



European Migration Network

Ad-Hoc Query on Overseas Domestic Workers

Requested by UK EMN NCP on 2nd November 2009

Responses from Austria, Belgium, Finland, France, Germany, Hungary, Latvia, Lithuania, Luxembourg, Netherlands, Portugal, Slovak Republic, Spain, Sweden, UK (15 in Total)

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1. Background Information

The UK currently has two specific visa routes which enable individuals visiting the UK to bring with them persons who they will employ to carry out domestic work within their household in the UK. These employees are referred to as Overseas Domestic Workers (ODWs) by the UK Border Agency. One route is for ODWs who will work within private households, the other is for private servants in diplomatic households.

The UK government is currently exploring whether more can be done to protect ODWs from abuse and exploitation. For this purpose we would like to know what arrangements EMN partners have in place with regards to the following:

- 1. What arrangements does your country have to allow individuals coming to your country (*including diplomats*) to bring with them persons who they will employ to carry out domestic work within their household?**

Please include in your answer details of eligibility rules, obligations on the part of the employer or employee, and rights of employers and employees.

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2. What arrangements does your country have to protect any persons entering as overseas domestic workers with their employer from labour exploitation or other types of abuse?

Definitions:

Overseas Domestic Worker

The term Overseas Domestic Worker has specific meaning for the UK Border Agency as it refers to people entering the UK with their employer to work for them here (either in a private household or in a diplomatic household). The work of ODWs might include the following roles: cleaner, chauffeur, gardener, cook, and personal care of their employer or a member of their employer's family.

Labour Exploitation

Labour exploitation includes unacceptable working conditions as defined by national employment legislation (e.g. non compliance with minimum wage or maximum hours rules; or making inappropriate deductions from wages; or health and safety violations in respect of the workplace or tied accommodation) through to forced labour and trafficking.

For example, in the UK there is a National Minimum Wage which applies to almost all workers (including Overseas Domestic Workers), but can exclude workers living and working as part of the family¹. Failure to remunerate workers at the appropriate rate would constitute labour exploitation and a breach of employment legislation.

There is UK government legislation on working hour limits but domestic servants in private households (including Overseas Domestic Workers) are not covered by this.

There is also UK legislation concerning the level of deductions from wages that employers can take for accommodation and the conditions under which such deductions may be made.

¹ Living as part of the family means that the worker must be provided with living accommodation and meals free of charge and must share in family tasks and leisure activities on the same basis as other family members.

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The International Labour Organisation (ILO) Convention No.29 (adopted in 1930) defines forced labour as: "...all work or service, which is extracted from any person under the menace of any penalty and, for which said person has not offered himself voluntarily" (Art. 2.1).

The ILO (2007) suggested six elements which individually or together can indicate forced labour:

- threats or actual physical harm;
- restriction of movement and confinement to the workplace or to a limited area;
- debt-bondage;
- withholding of wages or excessive wage reductions, that violate previously made agreements;
- retention of passports and identity documents (the workers can neither leave nor prove their identity and status);
- threat of denunciation to the authorities where the worker is of illegal status.

See also the EMN Glossary entries for: Employee, Employment, Employer.

2. Responses²

		Wider Dissemination? ³	1. What arrangements does your country have to allow individuals coming to your country (including diplomats) to bring with them persons who they will employ to carry out domestic work within their household? Please include in your answer details of eligibility rules, obligations on the part of the employer or employee, and rights of employers and employees.
	Belgium	Yes	<p>The eligibility rules and obligations described hereafter are to be fulfilled in case the employee is a foreign national from outside the European Economic Area. Individuals from the EEA are exempted from most of the obligations described hereafter, with the exception of Bulgarian and Romanian nationals for whom limitations still apply.</p> <p>In Belgian law, a domestic worker is a remunerated worker who performs primarily household-related manual tasks (e.g. cleaning, cooking and childcare - as long as this care is not considered to be educational, otherwise a different kind of contract is required), under</p>

² If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

³ A clear "YES", your response may be circulated further (i.e. to national network members) or "NO" should be added here. In case of "NO", then the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However they have requested that it is not disseminated further."

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		<p>the authority of an employer and primarily for the household of that employer. The manual nature of the work is predominant, and the work primarily benefits the employer and his/her family. A worker who is primarily affected to other types of work than household cores (e.g. gardener, building maintenance, chauffeur, personal care or nursing, etc.) will not be considered a “domestic worker” and will not fall under the <i>Commission paritaire / Paritair comité/ Joint Committee 323</i>. He/she will have to be employed under another type of work contract; for instance a chauffeur, personal carer or gardener will fall under different categories of manual workers or employees, for which specific employment rules have to be respected. The Belgian legislation also distinguishes between two types of domestic workers: internal domestic workers, who reside at the home of their employer and only work for that employer, and external domestic workers, who reside at another domicile than their workplace and work for several employers.</p> <p><u>Domestic workers in private households</u></p> <p>Before entry, the worker shall be in possession of a valid passport and of a Schengen visa type D (stay of more than 3 months), delivered by the Belgian diplomatic post or consulate of the country in which the worker resides. The employer shall apply for an authorization to employ a third-country national with the Regional employment authorities of the Region in which he/she resides (Flanders, Wallonia, Brussels-Capital Region, German-speaking community). A health certificate shall be annexed to the application. The authorization is delivered after the Regional employment authorities have verified whether the vacancy can be filled by EU job seekers on the EU labour market.⁴ When the employer is authorised to employ a third-country national, a work permit (type B, valid one year and renewable)⁵ is delivered to the worker. After entry, and within the validity period of his/her visa, the worker shall apply for a residence permit (valid one year and renewable) at the municipality where he/she resides.</p> <p><u>Private servants in diplomatic households</u></p> <p>Domestic workers employed by diplomatic households do not need a work permit or an authorization of the Regional employment offices. Upon entry, however, the worker shall apply for a special ID card (model IV) with the Service of the Protocol (or ‘Service of the Etiquette’) of the Federal Public Service Foreign Affairs. This special diplomatic identity card is linked to the employer’s diplomatic residence card. The special ID is only valid for the duration of the work contract. The request shall be made personally by the worker, so that the ID card can be handed to him/her personally, together with specific information and useful addresses for domestic workers in Belgium. The domestic worker will also be informed about his/her legal rights and will be given the contact details of the competent</p>
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⁴ If the regional employment authorities consider that the vacancy can easily be filled, it will be very difficult to obtain a work permit. Exceptions can be made for “social or economical reasons” or for nationals from countries that have a bilateral agreement with Belgium. In practice we see that almost all work permits that are handed out to foreign domestic workers are given to those who will work as a live-in domestic worker. It is considered that it is very difficult to find a domestic worker who is willing to live-in with the employers.





⁵ A work permit B is only valid for one specific employer and for one year only. It can be renewed, after an evaluation of pay slips and salary received. If there has been any kind of payment problem, the work permit B will not be renewed. If the domestic worker wants to change employers within the validity of his/her work permit, the only possibility is to apply for a new work permit B if another employer is found. Practice shows that in this kind of situations, problems easily arise.

⁶ In practice, first-line assistance services such as ORCA vzw (www.orcasite.be) report that problems often occur with domestic workers who work for diplomatic households. These problems can be related to the lack of respect of Belgian labour legislation but can touch a wider range of issues since the domestic worker lives inside the diplomatic home. The diplomatic status makes it difficult to efficiently address problems involving diplomatic employers, even though rules exist to protect this type of workers (cf. question 2).


