

Work Package 2 – Deliverable 2

# REPORT ON HOME CARE SERVICES' EMPLOYMENT CONDITIONS AND INDUSTRIAL RELATIONS AT COUNTRY LEVEL BEFORE AND AFTER THE COVID-19 CRISIS

## FRANCE

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# Home care and domestic employment conditions and industrial relations before and after the Covid-19 in France

## *Abstract*

For the time being, there are still very few micro-entrepreneurs in France, in a context where significant incentives to declare and employ workers exist. However, the regime of salaried employment has been adapted for home care and domestic service workers to be more flexible than under ordinary law. While this flexibility is well known for employees of households, it should also be emphasised that working time flexibility has also been introduced to employees of service providers. It is conceivable that intermediary actors<sup>1</sup> present on the home care/domestic service markets have been able to accommodate this regime of salaried employment. This regime provides workers protection in terms of the minimum hourly wage, sickness protection and open-ended employment contracts, but much less in terms of working time flexibility, amplitude of actual working hours, unemployment insurance and pensions. Collective bargaining has played an important role in the construction of these adaptations.

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<sup>1</sup> Intermediary actors are here defined as actors mediating demand and supply, platforms can be conceptualised as specific forms of intermediary actors.

# 1. The statistical evolution of home care and domestic jobs.

## 1.1. Statistical definitions and sources

The INSEE (National Institute for Statistics and Economic Studies) is carrying out the labour force survey, using a representative sample of the population. In France, the statistical categories used in the national Labour Force Survey for classifying workers have changed in 2003 and in 2020 (Devetter et al. 2023: 32), which makes it difficult to trace with precision the recent evolution.

Parallel to these statistics, specific administrative statistics have been developed in order to trace what has been called in France the “Personnal and household services sector” (PHS) (*“le secteur des services à la personne”*) including workers whose activities take place in people’s home and are subsidized by socio-fiscal policy instruments (Devetter et al., 2009; Jany-Catrice, 2015). These activities cover both care and cleaning, but also include other activities (gardening, school support at home). These statistics, gathered by the statistical office of the Ministry of Labour (*Direction de l’Animation de la Recherche, des Études et des Statistiques, DARES*) include specific information given by the providers of PHS services and the employers of all workers of the PHS sector (including household and providers)(Beltzung et al., 2024, p. 3).

Beyond this, the Social Security administration also publishes statistics concerning only the workers employed by households (Maj & Zamfir, 2019).

### *The 2003 Labour Force survey classification*

Between 2003 and 2020, the professional classifications used in the Labour Force Survey and corresponding to home care and domestic work did not capture with precision the different statutes of home care and domestic workers. The following categories were used:

• **563b**      « *Aides à domicile, aides ménagères, travailleuses familiales* »<sup>2</sup> (including home care workers, named “*aides à domicile*”, but also the “*travailleuses familiales*”, a kind of social care workers, helping at home families with numerous children or having socio-economic problems). These workers were defined by the fact that they were helping /caring elderly, disabled people or families at home, may they be employed by provider organisations or by households<sup>3</sup>.

• **563c**      « *Employés de maison et personnels de ménage chez des particuliers* »<sup>4</sup>, defined as the workers directly employed by families to carry out various domestic tasks, particularly cleaning. According to the INSEE official definition, only workers

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<sup>2</sup> <https://www.insee.fr/fr/metadonnees/pcs2003/professionRegroupee/563b>

<sup>3</sup> In fact, the home care workers employed by families, the “assistants de vie” were assimilated to this category

<sup>4</sup> <https://www.insee.fr/fr/metadonnees/pcs2003/professionRegroupee/563c>

employed by households should be registered in this category, but cleaning workers employed by providers have nevertheless been also registered there.

### *The 2020 Labour Force Survey Classification*

In the new classification of 2020, the **563b** category has been split to distinguish home care workers with a diploma as “*auxiliaire de vie sociale*” from other home care workers. The classifications are as follows:

- **56 D1** « *Auxiliaires de vie sociale* »<sup>5</sup> are skilled workers (with a state diploma). They can be employed by non-profit organisations, for-profit companies specialised in personal assistance or, more rarely, local authorities, and non-medical care institutions or private households. These workers help people who are ill, disabled or older and who are very dependent, to carry out everyday tasks (shopping, eating, housework, administrative tasks, going out). The work carried out by these professionals, often complemented and coordinated with other services, enables people who are ill, disabled or elderly to retain a degree of independence and continue to live, as far as possible, in their own homes. This heading may include people who consider themselves as self-employed.

- **56 D2** « *Autres employés d'aide à domicile et accueillants familiaux* »<sup>6</sup> assist people in difficulty at home by helping them to carry out the tasks and activities of daily life, such as shopping, meal preparation, housework, administrative tasks, or going out. Thanks to their services, people who are ill, disabled or elderly people can remain in their usual living environment and to maintain a certain degree of independence. Unlike the “*auxiliaires de vie sociale*”, these workers do not hold a state diploma.

This category includes “foster carers” (“*assistants familiaux*”) hosting into their own homes for elderly or disabled adults, in return for payment and with an official authorization. But they are a very little minority. These situations may involve salaried jobs in organisations, companies specialised in personal assistance, or private individuals. This heading may include people who consider themselves as self-employed.

In the new classification, 563c was also transformed and became **56 E1** « *Employés de maison et personnels de ménage chez des particuliers* »<sup>7</sup>. It more explicitly designs workers doing domestic work (excluding care) at home, may they be workers employed by families, for profit or non-profit providers or self-employed. This heading may include people who consider themselves as self-employed.

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<sup>5</sup> <https://www.insee.fr/fr/metadonnees/pcs2020/profession/56D1>

<sup>6</sup> <https://www.insee.fr/fr/metadonnees/pcs2020/profession/56D2>

<sup>7</sup> <https://www.insee.fr/fr/metadonnees/pcs2020/profession/56E1>

## 1.2. Size of the labour force

The labour force survey indicates a decrease in the number of workers employed in the home care and domestic sector between 2017 and 2022. Nevertheless, the comparison between the two dates is difficult because the measurement methods (definition of professional groups) changed in 2020.

