

## Improving Conditions for Health Professionals and Live-in Care Workers

### Need for a Directive on the introduction of Europe-wide minimum standards for working and employment conditions among health professionals („Health Professions Directive“):

#### Key points

- Across Europe the shortage of health workers deteriorates due to socio-structural developments and an ageing society.
- Health care and long-term care systems are therefore under severe pressure, which has been intensified by the current pandemic.
- National austerity programmes in EU Member States, different frameworks and employment conditions are massively exacerbating the shortage of personnel.
- The introduction of Europe-wide minimum standards through a new directive for health care professionals is the answer to this Europe-wide problem, which is becoming increasingly urgent in light of the pandemic.

#### Background

The global corona pandemic has brought the health professions into the focus of the European population. The term „health care profession“ is to be understood as a legally regulated profession. The occupational profile includes the implementation of measures to care for the general health of the population. This includes activities in the context of health care which are provided directly or indirectly to people for the purpose of promoting, maintaining, restoring or improving health in a holistic sense and in all phases of life ([BMASGK 2019: 4](#)).

Because of an ageing Europe, health care professions will continue to play a major social role even after overcoming the corona pandemic. Current demographic

forecasts by EUROSTAT assume that the number of people aged 65 and over will increase by almost 67 % between 2018 and 2050. According to calculations of the old-age dependency ratio, the ratio between the number of people of working age (15-64 years) and the number of older people (over 65 years) in Europe will fall from 3.5 : 1 at present to 2 : 1 in 2050 ([EUROSTAT 2019](#)). Moreover, a future increase in complex disease patterns is expected, which will pose additional challenges for health services, nursing and care ([European Commission 2017: 112](#)).

Eight years ago, the Commission already assumed that the health care professions were lacking almost 14 % of the staff necessary to adequately cover the need for care ([European Commission 2012: 6](#)). Therefore, there is an urgent need to attract and retain more staff in health care professions, as the [Action Plan for the EU Health Workforce](#) foresees.

However, health care and long-term care systems across Europe are under massive pressure. National austerity policies and different framework conditions are leading to massive staff shortages, which can only be remedied by improving their professional situation and creating attractive training models. Currently, due to poor working conditions, some training places remain unfilled and staff who have already been trained often leave the health care profession after only a few years. In order to remedy the shortage of staff in the long term, it is therefore urgent that the EU addresses the need for attractive and standard working conditions in the health care professions.

#### Main findings

The introduction of Europe-wide minimum standards in health care professions is an important prerequisite for fairer working conditions, thus attracting sufficient numbers to the profession and counteracting high

fluctuation. The scope of such a directive must include all health care professions, defined according to national criteria, which provide acute and long-term inpatient, institutional care or home care.

Central to EU-wide minimum standards are working hours and annual leave, which justify special regulations due to the high physical and mental stress. The daily and weekly maximum working hours and minimum rest periods, periods for averaging cumulative working hours or on-call duty should be adapted to the high workload of this occupational group. Particular attention must be paid to compensatory measures for night work. Exemptions for emergency situations and further scope for arrangements made by national social partners should be possible.

Another necessary focus, and one of the most important control instruments for the working conditions of employees in health care professions, is the question of health workforce forecasting. European minimum standards can make a significant contribution to this by determining which groups of people may be included in workforce requirements and how.

For example, the practice must stop of including employees on parental leave or in training in personnel requirements. Minimum staffing requirements for night shifts must also be set uniformly in order to make healthcare professions attractive.

Another important regulatory segment is the protection of minors. In addition to special arrangements to be made for young people during practical training, the minimum age at which practical training may begin should be specified in any case. Under no circumstances may this age limit be lower than 17 years. Discrimination

in pay and compulsory insurance cover for periods of practice must also be included in the regulations.