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			<p>authority in case of conflict with his/her employer. In case of proven abuse by a member of the diplomatic personnel and non-respect of contractual commitments, the Chief of the Protocol might refuse to deliver special ID cards to private servants in a given diplomatic household.</p> <p>The domestic worker shall comply with the following requirements before being granted a special ID card:</p> <ul style="list-style-type: none"> - he/she shall not reside irregularly on the Belgian territory - he/she shall not reside temporarily on the Belgian territory - he/she shall be in possession of a health certificate (which has been annexed to the visa application before his/her entry in Belgium) - he/she shall be over 18 years old - he/she shall not be a family member of the employer or of any other member of that diplomatic mission - he/she shall be in possession of a passport which is valid for at least 6 month at the moment of applying for the visa - he/she shall be in possession of a certificate of good conduct <p>(These requirements are detailed in the Circular Letter n° 1415 of the Minister of Foreign Affairs of 07.06.1999, complemented by the Circular Letter n° 755 of 12.12.2002)</p> <p>In a separate declaration addressed to the Service of the Protocol, the employer shall certify that the work contract of the domestic worker complies with Belgian labour regulations, despite diplomatic privileges and immunity. They are required to sign a statement of the terms of conditions and confirm that they will maintain and accommodate the employee. The actual written work contract signed by the employer and the domestic worker shall also be sent to the Service of the Protocol. It will check if the work contract respects Belgian labour legislation. National minimum wage regulations thus apply.⁶</p>
	Bulgaria		
	Czech Republic		
	Denmark		
	Germany		<p><u>Domestic employees of persons posted for work in Germany (private foreign employers with limited right of residence– no diplomats)</u></p> <p>Foreigners working as domestic employees for persons posted in Germany by their employer or on behalf of a company domiciled abroad for a period of up to two years may be issued a residence title for this time period if the person posted, prior to entering Germany, had employed the foreigner for at least one year in his or her household in order to look after a child under 16 years or after a member of the household in need of care. The issuance of the residence title needs to be approved by the Federal Employment Agency on the condition that the foreigner is not employed under less favourable terms than a comparable German employee. In his or her capacity as employer, the person posted in Germany must inform the Federal Employment Agency about salary, working hours and other working conditions. The approval of the Federal Employment Agency can be extended for a maximum of three years (Section 18(3) of the Residence Act in connection with Section 39(2), 1st sentence, last semi-sentence and 3rd sentence of this Act as well as Section 17(1) and Section 22 of the Employment Ordinance).</p> <p>Since this constitutes a residence for the pursuit of an economic activity, in principle a visa is required for entry, unless, by way of</p>





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			exception, the residence title can be obtained only after entry due to the nationality of the person concerned (Section 4 of the Residence Act, Section 41 of the Ordinance Governing Residence). In both cases, the general preconditions for granting the residence title (Section 5 of the Residence Act) must be fulfilled in addition to the approval of the Federal Employment Agency mentioned above.
	Estonia		
	Ireland		
	Greece		
	Spain	Yes	<p>A special scheme exists in Spain for domestic employees - the denomination given by the Ministry of Labour and Immigration - set forth in Royal Decree 1424/1985 of 1 August, which regulates the special nature of the work relationship of Family Home Services. This scheme includes certain peculiarities which are detailed below with regards to the question posed by the United Kingdom.</p> <p>According to this regulation, in Spain domestic labour includes all types of domestic tasks, including management or care of the home, caretaking of or attention provided to members of the family or those living in the home, tasks related with childcare, gardening, driving of vehicles, and others of a similar nature as long as they are part of the domestic tasks as a whole, per Article 1.4 of Royal Decree 1424/1985.</p> <p>Domestic service in private households.</p> <p>1.- In accordance with legislation in place, this case is not feasible since the foreigner, in order to hire another foreigner, must legally reside in Spain and fulfil certain requirements; therefore, there is no possibility of a domestic employee entering to work under the former's responsibility.</p> <p>Foreigners entering Spain to render domestic services are subject to the Law on Alien Affairs and special laboural legislation as regards labour-related matters, mainly Royal Decree 1424/1985.</p> <p>This Royal Decree sets forth a special, flexible scheme as to workers rights, despite a minimum being fixed in this regard. The workshift – timetable and rests – is flexible, though a maximum of 40 hours per week of effective work is imposed. The minimum inter-professional salary applies to these cases, though usually the salary is reduced proportionately when the workshift is less. The contract may be verbal. These and other conditions give rise to a worker statute which is inferior to that generally set forth for workers.</p> <p>It is mandatory for the employer to make sure that work is done in proper conditions of health and safety, though legislation admits that failure to comply is merely grounds for the worker's resignation.</p> <p>The work and residence permit must abide with the legislation in effect, that is, the Law on Alien Affairs. In general terms, the appropriate visa must be acquired first, and later the work and residence permit for one year, renewable thereafter</p> <p>Domestic service in homes of diplomatic personnel.</p>



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			<p>As to the entry to Spain of domestic service personnel which accompany accredited diplomatic corps, this is permitted in accordance with the obligations derived of Article 1.h of the Vienna Convention on Diplomatic Relations, which defines these as “personal servants”, or in accordance with the obligations derived of Article 1.i of the Vienna Convention on Consular Relations, as to those who are “private personnel members” belonging to a member of a Consular Office’s personal services. By virtue of both Conventions, these workers are neither members of the Mission nor of the Consular Office, a condition to be taken into account as regards to labour-related issues, immunity and other prerogatives of diplomatic personnel.</p> <p>Through Circular Memorandum No. 17/7 of 18 October 2006, two options are made possible for hiring these workers. One refers to the hiring in Spain of domestic employees, in which case the worker must be Spanish or reside legally in Spain and, given this circumstance, the special scheme for domestic service and other Spanish laboural legislation applies. The other contemplates the case referred to by the United Kingdom: domestic service which accompanies diplomatic personnel.</p> <p>A foreigner which accompanies a diplomatic representative when the latter assumes a post at the destination must apply for a visa which certifies the domestic service, presenting with the application a work agreement signed by both parties. The diplomatic representative may make use of this channel during six months as of assuming the position and for a maximum of two persons under his/her responsibility. The employee may not be substituted by another at a later date.</p> <p>As regards labour-related issues and social security, national legislation applies in accordance with Article 33 of the Vienna Convention on Diplomatic Relations and Article 48 of the Vienna Convention on Consular Relations, unless it is accredited by verifiable means that the worker has social security coverage provided by the sending State or of a third State - in this case, the worker may participate in the Spanish social security scheme voluntarily or through a bilateral agreement.</p> <p>For entry to Spain, a communication made by the Embassy, Consular Office or International Body to the Ministry of Foreign Affairs and Co-operation will be sufficient, annexing specific documentation and using any type of passport for the entry. Once in Spain, the Protocol Services take note of the worker’s incorporation and issue documentary accreditation.</p> <p>Permission to remain in Spain expires upon the termination of the diplomatic representative’s rendering of services. Upon completion of the diplomatic representative’s term at the destination, the employee must leave Spain, and this must be notified by the Embassy, Consular Office or International Body to the Protocol Services of the Department, returning the documentary accreditation which had been issued for the exercise of the service.</p>
	France	YES	<p>France has arrangements allowing for two specific categories of domestic workers to enter with their employers:</p> <ul style="list-style-type: none"> - Domestic workers in private households <p>In France, this category of workers falls under the same law as foreign workers. Overseas domestic workers must apply for a one-year short stay visa and be delivered a temporary work permit. The current arrangement is the Circular n° NOR IMIM0900078C dated August 3rd 2009 regarding the issue of work permits to foreign domestic workers escorting in France individuals who usually employ them out of France.</p>