Table 1: Number of workers in 2017

2017	
	Number
Home-based care (563b)	601 346
Cleaning (563c)	177 331
<b>Total</b>	<b>778 676</b>

Source: INSEE, Labour Force Survey ("enquête emploi 2017")

Table 2: Number of workers in 2022

2022	
	Number
56D1 (skilled home care workers)	175 991
56D2 (unskilled home care workers)	363 256
56E1 (home cleaners)	162 594
<b>Total</b>	<b>701 841</b>

Source: INSEE, Labour Force Survey ("enquête emploi 2022")

At the same time, the PHS statistics produced by the Ministry of Labour Affairs, considering a larger number of activities, estimated 1 049 000 workers in the PHS sector in 2019 (Beltzung et al., 2024) and at the date of the publication of this report, no precise statistics had been published on the number of workers after 2019 in the PHS sector.

The decrease of the labour force between 2017 and 2022 (tables 1 and 2), as declared by the labour force survey can be the result of the change of the classification, with the "*travailleuses familiales*", today named "*Techniciennes de l'intervention sociale et familiale*" (who are the most skilled workers in the home care workers) no more included in the 56 D1. The decrease may also be related to the decrease of the number of hours declared by provider organisations: in the PHS sector, they have decreased between 2019 and 2021, from 398,7 to 388,7 million. In 2021, the providers of the PHS sector had not recovered their full level of working hours of 2019 (Beltzung & Cadillac, 2024, p.3).

## 1.3. Undeclared work

According to the statistical office of the Ministry of Labour (*Direction de l'Animation de la Recherche, des Études et des Statistiques, DARES*), the number of undeclared work in the PHS sector has declined between 2011 and 2017 (Beltzung & Malard, 2021): estimated at 25% of employment of PHS by households in 2011, undeclared work was

estimated at 20% in 2017. The household declaring in statistical surveys to pay for PHS services has indeed declined during this period, while the number of those declaring the employment relation to the fiscal services has increased. These statistics are nevertheless some limitations.

#### 1.4. Demographics of the labour force: gender, age and migration background

In France as in other countries, there are only a little minority of men who work in home care and it has not evolved (Avril, 2014, 2018; Devetter et al., 2023; Dussuet, 2005, 2019; Hirata, 2021). But it is slightly different depending on the professional categories: cleaners are slightly less feminised than care workers (table 5).

Avril and Cartier underlined in 2014 that women working as home care or domestic workers in France hold lower positions in the social hierarchy. Relatively older than the majority of the workers, they also had few educational qualifications, and immigrants were overrepresented between them, although they were still a minority (Avril & Cartier, 2014, 2019). This has not changed a lot in the last decade: while immigrants represented 9,5% of all salaried workers or 10,4% of the active population in 2017<sup>8</sup>, they were 18,8% in the home-based and domestic sector the same year (Table 3).

However, the share of immigrants has slightly increased between 2017 and 2021, but it varies considerably depending on the category: they are fewer immigrants among home care workers than among home cleaners, but they are more immigrants among the skilled home care workers than among the unskilled ones. Immigrant workers are also much more numerous among home cleaners, and their share has increased in this category (from 33,8% to 44,2%).

As for the evolution of the age distribution, we observe both rejuvenation and ageing for different types of care/domestic workers' categories: they are more very young workers but also more elderly ones. We hypothesise that, on the one hand, in the case of the new generations, initial training and internship programs geared to the sector have made it possible to recruit younger workers. On the other hand, pension reforms have forced the oldest workers to extend their activity after 60 years.

Table 3: Demographics of the labour force in 2017

2017						
	% women	% immigrants	Age distribution			
			15-25 >60	25-45	45-60	
Home-based caregivers (563b)	96,2 %	14,4 %	10,6	41,5	46,0	1,9
Home cleaners (563c)	95,6 %	33,8 %	5,5	34,9	53,2	6,3
<b>Total</b>	<b>96,1 %</b>	<b>18,8 %</b>	<b>9,5</b>	<b>40,0</b>	<b>47,6</b>	<b>2,9</b>

Source: INSEE, Labour Force Survey "enquête emploi 2017"

Table 4: Demographics of the labour force in 2022

<sup>8</sup> <https://www.insee.fr/fr/statistiques/3676614?sommaire=3696937>

2022						
	% women	% immigrants	Age distribution			
			15-25	25-45	45-60	>60
56D1 (skilled home care workers)	96,5 %	23,1%	15,0	38,4	42,4	4,2
56D2 (unskilled home care workers)	94 %	15,7%	10,6	36,0	48,4	5,1
56E1 (home cleaners)	91 %	44,2%	7,7	36,3	48,0	8,0
<b>Total</b>	<b>94 %</b>	<b>24,2%</b>	<b>11,0</b>	<b>36,7</b>	<b>46,8</b>	<b>5,5</b>

Source: INSEE, Labour Force Survey “enquête emploi 2022”

### 1.5. Working conditions

In France, like in many other European countries, the employment conditions in the home care and domestic sector are fragmented (Balzani et al., 2010; Le Bihan & Sopadzhiyan, 2017; Lefebvre, 2013). Legally, the main segmentation has been constructed across the employment statuses and the type of employers (Devetter et al., 2009, 2023; Ledoux & Krupka, 2021; Maillard & de Muñagorri, 2022). Different types of statuses existed in 2017 and still exist in 2024: the worker can be employed by a natural person (a household), by a provider or he/she could be a micro-entrepreneur.

