,0	9704

Source: Pordata (2015-2022) and Banco de Portugal (2023 and 2024)

Note: \* The NMW in 2014 was 490.7 € (485 from January to October and 505 from October to December).

In fact, between 2015 and 2024, the NMW increased by 62.4% in nominal terms (from 505 to 820 euros). As of January 2024, the net NMW is 729.8 euros, minus the 11% Social Security payment.

In real terms, between 2015 and January 2024, the increase was 37.2%, from 505 to 693 euros (at constant 2015 prices). This means that, at current prices, the hourly wage of a domestic worker went from 3.09 euros in 2015 to 5.02 euros in 2024, or more precisely, to 5.52 euros, taking into account that working hours have been reduced from 44 to 40 hours a week, as mentioned in chapter 2.

In that period, in legal terms, the hourly wage increased by 78.6% in nominal terms, which, considering inflation of around 20%, would have translated into a real appreciation of around 48%. In other words, if domestic service had been paid under the legal terms - compliance with the national minimum wage

and the 40-hour working week instead of 44 hours - there would have been an increase in real wages of around 48%.

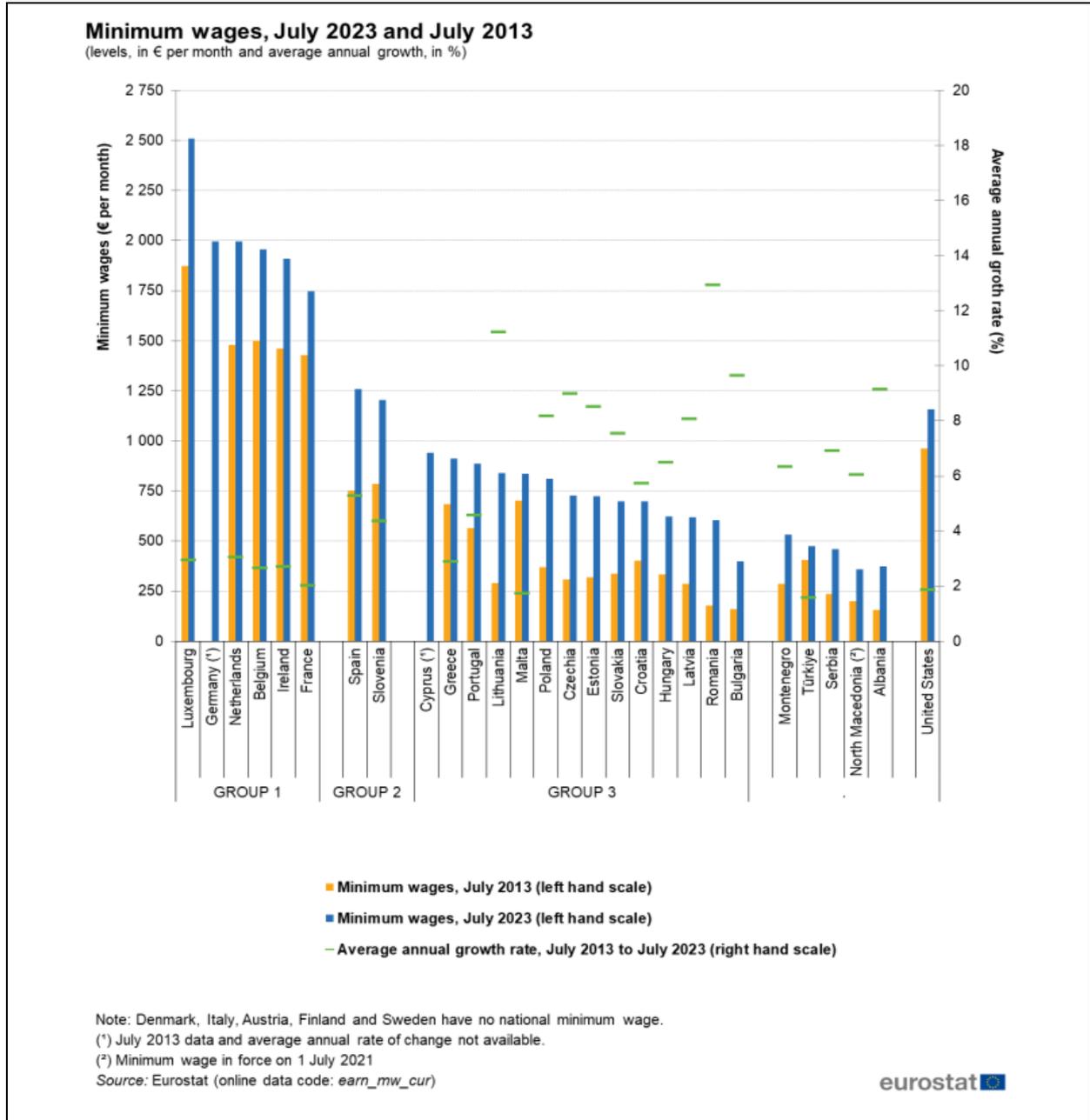
Unfortunately, there is no data or means available to confirm this reality and given the volume of undeclared work, the failure to comply with labour legislation and the imbalance in the employment relationship between the contractor (household) and the hired person (domestic worker), it is suspected that this improvement in income from domestic work is a long way off. The aforementioned importance of monitoring activities by ACT and compliance with social security rules is clear, and there is a need to find appropriate methodologies to monitor and enforce compliance with legal rules and to report periodically on the actions taken and the results obtained.

Considering this very positive evolution in the value of the WNM, it should be noted that Portugal's relative position is still well behind some European countries, such as Germany, France and Spain.

Shown in Graph 4 shows a comparison of national minimum wages in 2013 and 2023 (with the average annual variation over this period).

Portugal ranks 11th in terms of the value of the minimum wage and 15th in terms of the average annual increase over that period, of around 5% per year (ahead of countries such as Luxembourg, the Netherlands, Belgium, Ireland, France, Slovenia, Greece, Malta and Turkey). In July 2023, minimum wages in EU member states ranged from 399 euros per month in Bulgaria to 2,508 euros per month in Luxembourg.

**Graph 4. National minimum wages, July 2023 and July 2013 (levels, in € per month and average annual growth, in %)**



Source: Eurostat. Data available at: ([earn\\_mw\\_cur](#)).

Because of the importance of Social Security in domestic work, the following table shows Table 22 the payment of contributions depending on the pay declared (hourly, daily and monthly) by employers and domestic workers.

**Table 22. Payment of Social Security contributions**

Declared remuneration		Contribution rate		
		Employer	Labourer	Total
<b>Conventional</b>				
<b>2023</b>	Monthly 480,43 € IAS*	18,90%	9,40%	28,30%
	Hours 2,77 € (IASx12)/(52x40)			
	Day: 16,01 € IAS/30			
<b>2024</b>	510 IAS	18,90%	9,40%	28,30%
	2,94 € (IASx12)/(52x40)			
	Day: 17,00 € IAS/30			
<b>Real</b>				
The effective remuneration received is equal to or greater than the NMW at €760 in 2023 and €820 (2024)		22,30%	11%	33,30%
2023	Value equal to or greater than €760			
2024	Value equal to or greater than €820			

Source: Prepared from the Practical Guide of the Social Security Institute, February 2023

Note: \* IAS - Social Support Index

So, as of January 2024, according to the Social Security Guide, if the deduction is based on conventional pay (based on the IAS), for each hour worked the employer's contribution is €0.56 (rate of 18.9%) and the employee's is €0.28 (rate of 9.4%); for each working day the employer's contribution is €3.21 and the employee's is €1.60.

If the deduction is based on actual pay, the percentage for the employer is 22.30% and for the worker 11%; if the actual pay is equal to the SMN, the employer's contributions are €182.86 / month (€2,560.04 over the 14 months of the year) and the domestic worker's are €90.20 / month (€1262.80 over the year).

As is well known, in Portugal 11% of employees are poor. The proportion of women in this situation is higher, and given that domestic work is almost 100% female, the low wages and working hours are generally less than full-time (involuntary part-time work). In addition, there is the difficulty of having a significant amount of undeclared work in this sector of domestic services.

On the other hand, generalised poverty throughout the working lives of domestic workers will result in the formation of very low pensions and the deterioration of living conditions intensifies even more in old age, since at this stage of life there is absolutely no possibility of resorting to longer working hours to increase income.

Society has to find ways of generating incentives to significantly increase the proportion of declared work, through taxation or specific social transfers, in order to generate incentives to increasingly replace informal work with formal work.

Another important aspect has to do with the exposure to significant health risks and accidents at work to which domestic work is subject, and it is also important to intervene in these areas in order to dignify

domestic work. Adequate training and the professionalisation of domestic service - all the more so given that a large part of the sector is made up of immigrant labour - can also contribute to the dignification of domestic work.

#### 4.2.4 The importance of domestic work in Portugal

There is no information available on the volume of domestic work in Portugal, particularly in the case of domestic workers hired directly by households and domestic workers who serve households through the intermediation of companies or digital platforms.

Considering the weight of domestic employment in overall employment in some European countries<sup>87</sup> (ILO), the data on the activities of households employing domestic staff<sup>88</sup> (INE), the discount of organisations and individuals for Social Security<sup>89</sup> (ISS,I.P.), the proportion of undeclared work in total domestic employment<sup>90</sup> (ILO and EU), the growing trends towards the corporatisation of domestic work<sup>91</sup> (ILO and EU), which replaces the direct hiring of domestic workers by the household with intermediation through companies or platforms, and the downward trend in the proportion of domestic work with the higher degree of development of countries, Based on estimates for the proportion of domestic work in total employment (2.5%), the weight of domestic work hired directly by households (40%) and the weight of undeclared work (60%), it's not too risky to put forward an estimate of 150,000 domestic workers in Portugal (hired directly by households ).<sup>92</sup>

If these 150,000 were paid the minimum monthly wage of 820 euros, the annual income generated in the sector in 2024 would be in the region of 1.7 billion euros.

If we consider that the income earned by a member of the household that hires the domestic worker is four to five times higher than the domestic worker's income, this means that the additional income will be more than 7.7 billion euros a year, or around 3% of the wealth generated in the country.

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<sup>87</sup> - Around 1.1% of total employment in Northern, Southern and Western Europe as a whole; 3.4% in Portugal, 2.3% in Spain, 2.3% in France, 1.8% in Italy, 0.5% in Germany and 0.1% in Norway, Denmark and the Netherlands.

<sup>88</sup> - Around 76,000 in 2020 (National Accounts) and 62,800 in 2021 (2021 Census).

<sup>89</sup> - Around 475,000 organisations and 63,000 individuals in 2021 (Census 2021).

<sup>90</sup> - Around 81% worldwide and 35% in Europe.

<sup>91</sup> In Europe, around 70% of domestic service is provided through operators and only 30% is contracted directly by households (European Commission estimates).

<sup>92</sup> Excluding social security contributions paid by employers (around 350 million euros).