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			<p>Employers who want to enter the French territory with their domestic staff (baby sitter, butler, household employees, etc) must contact the competent DDTEFP (Regional Services of the Ministry of Work, Employment and Professional Training) depending on their first residence in France in order to ask for a temporary work permit for their domestic workers.</p> <p>The employer must fill in and sign the form “wage earner detachment outside the intragroup mobility”. Initial approval for a temporary work permit can be granted for up to one year provided that the cumulative duration of stay does not exceed 3 months by period of 6 months. The form is the only element of the file; it obviously goes with the obligation to apply for a short stay visa. However, the employer must pay off the employer’s contributions in accordance with Article R.312-4 of the Code of Social Security. National minimum wage (gross €1337, 70 and after-tax €1051) regulations apply since July 1st 2009.</p> <p>The employer is also required to certify that he can support the domestic worker’s travel and subsistence costs.</p> <p>The employee must have been employed as a domestic worker overseas by the supporting employer for a period of 6 months prior to entry. He is detached in France according to Article L.1262-1-3° of the Labour Code that simplifies the conditions of issue of temporary work permits.</p> <p style="text-align: center;">- Private servants in diplomatic households</p> <p>This category derives from obligations under the Vienna Convention on Diplomatic Relations of 1961 and allows members of staff of a diplomatic or consular mission to engage private servants from overseas.</p>
	Italy		
	Cyprus		
	Latvia	Yes	<p>In Latvia there is no special legal regulation in such case. As the request is insignificant, the temporary residence permits are issued according to the Immigration Law p.23, p.1., p.19., where the aim of entry is “to make another task”.</p> <p>The Employment relationships is regulated by the Labor Law. The principle of equality is applied in the employment relationships. In accordance with the Labor Law everyone has the equal rights to work, to fair, safe and healthy working conditions, as well as to a fair wage, in respect of persons race, colour, sex, age, disability, religion, political or other opinion, national or social origin, property, or marital status, sexual orientation or other status. The equal working conditions are provided to everyone, also alien, who is lawfully employed in Latvia, and the employment relations is regulated by law.</p>
	Lithuania	Yes	<p>1. Lithuania has no special arrangements for individuals coming to Lithuania to bring with them persons who they will employ to carry out domestic work within their household. Therefore a general procedure must apply. A worker can only come to work in Lithuania, if there is an employer established in Lithuania who can invite the</p>



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			<p>aliens and if he/she meets the requirements of the market test (the vacancy has to be advertised for one month by the labour Exchange Office).The only group who can come to Lithuania together with a third country national is family members. But the domestic workers are not considered to be family members.</p> <p>The exception is made for diplomats willing to employ private servants. The head of mission needs to inform the Protocol department by sending a verbal note about their intention to employ a person. The Protocol department issues accreditation card (C) for the period of the contract. These workers do not need to receive residence or work permits.</p> <p>*There is a possibility for a third country national to employ other third country nationals as domestic workers, but such people would have to obtain work and residence permits according to the general rules (thus the employment offer would undergo the labour market test).</p>
	Luxembourg	No	Answered but not for wider dissemination
	Hungary	Yes	<p>Normally domestic workers fall within the category of third-country nationals who wish to stay in Hungary in order to carry out gainful employment and who need a work permit. However, Hungary does have some special arrangements as well, though they can be regarded exceptional.</p> <p>According to general regulations, third-country nationals can only be employed in Hungary in possession of a work permit, but there are a few exemptions to this rule prescribed in the Ministerial Decree 8/1999 (XI.10.) SzCsM on Work Permits Issued to Foreign Nationals. According to the Ministerial Decree, the following categories can be distinguished:</p> <p>employment without a work permit obligation, employment with work permit obligation under facilitated conditions, employment with work permit obligation according to the general rules.</p> <p>Individual work permits can only be issued by the competent employment centre on the basis of a valid workforce request submitted by an employer and if prior to filing the workforce request, neither any Hungarian worker, nor any EEA national or a relative of such national who is registered as a job-seeker and who satisfies the conditions of the current employment, was available for the position. The workforce request shall be considered valid, if it was registered by the employer minimum fifteen and maximum sixty days prior to the application for a work permit. Both the workforce request and the application for work permit have to be submitted by the employer. Individual work permits can be issued for a maximum period of two years, and may be renewed for the same period. The individual work permit must specify the employer, the workplace, the job or position and the duration of employment for which the third-country national may be hired.</p> <p>Third-country nationals who wish to stay in Hungary for more than 3 months are required to have a residence permit for the purpose of gainful employment issued by the Office of Immigration and Nationality. The validity of a residence permit granted for the purpose of gainful employment by the OIN can be three years maximum, and it may be extended by three additional years at a time. However, in case of employment with work permit obligation, the validity period of the residence permit cannot exceed the duration of the work</p>





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			<p>permit.</p> <p>Like in a lot of countries, there are facilitations with regard to the residence and employment of diplomatic personnel and their family members, but in general not for domestic workers working in their private household. There is a possibility to issue work permits under facilitated conditions (without the examination of the labour market situation) for the employment of a foreign national by the diplomatic or consular mission or other bodies of a foreign state, if other than the regular staff and if not considered a delegated member of the state which he/she represents. It means that these persons cannot be members of the diplomatic personnel of these bodies and cannot be regarded as members of the delegation but they can obtain a work permit under facilitated conditions.</p> <p>Regarding special arrangements, 2 agreements can be mentioned:</p> <ul style="list-style-type: none"> - The agreement between the Government of the Republic of Hungary and the UNHCR states that UNHCR officials have the right to employ private servants (domestic workers) in accordance with the terms and conditions foreseen for members of diplomatic missions in Hungary. In practice this means that they do not need a work permit. - An agreement between Hungary and Ecuador states that domestic workers living in the same household as members of diplomatic, consular or trade missions/representations do not need a visa or a residence permit under the period of the service, in case they are in possession of a diplomatic, official or special passport. <p>A new legislation will enter into force on 1st April 2010 on “facilitated employment” which also includes domestic work. Third-country nationals also fall within the personal scope of this act in case they are employed as domestic workers in the household of a private person. The main elements of the law are the following: the possibility to use form contracts (provided in the annex to the act), special provisions regarding the registration of the employment, special provisions regarding payment of tax and social contributions and entitlement to social and health benefits.</p>
	Malta		
	Netherlands	Yes	<p>In the Netherlands, there is currently no equivalent to the definition of the Overseas Domestic Worker. Therefore, the general rules and arrangements are applied, which means that a residence permit for working as an employee is required and therefore a working permit is obligatory.</p> <p>This working permit can be obtained only if the position cannot be filled by a Dutch national, or a national of the European Union (excluding Romania and Bulgaria).</p> <p>Diplomatic staff of foreign embassies and consulates and all staff members of international organisations (privileged persons) are allowed to bring domestic staff to the Netherlands if the request is supported by the embassy or international organisation. These domestic workers are registered by the Ministry of Foreign Affairs and are only allowed to reside in the Netherlands for the duration of their contract. A separate working permit is not required for these domestic workers.</p> <p>Privileged employers are bound by all relevant labour laws regulating length of work week, minimum wages etc. Furthermore, privileged employers must sign a letter of guarantee and submit proof of medical insurance. Domestic staff must be insured under a social security scheme either abroad or in the Netherlands.</p>
	Austria	No	Answered but not for wider dissemination