Table 5: Type of contract in 2017

2017				
Type of employer	Public providers	Private providers (including for profit and non-profit ones)	Families	Total
Home care workers (563b)	15 %	57%	28 %	100%
Cleaners (563c)	–	17 %	83%	100%

Source: INSEE, Labour Force Survey “enquête emploi 2017”

Table 6: Type of contract in 2022

2022				
Type of employer	Public providers	Private providers	Families	+ self employed
56D1 (skilled home care workers)	8%	70%	22%	0,5%
56D2 (unskilled home care workers)	6%	55%	39%	3%
56E1 (home cleaners)	-	19%	79%	6%

Source: INSEE, Labour Force Survey "enquête emploi 2022"

Table 6 shows that home cleaners are still mostly employed by families (79%) With the precautions that we specified above to interpret the data, the already slim share of the public sector has decreased significantly between 2017 and 2022.

A table in the percentage of hours worked (table 7) among the service organisations of the PHS sector shows that hours worked by micro-entrepreneurs a limited part of the total number of hours worked in the PHS sector but that they are on the rise (table 3). This table 7 is not comparable to the data provided by the INSEE labour force survey measuring the number of workers in all the different segments (Table 5 and table 6), but the results are converging: according to the DARES and the INSEE labour force survey, the for-profit providers and the micro-entrepreneurs are the organizational forms which have increased the most after the coronavirus crisis, even if the micro-entrepreneurs only still represent a limited part of the market (see also Teke 2025). In 2022, according to the labour force survey, only 0,5 % of the skilled home care workers and 3% of the non-skilled one where self-employed, while they were 6% of the home cleaners working as micro-entrepreneurs. If some platform workers may be micro-entrepreneurs, not all micro-entrepreneurs are platform workers and not all platform workers are micro-entrepreneurs. It is impossible to find statistical sources about platform workers.

At the same time, the percentage of hours worked in the non-profit provider organisations have diminished (Table 7). Hours worked by the workers employed by families are not represented in table 7.

Table 7: Evolution of the percentage of hours worked in the provider organisations of the personal and household services sector (PHS) according to the statuses (employment by households not counted here)

Type of organisation	Distribution of hours worked in the provider organisations of the PHS sector in 2017 (in %)	Distribution of hours worked in the provider organisations of the PHS sector 2021 (in %)
Non-profit organisations	51,1	45,3
Public entities	9,0	7,5
For-profit organisations	38,8	45,6
<i>Micro-entrepreneurs</i>	1,1	1,6
Total	100,0	100

Source: (Beltzung & Cadillac, 2024; Kulanthaivelu, 2020)

Working in these different contexts has significant consequences in terms of monthly wages and social security protection, even if the differences in hourly wages are small. Indeed, the determinant of the monthly wages in this sector –where hourly wage is in any case very close to the minimum wage– is actual working time.

Comparisons between 2017 and 2022 are difficult to do because of the changes of the classification, but tables 8 and 9 show that the wages in the public sector were significantly higher than in the private sector (including non-profit organisations, for-profit organisations and families).

**Table 8: Monthly average wages in 2017**

Types of employers	Public providers	For-profit providers	Non-profit providers	Families	Total
Home care workers(563b)	1258 €	891€	915 €	616 €	<b>865 €</b>
Home cleaners (563c)	-	990 €	722 €	535 €	<b>604 €</b>

Source: INSEE, Labour Force Survey “enquête emploi 2017”

**Table 9: Monthly average wages in 2022**

2022	
Types of workers	Total
56D1 (skilled home care workers)	1154 €
56D2 (unskilled home care workers)	895 €
56E1 (home cleaners)	711 €

Source: INSEE, Labour Force Survey “enquête emploi 2022”

However, when workers are directly employed by families (table 10), they are most often employed for shorter time periods each week and even if they have several jobs, they find it difficult to work full time.

As described in the literature (Avril, 2014, 2018; Avril et cartier 2014, Devetter et al. 2009; Devetter et al., 2023; Dussuet, 2005, 2019); home care and home cleaners’ workers work mainly part-time. This has consequences for their social protection, diminishing their pension and unemployment right: some of them are not working enough to acquire these rights, but there aren’t any statistics measuring precisely how many.

The data below (table 10 and table 11) are fragile because there is a break in the series, but it nevertheless shows that the average working time increased between 2017 and 2022, which can also contribute to explain the increase of average monthly wages.

**Table 10: Weekly working hours in 2017, in hours**

2017				
	Public provider	Private provider	Families	Total
Home care workers (563b)	34h	26h	17h	<b>24h</b>
Home cleaners (563c)	-	26h	14h	<b>16h</b>

Source: INSEE, Labour Force Survey “enquête emploi 2017”

**Table 11: Weekly working hours in 2017, in hours**

2022	
	Total
56D1 (skilled home care workers)	<b>29h</b>
56D2 (unskilled home care workers)	<b>25h</b>
56E1 (home cleaners)	<b>18h</b>

Source: INSEE, Labour Force Survey “enquête emploi 2022”

In summary, we can note the importance of the type of employer for the definition of working conditions in the home care domestic work sectors. The public sector, employing a very small minority of workers, appears to be more favourable to the workers, while the non-profit employers are providing relatively better working conditions than the for-profit ones, and above all, than households being employers (Devetter et al., 2023).

## 2. Literature Review on Employment Conditions

In 2017, different regulations existed when the worker was employed by a household (natural person) (1), by a provider (2) or when he/she was a micro entrepreneur (3). In all these cases, the definition of what work is and not, how to delineate working time, how to limit the flexibility of working hours were the most problematic and contested questions raised by these regulations (Causse et al., 1998; Devetter et al., 2023; Laforge, 2003; Larrazet, 2022; Ledoux & Krupka, 2020).

### 2.1. Employment by households (natural persons)

In 2017, the French labour law excluded home-based care/domestic workers employed by households from many rights existing for other workers and this has not changed so much in the following years. In 2017 as in 2024, when a householder (natural person) is the employer, the worker is considered as a private domestic employee (“*salarié du particulier employeur*”, SPE) and can perform care and cleaning tasks. Then, she/he does not benefit from most of the protective provisions in the Labour Code: Article 7221-2 states that “*only applicable*” to these employees are those

provisions of the code pertaining to sexual harassment, psychological harassment, the Labour Day public holiday (1 May), paid holiday leave, special leave for family reasons and medical supervision.