# Chapter 5

## Domestic workers in Portugal



## Chapter 5. Domestic workers in Portugal

### 5.1 Characterisation of employment and economic activity

After the more comprehensive analysis of national data on the economic and social reality of paid domestic work, we now analyse the main results of the direct consultation of domestic workers carried out as part of the project, using the questionnaire survey<sup>93</sup> and *focus groups* and collective and individual interviews.

It has already been mentioned that domestic work is often used by domestic workers as a complementary activity that they combine with other professions/paid work. In the sample 23% of domestic workers have another profession/paid work that they combine with domestic work, and of these 39.1% say it is a full-time job (they work between 35 and 44 hours a week), 43.4% work between 34 and 15 hours a week and 17.4% work less than 15 hours a week in this other activity.

The majority of the occupations/paid jobs they combine with domestic work are linked to the cleaning sector (80.9%), working for companies that clean hospitals, industrial plants or aircraft.

#### Graph 5. Other occupations/paid work carried out simultaneously by domestic workers

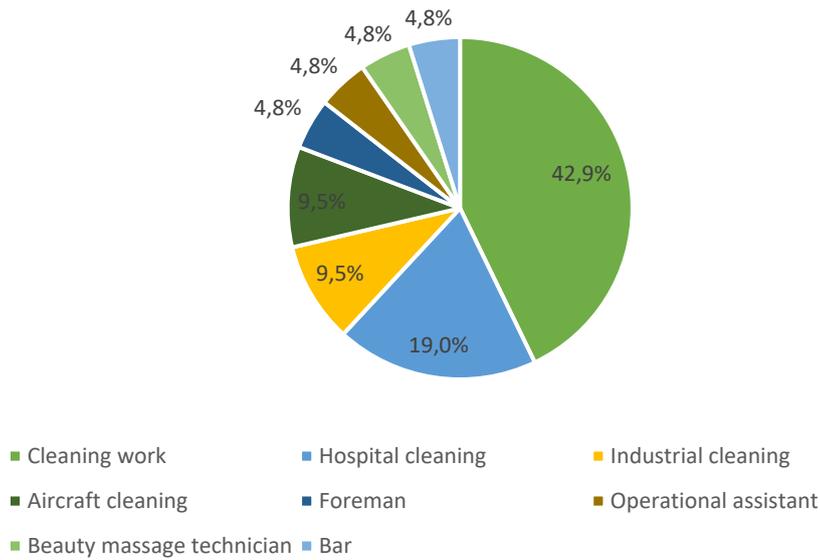
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<sup>93</sup> Characterisation of the sample: the domestic workers who responded to the survey are women and have an average age of 53: 25% are under 48 and 75% are under 59. Five mainland districts and the Autonomous Region of the Azores are represented in the sample: Lisbon accounts for 70% of the sample, Ponta Delgada 14%, Setúbal 7%, Porto 6%, Braga 25% and Aveiro 1%. The most represented municipalities are Lisbon (23%), Sintra (15%), Loures (12%), Ponta Delgada (10%), Amadora (9%), Oeiras (6%), Cascais (4%) and Matosinhos (3%). The remaining 18% are spread across 13 municipalities, each of which has only one or two domestic workers.

In terms of level of education, overall the domestic workers in the sample have a low level of education, with 41.8% having completed the 1st cycle, 20.4% the 2nd cycle and 25% the 3rd cycle, which means that 89% of the domestic workers who responded to the survey have only basic schooling. Around 10.2% have secondary education and 2% have no education at all.

The majority of domestic workers are married or in a civil partnership (57.6%), followed by those who are single (25.3%), separated or divorced (13.1%) and widowed (4%).

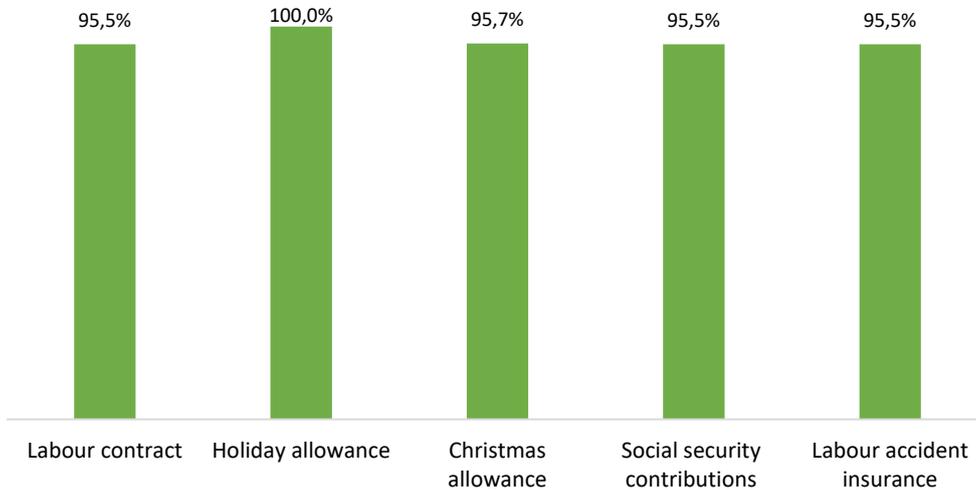
Immigrant employment accounts for 38.8% of the sample. The most represented foreign communities are Cape Verde with 52.8%, Angola with 13.9%, Brazil with 11.1%, Ukraine with 8.3% and São Tomé, Mozambique and Senegal with 2.8%. In the sample, practically all the emigrant domestic workers have their situation regularised (97%) and on average have lived in Portugal for 18 years. Those who were already working in their country of origin had a variety of occupations, but in most cases they were related to domestic service, such as cooks or maids.



Source: DDS Project, Survey of domestic workers, 2023

In these professions/paid jobs, practically all domestic workers have a written employment contract (95.5%), of which 87% have an open-ended contract.

**Graph 6. Rights that domestic workers have in other professions/paid work**



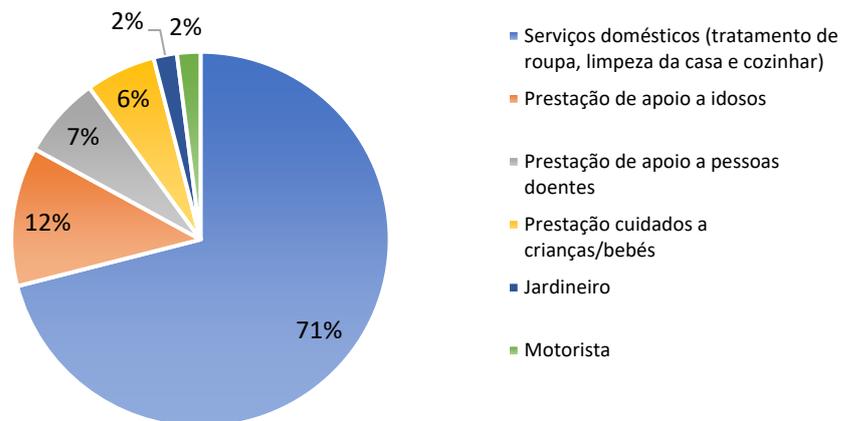
Source: DDS Project, Survey of domestic workers, 2023

All of them have holiday bonuses, 95.7% have Christmas bonuses and 95.5% pay social security contributions and have work accident insurance. It can be seen that in these cases there is professional stability and a guarantee of rights, so domestic work appears as a secondary activity that doesn't need to be formalised, as a way of supplementing the family budget.

## 5.2 Characterisation of domestic work

Analysing the domestic work carried out by the domestic workers who responded to the survey, it can be seen that domestic service, i.e. doing the laundry, cleaning the house and cooking are the most common jobs carried out, with 71% of the responses. This is followed by caring for the elderly with 12%, caring for sick people (7%), caring for children (6%) and gardening and chauffeuring (2%).

**Graph 7. Functions performed by domestic workers**

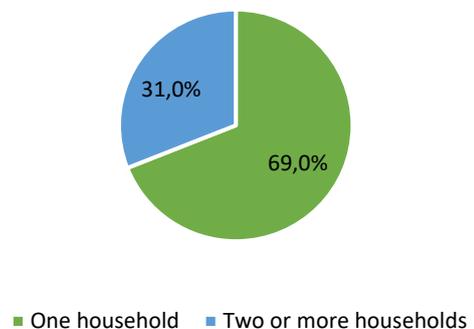


Source: DDS Project, Survey of domestic workers, 2023

The women surveyed indicated that the jobs that took up the most of their time were cleaning (65%), ironing (11%), cooking (9%), doing laundry (6%) and looking after children (2%).

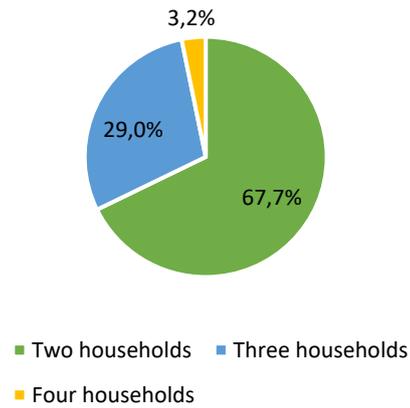
Domestic workers who reported working for just one household account for 69% of the sample and those who reported working for two or more households account for 31%, of which 67.7% work for two households, 29% for three households and 3.2% for four households.

**Graph 8. Households where domestic workers perform duties**



Source: DDS Project, Survey of domestic workers, 2023

**Graph 9. Number of households in which domestic workers work**



Source: DDS Project, Survey of domestic workers, 2023

The analysis will distinguish between domestic workers who only work for one household and domestic workers who work for more than one household. As has been explained throughout this study, the latter have more specific work situations and are therefore subject to greater levels of instability and lower levels of protection, as a result of limitations in the legislation (as seen in chapter 3, for example with regard to access to unemployment benefit and the payment of contributions) and the need to liaise with various employers who have different knowledge/conceptions about the rights of these workers.

With regard to the number of hours worked per week, 35.8% of domestic workers who work for just one household work between 35 and 44 hours per week, i.e. they work full time, followed by those who work less than 15 hours per week with 32.8%.

**Table 23. Number of hours worked per week by domestic workers working for one and more than one household**

Weekly hours	Working for a household		Working for more than one household	
	n	%	n	%
Less than 15h	22	32,8	6	20,7
Between 3pm and midnight	12	17,9	10	34,5
Between 25h-34h	8	11,9	4	13,8
Between 35h-44h	24	35,8	7	24,1
More than 45 hours	1	1,5	2	6,9
<b>Total</b>	<b>67</b>	<b>100,0</b>	<b>29</b>	<b>100,0</b>

Source: DDS Project, Survey of domestic workers, 2023

In turn, 34.5% of domestic workers who work for more than one household work between 15 and 24 hours a week, 24.1% between 35 and 44 hours a week, i.e. full-time, and 6.9% report working more than 45 hours a week<sup>94</sup>.

It was found that there is a relationship between the number of hours worked per week and the fact that the domestic worker is an immigrant, with immigrant domestic workers tending to work fewer hours than national domestic workers<sup>95</sup>, with 65.4% and 40% working less than 24 hours per week, respectively.