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	Poland		
	Portugal	YES	<p>According to the Portuguese Immigration Law (Act n.º 23/2007, 4th July), article n.º 88º, (“Residence permits for carrying out a subordinated professional activity”) and concerning <u>domestic workers in private households</u> a residence permit for carrying out a subordinated professional activity will only be granted to third country nationals who have a legal work contract and are registered in the Social Security System.</p> <p>Exceptionally, against a proposal of Director General of SEF or by initiative of the Minister of Internal Affairs, the requisite established in sub-heading a), paragraph 1, article 77º may be dispensed with, provided the foreign citizen, apart from the other general conditions established in that disposition, fulfils the following conditions:</p> <p>a) Holds a work contract or has a labour connection confirmed by a workers’ union, by an association which is party to the Consulting Councillor, or by the Work General Inspectorate;</p> <p>b) Has legally entered in national territory and here remains legally;</p> <p>c) Is registered in the Social Security System and accomplished all his /her obligations to that department.</p> <p>The granting of residence permit within the terms of the preceding paragraphs is communicated to SEF, by electronic means, to the Employment and Vocational Training Institute, and, in the Autonomous Regions, to the corresponding regional services, in order to execute the quotas defined in other article.</p> <p>The granting of residence permit within the terms of the preceding paragraphs is communicated to SEF, by electronic means, to the Work General Inspectorate or, in the Autonomous Regions to the respective regional secretariat, so that these departments may inspect the accomplishment of all legal obligations of the employers in relation to the residence permit holder, as well as to the Fiscal Authorities and the relevant services of the Social Security.</p> <p>In these situations the labour relations are regulated by the same principles that apply to all other workers as well the rights concerning to social security.</p> <p><u>Private servants in diplomatic households</u></p> <p>According to the Portuguese Immigration Law (Act n.º 23/2007, 4th July), article n.º 87º (“Foreigners who are exempt from having a residence permit”), a residence permit is not demanded from diplomatic or consular agents who have been endorsed in Portugal, from administrative, domestic service or equivalent staff that serves diplomatic missions or consular posts of their respective States, from members of staff of international organizations with head office in Portugal neither from their family members.</p> <p>The persons indicated in the preceding paragraph are endorsed with an identification document issued by the Ministry of Foreign Affairs, after consulting SEF.</p> <p>For both situations and without prejudice to the application of special stipulations and other rights established in the law, or in international conventions that Portugal is a Party to, the holder of residence permit is entitled, without need to obtain any special authorization on grounds of being a foreigner, to</p>

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			<p>a) Education and tuition; b) Engaging in a subordinated professional activity; c) Engaging in independent professional activity; d) Professional guidance, training, improvement and rehabilitation; e) Health care; f) Law and Courts.</p> <p>The application of stipulations that guarantee equal treatment to foreign citizens is guaranteed, specifically in what concerns social security, fiscal benefits, participating in workers unions, recognition of diplomas, certificates and other professional credentials or documents that grant them access to goods and services at the public's service, as well as the application of stipulations that grant them special rights.</p>
	Romania		
	Slovenia		
	Slovak Republic	Yes	<p>The Slovak legislation does not comprise any definition of "overseas domestic workers" or any other domestic workers to which special conditions for admission and employment by their employers (individuals) for the purposes of domestic work in the SR are applicable. The employer can be a natural person who is not an entrepreneur or a self-employed person. If the employer (individual) wants to take in the SR a third country national/foreigner who will be employed in his/her household as a domestic worker he/she has to fulfil the standard conditions, which are applicable to all employers regarding the residence and the purpose of employment of foreigners in the SR. Foreigner who will be employed in his/her household has to have a residence permit for the employment purpose and a work permit (following the Act on Employment Services and the Act on Stay of Aliens). The application for the work permit has to be submitted by the foreigner and it has to contain the promise of the employer that he/she will employ the foreigner. The work permit is granted to the foreigner for 2 years and can be extended for another 2 years following the submission of a new application. The residence permit is issued on the basis of the work permit and its duration also depends on the duration of the work permit. The labour contract has to be in line with the Labour law regarding also the work conditions and conditions of remuneration, length of the work time, overtime, safety and protection of the health, etc. The domestic worker is entitled as a minimum to the minimal wage which is determined by the law on minimal wage. Labour law or any other act does not determine the amounts for accommodation and meals which could be deducted from the wage. This amount should be stated in the labour contract. If this domestic worker would like to change the employer he/she him/herself has to apply for the new work permit. The work permit is issued on the basis of the situation on the labour market. In cases of diplomatic workers the same conditions as described above are applied.</p>
	Finland		<p>Foreign diplomats may employ individuals for carrying out domestic work within their household. If the domestic worker is third country national (but has the same nationality as the diplomat), the Ministry of Foreign Affairs in Finland will issue him or her residence permit as soon as the domestic worker and the diplomat have entered Finland. The residence permit is issued for a fixed term and depends on the diplomat's tenure of office. The working conditions are not reviewed on this occasion. If the house worker is not a citizen of the same country as the diplomat, he or she should apply for a residence permit for employed persons before entering Finland. In this context, Labour and Economic Development Authority will check the working conditions.</p>



