Domestic work and EU labour law: focus on working time

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Outline

- Importance of EU working time law for domestic workers
- Brief introduction to EU working time law
- Mismatches with national law
- Role of different actors
Importance of EU working time law for domestic workers

- Supremacy of EU law over national law
- Applicable to all workers, including undocumented migrants
  - *Tümer C-311/13*
- Broad definition of ‘worker’, autonomous EU law notion
  - Provides services for and under the direction of another in exchange of remuneration
- EU working time law important but underutilised source to challenge domestic workers’ vulnerability
Brief introduction to EU working time law

- Not all problems can be addressed (e.g. not working enough hours) but important rights in several areas
- **Directive 2003/88/EC** concerning certain aspects of the organisation of working time (EU WT Directive)
- Health and safety dimension
- Limits to weekly working hours (average of 48 hours including overtime)
- Daily rest breaks for those who work for more than 6 hours
- Minimum daily rest (11 consecutive hours of rest)
- Minimum weekly rest period (24 hours consecutive rest in addition to daily rest)
- Paid annual leave (4 weeks)
- Special protections for night work
On-call hours and enforcement

- Important CJEU case law: SIMAP C-303/98, Jaeger C-151/02, Matzak C-518/15
- When the employer requires the worker to be present at a specific place and available to respond to calls for work, even if there is possibility to rest
- Enforcement: Federación de Servicios de Comisiones Obreras C-55/18: employer’s duty to keep records of working time is inferred from the dignitarian purposes of EU working time law
Mismatches with national law: some examples

- Cyprus: verbatim transposition of the WTD, but special migration regime for non-EU domestic workers contains exclusions. No regulation of overtime/on-call leads to constant availability.
- Sweden: special law on domestic work provisions up to 42 weekly hours of work, but can be 52 for those providing care.
- Spain: 40 hours per week, but parties can agree on up to 20 extra on-call hours per week. Less daily rest for live-in domestic workers.
Role of different actors

- EU institutions
- National labour law enforcement authorities
- Local trade unions and advocates for domestic workers’ rights

Thank you!