As far as weekly rest days are concerned, the situation is much the same for both those who work for just one household and those who work for more than one household, with the majority having their rest at the weekend, followed by Sunday only, thus being in line with the RCSD which, as mentioned above, stipulates that weekly rest should coincide with Sunday.

**Table 24. Weekly rest days of domestic workers working for one and more than one household**

Rest days	Working for a household		Working for more than one household	
	n	%	n	%
None	0	0,0	2	8,3
1 day on Sunday	13	19,7	4	16,7
1 day during the week (regardless of whether it's the weekend or not)	4	6,1	0	0,0
2 days at the weekend	42	63,6	16	66,7
2 days during the week (regardless of whether it's the weekend or not)	7	10,6	2	8,3
<b>Total</b>	<b>66</b>	<b>100,0</b>	<b>24</b>	<b>100,0</b>

Source: DDS Project, Survey of domestic workers, 2023

However, 8.3% of domestic workers who work for more than one household say they don't have any weekly rest days.

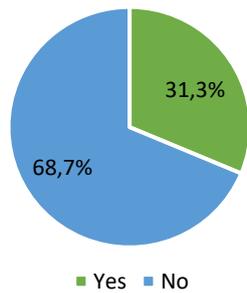
In both situations, the average number of days of holiday is 19 days per year, but in the case of domestic workers who only work for one household, 75.4% take 22 days of annual leave, while in the case of domestic workers who work for more than one household, this figure is 56.5%.

With regard to the existence of a written employment contract, 68.7% of domestic workers who only work in one household report not having a written employment contract, while the figure is 81% for domestic workers who work for more than one household.

**Graph 10. Written labour contract of domestic workers working for a household**

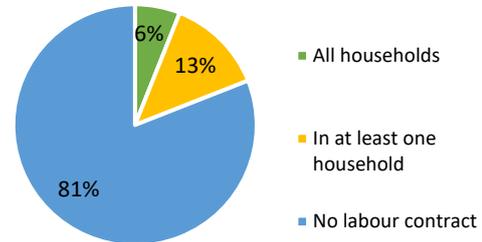
<sup>94</sup> It's important to note that 7.5% of domestic workers who work for just one household (five cases) are domestic workers, i.e. they live where they work. The majority say that they have set working hours and that food and accommodation costs are deducted from their salary.

<sup>95</sup> Cross-check carried out only for those working for a household.  $\chi^2(1, N = 66) = 4.06, p < 0.05$ ; V Cramer = 0.248



Source: DDS Project, Survey of domestic workers, 2023

Chart 11. Written labour contract of domestic workers working for more than one household



Source: DDS Project, Survey of domestic workers, 2023

Among those who work for more than one household, 13% have a written contract in at least one of the households they work for and 6% have one in all the households where they work.

Around 90% of domestic workers who work for one household with a written employment contract have an open-ended contract, while the majority of domestic workers who work for more than one household have fixed-term employment contracts.

The analysis showed that having a written labour contract is related to age and the fact that the domestic worker is an immigrant<sup>96</sup>. In the group of domestic workers who have a written employment contract, they tend to be younger and immigrant: 71.4% are aged 54 or under, while 28.6 are over 54; 66.6% are immigrants and 33.3% are not immigrants.

The most common reasons given by the domestic workers surveyed for not having an employment contract are the same whether they work for one or more households: not having been offered the possibility (43.5% and 36% respectively); having an oral agreement (23.9% and 28% respectively); the employer not wanting to draw up a written contract (19.6% and 28% respectively) and already having an employment contract with another entity (13% and 16% respectively).

Table 25. Reasons for not having a written labour contract of domestic workers working for one and more than one household

Reasons	Working for a household (N=46)		Working for more than one household (N=25)	
	n	%	n	%

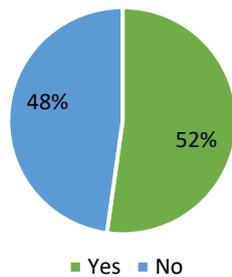
<sup>96</sup> Crosses made only for those working for a household. Contract x Age ( $\chi^2 (1, N = 67) = 5.235, p < 0.05$ ; V Cramer = 0.280) and Contract x Immigrant ( $\chi^2 (1, N = 66) = 9.595, p < 0.05$ ; V Cramer = 0.381).

The possibility of a written employment contract was not raised	20	43,5	9	36,0
The employer doesn't want to sign a written employment contract	9	19,6	7	28,0
I already have a written employment contract with another organisation	6	13,0	4	16,0
I don't see any advantage in having a written employment contract	1	2,2	3	12,0
Having a written employment contract is a process that involves a lot of bureaucracy	1	2,2	0	0,0
Everything was agreed orally, there was no need for a written labour contract	11	23,9	7	28,0

Source: DDS Project, Survey of domestic workers, 2023

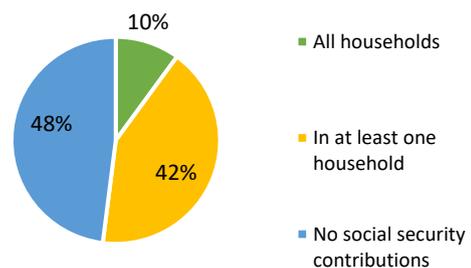
With regard to being registered and making social security contributions, in the sample, 48% of domestic workers who work for one or more households do not make social security contributions<sup>97</sup>.

**Graph 12. Social security enrolment of domestic workers working for a household**



Source: DDS Project, Survey of domestic workers, 2023

**Chart 13. Social security enrolment of domestic workers working for more than one household**



Source: DDS Project, Survey of domestic workers, 2023

<sup>97</sup> The variable Social Security enrolment for those working for a household was crossed with age and immigration status and it was concluded that there was no statistically significant relationship between these variables.

In the case of domestic workers who work for more than one household, 42% make social security contributions to at least one of the households where they work, while 10% say they do so for all of them.

Whether domestic workers work for one household or more than one household, in the vast majority of cases it is the employers who make the deductions and these are levied on the conventional remuneration.

Compared to the written employment contract, domestic workers favour registering with Social Security over having an employment contract, and this is more evident among those who work for more than one household: 52% are registered with Social Security, while only 19% have a written contract.

The main reason given by domestic workers for not being registered with Social Security is that their employers don't want to pay the contributions: 30.3% for those who work for one household and 60% for those who work for more than one household.

This is followed in both cases by the fact that the domestic workers were already making deductions for another employer, had not been offered this possibility, did not consider it advantageous to make this type of deduction and were unaware that they were entitled to be registered with Social Security.

**Table 26. Reasons for not being registered with Social Security for domestic workers working for one and more than one household**

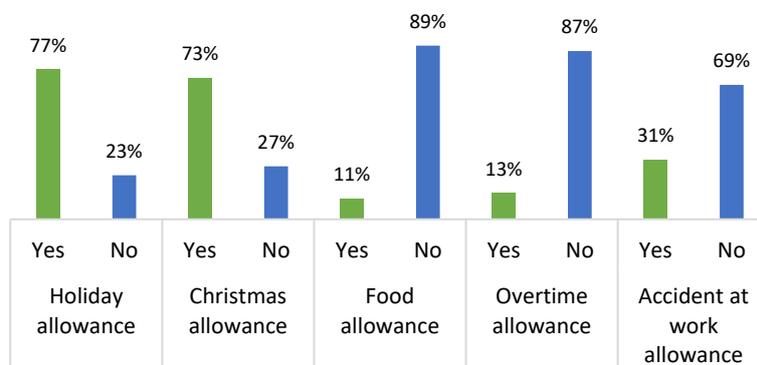
Reasons	Working for a household (N=33)		Working for more than one household (N=15)	
	n	%	n	%
The possibility of making social security contributions has not been raised	6	18,2	4	26,7
The employer doesn't want to ensure deductions	10	30,3	9	60,0
Long time/bureaucracy to register	0	0,0	0	0,0
I have difficulty accessing the Social Security platform	0	0,0	0	0,0
I don't have the financial capacity to cover the payment of contributions	0	0,0	1	6,7
I don't think it's advantageous to cash it in, I'd rather receive my pay in full	6	18,2	4	26,7
I didn't know I was entitled to social security contributions	5	15,2	3	20,0
I already make discounts with another employer <sup>8a)</sup>	7	21,2	4	26,7

Source: DDS Project, Survey of domestic workers, 2023

Only one domestic worker who works for more than one household reported not being able to afford to pay contributions.

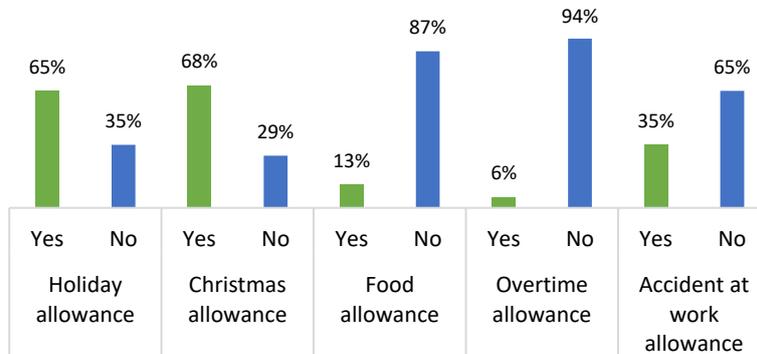
With regard to other workers' rights, the following graphs show that there is a slight tendency for domestic workers who work for one household to have holiday and Christmas allowances compared to those who work for more than one household: 77% of those who work for one household have holiday allowances and 73% Christmas allowances, while these figures are 65% and 68% respectively for those who work for more than one household.

**Graph 14. Other labour rights of domestic workers working for a household**



Source: DDS Project, Survey of domestic workers, 2023

**Chart 15. Other labour rights of domestic workers working for more than one household**



Source: DDS Project, Survey of domestic workers, 2023

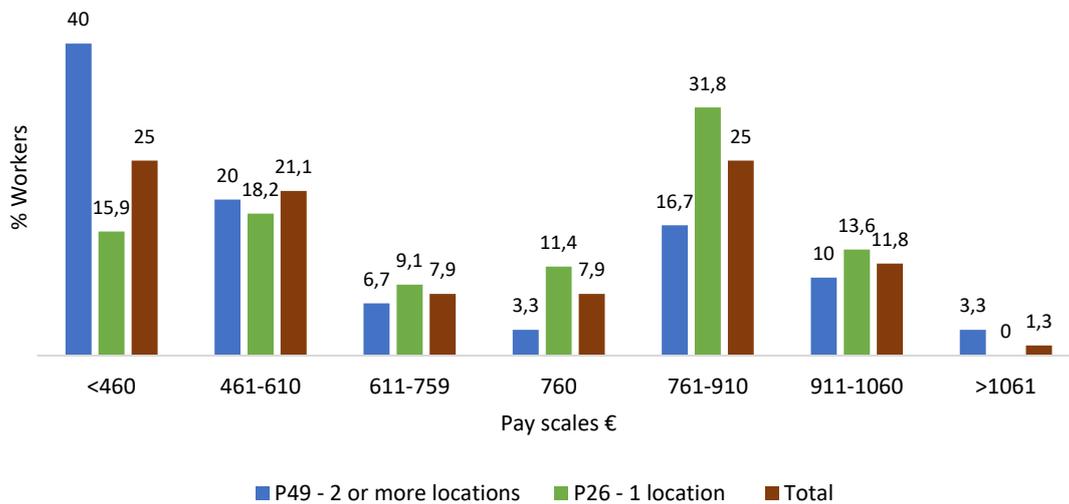
The vast majority of domestic workers who responded to the survey do not receive food, overtime or accident benefits.