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		<p>If the domestic worker is an EU citizen, he or she may enter Finland in terms of free movement. The Ministry of Foreign Affairs will register his or her residence in Finland. The working conditions will not be reviewed on this occasion.</p> <p>The Ministry of Foreign Affairs has published a handbook on Diplomatic Privileges and Immunities in Finland. The handbook refers to mandatory and absolute provisions of the Finnish labour and social laws which must be observed. Diplomatic missions are advised to observe working conditions and absolute provisions from the internet pages mentioned in the handbook.</p> <p>The appointment and arrival of members of missions and their family members and private servants must be notified to the Protocol Services without delay after their arrival or appointment by a verbal note by the mission. Similarly, the termination of duties and final departure of the persons concerned should be notified to the Protocol Services. A duly completed notification form in three copies, a valid passport and three recent passport size photographs of each person should be enclosed with the verbal note. A separate notification form is required of each accompanying family member and private servant. The photographs should be affixed to the notification forms, preferably not with staples. Each form should be duly signed and stamped. It should be indicated in the verbal note if a residence permit and/or an identity card is applied for. Missions are also requested to notify the estimated term of office or residence of the persons concerned, whenever possible. Missions are requested to clearly notify the actual function of the person concerned and, as appropriate, the name of the person being replaced. As regards diplomats, the position (the rank in the diplomatic list) of the person concerned should also be notified. It should also be noted that multiple nationalities must be notified duly. The employment and dismissal of persons as locally engaged staff of missions and as private servants of members of missions shall be notified to the Ministry on an annual basis via a verbal note by each mission at the request of the Ministry.</p> <p>The Ministry also issue residence permits to the members of the diplomatic staff of missions located outside Finland, who are assigned to perform duties in Finland, as well as to their family members. Furthermore, the Ministry issue short-term residence permits to foreign persons who arrive to undertake construction or maintenance work on the premises of a mission or an ambassadorial residence. Residence permits and ID-cards are issued for the estimated term of office in Finland or, if no estimated term of office or residence is notified to the Ministry, for two years at the most. Applications concerning extension of a residence permit or an ID-card shall be submitted to the Protocol Services by a verbal note. A recent photograph of the person concerned should be enclosed with the note. Extension permits and cards are issued for one year at a time or, on request, for the remaining term of office. A third-country national who holds a valid residence permit issued by the Ministry for Foreign Affairs and a valid travel document may, as a rule, on the basis of that permit and a valid travel document, move freely for up to three months within the territory of the Schengen area.</p> <p>If the terms and conditions of employment are breached by the diplomatic mission in Finland, the situation is difficult to solve due to diplomatic immunity that the members of missions and their family members enjoy during the mission. There is known to be one case, in which the diplomatic mission severely breached the terms and conditions of employment. In this particular case the domestic worker was recognised as a victim of human trafficking and issued a residence permit because of serious infringements of the employee. The diplomat in question is under criminal investigation, but the investigation has proven to be difficult since the diplomat has left the country. The Ministry of Foreign Affairs does not; in principle interfere in civil proceedings. Only if there are suspicions of a criminal offence, the ministry may take part in the proceedings. In case a serious offence is suspected, the Ministry of Foreign Affairs will request the sending state either to waive the diplomatic immunity or to recall the person who is suspected of having committed such offence.</p>
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		<p>The Ministry of Foreign Affairs has tentatively put forward a suggestion for processing all the domestic worker's applications regardless of nationality in the Immigration Service in order to enable the review of the terms and conditions of the employee before issuing a residence permit. Private household workers may also gain information on details of minimum terms and conditions of employment from the labour protection authority.</p> <p>Besides diplomatic missions, individuals are able to bring Au Pairs with them to carry out household work. Au pairs do not require a residence permit for employed persons; an ordinary residence permit is adequate. Should a person enter Finland as a fulltime childminder or home help, he or she requires a residence permit for employed persons. To obtain a residence permit, persons seeking to become au pairs must demonstrate an interest in the Finnish or Swedish language and Finnish culture, and participate in language courses whilst residing in Finland. Upon arriving in Finland, they must possess Finnish or Swedish language skills or have studied Finnish culture, e.g. history and politics, and have proof of these. Au pairs cannot bring along children who are minors to Finland. If an applicant is a relative of the host family, he or she cannot be granted a residence permit as an au pair. In order for au pairs to obtain a residence permit for Finland, their means of support must be guaranteed. This means that the host family provides them with free accommodation and meals and a monthly net remuneration of a minimum of 252 euros. The host family also ensures that the au pair has appropriate medical and accident insurance covering the costs. Incurred by the possible illness or accident befalling the au pair. Insurance is taken out and paid after the au pair has arrived in Finland. At the application stage it is sufficient to state that an insurance policy is obtainable from an insurance company. The au pair and host family must draw up a written contract concerning these benefits. In Finland, the pocket money and fringe benefits that au pairs receive, such as accommodation, food and travel compensation, are considered taxable income, even though au pairs are not considered employed persons within the scope of a residence permit. In matters pertaining to taxation and employer contributions the host family should contact the tax office. Pocket money must be of such an amount that the required net sum remains after tax. The tax office must be informed of taking an au pair, and the au pair must obtain a Finnish tax card and social security number.</p> <p>Au pairs must apply for a Finnish residence permit in their domicile or the country in which they legally reside before entering Finland. They must begin the process themselves and wait for the decision abroad, as their residence permit must be included in their passport before arriving in Finland. An au pair's first residence permit can be granted for a maximum of one year. An extension to the permit can then be applied for, although not for a position as an au pair. The permit can be issued on the grounds of e.g. studying, working or family ties. If the au pair's job description undergoes change during the period the first residence permit is valid, the grounds for residency and working should be reconfirmed with the authorities. Au pairs can be required to carry out light housework for a maximum of 30 hours a week, five hours a day. They are entitled to at least one entire day off per week. Each month at least one of the days off must fall on a Sunday. In addition, au pairs must be allowed sufficient time for participating in language courses and educational and professional self-improvement. Au pairs take part in the host family's daily activities. As their status is comparable to that of a family member, the amount of their work must not exceed the amount of housework or childminding carried out by family members. The housing conditions of au pairs must be equivalent to those of the rest of the family. If possible, an au pair must be offered a room of his or her own. If the amount of an au pair's work exceeds that of other family members, he or she is considered an employee. In that case, he or she must apply for a residence permit for employed persons, receive remuneration for the work that an employee is entitled to and the payment of employer's contributions is required.</p>
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	<p>Sweden</p>		<p><u>Domestic workers in private households</u> There are no special arrangements for this categories of workers. The rules and terms for residence and work permit are the same for domestic workers as for all other third country nationals working in Sweden. That means that the domestic worker must be able to support himself on the salary and the employer must offer pay, insurance cover and other terms of employment which are no worse than the terms that follows from Swedish collective agreements or practice within the profession or sector. The applications are examined by the Swedish migration Board.</p> <p>The initial residence and work permits are granted for maximum two years with possibility to extend the permit with two other years. After four years a permanent residence permit can be granted.</p> <p><u>Domestic workers in diplomatic households</u></p> <p>Permits are issued by the Ministry of Foreign Affairs. The employer must show a contract of employment and the domestic worker must be guaranteed a minimum salary which is sufficient for the employees support. The initial permit is granted for 12 months and extensions are granted for periods of 12 months as long as the employer is posted in Sweden.</p>
	<p>United Kingdom</p>	<p>YES</p>	<p>The UK has arrangements allowing for two specific categories of domestic workers to enter with their employers. These are as follows:</p> <p><u>Domestic workers in private households</u></p> <p>This category allows employers coming to the UK to bring with them domestic workers from overseas for duties such as cleaning, chauffeuring, cooking and personal care.</p> <p>Employers of domestic workers may enter the UK under various immigration routes, including visitor, and other routes that may lead to permanent residence, such as those taking approved employment. The domestic worker must also satisfy the published criteria for entry to the UK. This includes being aged between 18-65 years and they must have been employed as a domestic worker overseas by the supporting employer for a period of 12 months prior to entry.</p> <p>Prior entry clearance is always required. The employer is also required to sign the terms and conditions and certify that the domestic worker can maintain and accommodate themselves without relying on public funds. Employment is also restricted to full-time work with one employer and national minimum wage regulations apply.</p> <p>Initial approval can be granted for up to 12 months, and further extensions of leave may be granted for periods of 12 months up to 5 years. The domestic worker may apply for permanent residence upon completion of 5 years approved employment.</p> <p>Domestic workers are allowed to change employer while in the UK, though any new employment is still restricted to domestic work.</p>