However, the jurisdiction of employment tribunals and collective bargaining have been recognised as applicable to these workers, and case law and collective bargaining completed the loopholes of the labour Code (Kerbourc'h, 1999). Case law extended the list of the Labour Code to statutory minimum wage,<sup>9</sup> severance pay<sup>10</sup>, concealed work<sup>11</sup>.

Through collective agreements, the social partners have completed the provisions of the Labour Code for the SPEs by adding new rights for the workers but have also set up a specific regime for them, in the interest of the employer. The national collective agreement of 1980 was superseded in 1999 by the new Collective Agreement for Private Domestic Employees (SPEs), and shortly afterwards this was extended to cover the entire sector in metropolitan France. In January 2017, the social partners agreed to extend the provisions of the collective agreement to overseas territories, which became effective in January 2021.

In March 2021 a new general collective agreement has been adopted by the social partners. It replaces the former one. The Ministry of Labour Affairs has then quickly extended it in October 2021. It is supposed to be implemented since January 2022 to all workers and employers. (see figure 1). This agreement is the result of a merge of the 1999 SPE collective agreement with the one concerning the *assistantes maternelles* and became the general collective agreement of the household as employers and employment at home (*Convention collective nationale des particuliers employeurs et de l'emploi à domicile*) (SPE), to which riders have been added (see Figure 1).

Nonetheless, many areas of general labour law were in 2017 and are in 2024 still not applying to workers employed by households (SPEs): the definition of effective work, working hours, part-time work, night work, overtime, rest periods, health and safety at work and the conditions of dismissal based on economic motives. If this can be understandable for certain rules (like the reclassification in the case of economical firing), other exclusions have been seen as problematic for the worker and have been interpreted as being “at the service of the employer” (Maillard, 2022).

One of the most contested rules were and are the regulation of working time (Causse et al., 1998; Larrazet, 2022). The rule for a full-time week scheduled in the new agreement as not changed and is still 40 hours, while it is 35 hours in the common provisions. The EU directive on working time has been acclimated in the SPE sector, giving the possibility to exceed 48h/week in certain circumstances: the working time of SPE workers must never exceed 50 effective hours (i.e. 40 h + 10 hours overtime) and 48 effective hours per week in an average over 12 weeks<sup>12</sup>.

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<sup>9</sup> Court of Cassation, Social Division, 31 March 1982: Bulletin civil V, no. 242, p.178 (quoted by Géraldine Laforge 2003).

<sup>10</sup> Court of Cassation, Social Division, judgment no. 10-11.525 of 29 June 2011.

<sup>11</sup> Court of Cassation, Social Division, judgment no. 12-24.053 of 20 November 2013.

<sup>12</sup> For example, if a home care worker is already working for a household for 46 hours a week, it is only possible to hire him/her for a maximum of 2 hours a week. But if the worker has several employers, it is illegal to exceed 48 hours per week and it is only possible to schedule 8 hours of overtime.

## 2.2. Employment by a provider

Workers could also be employed **by a service provider**, which may be public or private (private-for-profit or private non-profit). Each of these organisational types had in 2017 and still have their own employment statutes: workers employed by public-sector bodies are covered by civil-service law, employees of non-profit organisations are covered by the common provisions of the Labour Code, and by specific collective agreements (mainly the collective agreement of the *branche de l'aide, de l'accompagnement, des soins et des services à domicile* BAD)<sup>13</sup> and workers employed by for-profit providers are covered by another one (the collective agreement of the *entreprises de services à la personne*, SAP)<sup>14</sup>.

Beyond this, households employing a worker can either undertake the associated administrative formalities of employment themselves or they can use the services of an intermediary organisation or proxy organisation, which assumes responsibility for managing the employment relationship. In return, the organisation receives a fee. Through this intermediation, the householder remains the worker's formal employer, and the worker nevertheless is submitted to the SPE collective agreement (see 2.1).

The two main collective agreements of the non-profit (BAD) and for-profit (SAP) providers (see Table 12) have been extended branch-wide, which means that they apply to all personnel working in their fields and not only to members of the signatory organisations<sup>15</sup>. The legal meaning of these collective agreements must be understood in the context of the transformations of Labour regulations in France (Figure 1).

**Figure 1: Changes of the French Industrial Relations System.**

Since 1982, collective agreements – at the sector and later at company level – can deviate from legislative provisions, but this has been strengthened in the last decade. Between 2012 and 2016, several new legislative texts have allowed company agreements to deviate from sectoral ones in the field of working hours and times of employment (Machu & Péglise, 2019). The Labour Act of 8 August 2016 further strengthened the possibility of prioritising the company agreement over the sector's one in respect of working hours and leave entitlement (Mehrez 2019). The so-called Labour Ordinances of 22 September 2017 (also known as the “Macron Ordinances”) allowed a collective, sectoral or company agreement to contain provisions less favourable than those found in law or in a broader agreement. In the case of working hours and holidays, the legislative provisions now apply only in the absence of a

<sup>13</sup> Full title: Collective Agreement for the Home-Help and Domestic Support, Care and Services Branch of 21 May 2010, extended by ministerial decree of 1 January 2012. This Agreement covers only non-profit providers. For the sake of brevity, in the text this is referred to henceforth as the “Collective Agreement for the Home-Help Branch” (BAD).

<sup>14</sup> Collective Agreement for Personal Service Enterprises of 20 September 2012, extended by ministerial decree of 3 April 2014.