In terms of pay, 70% of the domestic workers in the sample who work for a household indicated that their pay is calculated by the month<sup>98</sup>.

<sup>98</sup> Of the domestic workers who are paid by the hour (30%), around 15% earn less than €4/hour, 55% earn between €4-6/hour and 30% between €7-9/hour.

In order to be able to comparatively analyse the percentage of domestic workers who work for one household, for more than one household and for the total sample, the following graph has been constructed.

**Chart 16. Remuneration of domestic workers (%)**



Source: DDS Project, Survey of domestic workers, 2023

It can be seen that domestic workers who work for more than one household are more concentrated in the lowest income bracket than domestic workers who work for one household (40% and 16%, respectively, in the income bracket below 460€). On the other hand, the income brackets above the NMW have the highest percentage of domestic workers who only work for one household<sup>99</sup>.

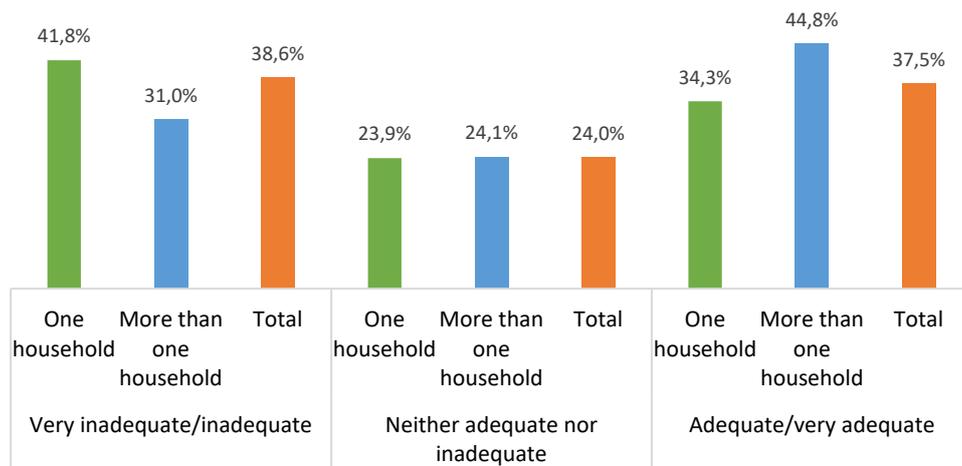
When asked about the adequacy of their pay, 41.8% of domestic workers who work for one household consider their pay to be very inadequate or inadequate, while 44.8% of domestic workers who work for more than one household consider their pay to be adequate, i.e. they tend to earn less but are more satisfied.

In general terms, analysing the entire sample, domestic workers consider their pay to be adequate or very adequate (44.8%)<sup>100</sup>.

**Chart 17. Adequacy of remuneration for domestic workers**

<sup>99</sup> The remuneration variable was cross-referenced for the entire sample with age and immigration status and it was concluded that there was no statistically significant relationship between these variables.

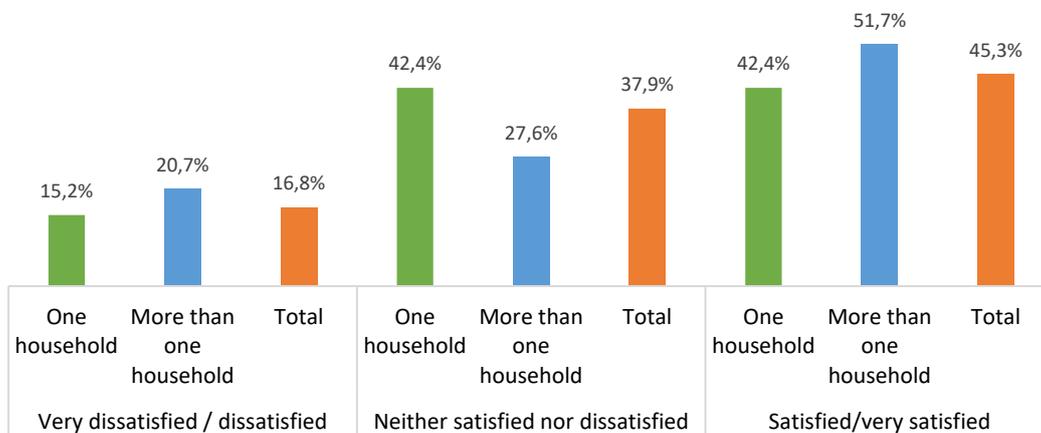
<sup>100</sup> The variable adequacy of remuneration was cross-checked for the entire sample with age, education and immigration status and it was concluded that there was no statistically significant relationship between these variables.



Source: DDS Project, Survey of domestic workers, 2023

With regard to satisfaction with working conditions, domestic workers who work for more than one household tend to have more extreme positions, being more satisfied and more dissatisfied with working conditions when compared to domestic workers who work for just one household. The latter, in turn, tend to have a more neutral position - neither satisfied nor dissatisfied.

**Chart 18. Satisfaction with working conditions of domestic workers**

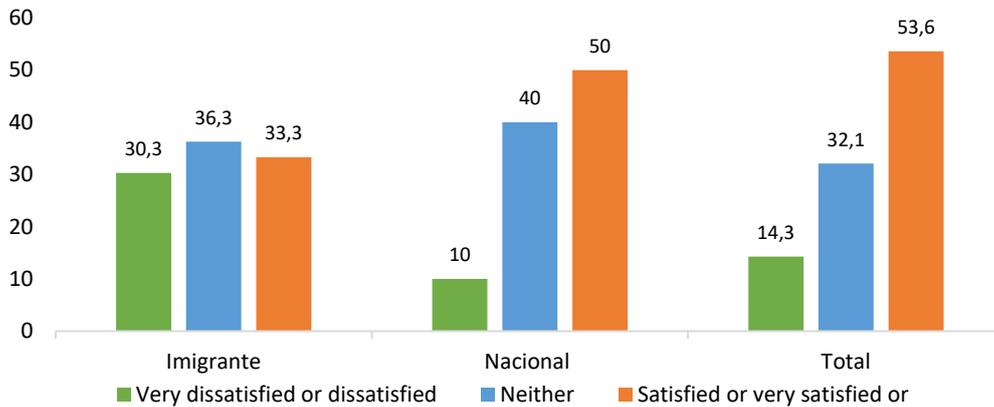


Source: DDS Project, Survey of domestic workers, 2023

Analysing the data for the entire sample of domestic workers, they are generally satisfied or very satisfied with their working conditions (45.3%).

It was found that there is a relationship between satisfaction with working conditions and the fact that the domestic worker is an immigrant, with immigrant domestic workers tending to have a higher level of dissatisfaction<sup>101</sup>.

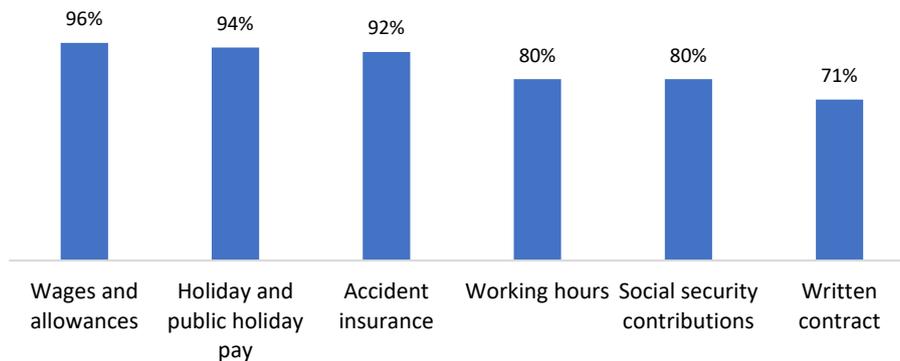
**Graph 19. Satisfaction with working conditions of immigrant domestic workers, nationals and total (%)**



Source: DDS Project, Survey of domestic workers, 2023

Finally, domestic workers as a whole consider that the three main issues that influence their satisfaction with their job are: having salaries and allowances (96%), being able to enjoy holidays and public holidays (94%) and having work accident insurance (92%).

**Chart 20. Most important subjects for satisfaction with professional activity (% very important and important)**



Source: DDS Project, Survey of domestic workers, 2023

<sup>101</sup> Immigrant x satisfaction ( $\chi^2$  (2, N = 93) = 6.515,  $p < 0.05$ ; V Cramer = 0.038). Satisfaction was also cross-referenced with age and schooling, but this relationship did not prove to be statistically significant.

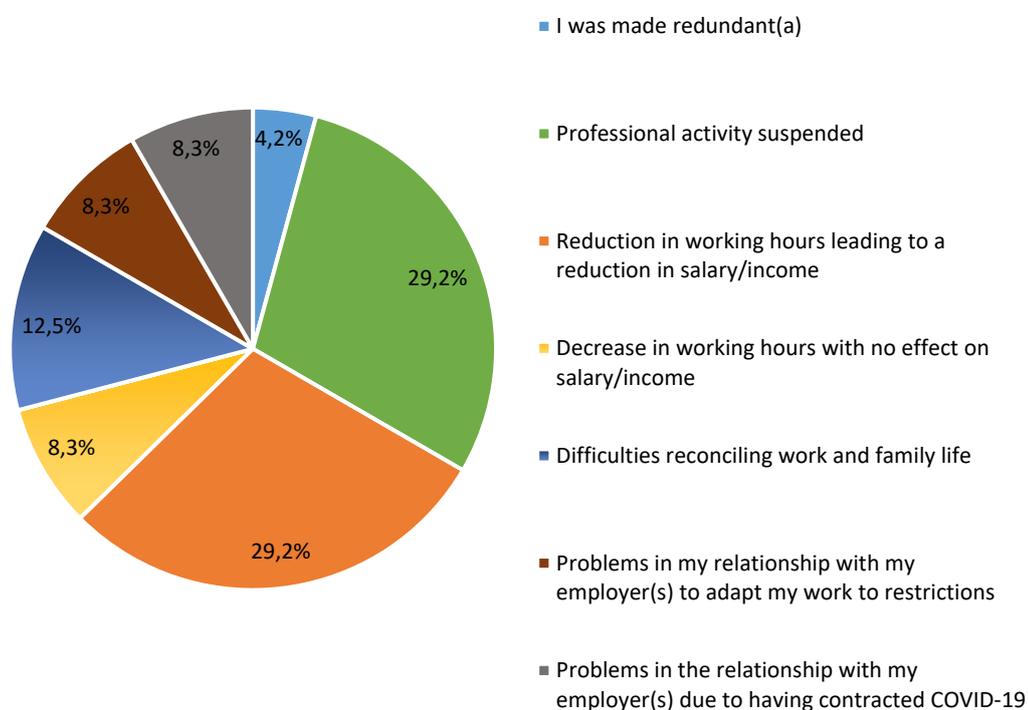
Although the percentages are very high, it's still important to note that paying social security contributions and having a written employment contract are the matters that domestic workers consider least important to their satisfaction with their work.