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		<p>Formal approval to change employers is not required from the UK Border Agency (UKBA), however domestic workers are expected to notify UKBA of this change, and the reason for the move.</p> <p><u>Private servants in diplomatic households</u></p> <p>This category derives from obligations under the Vienna Convention on Diplomatic Relations and allows members of staff of a diplomatic or consular mission to engage private servants from overseas. The work involves domestic worker duties, typically chauffeuring, gardening, cooking, and child care.</p> <p>Entry clearance is always required. The employer is also required to sign a statement of the terms of conditions and confirm that they will maintain and accommodate the employee. National minimum wage regulations also apply. Unlike the route we have for private households, there is no requirement for a pre-existing employment relationship between the diplomat and the private servant.</p> <p>Initial approval is granted for 12 months, and further extensions of leave may be granted for periods of 12 months, up to a maximum of 6 years. Upon completing 5 years of approved employment, the private servant can apply for permanent residence in the UK.</p> <p>Approval is granted on the basis of full-time employment in the diplomatic household, and requests to change employers are restricted to other diplomatic employers within the same embassy/mission. Employment outside the mission is currently not permitted.</p>
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		<p>Wider Dissemination? 7</p>	<p>2. What arrangements does your country have to protect any persons entering as overseas domestic workers with their employer from labour exploitation or other types of abuse?</p>
	Belgium	<p>Yes</p>	<p>Protection under Belgian employment legislation</p> <p>Employment of foreign workers is regulated by the law 30.04.1999 pertaining to the employment of foreign workers. Domestic work is defined in the law of 3.07.1978 (Chapter V). The collective work agreement n°65.530/CO/323 is also of application to domestic workers.</p> <p>The general rule is that Belgian employment legislation apply to all employers using domestic workers (private households AND diplomatic households). In addition to federal labour legislation (work contract, number of working hours, official holidays, provisions to terminate the contract, etc.), provisions contained in the collective work agreements (they vary in function of the sectors of employment) shall also be complied with. If the domestic worker is affected to a diplomatic household, the work contract will end when the employer ceases to occupy his/her post in Belgium. The domestic worker shall leave the Belgian territory and return his/her special ID card to the</p>

⁷ A clear "Yes", your response may be circulated further (i.e. to national network members) or "No" should be added here.

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		<p>employer (who returns it to the Service of the Protocol), except if the domestic worker is again employed by another diplomat under a new contract.⁸</p> <p>A work contract of a domestic worker shall mention the obligations of the employer (accommodation and food, place of employment, commitment to provide the necessary tools to perform the job, etc.). If the employer is a member of diplomatic personnel, he/she shall commit himself/herself 1) to pay the travel costs of the domestic worker to return to his/her country in case the employment in Belgium ends; 2) to let the domestic worker keep his/her passport or special ID 3) to provide full time employment and if not so let the domestic worker be employed by another member of the diplomatic personnel. In case of conflict between employer and worker, if the employer is part of diplomatic personnel, a report will be addressed by the competent authority to the Service of the Protocol. The Service of the Protocol of the FPS Foreign Affairs will be entitled to mediate and eventually solve the conflict.⁹</p> <p>Federal regulations on working hours do not apply to domestic workers. They can work more than 38 hours/week extra without this extra time being remunerated as extra work hours. The domestic worker can work one Sunday out of four, with a compensatory rest. A domestic worker cannot work during more than 3 official holiday days per year, and those are always supplemented by a compensatory rest. The probation period lasts for minimum 14 days. The minimum wage is determined by the Joint committee on Domestic workers. The percentage of the wage that can be deducted for accommodation and/or food if the domestic worker lives with the family, is regulated and varies between 20%, up to 50% of the total monthly wage. Maternity, parent and sick leave, temporary absence and work accidents are also strictly regulated matters.</p> <p>Domestic workers are covered by the national social security system (based on contributions of the employers and workers), which gives them access to a whole range of social security benefits, including healthcare. The only exceptions are domestic workers who do not</p>
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⁸ Because when the work relationship ends, domestic workers working for diplomats are asked to hand in their diplomatic identity cards immediately, these domestic workers can then very easily and quickly lose their legal status.

⁹ Conflicts can also be solved by finding the domestic worker another diplomatic employer.





¹⁰ Domestic work can be considered an exception because labour inspectors do not have the same access to private homes as they do to other work environments. To enter a private home labour inspectors need a search warrant from the police. These warrants are generally only given when a complaint is filed beforehand by the domestic worker.

¹¹ In Belgium, being accorded the status of a victim of human trafficking is linked with several conditions, the principal one being that of collaborating with the justice system. In practice, the link with the justice system and, in particular, with information pertinent to the judicial enquiry still offers the best guarantee for defining and making contact with the target group of those who best meet the term “victim of human trafficking”. In the Belgian system, victims enjoy several basic rights. In lieu of a temporary residence permit, such as is the case in other European countries – something which is not a real solution – Belgium offers them the possibility of obtaining permanent residence if they meet the conditions imposed. They may legally look for employment and are accompanied in the process by a reception centre. They may also benefit from social and medical assistance, as well as judicial support from a lawyer assigned to their case. From the point of view of the victim, however, the fact that those who are not interested in such assistance lose their victim status (and thereby their basic rights) constitutes a disadvantage. The Belgian system also shows several gaps. In principle, victims whose statement concerns things they have experienced outside Belgian territory may not benefit from the status. Normally, victims who have cooperated with the justice system but who lose their status in the course of the proceedings or the accompaniment phase, have no further access to such basic rights as legal aid from a court appointed lawyer.





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		<p>receive accommodation from their employer(s) (the so-called 'external domestic workers') and who work less than 4 hours/day (and less than 24h/week). The employer of latter type of domestic workers shall nonetheless take an insurance to cover work-related illnesses and accidents.</p> <p>Domestic workers enjoy the same social and economic rights as foreign workers and native workers employed in Belgium. In case of infringement of his/her rights, the domestic worker can contact the Social Inspection Services¹⁰ (that control the respect of the employment legislation) and/or can be heard by the Belgian employment tribunals. In order to control whether the worker is in declared employment and whether all legal provisions are respected, the employer shall be responsible for registering the domestic worker (DIMONA) and issuing the appropriate written documents pertaining to payment of salaries, contributions to the social security system, hours of work performed, etc.</p> <p>Although domestic workers are entitled to file a complaint against their employers, in reality a number of elements can hamper them doing so. Foreign domestic workers are often isolated. Therefore there is often a lack of information on how to proceed when wanting to act against labour violations. In addition to this, the burden of proof is a lot more difficult for domestic workers than for other workers. Consequently, labour inspectors need to invest more time in these types of complaints, while human resources might be scarce. On top of that, the labour permit B is tied to the employer's willingness to employ the third-country national, so if the domestic worker files a complaint, she/he may lose her work permit B. According to first-line assistance services, domestic workers often report that they find it very difficult to find another employer who is willing to apply for an authorisation to employ them.</p> <p>Protection under immigration legislation</p> <p>The stay in Belgium of domestic workers employed by diplomatic households is regulated by the Royal Decree of 30.10.1991 pertaining to the residence documents of certain categories of foreigners (cf. question 1, for the detailed provisions).</p> <p>Under the law of 15.12.1980 on the stay of foreigners (articles 61/2 to 61/5), victims of human trafficking who cooperate with the judicial authorities are entitled to a temporary residence permit, which can be prolonged indefinitely at the end of the judicial procedure (cf. further). Victims of human trafficking and of human smuggling are offered accommodation, health and social assistance by specialised reception centres.</p> <p>Protection under criminal law</p> <p>As in the UK, domestic workers are protected by Belgian criminal law. Actions such as restricting the freedom of movement of the worker, sexual or other violent assault, taking the worker's property including passports and any other documentation, are also criminal offences according to Belgian law. However, until recently, the Fund for Victims (i.e. a public fund that intervenes in case convicted criminals cannot pay damages to the victims) could not pay compensations to the victim if the domestic worker was an irregular migrant at the moment of the crime. The legislation is currently being changed to allow such payment of compensations to victims of severe violent crimes who were irregularly staying on the territory when the crime was committed.</p> <p>In addition, human trafficking and smuggling are defined as criminal offences in the Belgian penal code. A first law was passed in 1995 to protect victims of human trafficking (cf. further).</p>
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			<p>Protection of Victims of Human Trafficking</p> <p>Like other potential victims of trafficking, domestic workers can benefit from the protection and assistance offered to victims of trafficking, if they are identified as such. The Belgian penal code (art.433 quinquies) gives a definition of trafficking for labour exploitation. It means the recruitment, transport, harbouring, etc. of a person in order to let him/her work or to allow him/her to work in conditions contrary to human dignity. If a domestic worker is identified as a potential victim by first line services (like police forces, labour inspectorates) or by other persons, he/she will be referred to one of the three reception centres for victims of trafficking, where they can benefit from accommodation and social assistance. In order to benefit from the specific status of victim of trafficking, the domestic worker has to fulfil three conditions: 1) to broke all contacts with the employer-exploiter, 2) to be accompanied by a reception centre and 3) to cooperate with the judicial authorities by making declarations or a complaint.¹¹ They can then be granted temporary residence permit that will be extended in function of the evolution of the judicial procedure. At the end of the judicial procedure, the can be granted a definitive residence permit. Since 01.06.2007, this protection system has been introduced in the Aliens Law (art.61/2 -61/5) but it did already exist since 1994 (in Ministerial Circular Letters).</p> <p>Article 61/2 of the law of 15.12.1980 stipulates that when the police or inspection departments have evidence that the foreigner may be a victim of human trafficking (or of an aggravated form of smuggling), they must inform this person of the possibility of obtaining a residents permit by cooperating with the authorities responsible for the enquiry or legal action and must put them in contact with a specialised reception centre for human trafficking victims. In order to continue to guarantee the multidisciplinary approach which was adopted many years ago, a Ministerial Circular Letter was prepared within a workgroup of the Interdepartmental Cell for the Coordination of the Fight against Human Trafficking. It was issued on 26.09.2008. The different partners concerned (the police, the judiciary, the specialised centres, etc.), were associated with the work. In particular, the circular aims to explain the role of each department concerned and details the steps to be taken when a first-line department is confronted with a potential victim. One of the first steps is to make contact with a reception centre. A multilingual information brochure is also sometimes given to the victim. In the Ministerial circular letter of 26.09.2008, a specific provision has been included concerning victims of trafficking working for diplomats, allowing them to benefit of the same protection as other domestic workers, even if no prosecution of their employer at criminal level is possible, due to their immunity. Therefore, the advice of the Labour Auditor on the real situation of THB exploitation is necessary.</p> <p>More information on domestic workers in Belgium can be found in the publications listed on the following webpage: http://www.kbs-frb.org/otheractivity.aspx?id=193924&LangType=2060</p>
	Bulgaria		
	Czech Republic		
	Denmark		
	Germany		<p><u>Domestic employees of persons posted for work in Germany (private foreign employers with limited right of residence– no diplomats)</u> If in his or her capacity as employer the person posted does not comply with the provisions of the employment contract, the employee can</p>







