

Working Time Directive in Social Care and Support Services for Persons with Disabilities: Case of Spain



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1. Workforce in Social Care and Support Services for People with Disabilities in Spain

In Spain, protection of dependent people, people with disabilities and old people, has historically developed in a rather fragmented and dispersed way, with sectoral plans drawn up from the central administration, with the provision of social services implemented at the local and regional level, which has always led to significant differences Territories. Actually, the basic legal framework of attention to people with disability is the Law 39/2006, of 14 of December, of Promotion of the Personal Autonomy and Attention to the people in situation of dependence, popularly known as "Dependency Law".

Following the recommendation adopted by the Council of Europe¹, which determines that dependency is "*a state in which are persons who, for reasons linked to lack or loss of physical, mental or intellectual autonomy, need assistance and/or important help in order to carry out the ordinary activities of daily life*", the Spanish Law of dependency defines this with almost the same words, adding for the case of people with intellectual disabilities that "*support will be provided for their personal autonomy*". The Dependency Law includes social services to which both elderly and disabled people are entitled.

In order to be a beneficiary of such services, the user must pass an assessment which will determine their situation based on three factors: a) operating deficit, b) limitation of autonomy, basic and/or instrumental activities of daily living, and c) the need for assistance and care from a third party.

The Spanish Dependency Law compiled a catalogue of services, until then dispersed in different rules. It is divided into five sections: preventive services, telecare services, home help, day and night centre services and residential care services.

In some cases, they are subdivided according to whether the benefit is for the elderly or for people with disabilities, because the vital needs of both are completely different, as well as social development and restrictions on their social participation. Each of these five general services can be provided independently or complementary to others, for example: some people may require telecare services, complementary to home help and day care service, or just one from them.

This research, will focus on services related to personal care for daily life activities, in the care services for sheltered homes, residences, and telecare services, because of their constant interactions with the determined in the WTD. The provision of these services requires an ample disposition of personnel, involving much turn-around, provision of night services, entering fully within the limits regulated in the Directive.

There will be no mention of the interactions between labour legislation and disability prevention services, and of daily care in day care centres, nor in occupational centres, because of the lack of friction with the Working Time Directive, as has been said, frictions between workers' rights and user' rights arise, more intensely, in the provision of support in everyday life. Neither I will not reference the instructors of sheltered employment or supported employment because they are not part of the catalogue of social services.

¹ Recommendation (98) 9 From the Committee of Ministers to the Member States regarding the dependency (Adopted by the Committee of Ministers on September 18, 1998, at the 641st meeting of Delegates of Ministers)

Regarding to those who provide dependency services, in Spain, a social network linked to organizations in the third sector - especially religious ones - has always coexisted with the private initiative of a lucrative nature that assumes growing importance from the 90's. As stated in the law of dependency itself, Spanish care for dependents continues to take place predominantly in the family, calling this the Dependent Law as "*informal support*", provided by non-professional caregivers. The law offers a wide catalogue of services provided or established by the administration, and exceptionally offers payments to the dependant who can contract carers for themselves.

The most common services in which there are frequent frictions with the WTD, given that some of them provide services 365 days a year and 24 hours a day, are the following:

Sheltered housing, offers a comprehensive care during the day and night period to people in a situation of dependency, with the aim of improving or maintaining the best possible level of personal autonomy, supporting families and carers. It covers the needs of counselling, prevention, rehabilitation, orientation for the promotion of autonomy, personal assistance and personal care.

Residential care, this service provides continuous social services and also offers health care. It is provided in the residential centres qualified to the effect, according to the type of dependency, degree of it, and intensity of care that the person needs. The provision of this service can be permanent, when the residential centre becomes the habitual residence of the person, or temporary, when taking temporary stays of convalescence or during vacations, weekends and illness or rest periods of non-professionals carers.

Assistance at home, integrates very diverse benefits that can be classified into two main groups: Services related to domestic or household activities such as cleaning, cooking or others; And services related to personal care, in the realization of daily life, this one requires different hours of care.

Telecare services, this service facilitates the beneficiaries, using information and communication technologies, and with the support of the necessary personnel, immediate response to emergency situations, insecurity, solitude, and isolation. It can be provided as an independent or complementary service to the home help.

The services of sheltered housing, residential care and telecare services are ever provided by entities which hire personnel subject to labour legislation. Home help services in addition to being able to be provided in the same way as the aforementioned, can also be provided by personnel hired directly by the dependent person, who is able to contract them as employee, as self-employed, or even pay relatives who perform the work as non-professional carers.

In Spain in December 2016, there were 298.700 people registered as employed with the Social Security system in different activities of care services, 295.378 of them as employees and the other 3.322 as self-employed workers. And in the different areas, there were 133.935 people working in residential care activities, and 164.765 occupied in social work activities without accommodation.