### 5.3 Labour protection and COVID-19

With the pandemic and the associated lockdown, 20% of the domestic workers in the sample stopped working and 80% said they had continued to work.

When asked if the pandemic had had an impact on their work, 26.6% said that it had, with 29.2% reporting that their work had been suspended and that their working hours had been reduced with a reduction in salary/income<sup>102</sup>.

**Graph 21. Type of impact of COVID-19 on the professional activity of domestic workers**



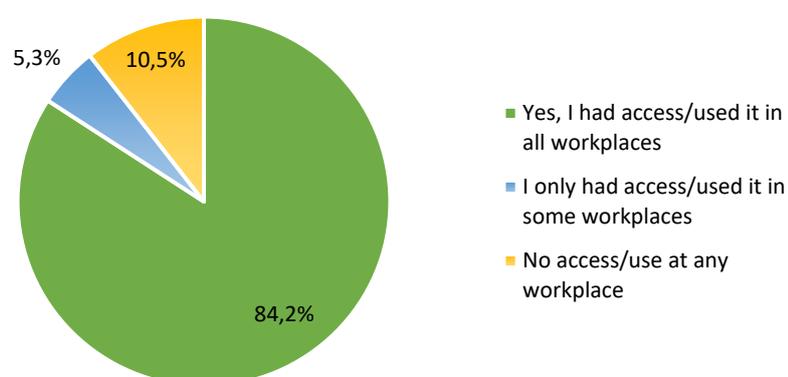
Source: DDS Project, Survey of domestic workers, 2023

<sup>102</sup> For more detail on working conditions during the pandemic, see point 5.5.

The difficulty of reconciling work and family life was mentioned by 12.5% of the domestic workers in the sample and 8.3% saw their working hours reduced with no change in salary/remuneration. Some reported having problems in their relationships with their employers: 8.3% due to the need to adapt their work to the restrictions and 4.2% due to having contracted COVID-19.

Overall, domestic workers had access to and used personal protective equipment in the workplace, with 84.2% reporting that this was the case in all households. Only 10.5% reported not having personal protective equipment in any household.

**Graph 22. Use of/access to personal protective equipment in the workplace**



Source: DDS Project, Survey of domestic workers, 2023

Of the materials they had at their disposal, 81% had access to/used masks, 76% alcohol gel, 67% gloves, 9% protective clothing (disposable gowns, caps, etc.) and 6% a visor.

The pandemic has not had a widespread effect on the number of hours domestic workers work, compared to their situation in the pre-pandemic period. For 79% of domestic workers, the pandemic has had no change on the number of hours they work compared to before the pandemic, 13% say they work more hours after the pandemic and only 8% say they work fewer hours.

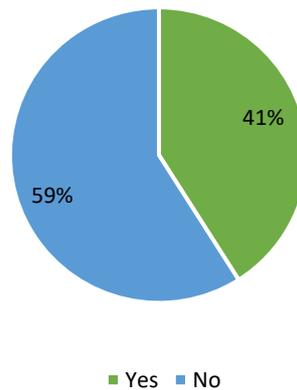
Those who work longer hours cite the need for greater hygiene care, employers becoming more demanding or having new workplaces as some of the reasons for this; those who work fewer hours cite

redundancies during the pandemic, reduced working hours, illness or family changes as some of the reasons.

## 5.4 Trade union activity

The unionisation rate of the domestic workers who responded to the survey is 39%, and of these, 41% are union members of STAD.

**Graph 23. Domestic workers unionised with STAD**



Source: DDS Project, Survey of domestic workers, 2023

It was noted that there is a relationship between being unionised and the fact that the domestic worker is an immigrant<sup>103</sup>, with immigrant workers being more unionised, since 67% of the people in the sample who reported being unionised are immigrants and 21% are nationals.

Of the domestic workers who responded to the survey, 45% had already turned to STAD to resolve problems<sup>104</sup>, which were related to unfair dismissal, claiming holiday pay, receiving severance pay, getting social security contributions, and resolving issues related to legalisation in the country. Of these, 84.2% said that with STAD's intervention the problem had been solved, and the cases referred to as

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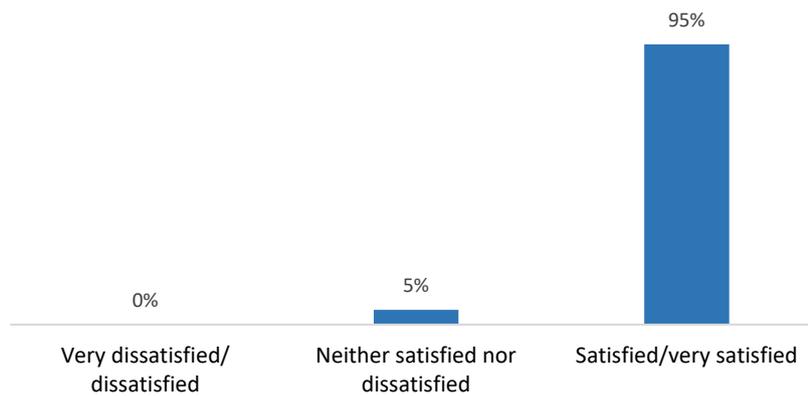
<sup>103</sup> Unionised x immigrant ( $\chi^2(1, N = 93) = 19.350, p < 0.05$ ; Cramer's V = 0.456). Being unionised was also crossed with age and schooling, but this relationship did not prove to be statistically significant.

<sup>104</sup> For more details on STAD's work, see chapter 6.

unsolved were due to the fact that they were cases that had not yet been concluded or that there had been a reversal of the employer's position.

As can be seen in the graph below, 95% of domestic workers who turn to STAD to solve a problem are satisfied or very satisfied with the support provided by the union.

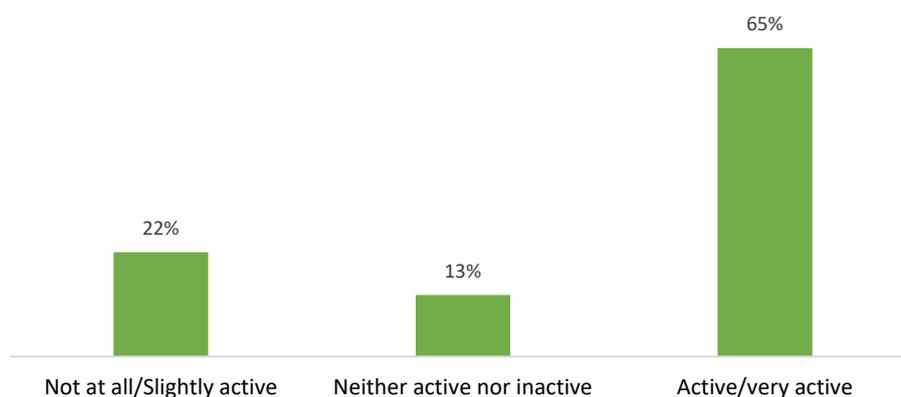
**Graph 24. Level of satisfaction with the support provided by STAD**



Source: DDS Project, Survey of domestic workers, 2023

Finally, when it comes to assessing the role of the DWTS in the domestic work sector, 65% of the domestic workers in the sample said that the DWTS is active or very active in this sector, while 22% said that it is not active at all or is not very active.

**Graph 25. Role of STAD in the domestic work sector**



Source: DDS Project, Survey of domestic workers, 2023

## 5.5. Domestic work in direct speech: domestic workers and employers

Moving on to an analysis of the domestic workers interviewed in the *focus groups* and interviews carried out<sup>105</sup>, it can be seen that the vast majority have been working for several years, domestic work is their only source of income and they say that not all their legal rights are guaranteed.

*"I work in four houses (...) only in one house do I pay social security and receive holiday, Christmas and public holiday pay, in the other houses I'm not entitled to anything"*

**Domestic worker, lives in Lisbon.**

*"I've been working as a domestic for 10 years (...) I don't have an employment contract and I don't make any deductions"*

**Domestic worker, lives in Porto.**

The vast majority of domestic workers interviewed intend to work in the profession in the long term and point out the advantages of flexible working hours, ease of reconciliation with another profession, enjoyment of the activities they carry out and the pay. In the particular case of immigrant domestic workers, the ease of finding a job in the area when they arrive in the country is an asset and is important for the legalisation process. From another perspective, those domestic workers who do not find advantages in working in the profession cite the lack of overtime pay, the lack of holidays or the emotional bond they build up over the years with their employers, which they feel is not valued.

*"I'm able to combine it with my other work, the extra pay I get from housework allows me to increase my income."*

**Domestic worker, lives in Porto.**

*"Money-wise, although it's not always possible to reconcile work and family life (...); Flexible working hours"*

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<sup>105</sup> The sample consisted of 41 female domestic workers, aged between 38 and 72, who took part in the *focus group/interviews* mainly through an invitation from a STAD member. Around 73% of the sample works in more than one household, compared to 28% who work in just one household. With regard to STAD membership, more than half, 59%, were not members compared to 41% who were.

**Domestic worker, lives in Lisbon.**

*"The ease of finding a job in the area helped me when I immigrated to Portugal in search of better living conditions (...).*

**Immigrant domestic worker from Mozambique, living in Lisbon.**

*"I like the jobs I do and it's always extra money."*

**Domestic worker, lives in Coimbra.**

Over the years they have been working in this profession, domestic workers have come up against various adversities and point to low pay and/or the lack of adjustment of pay according to the tasks performed as the main problems, the lack of fulfilment of legal rights (holiday pay, Christmas pay, public holidays, social security deductions, etc.), the lack of appreciation for the duties performed and unfair dismissals.

*"Lack of monetary differentiation according to the tasks I perform, lack of employment contracts and social security deductions, (...); little receptiveness to the union and holiday allowances, etc., the bosses don't want to pay us fairly, they want us to perform many functions and pay little (...)"*

**Domestic worker, lives in Lisbon.**

*"(...) the bosses want the work done and pay little for the jobs; there is a lack of appreciation for our work."*

**Domestic worker, lives in Ponta Delgada.**

*"I was exploited a lot at work, I had to do different jobs apart from housework, I never had a work contract, nor was I registered with Social Security, nor did I want to be"*

**Domestic worker, lives in Porto.**

In order to solve their problems, domestic workers turn to the STAD to mediate between them and their employer, and in some cases they also mention going to the ACT. However, there are a large number of domestic workers consulted who, despite having had problems related to their professional activity, have not resorted to any means of resolving them for fear of losing their livelihood, and in some cases there is a strong dependence on their employers.