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			bring this case to the court responsible for labour disputes. If it is established that the person posted has supplied incorrect information to the Federal Employment Agency regarding the working conditions of his or her domestic employee in order to obtain the residence permit, this would constitute a criminal offence which is punishable with up to three years' imprisonment or a fine (Section 95(2) No. 2, Residence Act). A victim of trafficking may be granted a temporary right of residence on the Federal territory if and as long as the victim is willing to give evidence against the perpetrator in a criminal procedure and if his or her giving evidence is considered necessary in the procedure; for this, the victim is granted an appropriate period for reflection (Sections 25(4a), 50(2a) Residence Act). In addition, the same protective provisions of civil and labour law apply as those applicable for German nationals.
	Estonia		
	Ireland		
	Greece		
	Spain	Yes	<p>2. International commitments and European legislation.</p> <p>Spain has ratified several important international treaties with regards to exploitation in employment and other types of abuse. Amongst others should be highlighted:</p> <ul style="list-style-type: none"> • the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. • the Council of Europe Convention on action against trafficking in human beings. <p>In the labour-related scope, specifically of the International Labour Organization, Spain ratified on August 29, 1932 the Forced Labour Convention of 1930, referred by the United Kingdom in the question posed. Likewise, other relevant Agreements have been ratified as concerns the protection of domestic workers, including, amongst others:</p> <ul style="list-style-type: none"> • Convention Number 181 on private employment agencies of 1997 (ratified in 1999); • Convention Number 97 on migration for employment of 1949 (ratified in 1967); • Convention Number 105 on the abolition of forced labour of 1957 (ratified in 1967); • Convention Number 111 on discrimination (employment and occupation) of 1958 (ratified in 1967); • Convention Number 157 on the maintenance of social security rights of 1982 (ratified in 1985). <p>With regards to European Union legislation, in addition to the directives which the EU sets forth on the protection of workers rights, it is worth highlighting Council Directive 2004/81/EC of 29 April 2004, regarding residence permits issued to third-country nationals who are victims of human trafficking or who have been subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (OJ of 6.8.2004), which Spain incorporates to its legislation in the new law on alien affairs cited above.</p>










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			<p>Protection granted by Spanish legislation.</p> <p>Commitments and obligations acquired in the international sphere as well as the higher values of our Spanish legislation set forth a legal framework which guarantees the protection of domestic workers against any exploitation or abuse they may endure.</p> <p>Spanish legislation on immigration reiterates equality between foreigners and Spaniards in labour-related matters. Therefore, the minimum wage, workshift, rests, social benefits and allowances, and other rights and obligations shall be in the same conditions as those set forth for Spanish citizens, taking into account the already referred to peculiarities of the special scheme for domestic service.</p> <p>The special laboural scheme for domestic workers directs any conflicts of this type to the jurisdiction for social and laboural matters. Taking into account the rights to inviolability of the home and the respect due to personal and family privacy, Royal Decree 1424/1985 limits the verification of offences for which the Employment and Social Security Inspectorate is responsible.</p> <p>As to criminal offences, the Spanish Penal Code sets forth different infractions and offences which, as is the case in the United Kingdom, tend to prevent abuse, harassment, and other types of serious violation of rights. Organic Law 1/2004 of 28 December, on Full Protection measures against Gender-based Violence, also impacts the criminal system. A sector clearly dominated by women, as is the case with domestic workers, suffers the offences contemplated in this law, which has the objective of not only penalizing but also preventing emotional, sexual and labour-related violence. Very often it is the case of female migrant domestic workers, who are particularly subject to greater vulnerability and in many case are victims of human trafficking.</p> <p>In 2008, Spain approved the Integral Plan against Human Trafficking, focused on sexual exploitation. This Plan foresees a 30-day reflection process for victims of trafficking, guarantees social and legal assistance, and contemplates the establishment of a Fund of goods confiscated from the mafias, in order to aid victims and strengthen police action, amongst other measures.</p> <p>Likewise, the Organic Law on Alien Affairs includes 2 articles specifically related with:</p> <ul style="list-style-type: none"> • domestic legislation applicable to victims of gender-based violence. • domestic legislation applicable to victims of illegal trafficking or smuggling, who are illegally in Spain and have been exempt from administrative responsibility, and may opt to return to their country of origin or obtain a work and residence permit due to exceptional circumstances with a work permit, if they report the perpetrators or cooperate and collaborate with police officers. <p>Finally, the Law on Alien Affairs, recently modified by Organic Law 2/2009 of 11 December, sets forth in Article 2-bis “the persecution of human trafficking” as one of the main principles upon which the competencies of the Public Administrations are based.</p>
	<p>France</p>	<p>YES</p>	<p>- Protection under French employment legislation</p> <p>Overseas Domestic Workers are entitled to the same employment rights as foreign workers. They benefit from Labour Code, Entry and Residence in France and Right of Asylum Code (CESEDA) and have access to social security benefits (registered in the Code of Social Security).</p> <p>They are entitled to receive the French national minimum wage, subject to the same rules as foreign workers.</p>