In order to create truly attractive conditions that also motivate people to stay in the profession, the following points are essential and must be regulated throughout the EU:

- Obligatory offers for supervision and coaching, which can be taken up during working hours
- Definition of rights and obligations regarding information
- Introduction of minimum regulations for hazard notification
- Minimum standards for professional liability insurance
- Firmly establishing the option of having recourse to specialised complaint bodies (cf. the ombudsmen in the Equal Treatment Directives)
- Minimum standards for the implementation of aggression and violence management systems to ensure the safety of workers and to avoid overburdening situations

## Demands

The magnifying glass of the global corona pandemic has shown us that EU-wide minimum standards for employment conditions in health care professions are needed to successfully counter the ongoing massive shortage of personnel in the health and care sector that already exists throughout Europe. In accordance with Art. 153 in conjunction with Art. 154 (2) TFEU, this requires the initiative of the European Commission and the social partners to help bring about a breakthrough with corresponding proposals.

Health Professions Directive		Live-in Care Framework Directive	
Goals	Contents	Goals	Contents
<ul style="list-style-type: none"> <li>• Introduction of Europe-wide minimum standards</li> <li>• Fair working conditions in the health care professions</li> <li>• Responding to the Europe-wide workforce shortage with adequate resources</li> </ul>	<ul style="list-style-type: none"> <li>✓ Special rules on working hours</li> <li>✓ More holiday entitlement</li> <li>✓ Rules on staffing requirements</li> <li>✓ Minimum age for training</li> <li>✓ Introduction of an ombudsman's office</li> </ul>	<ul style="list-style-type: none"> <li>• Single legal framework for placement and employment</li> <li>• Mandatory application in all Member States</li> <li>• Legal certainty and transparency</li> <li>• Good working and living conditions for caregivers</li> <li>• Quality assurance for people with care needs</li> </ul>	<ul style="list-style-type: none"> <li>✓ Europe-wide register for placement agencies</li> <li>✓ Prohibition of unfair contract terms</li> <li>✓ Obligations of the agencies towards households</li> <li>✓ Rights and obligations of the household</li> <li>✓ Rights and duties of personal carers</li> <li>✓ Minimum training requirements for personal carers</li> </ul>

# Need for an EU Framework Directive laying down basic rights and obligations for the employment of live-in care-workers:

## Key points

- Due to demographic developments and insufficient supply in the field of long-term care and assistance, the need for live-in carers is growing across Europe.
- These personal carers are mainly women from Central and Eastern European countries (CEECs) who come from economically precarious backgrounds.
- Both the situations of carers and families in need of care are very often exploited by agencies that arrange care work.
- In some cases, there is even evidence of human trafficking.
- The employment of personal carers in other Member States exacerbates the need for care and assistance in their countries of origin.
- Europe-wide regulation is therefore urgently needed, as personal care in private households is a Europe-wide phenomenon which, if unregulated, leads to unfair conditions and abuses for personal carers and families in need of care.
- Establishing the basic rights and obligations for the employment of live-in care workers will create a uniform legal framework for the placement and employment of personal carers in order to ensure the quality of the working and living conditions of caregivers and those in need of care services, as well as to guarantee transparency and legal certainty.

## Background

Due to demographic developments across Europe and the inadequate provision of formal long-term care and assistance, there has been a sharp increase in the employment of personal carers in private households over the last two decades. Most of the personal carers come from the CEECs. In order to work, they have to leave their own families, which leads to a precarious situation in care and nursing work in their countries of origin. Moreover, they are no longer available as workers in their own countries (cf. [Sekulová/Rogoz](#) 2019).

Currently, the individual Member States use a wide variety of legal forms for the employment of carers. The density of regulations for personal care is not clear and

not uniformly structured in the Member States for all parties involved. What they all have in common is that the conditions for carers in the countries of employment are precarious. Lack of training and lack of quality control in households leads to mutual overburdening of both the caregivers and the people who need care and their families.

A minimum level of quality control and state support is therefore necessary. Since caregivers are scarcely organised in terms of representation of their interests, they also have a poor negotiating position vis-à-vis placement agencies. The agencies, in turn, take advantage of the poor language skills and thus the insufficient level of information and precarious socio-economic conditions of personal carers.

But the challenging situation of persons in need of care and their relatives is also often abused by the agencies by including unfair and non-transparent conditions in placement contracts and by not providing promised services and benefits.

However, it is not only the caregivers and the persons to be cared for and their families who suffer from these unfair business practices. Agencies with dubious business practice also make it more difficult for those agencies that try to place personal carers under fair working conditions. Unfair business practices of so-called „dumping agencies“ lead to unfair competitive conditions for reputable agencies that provide quality placement services.