*"During the pandemic my employers sacked me and I had to turn to STAD to get my missing money back."*

**Domestic worker, lives in Lisbon.**

*"I turned to the union to settle the labour contract, because the employer only signed the written labour contract, but didn't pay anything else."*

**Domestic worker, lives in Lisbon.**

*"I've never used any means to solve her problems because her husband also works in the same place and I live in the house where I work, I'm afraid of losing everything."*

**Domestic worker, lives in Ponta Delgada.**

In the opinion of domestic workers, these problems could be avoided by complying with their legal rights, which would lead to employers valuing domestic work. Domestic workers point to the need for the state to readjust legislation on the profession, particularly in the areas of pay and social protection, especially the right to unemployment benefit for all domestic work situations. Domestic workers believe that

clarifying the concept of "paid domestic work" would be beneficial in order to establish a *priori* the functions assigned to the profession.

*"We should be entitled to unemployment benefit."*

**Domestic worker, lives in Ponta Delgada.**

*"Problems would be avoided if employers respected our legal rights"*

**Domestic worker, lives in Faro.**

During the COVID-19 pandemic, domestic workers have reported the most diverse situations: they continued to work as normal (the majority of cases); they stopped working, but their employer paid their wages or a percentage of their wages; they stopped working and their employer stopped paying their wages; they adapted/replaced the tasks they performed; they were made redundant, etc. Domestic workers were dependent on the position taken by the employer, which varied from employer to employer, meaning that those who worked for more than one household at the time had multiple different working situations.

*"In one of the houses the boss paid me during the pandemic, in the other I didn't work and she didn't pay me my wages, in another house I continued to work, it always depended a lot on the boss's wishes."*

**Domestic worker, lives in Lisbon.**

*"During the pandemic it was quite complicated, in one house I was forced to work, the other houses paid my wages even though I didn't work."*

**Domestic worker, lives in Lisbon.**

*"During the pandemic, as I didn't do any cleaning, my employer gave me clothes to iron and food to cook to justify the pay. In another situation I was left without a job."*

**Domestic worker, lives in Lisbon.**

*"In the houses where I worked, in one I received 50% of my salary and in another I received all of it."*

**Domestic worker, lives in Lisbon.**

*"During the pandemic, I continued to work all the time, even when I wasn't at home doing cleaning work, I would go to the house to pick up clothes to iron at my house."*

**Domestic worker, lives in Porto.**

*"I've always continued to work during the pandemic."*

**Domestic worker, lives in Ponta Delgada.**

In general, domestic workers feel that they know their legal rights and that most employers don't respect them. Domestic workers don't claim their rights, again for fear of losing their jobs, and in most situations they choose to be complacent.

*"I know my rights, but if I complain I'll lose my job."*

**Domestic worker, lives in Lisbon.**

The group of immigrant domestic workers consulted believe that the fact that they are not Portuguese is not an eliminating factor for employers, but they do identify specific problems associated with the fact

that they are immigrants. They feel that employers are more demanding in terms of the work they have to do and sometimes blackmail them because they feel there is a greater need to keep the job because they are immigrants. They also feel that the pay tends to be lower than other domestic workers.

*"I feel that they disrespect us (migrants) a lot, they think we're 'superheroes' and that we can handle all the jobs."*

**Domestic worker, lives in Porto.**

*"There's a lot of blackmail from the bosses, because we're migrants they think we need the work more. The bosses think we can be 'exploited' more."*

**Domestic worker, lives in Lisbon.**

Finally, the domestic workers heard in the *focus group/interviews* believe that STAD as a union could get closer to these workers through greater visibility on the various online platforms. On the other hand, domestic workers are aware that the lack of unionisation is sometimes associated with fear of reprisals from employers, as they believe that the vast majority do not like to be unionised.

*"(...) many women workers are not unionised for fear of reprisals from their bosses, there should be more publicity on social media"*

**Domestic worker, lives in Ponta Delgada.**

In turn, the employers of domestic workers<sup>106</sup> who took part in the study have employed domestic workers for several years, and most of them have employed more than one person over time.

*"I've had several maids come round once a week (...)"*

**Employer I of domestic workers**

*"I had a girl from Cape Verde when my daughters were little and she was here for 12/13 years with a contract to look after the children full time (...) then I had another lady full time for 12/13 years who retired. Then I had various experiences with various people (...) now I have a lady who comes three mornings a week"*

**Employer II of domestic workers**

*"I've had a maid for many years (...) the current one has been coming to the house for 18 years (...) she comes every day, three hours a day"*

**Employer III of domestic workers**

In the majority of cases where services are provided on a regular and frequent basis, even though they may not have an employment contract, they do pay social security contributions and have occupational accident insurance. However, situations have been reported where there are no contracts and no deductions at the request of the domestic worker.

*"My maid has been coming to the house two or three times a week for 14 years and she has a contract, discounts and work insurance."*

**Employer I of domestic workers**

*"One lady I didn't have registered with the social security system because she was paying contributions at another job."*

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<sup>106</sup> Four employers and four employers of domestic workers were present.

**Employer IV of domestic workers**

*"My current maid doesn't have a contract, but I pay social security, she has work insurance and I pay her holidays"*

**Employer II of domestic workers**

*"I've never had a contract, discounts or insurance because it's a very sporadic service with no fixed periodicity (...)  
I've never wanted to give discounts because it's a very infrequent service."*

**Employer III of domestic workers**

Two of the employers present at the *focus group* had already used the services of cleaning companies to carry out their domestic work, but they didn't like the experience and went back to hiring domestic workers directly. They reported a lack of care in carrying out the service and a lack of routine in carrying out the work, since it is not always the same domestic workers who go to the homes and there is a need to constantly explain the work to be done.

*"I had a company come to the house and I didn't like it because it's not always the same person and you have to explain everything all over again."*

**Employer II of domestic workers**

*"I also had a company and I didn't like it. They did a shoddy job and my floor got scratched..."*

**Employer IV of domestic workers**

The majority of employers present at the *focus group* did not identify any problems in their relationship with domestic workers. They consider it essential to establish a relationship of trust, which is extremely important, and that once this relationship is established, there are no major problems.

*"It's very important to get to know the person and establish a relationship of trust."*

**Employer II of domestic workers**

*"She's a very trustworthy person who even looks after my cat when I go on holiday... she's very reliable."*

**Employer III of domestic workers**

*"Trust is something that takes time to build, but then there are no major problems."*

**Employer II of domestic workers**

Only two specific problems in the relationship/hiring of domestic workers were reported, relating to bureaucratic difficulties in registering with Social Security and a breakdown in the relationship of trust.

*"To get everything regularised, the procedures are very bureaucratic and the process is very boring. The Social Security officer himself didn't know how to resolve the situation regarding pay and the number of hours worked in the enrolment process (...)"*

**Employer I of domestic workers**

*"I've only had one case of a lady who, after taking out the contract, started coming in very infrequently... there was a breach of trust and I had to end the contract."*

**Employer II of domestic workers**

Finally, during the pandemic, most of the employers present in the focus group kept paying their domestic workers, even when they didn't go to work due to the lockdown. Only one employer reported having to terminate payment, as he too saw his income substantially reduced.

*"During COVID I still paid even though she didn't come to the house."*

**Employer II of domestic workers**

*"I paid for the whole pandemic with her staying at home."*

**Employer II of domestic workers**

*"I had to terminate the payment because I also had a big reduction in my income."*

**Employer I of domestic workers**

# Chapter 5

## Challenges and opportunities for trade union action



# Chapter 6. Challenges and opportunities for trade union action

## 6.1 Brief characterisation of professional activity

Summarising what has been said in the previous chapters, domestic service is a profession that includes a wide range of duties, in particular cleaning the home; taking care of clothes; cooking for the employer and their family; looking after the elderly and/or children and even, in some cases, taking care of pets.

Multitasking is a constant in the profession. Domestic workers can specialise in one or more of these functions, or they can do all of them in a multi-skilled and coordinated way. As a rule, full-time domestic workers are multi-skilled, which can be all or just some of the jobs, depending on the specific situation contracted in advance with the employer.

This is a profession that takes place within the employer's own home and in which the "employer *versus* employee" working relationship is personalised, i.e. there is a working relationship that easily slips into a paternalistic or authoritarian type relationship, or even both.

It is an eminently individualised profession, meaning that most domestic workers work alone, with no group of workers, except in exceptional cases.

It's a profession with a wide variety of working hours: full-time and part-time and, in this case, with an even greater diversity of working hours, generally working three or four hours for one, two or three periods a week.

It's a profession in which the NMW legally applies, but in which market conditions dominate the wage setting. Specifically:

- Domestic workers with full-time working hours generally receive this remuneration;
- Part-time domestic workers earn wages based on the hourly rate. This, in turn, is negotiated on a case-by-case basis, according to neighbourhood (according to the predominant social classes in the neighbourhood, i.e. according to the predominant economic power of the potential employers). In the case of these workers, the work to be done, the hours to be worked and the hourly rate to be paid is agreed directly and in advance between the employer and the worker.

In general, part-time domestic workers:

- They have several employers for domestic service, liaising the various schedules between the different employers;
- They can combine this work with a stable and structured labour relationship in an established company that is affiliated to the Social Security System, and in these cases, this labour relationship tends to be in an industrial cleaning services company;

- It is in this segment of domestic work that informality and job insecurity are proportionally higher.

Full-time domestic workers can also have another differentiating characteristic: whether they are "*internal*" or "*external*" workers:

- As an "*intern*", she lives at her employer's home. In this case, multi-skilling is a reality and the normal working hours of eight hours a day / 40 hours a week are extremely difficult to achieve;
- Being "*external*", she doesn't live at the employer's home and it is easier to carry out her duties (more restriction of versatility) and to fulfil her daily/weekly schedule.

As we found throughout the study, the literacy level of domestic workers is low or medium-low, which can create difficulties in understanding and/or interpreting legislation or formalising contracts. However, in a simple and straightforward way, domestic workers are aware of their rights and duties and demand them at the beginning of the labour relationship or during its existence.

This is a socially devalued professional activity, considered by the *mainstream to be* an unqualified profession, which is generally reflected negatively in the consciousness of the workers themselves and their consequent public affirmation.

Domestic work is also a source of labour for immigrant workers, with more "*internal*" workers in this population segment in the first phase of their integration, as this gives them access to housing, thus overcoming the initial difficulty in the host country that this population usually faces.

In short, the domestic worker has the same difficulties as a worker in a micro-enterprise, plus a double difficulty: the work is carried out in the employer's home and the profession is socially devalued.

## 6.2 Domestic work is subordinate labour

Domestic work is subordinate labour. Like all subordinate labour, the workers who do this work have duties and rights.

Nowadays, alongside domestic work in which there is a direct labour relationship between the worker and the employer and which can be described as "*traditional*", another form of domestic work has recently emerged: the provision of domestic work to the user, who becomes a client of companies specialising in providing domestic work services to their client, who is the user of that service.