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			<p>- Protection under criminal law</p> <p>In the penal code, Article 225-13 and Article 225-14 recognize labour exploitation and submission to working conditions and accommodation incompatible with human dignity. Such acts are punished by five years of imprisonment and a €150 000 fine.</p> <p>- Protection under the European Convention on Human Rights</p> <p>Article 4 prohibits slavery, servitude and forced labour.</p> <p>- Protection under the Council of Europe Convention on Trafficking in Human Beings</p> <p>France ratified the Convention on January 9th 2008 that came into force on May 1st 2008.</p>
	Italy		
	Cyprus		
	Latvia	Yes	In accordance with the response to question 1, in the case of violation of the employment relations, every employee has the rights to turn to the court.
	Lithuania	Yes	<p>2. No special arrangements. General rules for protecting workers are applied. Labour Inspection office is responsible for preventing labour exploitation. The office makes regular checks of selected companies. Individual complains can also be submitted.</p> <p>The Law regulating the status of aliens in Lithuania states that: “An alien’s pay may not be less than that paid to a resident of the Republic of Lithuania for performing the same work”.</p>
	Luxembourg	?	No response to this question.
	Hungary	Yes	<p>Labour Code:</p> <p>The rules of the Labour Code (<i>e.g. working hours, rights and obligations of the employer and the employee</i>) are applicable for every employment relationship on the basis of which the work is carried out in Hungary, unless otherwise agreed by the parties (unless otherwise ruled by international private law).</p> <p>Labour inspections – which enforce the rules of the Labour Code – have however an obstacle, namely that the labour inspectorate can not carry out investigations in a private flat or house.</p> <p>Criminal Code:</p> <p>The Criminal Code sets down that human trafficking has a more serious punishment when the purpose of the act is to make the victim work for somebody.</p> <p>Besides that, the violation of personal freedom can be punished with 2-8 years of imprisonment when the victim of human trafficking is</p>

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			forced to work for somebody and the violation of personal freedom is maintained.
	Malta		
	Netherlands	No	Answered but not for wider dissemination
	Austria	No	Answered but not for wider dissemination
	Poland		
	Portugal	?	No response to this question.
	Romania		
	Slovenia		
	Slovak Republic	Yes	The basic condition for the protection is a valid labour contract with the employer (individual) according to the valid Slovak legislation. In case the contract is violated the foreigner can lodge his/her complaint to the court. In case an act of human trafficking and labour exploitation in this regard is discovered the case is regulated by the Criminal Code.
	Finland		<p>All workers are protected by Employment Contracts Act, Aliens Act, Occupational Safety and Health Act and Criminal Code (Chapter 47).</p> <p>If there is any confusion in matters such as wages, annual holidays, redundancy, termination of employment etc., the employer is the first to be informed of this. If the employer's response to a matter is not satisfactory, organised employees may forward the matter to the relevant trade union, where necessary.</p> <p>If the employer and an employee do not reach unanimity at the workplace, an unorganised employee may contact the OSH Inspectorate for advice and guidance.</p> <p>OSH Inspectorates do not proceed in matters that concern their clients' employment relationships but clients do this themselves. Assistance is available at legal aid offices and from solicitors. OSH Inspectorates cannot present employees' cases concerning employment relationships or wage claims in court.</p> <p>Employers can get advice, for a charge, from the small employers' service centre, telephone 0200 6600 (1 e/min + Inc). The purpose of this centre is to help households and small businesses (max 3 employees) to fulfil their employer obligations. The service centre for small employers takes care of making insurance contracts and of payroll computation and related payments.</p> <p>National action plan for human trafficking. A system providing services and support measures for victims of human trafficking was formalised in the beginning of 2007. This support system can encompass persons suspected or identified to be victims of human</p>

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			trafficking and can also include witnesses. Victims of trafficking can decide whether they wish to assist in police enquiries. Criminal proceedings can be taken against traffickers for offences as defined in Aliens Act.
	Sweden	YES	As mentioned above the rules and terms for work permit is the same for domestic workers as for other employees from a third country. That also means that there are no special arrangements for domestic workers concerning protection from labour exploitation or other types of abuse. When a work permit is granted the domestic worker has the same rights and responsibilities as other third country nationals coming to Sweden for work.
	United Kingdom	YES	<p>Protection under UK employment legislation</p> <p>The term Overseas Domestic Worker (ODW), as used in the UK response, covers those who come to the UK as a domestic worker in either of the two categories outlined in the UK response to question 1. They are entitled to the same employment rights as indigenous workers. All employees and the declared self employed are liable to pay National Insurance contributions, which gives them access to a whole range of social security benefits, including healthcare. Those who have been here long enough to be regarded as habitually resident have access to the means tested social assistance benefits. Employers are responsible for ensuring that employees are registered for National Insurance and taxation purposes.</p> <p>ODWs are entitled to receive the UK national minimum wage, subject to the same rules as indigenous workers, and there are rules governing the circumstances under which employers may make deductions from these wages for board and lodging or other expenses, and the amount of any such deductions.</p> <p>ODWs in the UK are <u>not</u> subject to regulations concerning maximum working hours. Under UK law, however, a worker is entitled to at least a whole day off a week. Days off can be averaged over a two-week period meaning workers can take two days off a fortnight. Days off are taken in addition of paid annual leave.</p> <p>Under UK law most employees who are employed for one month or more have a statutory right to receive a written statement setting out the main particulars of their employment including but not limited to, the type of work to be performed, the rate of remuneration, the method of calculation, the pay interval, the normal hours of work, the duration of the contract and the probation period of applicable.</p> <p>ODWs have access to employment tribunals where they are entitled to hearing on one or more of the individual employment rights that can be heard by employment tribunals.</p> <p>Protection under UK immigration rules</p> <p>Since 1998, in recognition of their particular vulnerability, and in order to enable them to escape from abusive employment situations, and to act as a deterrent to abusive employment, ODWs have had the right to change employers while in the UK as long as they remain in the same type of employment. ODWs who are private servants in diplomatic households must additionally remain in employment within the same diplomatic mission or embassy. Additionally, ODWs who remain in employment have an avenue to permanent residence here.</p>

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		<p>Protection under UK criminal law ODWs have the full protection of UK criminal law. Actions such as restricting the freedom of movement of the worker, sexual or other violent assault, taking the worker's property including passports and any other documentation, are all criminal offences.</p> <p>Protection under the UK Action Plan on Human Trafficking The UK ratified the Council of Europe Convention on Trafficking in Human Beings in December 2008 and it came into force in April 2009. In response to this the UK has developed a National Referral Mechanism for identification and support of victims of trafficking. Guidance on victim identification has been disseminated across the UK Border Agency, to police, to Local Authorities, to voluntary sector organisations and beyond. This has included material to raise awareness of all types of trafficking including trafficking for domestic servitude.</p> <p>Victims of trafficking can decide whether they wish to assist in police enquiries. Criminal proceedings can be taken against traffickers for offences as defined under Sections 57, 58, 59 and 60 of the Sexual Offences Act 2003. Action may also be taken for offences as defined under Section 4 Asylum and Immigration (treatment of Claimants etc) Act 2004.</p>
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