<sup>15</sup> For some codicil of these agreements, several provisions have not been extended or have been removed from the extension and the relevant provisions of the Labour Code now apply in their place. Other collective agreements can also apply for the home care subsector, but since they are concerning only a minority of the workers and are also generous, for the clarity of the presentation, we did not include them in the analysis developed.

sectoral or company agreement. Consequently, at present a company agreement always takes precedence over a sectoral one except in a limited number of areas listed in Article L2253-1 of the Labour Code, namely hierarchical minimum wages, job classifications, codetermination funds, professional training funds, complementary collective guarantees (mutual and provident funds), the terms and duration of trial periods, workplace gender equality, certain measures pertaining to working hours (minimum part-time hours, overtime premiums, etc.) and the total duration of fixed-term contracts. Nevertheless, the so-called “locking clauses” at sectoral level, which prevent company or organisational agreements less favourable for employees, have remained in effect after 1 January 2019 as far as they cover a specific group of domains defined in law (known as “Block 2”). The social partners have confirmed them.

The workers employed by private providers are mainly covered by these two collective agreements (BAD and SAP). They are also covered by the common provisions of the Labour Code, but with two exceptions, which concern working time.

Firstly, the common rule of article L. 3123-6 of the French Labor Code stipulates that part-time employment contracts must specify the distribution of working hours between the days of the week or between the weeks of the month (i.e. a timetable or a schedule). But it indicates explicitly that this, exceptionally, does not apply for the workers of home care associations and companies (Ledoux and Krupka 2020; Maillard, 2022). While the common rule makes the time schedule as a part of the labour contract for part-time workers, workers employed by non-profit or for-profit home care provider organisations are excluded from this protection. This transforms therefore their work into a more flexible and unpredictable work. Nevertheless, case law has limited the interpretation of this exception, by ruling that the refusal of a worker to change the distribution of working hours does not constitute misconduct or grounds for dismissal, as long as it is justified by incompatibility with an activity with another employer (Larrazet, 2022).

Secondly, the common rule of article L. 3123-24 of the French Labor Code oblige employers to respect a seven-day notice period when changes in working hours appear. While this period can, under ordinary law, be reduced to three days by collective agreement, the Labour Code explicitly rules that this period could be shortened even further for home care non-profit and for-profit provider organisations. In fact, the BAD and SAP collective agreements have used these facilities to introduce derogations. They rule that in the event of “an emergency”, workers could be informed in a shorter notice of the necessity to work. This means that home care workers can be notified of a change in their schedule up to the day before, in many so-called emergency cases defined in the applicable collective agreements.

The two main collective agreements covering the provider organisations had also adopted some elements derogating from the Labour Code in favour of the employer, especially concerning working time, while the reference norm is 24h in the Labour Code. In the BAD, a separate agreement concerning part-time work made it easy for non-profit associations to offer very limited hours. It stated that “working hours cannot be less than 70 hours per month or 200 hours per quarter or 800 hours per year”. That is, the equivalent of 17 hours per week. But the agreement continued by

indicating: “When a particular situation does not correspond with these possibilities, employment contracts of a shorter duration may be concluded following consultation with the staff representatives, if they exist”. By contrast, as of 2017, the social partners in the SAP sector hadn’t reached an agreement on the part-time minimum. This means that the reference norm in their legal framework remained 24 hours per week except in “cases of emergency” – a very vague categorisation. Derogations were possible, then, but 24 hours were still the standard for the time being (Ledoux & Krupka, 2021). Coralie Larrazet underlines that these rules strengthen the employer’s power to make workloads more flexible (Larrazet, 2022).

If collective bargaining has been used to increase flexibility in working time in both collective agreements, nevertheless, the social partners have also introduced measures protecting the workers. For example, the collective agreement of the BAD has fixed a minimal length of intervention (Larrazet 2022) and has also introduced professional training social contribution levy rates more generous than the compulsory ones. The social partners of the SAP branch have also introduced an additional levy of social contribution but below the one of the BAD (Ledoux & Krupka, 2020).

While the general law of the Labour Code excludes the workers employed by households from many labour rights, it is less the case for those employed by a service provider, entailing a form of dualisation of the social rights, between the SPEs and the workers employed by providers (Kroos and Gottschall 2012). Nevertheless, the three main collective agreements – the convention SPE (householders), the BAD (covering the main associations) and the convention SAP (covering the for-profit firms) – had also added additional protections to the labour Code. Since they had been extended and shall apply to all employees covered by their scope, not just members of the signatory organizations, Adelle Blackett described France as one of “the few countries that we could turn to the standard-setting process as it offered a full-fledged specific regulation program based on a model of collective bargaining” (Blackett, 2019, p. 144).

### **2.3. Micro-entrepreneurs**

The workers who are self-employed are not affected by the three collective agreements previously mentioned, but they currently make up only a very small part of the total workforce (see table 7). Those who remain unregistered also lack the rights provided for in these agreements, but – although hard to enumerate – they also comprise only a small share of the total market compared with the situation in other countries, because of the strong incentives to declare the workers presented above.

## **3. Industrial Relations in the Sector**

### **3.1. Fragmentation**

In the home-based care sector and the domestic services sector, the fragmentation of the collective agreements and the rights reflect the fragmentation of employer and

trade union organizations, (Devetter et al., 2009; Ledoux & Krupka, 2021; Lefebvre, 2013). This is the heritage of actors' identity constructed across time. Three distinct employer types emerged prior to the end of the 2010s and have supported their own collective agreement: private domestic employers (with their own agreement, SPE), non-profit associations (with the BAD agreement) and for-profit organisations (with the SAP agreement) (see table 12).

Trade unions are as much fragmented and do not help to overcome these employers' divisions: the various collective agreements fall under the auspices of different components federations of the national trade union confederations. For example, CFDT Services and CGT Commerce negotiate the collective agreement for SPEs, whereas CFDT Health & Social Services and CGT Social Action do that for the agreement in the non-profit home-help sector (BAD) (see table 12). For all these social partners, the belonging to a collective agreement is an issue of identity (ibid.).

In France, employers in medium-sized and large organisations organise ballots for employees to decide which trade unions will represent them in the negotiation of collective agreements. The government organise it for workers employed by small provider organisations or households, addressing them their ballot. In 2017, the *Confédération Générale du Travail* (CGT, formerly communist and one of France's two biggest trade unions) received the most votes from domestic workers employed by householders, while the *Confédération Française Démocratique du Travail* (CFDT, the other and more moderate of the two biggest French trade unions) came first among domestic workers employed by for-profit and non-profit service providers, but other unions also qualified (see Table 12).