This situation raises an extremely important question of principle: the existence of two models for the provision of domestic work to the beneficiary of this work:

- a) Non-profit domestic work, i.e. work based on a direct and subordinate relationship between the employer and the worker;

- b) For-profit domestic work is carried out by a company that specialises in intermediating the provision of this work to a client, the user benefiting from this work, through its own workers, whom it hires and is the employer of. It is from this triangulation that the company makes its profits.

From the domestic worker's perspective, in both cases the worker is always a TPCO, i.e. a worker subordinate to an employer, to whom they have duties and rights. However, the objective of the domestic worker's employer is quite the opposite:

- In the first case, there is no intention to make a profit, because there is no commercial transaction, since the employer's fundamental aim is to provide domestic work in your home (and that of your family);
- In the second case, the existence of a commercial transaction from which the creation of profit is expected (and which is its fundamental objective).

What's more, in this case, companies have emerged that use technological developments to create "platforms for providing domestic services". This is a new market niche, distinct from the "company - client" commercial relationship, which creates a new area for trade union action, the "*platform* economy" in domestic work.

For the average domestic worker, this situation will seem complex and irrelevant to their situation as an employee. In fact, for all intents and purposes, they will always be a subordinate worker, whether vis-à-vis their direct employer ("*traditional*" employment relationship) or vis-à-vis the company providing the services ("business/user" relationship *versus* "business/worker" relationship).

The worker's assessment is correct, and it is fundamentally so in the following situation: in the event that the direct employer ("*traditional*" employment relationship), due to various vicissitudes, decides to terminate the employment relationship on their own initiative, which is permitted under current legislation, without providing the necessary justification or making any compensation, even in the case of domestic workers with a long length of service and advanced age. This is a tragic situation and there is currently no safeguard in the legislation for the domestic worker, who could be dismissed without any compensation. This is a case that needs to be resolved urgently.

However, identifying the type of labour relationship is fundamental because, if it is accurately ascertained, it will be possible to identify who the interlocutor should be and what the legal instrument should be to ensure that domestic workers' rights are improved.

These elements are fundamental because, until now, domestic work legislation has been ensured by specific legislation or through the Labour Code, as seen in previous chapters. These have been the legal instruments used because traditional employers, who are still dominant in the sector, do not have (nor are they expected to have) an employers' association with whom the union can negotiate a Collective Labour Regulation Instrument (IRCT). On the other hand, the service companies that have sprung up recently also don't have an employers' association so far.

As for the platform economy, there is currently a legal vacuum as to what the relationship is between the platform and its workers (are they TPCOs or self-employed?). There are a variety of national and European rulings, some in favour of the worker and others in favour of the platforms, but so far there is no legal certainty on the matter.

However, due to the growing importance of the platform economy in the world of work, and the estimate that there are many millions of workers who work in this activity, which covers many sectors, pressure from trade unions in recent years has led to the imminent publication of specific European legislation to regulate subordinate labour on platforms.

In this context, it can be seen that the trade unions' interlocutors and the legal instruments to be used could be those specified in the table below.

**Table 27. Trade union interlocutors and legal instruments to be used in the various domestic work relationships**

	Direct labour relationship (traditional)	Employment relationship through a service company	Labour relations through a platform
<b>Interlocutors</b>	Ministry of Labour	Patron Association of Service Providers	To be studied in accordance with European legislation to be published
<b>Legal instrument</b>	Labour Code, specific legislation or Working Conditions Ordinance - to be studied	Collective Labour Agreement	To be studied in accordance with European legislation to be published

Source: own elaboration

For trade union action, it is essential to understand which interlocutors and legal instruments can be used to discuss and/or negotiate working conditions, because this means knowing how the recommendations (demands) that are drawn up to improve domestic work rights will be implemented.

### 6.3 Trust - a characteristic of domestic work

As mentioned above, the direct labour relationship between employer and worker is predominant in the domestic work sector, although corporate forms of doing so have recently emerged.

Home working is the specific circumstance that structures the labour relationship, shapes the worker's conscience and limits trade union action

Because of this, the "trust" factor remains central to the employer/worker relationship, as was mentioned in the *focus group*. While this factor is always present in all professions because it is inherent to a labour relationship, it is more relevant in domestic work, as will be seen below.

Domestic work is a profession in which the "trust" factor between "employer *versus* worker" is decisive and indelibly structures the labour relationship and the very conscience of the domestic worker, influencing the entire labour relationship: recruitment, negotiation of duties, salary negotiation, performance of work; breakdown of the "trust" factor; conflict; conflict resolution, etc.

While the "trust" factor is important in all labour relationships, in domestic work it is more important than in a normal labour relationship. This is due to the fact that the professional activity takes place in the employer's own home, which is his or her place of absolute reserve, intimate, for himself or herself, the employer, and his or her family, the place of privacy. In this regard, it should be remembered that the inviolability of the home, the confidentiality of correspondence, communications, data and personal life, in this case that of the employer, is guaranteed by the constitution.

In the broad field of TPCOs, this is the only case in which this reality occurs, which structures the worker's position vis-à-vis the employer and shapes their action. Specifically:

a) Recruitment - this is usually personalised and the employer's main concern is whether the domestic worker is "trustworthy", both in terms of the work they will do and the reliability they attribute to the worker; for their part, the domestic worker knows that "trust" is their most precious asset; the credentials they can present are those of the various employers they have worked for, which will attest to their reliability;

b) Negotiation of the duties to be performed, the hours to be worked and the salary to be received - it is because there is a prior transmission of reliability to the employer that the domestic worker freely and directly negotiates their duties, their hours and their salary. While for full-time domestic workers there are some negotiating margins (forty hours a week and RMGM), for part-time domestic workers there is no pre-established standard, and it is up to free negotiation between worker and employer to establish these factors;

c) Rupture of the labour relationship and conflict - in the event of a rupture between the domestic worker and the employer, whatever the cause, regardless of duties and working hours, in general, the worker's reaction is to immediately seek to end the labour relationship by receiving the appropriate final accounts and not to create conflict with the employer. Conflict exists exceptionally, or only when the employer refuses to pay the claims owed to the employee. If the employer does so legally, the employee generally does not create a conflict.

Conflicts between domestic workers and their employers are resolved in various ways: a) through correspondence with the worker themselves or someone representing them; b) social dialogue meetings at the union's headquarters; c) meetings at the Ministry of Labour; d) proceedings in the Labour Court. Generally, conflicts are resolved positively for the worker, either by using the correspondence methodology or by holding Social Dialogue meetings. When both don't work, the Ministry of Labour or the Courts are used. However, as mentioned, in general, the domestic worker's first option is to reach an agreement with the employer and end the labour relationship quickly, without any conflict.

Why? Because of the importance of the "trust" factor for domestic workers. It is this factor that can enable them to find a new employer in a short space of time, within a few days or a few weeks. If the domestic worker has a "bag of credentials" in that she is "trustworthy", she will quickly find another employer; if, on the other hand, she is known to be confrontational or "unreliable" or professionally incompetent, her scope for recruitment is reduced or even cancelled out.

For their part, employers also generally believe that finding a competent and trustworthy domestic worker to whom they can entrust their intimacy and privacy is an asset that must be safeguarded and, in the domestic work market, these two factors are of great importance.

The combination of the employee's and the employer's wills quickly ends, with rare exceptions, without there being any conflict or pre-conflict situations.

In short, it is the "trust" factor that creates the framework of awareness that exists in labour relations and in domestic workers in general, but also in employers. It is because of this specific context that the motivation, organisation, unionisation and demands of domestic workers are very difficult to achieve and conflicts (which are rare) take place, always with gains for domestic workers.

To conclude, the recent emergence of economic activity in domestic work (the provision of services and the platform economy) raises new questions about the operationalisation and management of the "trust" factor, of which there is not yet sufficient knowledge. However, it is believed that the unavoidable relevance of this factor will eventually create situations that will confront these companies.

This is a field of observation, study and trade union action that is developing.

## 6.4 Difficulties and capacities for developing trade union action in domestic work

### 6.4.1 Difficulties in trade union action

Given this labour reality, the main difficulties for union action in the sector are identified below. Specifically, in the direct employer-worker labour relationship, which currently remains hegemonic in the sector and is the one in which there is most knowledge of reality.

The main difficulty is that domestic work is a labour activity carried out in the employer's home. As a result, domestic work is difficult to identify, "invisible", precisely because it takes place in the employer's home. In addition to this factor, it is possible that the employer themselves or someone from their household is in the accommodation, which creates a further constraining factor.

Contact with domestic workers in the workplace, one of the fundamental means of trade union action, is therefore extremely difficult, if not impossible, to achieve. In addition to this difficulty, the use of a

privileged instrument of trade union action, the intervention of the ACT, is also unable to be operationalised due to this reality.

*The* second difficulty is that domestic workers are largely able to negotiate their working conditions individually and directly with their employer. This means that the legal framework in force and which structures the normal labour relationship (maximum working hours of 40 hours or part-time hours, duties to be performed and salary or RMNG to be earned) is of little or no importance to the worker.

As a result of these factors, which are the catalyst for major union struggles in most sectors, domestic workers are not very easy to mobilise.

However, the domestic worker is aware of another important work-related issue, that of social security. In general, they understand the importance of their relationship with Social Security and therefore either demand it from their employer under the legal conditions, if they don't have access to it by any other means (as mentioned above), or second-guess it if they already have this relationship in place. This situation is clearly recognised in the case of full-time domestic workers. With the criminalisation of not registering with Social Security, the worker's decision is decisive for the employer's position.

The third difficulty is that domestic workers themselves, in general and for the many reasons described above, try to resolve their disputes directly with their employer and only as a last resort do they enter into pre-conflict and contact the trade union (unionise). In other words, only as a last resort does the domestic worker turn to a body outside the labour relationship (the trade union) to help them apply the law and defend their interests. It follows that, in general terms, domestic workers have little willingness to engage in conflict, regardless of its form (labour court, complaints and protests, sit-ins, etc.).

However, there is an excellent best practice methodology for trade union action to resolve labour disputes without entering the conflict phase. Specifically, the STAD contacts the employer and, after explaining the issue and justifying the employee's position, proposes a Social Dialogue meeting at the union with the employee's participation. In general, the employer or their representative accepts and attends and, after discussion and negotiation, the dispute is resolved, always with the acceptance of the employee themselves, who participates in the process.

An appeal to the Labour Court is also made, but only occasionally and only when the worker requests it because there was no acceptable solution in the Social Dialogue.

To sum up, since these are the three main areas of trade union action that generally make it possible to mobilise workers, we can understand the magnitude of the existing difficulties. The following table summarises the above.

