





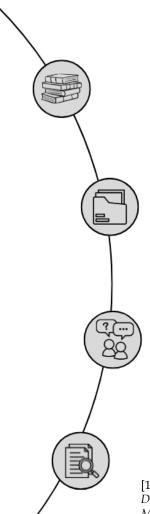
Migrant domestic work in France and Ireland

legal pathways, gaps and everyday lives of au pairs

Catharina Lopes Scodro

PhD candidate, CNRS - University of Strasbourg

Introduction & methodology



What is(are) the role(s) of law[1] in shaping au pairs' experiences and perceptions[2] in France and Ireland?

- How is au pairing regulated in France and Ireland?

Multimethod approach

- Systematic literature review
- Systematic document analysis, including archival research
- Semi-structured interviews [Au pairs, former au pairs and stakeholders]
- Desk research on the national level, including documentary, bibliographic and doctrinal research

[1] On the role of law in creating, mediating but also challenging domestic workers' vulnerabilities to exploitation, see V. Mantouvalou. (2023) Structural Injustice and Workers' Rights; V. Pavlou. (2921) Migrant Domestic Workers in Europe: Law and the Construction of Vulnerability; C. Murphy, D. M. Doyle & S. Thompson. (2023) Workers' Perspectives on State-Constructed Vulnerability to Labour Exploitation: Experiences of Migrant Fishers in Ireland.

[2] On connecting macro to micro dimensions, see F. Williams. (2012) Converging variations in migrant care work in Europe.

Work like no other & not even work at all

Regulation of domestic workers in France: Work like no other?

It does not apply to au pairs...

Since the 1950s, France had '[...] true regulations constituting a complete statute for au pair placement' [3]

- *Arrêté* of 26 November 1952 on work permits and social security contributions
- Ratification of the European Agreement on Au Pair Placement of the Council of Europe (1969)
- Circulaire No. 17-76 of 22 November 1976
- Circulaire of 27 August 1981
- Circulaire No. 20 of 23 January 1990

Transposition of the EU Directive 2016/801

- Law No. 2018-778 of 10 September 2018
- Decree No. 2019-141 of 27 February 2019

^[1] It summarizes the approach of labour regulatory frameworks for domestic workers, see A. Blackett (2011) Introduction: Regulating Decent Work for Domestic Workers.

^[2] This construction was used to describe au pairs' lack of employment status in Australia, see A. Kintominas (2023) Law and Reproductive Labour: Migrant Domestic Work From an Australian Perspective

^[3] CoE Document CE/Soc(67)22.

Model agreements

Au pairs: jeune au pair & stagiaire aide familial étranger [foreign temporary family-helper]

Strategies to reaffirm au pairing as a not even work at all

- Vocabulary [eg. pocket money, host family][1]
- Help v Work
- No contract of employment

Model agreements adopted by French authorities: one in force in 1966; 1976; the one currently in force.

- The Council of Europe adopted a model agreement in 1972, which influenced the French versions from 1976 onwards.
- Differentiation of both categories
- Labour organisation
- Rights
- Learning French?

A potholed legal framework for not even workers at all?



Work like any other

Regulation of domestic workers in Ireland: Work like any other?

Code of Practice for Protecting Persons Employed in Other People's Homes (2017)

It currently applies to au pairs nowadays, but before that...

- Debates on the Houses of the National Parliament since the 1970s [Dáil Éireann and Seanad Éireann]
 - 'There is the au pair system, but this is not regarded as employment in our sense of the word' [Minister of Labour, 1971]
 - No ratification of the European Agreement on Au Pair Placement
 - '[...] it is important to distinguish between au pairs and nannies or child minders. An au pair is essentially a student who is treated as a family member in exchange for certain services, such as a limited amount of light housework or babysitting.' [Minister of State at the Department of Enterprise, Trade and Employment, 1997]

Mobilising rights: streets & tribunals

Cases of labour exploitation:

- MRCI report 'Part of the Family Experiences of Au Pairs in Ireland' (2012)
- Campaigns and advocacy

The Labour Court and the Workplace Relations Commission have recognised au pairs as employees in case-law since 2012.

- Terms of Employment (Information) Act 1994; Organisation of Working Time Act
 1997; National Minimum Wage Act 2000 etc.
- 'Under Irish and European law a domestic worker who works as an au pair, is an employee.' [1]
- No employment tests. Au pairs are assumed to be employees.

Ratification of ILO C189

Attempts to modify the employment status of au pairs: Au Pair Placement Bill 2016

Different legal frameworks, common challenges?

Specific challenges

- Intersections of state law, the law of the household workplace[1] and the law of industry
- Too general v Too specific approach?
- *De jure* v *de facto* entitlements
- Visa schemes for non-EU au pairs

Common challenges

- Flexibility
- Poor payment
- Overwork not remunerated
- Uncertainty on one's rights
- Access to rights
- Vulnerability related to live-in arrangements







Thank you for your attention!

Catharina Lopes Scodro

PhD candidate, CNRS – University of Strasbourg catharina.lopes-scodro@etu.unistra.fr