The organisations that represent employers in the negotiations are selected through another procedure: they have to show the number of their affiliates, or the number of workers employed by their affiliates and which percentage of the counted affiliates it represents. The *Fédération des Particuliers Employeurs de France*, (FEPEM) represents householders, while a number of bodies united in the *USB Domicile* confederation represent non-profit service providers. For-profit service providers are represented by four employers' federations, the main one in 2017 being the *Syndicat des Entreprises de Services aux Personnes* (SESP). The SESP is a member of the larger federation representing the interests of a larger number of agencies active in-home services, the FESP (*Fédération du Service au particulier*), also a member of the main national business federation, the MEDEF (*Mouvement des entreprises de France*). The FEDESAP (*Fédération française de services à la personne et de proximité*) is a member of the employers' association of small and medium-sized enterprises (SMEs), the CPME (*Confédération des Petites et Moyennes Entreprises*). Organizations initially representing for-profit nursing homes (SYNERPA) and *crèches* (FFEC) also have also been acknowledged as representative and participate in collective bargaining as their members began to develop services related to home needs (Ledoux et al., 2021).

In all three branches, trade unions and employers' representatives agreed to introduce mandatory social contributions applied to all employment relations to finance "social dialogue" (beyond the scope of general government funding) and "social partnerships" (Ledoux and Krupka, 2020). These contributions have been used to employ paid

officials, and to pay social scientists, judicial experts and lawyers for litigation, leading to a more professional approach by both trade unions and employers' organisations. The fragmentation between the rights and the collective agreements also entailed kind of competition between the three collective agreements and their actors. In some cases, this competition leads to a race to the bottom, with employer's organisations wanting to introduce in their agreement the least costly measures (Devetter et al., 2023; Jany-Catrice & Puissant, 2010). But in certain cases, it also leads employers, especially in the BAD, to put forward their protective measures and to claim to be the most protective employers (Ledoux & Krupka, 2021).

Table 12: Audience of representative social partners by collective agreement, 2017.

Collective agreement in the home care / domestic work sectors	Legal status of agreement	Trade union federations	Employers' organisation(s)
Private Domestic Employees (SPEs), 1999	Extended branch-wide in 2000	- CGT Commerce (39.24%) - CFDT Services (20.05%) - FGTA-FO (19.51%) - FESSAD UNSA (21.20%)	- FEPEM (100%)
Branch of the non-Profit Home-Help Providers (BAD), 2010	Approved in 2011, Extended branch-wide in 2012 (Approval of the Ministry of Social Affairs required before extension procedure)	- CFDT Health and Social Services (47.42%) - CGT Social Action (38.46%) - FDTA-FO (14.11%)	- USB Domicile (100%), made up of: + ADMR + UNA + Adessadomicile + FNAAFP/CSF
Branch of the Personal Service Enterprises (SAPs), 2012	Extended branch-wide in 2014	- CGT Commerce (15.63%) - CFDT Services (39.45%) - FDTA-FO (14.29%) - CFTC Public Health (30.63%)	- SESP (44.3%) - FEDESAP (32,3%) - SYNERPA (13.7%) - FFEC (9.8%)

Source: [https://travail-emploi.gouv.fr/IMG/pdf/resultats\\_de\\_la\\_representativite\\_syndicale\\_par\\_branche\\_-\\_2017.pdf](https://travail-emploi.gouv.fr/IMG/pdf/resultats_de_la_representativite_syndicale_par_branche_-_2017.pdf)

### 3.2. Specificities of the industrial relations

In the non-profit sector, the BAD, the social partners have little room for manoeuvre, as collective agreements and their riders must be approved by the Ministry of Solidarity and Health – more specifically, the Directorate General of Social Cohesion (DGCS) – before they can be extended to the whole sector by the Ministry of Labour. This need for ministerial approval of agreements and conventions in the medical-social sector, introduced in 1975, is justified by the use of public funds to finance the structures involved. In order to avoid refusals, once a year the General Directorate for Social Cohesion summons the social partners in the sectors over which it has a veto and outlines the total wage bill it will accept for the coming year. As one BAD negotiator explained in 2019: “So it's not really a free negotiation. Unlike most professional sectors, we are still under state control.” Negotiations in this sector are therefore very much dependent on a favourable political climate (Ledoux & Krupka, 2020).

### 3.3. Strategy of the trade Unions

The strategy of the CGT Services has been to strategically litigate different measures adopted either by individual for-profit enterprises or incorporated in the collective agreement of the for-profit forms (SAP). For example, the CGT contested the night clause of the agreement of for-profit providers in court and won in 2018 (Ledoux et al., 2021). CGT and CFDT also brought a firm using 'flexible part-time contracts' to court and also won. On the contrary, the same federation of the CGT (CGT Commerce) was cooperating a lot with the FEPEM in the negotiation of collective agreements in the sector of SPE. One of its members explained in an interview in 2019 that "the social dialogue with the FEPEM is of a very high quality" and "I appreciate working with the FEPEM because we are making progress" (interview with a representative of the CGT Commerce, July 2019).

On its side, the CFDT, in concordance with its federal strategy, was in favor of negotiating as much collective agreements as possible at the branch level and also at the company level. Nevertheless, the transformations of the hierarchy of the norms had given more power to introduce local company agreements. During an interview in 2019, a member of the CFDT explained that the trade union also tried to trace the company-level agreements in order to avoid the emergence of local trade unionists sent by the companies to sign agreements in their favor and misusing the label of the CFDT.