## Main findings

The proposal for a framework directive is intended to define the basic rights and obligations of all actors involved in live-in care arrangements. These are, firstly, the families or households in need of care, secondly, the agencies that provide care workers and, thirdly, the personal carers themselves. The aim of the EU framework directive laying down the basic rights and obligations for the employment of personal caregivers is to create a mandatory uniform legal framework for the placement and employment of personal carers. In addition to legal certainty and transparency, good working and living conditions for personal carers and the quality of services for people with care needs must be ensured.

The core of the regulation must be Europe-wide registration of placement agencies to ensure quality standards. Only registered agencies should be allowed to offer placement services. Agencies must demonstrate compliance with certain standards in order to be included in a European register. The Directive must

lay down mandatory criteria, which can be further developed by the Member States.

A conceivable obligation would be to use predetermined contract clauses or contract templates to guarantee transparency and fair conditions. These can include, for example, bans on gagging or non-competition clauses or the requirement to pay services directly to those who provide them. In particular, clauses which provide for fees without a specific service in return (often referred to as „management fees“) should be prohibited. Minimum requirements for transparent price and service provision are therefore indispensable.

Further mandatory minimum standards must be:

- Arrangements for caregivers' travel to and from their homes
- Transparency provisions for contractual relationships between partner agencies and personal carers
- Accessibility of the agencies
- Emergency plans
- Minimum standards for quality assurance

Registration, and hence a Europe-wide obligation to comply with these minimum regulations, will guarantee a minimum of transparency and quality and can thus prevent abuse.

As personal care is a triangular relationship between agencies, personal carers and households, the rights and obligations of the other contracting parties must also be defined. Mutual respectful interaction between caregivers and the person to be cared for and the people living in the household lies at the core of mutual rights and obligations. For carers, the demarcation

and delimitation of activities, the quality of housing, telecommunication facilities, meals, compliance with minimum rest periods and ensuring minimum wages are important cornerstones which must be subject to the same minimum standards in all European Member States.

For those who need care, minimum regulations on training, mandatory continuing training, care documentation and confidentiality obligations are essential.

In order to effectively implement fair personal care throughout Europe, it is ultimately necessary to link national subsidies to compliance with European and national standards, to ensure monitoring and control by the EU Member States and to create arbitration bodies and to provide sanctions (damages, administrative penalties) in the event of non-compliance.

---

## Demands

---

Personal care in private households is a Europe-wide phenomenon that leads to unregulated, unfair conditions and abuse, especially for caregivers, but also for families in need of care.

Establishing the basic rights and obligations for the employment of live-in care workers will create a single legal framework for the placement and employment of personal carers in order to ensure the quality of the working and living conditions of caregivers and those in need of care services, as well as transparency and legal certainty.

In accordance with Art. 153 in conjunction with Art. 154 (2) TFEU, this requires the initiative of the European Commission and the social partners to help bring about a breakthrough with corresponding proposals.

---

## Literature

---

**Federal Ministry of Labour, Social Affairs, Health and Consumer Protection (2019):**

[Gesundheitsberufe in Österreich \(Health Care Professions in Austria\)](#). Vienna: BMASGK.

**European Commission (2017):** [The 2018 Ageing Report](#). Underlying Assumptions & Projection Methodologies. Luxembourg: European Union.

**European Commission (2012):** [Commission Staff Working Document on an Action Plan for the EU Health Workforce](#). Strasbourg: European Union.

**Sekulová, Martina; Rogoz, Mădălina (2019):** [The Perceived Impacts of Care Mobility on Sending Countries and Institutional Responses: Healthcare, Long-term Care and Education in Romania and Slovakia](#). Vienna: ICMPD.

---

## Authors

---

**Mai 2020**

Miriam Fahimi

[Miriam.Fahimi@akwien.at](mailto:Miriam.Fahimi@akwien.at)

Silvia Rosoli

[Silvia.Rosoli@akwien.at](mailto:Silvia.Rosoli@akwien.at)

Kurt Schalek

[Kurt.Schalek@akwien.at](mailto:Kurt.Schalek@akwien.at)