**Table 28. Areas, activities and difficulties in the domestic service sector**

Areas	Activities	Cause of difficulty
<b>Trade union action</b>	Information / Clarifications Mobilisation / Organisation Unionisation / Militancy	The workplace (employer's home) is not an appropriate space for trade union action
<b>Working conditions</b>	Tasks to be carried out Working hours Salary / Other Remuneration	Personal negotiation with the employer and the "trust" factor delimit this area
<b>Availability for conflict</b>	Form of conflict (Labour Court / protest / public denunciation). Little willingness to do so, favouring negotiated settlement of the dispute with the employer	The specific characteristics of domestic work create a "non-confrontational labour culture" in the worker.

Source: own elaboration

### 6.4.2 Trade union action capacities

Given this reality and the experience gained, the following trade union work capacities were identified:

1. To identify and establish contact with domestic workers:

- Use of the network of union leaders and delegates in the industrial cleaning sector, who will act as contact points for industrial cleaners who are also part-time domestic workers or who, through networks of acquaintance (family, friendship, neighbourhood, camaraderie), know/contact domestic workers;
- Use of the network of immigrant union leaders and delegates, who will act as contact points for foreign workers. Moreover, this and the previous situation are combined, as there are many immigrant workers in the industrial cleaning sector;
- Use of contact details (telephone, email) of currently unionised domestic workers.

2. To organise collective activities (meetings, assemblies, etc.):

- It's important to create a cosy atmosphere (coffee, tea, cakes) and even, depending on the situation and availability, to pay for the time spent taking part in the activity (because the domestic worker probably stopped working to take part in the activity);
- Define a more appropriate date and time to carry out the activities (Saturday or Sunday), because during the week the diversity of working hours is total and it is not possible to identify a time slot compatible with the availability of most domestic workers;
- Understand that collective activities can be low-stakes;
- With the aim of carrying out collective activities, continuing and improving individual contact with domestic workers.

3. A specific guideline for foreign workers:

- Taking into account the growing trend of these communities and the specificities of immigrants, in particular the importance of having their own employment contract, which not only regulates their employment relationship but also allows them to be regularised before the Portuguese state (legalisation);
- Maintaining and improving relations with immigrant associations (especially those in Cape Verde and Brazil) in order to improve the participation, support and integration of domestic workers from immigrant communities in Portugal and in the world of work through interaction between organisations.

4. Maintain and strengthen the Social Dialogue methodologies currently in place:

- Continuing to practise this methodology, which has had positive results and which has so far proved to be the most appropriate to the level of understanding of domestic workers.

5. A guideline for negotiating new labour rights for the domestic work sector

- The specific legal recommendations for improving working conditions in domestic work set out in this study will be taken up by STAD and treated as union demands;
- These union demands will be distributed, disseminated and debated by domestic workers, the best way to mobilise workers to give the demands fundamental support;
- Study the issues raised in chapter 2 and, with the specific legal recommendations (specific trade union claims), draw up action plans for negotiating them with the interlocutors indicated.

6. A specific guideline on Social Protection and Social Security for the domestic work sector:

- Noting that social protection and social security is a particularly sensitive issue for domestic workers, who pay special attention to it, there are currently some legal provisions that discriminate against domestic workers;
- Given that there are specific recommendations on this matter (see next chapter), which are taken up by STAD as trade union demands;
- Draw up an action plan and study the best way to present them to domestic workers and negotiate them with the government.

7. A guideline for working with ACT:

- To study with ACT how best to intervene in domestic work and, in particular, with regard to the requests to inspect the working conditions of domestic workers that are submitted, particularly with regard to health and safety at work;
- The difficulties facing ACT intervention in domestic work relate to the very essence of domestic work, specifically the obstacle of labour inspections taking place in the employer's own home;

- In this regard, to study in detail with ACT the application, in labour inspections, of the rules contained in the Code of Criminal Procedure (house searches).

8. Maintain and improve trade union communication:

- In particular, by informing them of existing rights and wages and how to enforce them if the employer fails to fulfil them properly (replicate the affirmation of union availability and experience);
- Report on the cases resolved through Social Dialogue, as a positive example of trade union action and motivation for other domestic workers with labour problems to fight for their interests;
- Spreading specific trade union and mobilising messages: 8 March, International Women's Day; 20 November, International Children's Rights Day; 12 August, International Youth Day; 18 December, International Migrants' Day, among others;
- Use the digital media available for this purpose.

# Recommendations

Domestic service is no less work than other forms of labour. This position of principle underpins the recommendations set out below, which seek to respect the specificity of the conditions under which domestic service is provided without compromising on the need for workers in this type of service to be treated on an equal footing with all others in order to provide decent domestic service.

## Legal Framework for Domestic Work

### 1. Domestic Service, a special labour contract

Although Law no. 13/2023 of 3 April brought the domestic service contract regime closer to that of an employment contract, there is still a long way to go before domestic workers are effectively granted dignity.

#### Recommendation

**R1.** Improving the legal regime of Decree-Law no. 235/92, of 24 October, enshrining the domestic service contract as a special employment contract and harmonising the concepts of the legal regime of domestic work with those of the general law, namely in the modalities of contract termination, introducing the distinction between dismissal, termination and denunciation.

### 2. Termination of employment contract due to economic insufficiency

The current legal wording for the termination of the employment relationship due to the family's economic insufficiency needs to be clarified so as not to weaken the worker or jeopardise the possibility for families in a fragile economic situation to legitimately reduce their costs. In addition to the conceptual clarification referred to in the previous recommendation, a mechanism for proving the family's economic insufficiency and a mechanism for mutualising the risk of the domestic worker losing their income due to the family's inability to pay compensation should be introduced.

#### Recommendations

**R2.** In a dismissal due to the employer's economic insufficiency, the manifest economic insufficiency must be proven by a written statement from the employer given to the domestic worker and communicated to the ACT.

**R3.** Safeguarding situations in which economic insufficiency means not being able to afford the legal redundancy payment through a risk mutualisation mechanism, which can take the form of a compulsory contribution fund on the part of employing families.

### **3. Non-compliance with legislation**

The importance of the ACT's inspection activities and compliance with social security and employment contract rules is clear, and there is a need to find appropriate methodologies to monitor and enforce compliance with legal rules and to report periodically on the actions taken and the results obtained. The aim is to achieve better levels of compliance with better levels of information.

#### **Recommendation**

**R4.** Reinforcement of ACT's inspection activity to monitor situations of non-compliance with domestic workers' rights, accompanied by awareness-raising campaigns on rights and duties aimed at both domestic workers and their employers.

To overcome the limitations of home inspections, alternative inspection or control mechanisms should be sought. Take the example of Ireland, where the National Employment Rights Authority (NERA) invites employers by email to allow access to their homes and, if they refuse, suggests choosing an alternative location for an interview and analysis of documentation.

Special attention should be paid in inspections to the rights and duties of "hourly" labour, which is more fragmented and has been shown to have lower levels of protection.

In order to guarantee the existence of actions focused on domestic service, specific periodic reports should be drawn up, for example every two years, analysing the situation of compliance with legislation (at all levels) in order to inform the responsible public bodies.

## **Social Security**

The realisation of domestic workers' right to social security requires measures that both make social protection sensitive to this type of work and guarantee workers the same protection as everyone else,

The biggest problem with social protection for domestic workers continues to be under-registration, both because there are people who are not registered at all and because, especially for people who work for

more than one employer family, there is partial registration, which doesn't cover all the employer families, all the working time and all the pay.

On the other hand, there is no reason to maintain a lower level of social protection for domestic service than for other workers, which is why it should be integrated into the general social security system, in order to prevent discrimination in access to social protection.

It should also be borne in mind that domestic workers with more than one employer and part-time domestic workers can also become unemployed and are not currently eligible for unemployment protection. In times of economic crisis, in particular, there may be a simultaneous termination of the employment relationship with several employers, creating a situation that should give access to unemployment social protection.

### Recommendations

**R5.** Continued efforts to promote registration with Social Security, in particular with awareness-raising campaigns aimed at both domestic workers and their employers.

**R6.** Integration of the domestic scheme into the General Social Security Scheme. A transitional period may be allowed for this integration, in order to give all players time to adapt to the system. In this transitional period, which is proposed to last a maximum of five years, the possibility of making contributions through the conventional system is allowed to continue, but it is proposed to change the reference salary value for contributions. This should no longer be linked to the social support index, which is clearly not designed to index salaries, but to the national minimum wage. The adoption of the IAS as the conventional wage base for domestic workers' social security is generating low pensions and inducing social protection, as if the national minimum wage did not apply to domestic service, when provided on an hourly basis. In these cases, it is the social security system itself that induces a lack of protection for domestic workers.

**R7.** Access to unemployment benefit for domestic workers with more than one employer or part-time.

**R8.** Encouraging domestic workers to register with Social Security, by continuing to adopt tax benefits for employer families, such as taking Social Security contributions into account as a tax-deductible item.

## Accidents at work

Domestic workers who work for several employers may have work accident insurance from different insurance companies, which causes problems when there is an accident at work. In the event of an accident at work at one employer, the respective insurance is activated, but the person may be

prevented from carrying out their activity at the other workplaces, requiring joint and several liability on the part of the various companies with which they are registered, which may not be the case.

#### **Recommendation**

**R9.** Compensation for loss of earning capacity in the service of an employer should be extended to all insurers in respect of the remaining working period of domestic workers.

## **Collective bargaining**

If there is no employer's association that can negotiate better working conditions with the trade union partners through conventional collective labour regulation instruments, non-negotiating instruments should be used (Article 2(4) CT) since it is possible to use these instruments in the absence of negotiated collective regulation instruments (Article 515 CT). Therefore, the use of extension ordinances or working conditions ordinances should be considered.

#### **Recommendation**

**R10.** Approval of an ordinance on working conditions for domestic workers.

## **Trade Union Action**

With this study, various dimensions of domestic service (economic, social, legal, etc.) were structured and systematised, which from now on can be worked on in a sustained way by STAD.

#### **Recommendation**

**R11.** Existence of a list of demands for the sector.

## **Workers who provide services comparable to domestic service**

There is a tendency for work performed in a residential context, which can be assimilated to domestic service, to be progressively performed outside the legal framework of the domestic service employment

relationship. This is the case with the aforementioned emergence of companies providing cleaning services in family homes and platforms offering the same services.

Currently, collective bargaining does not cover domestic cleaning, which is why it is important to promote collective bargaining with the business association of the *facility services* sector in order to cover services provided at home, i.e. to extend the Collective Labour Agreement with a new chapter containing specific conditions and the respective salary scale for domestic cleaning work provided by for-profit entities.

The work of domestic cleaning and other services that fall under the umbrella of domestic service via platforms raises new issues that need to be monitored and analysed.

### Recommendations

**R12.** Guaranteeing the right to collective bargaining for people who work in private homes in the same way as domestic service. These are people who are not covered by the specific domestic service instruments, as they are not considered domestic workers under the sector's legislation, since, according to the law, there is no domestic service in a business employer, but only if the employer is a family or non-profit organisation. The collective bargaining agreement for *facility services* should include its own chapter, to be negotiated with the business association, regulating domestic work provided by for-profit entities.

**R13.** Monitor that the regulation of platform work guarantees the dignifying of home work provided under conditions similar to domestic service.

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