## 4. Changes Between 2017 and 2023

In the years preceding the pandemic, against a backdrop of labor shortages and high *turnover* different political and administrative actors had for the first time shown real concern for the working and employment conditions of the home care workers, with the aim of making them more "attractive" (El Khomri, 2019). Some of the wages negotiated as riders of the BAD collective agreement had effectively remained below the minimum growth wage (SMIC) for 17 years in this branch. The application of the SMIC is a matter of public policy, and it is not possible to derogate from it in a way that is unfavourable to the employee by paying below it. Wages negotiated for employees at the lower end of the pay scale in the BAD were below the SMIC, meaning that it was the SMIC which was applying to them, and their pay stagnated at the SMIC level, despite their career progression and increase in seniority.

### 4.1. A new rider in the non-profit branch (BAD)

In this context and the perspective of an important reform of the long-term care policies, the social partners of the non-profit branch (BAD) negotiated in the second half of the 2010's a new pay and classification rider. These negotiations had culminated just before the crisis, in February 2020, with their adoption of a new rider (rider 43) attached to the BAD, introducing a new job classification scale and a quite important pay rise for some of the workers, mostly the skilled one. The crisis helped to legitimise the agreement so that it could be agreed by the Ministry of Social Affairs, extended by the Ministry of Labour Affairs, and finally introduced in October 2021 (Guiraudon et al.,

2024). Presented as a victory by some trade unionists (ibid.), it nevertheless triggered some tensions.

The new rider 43<sup>16</sup> implies a discretionary power for the employers in its implementation, since the access to the highest level in each category of the new classification grid is subject to assessment by providers management teams<sup>17</sup>. The agreement reevaluated all the wages. This had been eagerly awaited by the employees. But the positive effect was short-lived due to the resurgence of inflation since 2022 and the related augmentation of the minimum wage. Mandatory increases of the minimum wage have caught up with the level of the lowest wages defined in rider 43. There remains a symbolic effect and a certain recognition for the work of the most qualified employees. But today, it is not sufficient to provide the desired attractiveness (Caillaud et al. 2022).

For the trade unions, the implementation of the new rider 43 implied a lot of solicitations from the workers, since the management team of the provider organisations have some leeway in applying them. The various trade union representatives we met during interviews realised in 2020, 2021 and 2022 as part of the COVICARE research project (CFDT health and social services federation, CGT social action federation, FO Social Action) mentioned that they organised many presentations of the agreement and met workers who were 'very unhappy, who feel they have been badly reclassified' (interview with a trade unionist, January 2022) (ibid.). While some of them could benefit from 200€ pay increases, others did not see a lot of changes, and especially because of the inflation and the increase of the minimum wage (Devetter et al. 2023).

#### 4.2. A new collective agreement in the SPE branch

Parallel to this, a new general collective agreement has been negotiated in the SPE Branch and introduced new regulations, in favour of the worker.

##### Figure 2: the new general collective agreement for workers employed by households

A new general collective agreement for workers employed by households has been adopted by the social partners and is compulsorily applicable since January 1, 2022. This agreement brings together the "*assistantes maternelles*" and the workers employed by households and working in their houses. Contracts signed before this date that did not comply with all the clauses of the new "collective agreement for the sector of private individual employers and home-based employment" had to be aligned with these new provisions by December 31, 2021. It was particularly advisable to add a rider to the employee's contract to consider the new provisions of the collective agreement.

<sup>16</sup> Convention collective nationale de la branche de l'aide, de l'accompagnement, des soins et des services à domicile du 21 mai 2010, avenant n° 43-2020 du 26 février 2020 relatif à la classification des emplois et au système de rémunération (titre III de la convention collective), article 1<sup>er</sup>.

<sup>17</sup> Convention collective nationale de la branche de l'aide, de l'accompagnement, des soins et des services à domicile du 21 mai 2010, avenant n° 43-2020 du 26 février 2020 relatif à la classification des emplois et au système de rémunération (titre III de la convention collective), article 1<sup>er</sup>.

The changes introduced in this new collective agreement are mostly in favour of the worker. They correspond either to legal provisions already applied or to the incorporation of legal provisions already applicable to other workers in the collective agreement.

In 2017, the collective agreement provided three forms of remuneration below the statutory minimum wage for “attendance” or night work. These were: hours of “responsible attendance”, hours of “night attendance”, hours of “nursing duties” (Ledoux & Krupka, 2020). In the new agreement, hours of “responsible attendance”, are still remunerated at 2/3 of the hourly rate of pay for effective work but the exceptions in the payment of the other regimes of hours have changed in the interest of the worker with the new collective agreement. The hours of “night attendance” are now remunerated at a rate of 1/4 of the contractual wage (instead of 1/6 in the former agreement) (article 137.2); and “nursing duties” are now remunerated at the hourly wage for effective work (instead of 2/3 of the hourly wage for effective work in the former agreement) (article 137.3).

The new agreement also provides changes in the terms and conditions of irregular working hours and rest. If the worker works irregular hours, he/she must be given his/her schedule at least 5 days in advance. The new agreement also introduces the obligation to have rest periods for at least 35 hours in a row. It will no longer be possible to give one day (e.g. Sunday) and another 1/2 day in the week (e.g. Wednesday morning).

The new agreement also stipulates that meals may be provided free of charge. The collective agreement validates a frequent practice of some private employers: if the home care assistant shares meals with his/her employer “out of necessity” (for psychological reasons), then meals may be provided free of charge by the employer.

In 2017, the collective agreement did not pay the travel costs, the new one changed this a little, by providing the obligation for the employer to cover part of the cost of a season ticket for a public transport service or the costs to rent a public bicycle service (article 59): in accordance with the legal and regulatory provisions of common law, the individual employer has to cover (50%) of the cost of the season ticket taken out by the worker for travel between his/ her usual place of residence and work, using public passenger transport or a public bicycle service.

Beyond this, the trial period can no longer be two months non-renewable. In application of a Court of Cassation ruling in 2016, it was possible to stipulate a two-month non-renewable trial period in the employment contract, instead of a one-month trial period renewable once. The new collective agreement explicitly stipulates an initial trial period of one month, renewable once: it is therefore no longer possible to stipulate an initial trial period of two months.

While the social security law already made it mandatory for the household services voucher to take 10% more of the wage to pay the worker’s vacations, this has been included in the new collective agreement. The new agreement also stipulates that public holidays days must be paid even if the workers has worked less than 3 months. According to this change, they must be paid from the first month of work, but they are paid only if the previous and following working days are worked: a public holiday falling on a week of additional leave is not paid.

### 4.3. The SAP branch

The for-profit branch (SAP) has also evolved since 2017, but with a limited impact. Wage were regularly but limitedly increased, following the evolution of the national minimum wage. The social partners made sure that the new riders concerning the branch minimum wage kept it above the minimum wage. Therefore, in 2024, while the hourly brut minimum wage was at 11,52€, the SAP social partners had negotiated a branch minimum wage at 11,55€<sup>18</sup> and the branch classification introduced limited differences between the minimum wages and the other wages.

A seniority rime was also negotiated and adopted by the social partners, but with a limited level (0,05€/h)<sup>19</sup>. Another new rider introduced in 2021 new regulations for night attendance, paid less than effective work<sup>20</sup>, introducing therefore a change supporting the interests of employers.

### 4.4. Other changes

During the pandemic, measures have been adopted to give home care workers priority access to goods that have become scarce in times of shortage, but they have been adopted with a delay in relation to healthcare professionals.

The measures replicated the internal fragmentation prior to the crisis. *Employees of non-profit providers*, theoretically given priority for masks<sup>21</sup> and vaccines, were supposed to be able to exercise their right of withdrawal (*droit de retrait*), benefit from bonuses and salary increases, and their employers received an increase in the rate of the personalized autonomy allowance. *Employees of for-profit providers* benefited from the same measures, but with limited pay rises. Both categories of employees (in companies and associations) were theoretically subject to compulsory vaccination, with penalties for their employers.<sup>22</sup> On the other hand, employees working for private individuals saw no fundamental increase in their salary scale. Furthermore, their right of withdrawal was less clearly defined in legal standards. They also were subject to a compulsory vaccination regime without sanction (table 2)(Guiraudon et al., 2024).

The cooperation of the CGT with the FEPEM made the renegotiation of the collective agreement of SPE possible. In reality, merging the collective agreement of the *assistantes maternelles* and the other workers employed by households in 2021 had also electoral consequences: while the CFDT was absent from the *assistantes*

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<sup>18</sup> Convention collective nationale des entreprises de services à la personne du 20 septembre 2012 – Textes Salaires – Avenant n° 9 du 11 mai 2023 relatif à la révision des minima conventionnels

<sup>19</sup> Convention collective nationale des entreprises de services à la personne du 20 septembre 2012 – Textes Attachés – Avenant du 29 mars 2022 relatif à la prime d'ancienneté et à l'indemnité kilométrique

<sup>20</sup> Avenant du 11 octobre 2021 relatif au travail de nuit et présences de nuit équivalence

<sup>21</sup> Arrêté du 16 mars 2020 complétant l'arrêté du 14 mars 2020 portant diverses mesures relatives à la lutte contre la propagation du virus de Covid-19.

<sup>22</sup> Loi n° 2021-1040 du 5 août 2021 relative à la gestion de la crise sanitaire, [www.legifrance.gouv.fr/jorf/id/JORFTEXT000043909676](http://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043909676) (consulté le 6 décembre 2023).

*maternelles* branch and the CGT representative at 15% of the votes in this branch<sup>23</sup>, the CFDT could enter the negotiations after the merge of the conventions. After the introduction of the convention, the professional trade unions of *assistantes maternelles* lost a part of their bargaining power in the greater constituency created. The *Confédération des Syndicats d'Assistants Familiaux et d'Assistants Maternels* (CSAFAM)) fall therefore from 18,61% to 9,81%, while the *Syndicat professionnel des assistants maternels et assistants familiaux* (SPAMAF), fall from 48,79% in 2017 in the branch of the *assistantes maternelles* to 15,76%. Therefore, when the new professional elections occurred and the new wave of employer's representation inquiry was launched in 2021, the general representation of employers did not change in all branches but the trade unions representativity changed in the new merged SPE branch. The changes in terms of representation were limited in the BAD and SAP branch (Table 13).

**Table 13: Audience of representative social partners by collective agreement, 2022.**

Collective agreement	Legal status of agreement	Trade union federations	Employers' organisation(s)
Private Domestic Employees (SPEs merged with the <i>assistantes maternelles</i> ), <b>2021</b>	Extended branch-wide in 2021	- CGT (Commerces) (25,40%) - UNSA (20,62%) - FO (15,83%) - SPAMAF (15,76%) - CFDT (Services) (12,58%) - CSAFAM (9,81%)	- FEPEM (100%)
Branch of the non-Profit Home-Help Providers (BAD), 2010	Approved in 2011, Extended branch-wide in 2012 (Approval of the Ministry of Social Affairs required before extension procedure)	- CFDT (Santé Sociaux) (44,78%) - CGT (Action sociale) (39,49%) - FGTA-FO (15,73%)	- USB domicile (100%) composed of + l'ADMR (53,3 %) + l'UNA (29,1 %) + Adédom (10,8 %) + la FNAAFP/CSF (6,8 %)
Branch of the Personal Service Enterprises (SAPs), 2012	Extended branch-wide in 2014	- CFDT (Services) (39,66%) CFTC (Santé Sociaux) (26,75%) - CGT (Commerces) (19,26%) - FGTA-FO (14,33%)	- SESP (44,2%) - FEDESAP (37,38%) - SYNERPA (10,47%) - FFEC (7,95%)

Source:

<sup>23</sup> Arrêté du 21 juillet 2017 fixant la liste des organisations syndicales reconnues représentatives dans la convention collective nationale de travail des assistants maternels du particulier employeur (n° 2395)

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045160822> ;  
<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044518037> ;  
<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044237779> ;  
<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044237932> ;  
<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044559906>

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