2. EU Working Time Directive in Social Care and Support Services

The Directive is fundamentally a standard for workers' health, since it establishes many obligations and restrictions on working time. The basic and most important rule of the Spanish labour law in which the WTD have been incardinated is the Statute of Workers Rights, in which all the general aspects of the

relations between employer and employees are regulated. In addition to the organization of working time, the Royal Decree 1561/1995 of 21st September on special working days is in force, which was issued after the publication of Directive 1993/104/EC, which is the prior Directive to the current 2003/88/EC, which is studied here. This Royal Decree of 1995 regulates situations which differ from common labour standards and was established to adapt the general rules to the characteristics and needs of certain sectors. Also, collective agreements refer the accords between employers and employees in our sector. The limitations and rights regulated in each of these three areas were written bearing in mind the Working Time Directive.

Also, multiple rules on schedules and working hours are applied in collective agreements, which authorized by the Statute of Workers' Rights and by the Royal Decree mentioned in the previous paragraph, improve workers' rights above those established in these norms. It is important to remember that WTD promotes on many occasions, in its text, his adaptation in each of the sectors through collective negotiation.

It's important to have on mind that employees are subjected to these rules, but the self-employed workers are not considered as employees and therefore are not subject to the Statute, nor to the Royal Decree of special days, nor to any collective agreement. Neither, non-professional carers are not under the umbrella of Protection of the Directive, this puts them at more risk in their work but they also have more freedom in the provision of their services.

Based on normative hierarchy, in the first place, in this report firstly will be developed what is established in the Statute, then the RD of special working days, and lastly the collective agreements, in all cases referred to obligations to be fulfilled in the organization of the work of employees.

2.1. Law of the Statute of **Workers' Rights**.

In Spain, following the mandate of the Constitution, the Statute of Workers' Rights was promulgated, its rules determine the model of Spanish labour relations. Within this wide law, this research will only refer to those points related to the WTD.

First, the labour code marks in its art. 34 that the maximum duration of the working day will be 40 weekly hours of average in annual computation, thus using a working time limit determined in a week, but referenced within the period of the year. These 40 hours in a week, can be increased provided that the annual average is below this number. In a very different way the Directive in its art. 6.b) in relation to art. 16.b) provides that the average of working time should not exceed 48 hours, including overtime, for each seven-day period in reference periods of four months. Those rules speaks about weekly hours, but Directive speaks about maximum with overtime and Spanish code about annual average.

The Spanish Statute in it paragraph 2, art. 34, established that an irregular distribution of the working day may be established throughout the year, determining that by agreement with the workers or by collective agreement, and in the absence of a pact, the employers may distribute irregularly throughout the year a 10% of the working day. In this irregular distribution, the maximum weekly limit of 48 hours in average of four months of the Directive will come into play.

Also, the Statute determines in art. 34.3 that the number of ordinary hours of effective labour may not exceed nine per day, unless a collective agreement or agreement between the enterprise and the workers' representatives, establishes another distribution of daily working time. So, if there is agreement with the representatives, the ordinary hours of a day can be increased, but if there is no

general agreement, employers can increase the daily work individually by overtime, which is voluntary for workers, with a limit of 80 hours in a year. The Directive does not establish any limitation on the ordinary working day nor limitation in overtime working hours.

Regarding the rest period between consecutive working days, the Spanish labour code in its art. 34.3 states that between the end of one day and the beginning of the next one, at least 12 hours will be measured, improving one hour more in favour of the worker, of the 11 established in the Directive in its art. 3.

With regard to breaks at work, when the workday exceeds 6 continuous hours, the same art. 3 of the Directive establishes that states must take measures to pause, and in Spain art. 34.4 of the Statute establishes that, provided that the duration of the daily continuous working day exceeds 6 hours, a period of rest of not less than 15 minutes must be established.

On night work the Directive defines in its art. 2 that the night period shall be a period of not less than 7 hours, which shall include the interval from 24:00 and 5:00 and which shall be defined by national legislation. Within these conditions, in Spain, the Statute in its art. 36.1 considers night work, the time between 22:00 and 6:00, increasing by 1 hour the night period set in the Directive.

The Directive stipulates in article 8.a) that the working time of night workers should not exceed an average of 8 hours each period of 24 hours, the Statute establishes, in its art. 36 in this sense that the working hours of night workers may not exceed eight hours per day on average within a reference period of fifteen days and that night workers may not work overtime. For Spain, therefore, the period in which the average is to be established, every 15 days and also prohibiting overtime, and in addition the Statute determines that night workers are those who develop more than a third of the annual work by night, extending the scope of the Directive and its limitations. These employees must have the guarantee on the part of the employer that a free evaluation of health in regular periods.

If art. 7 of the Directive establishes four weeks of annual leave, the Statute of Workers' Rights establishes in its art. 38 that the period of paid annual leave in no case will be less than 30 calendar days, also in this aspect labour law is improved in the Spanish context. In the same way as the Directive, vacations cannot be replaced for economic compensation.

2.2. Royal Decree on special working days

Royal Decree 1561/1995 of 21st September of special working days was issued in Spain following the publication of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of management of working time.

As stated in its preamble, this Royal Decree was developed due to the need to adapt general labour standards to the specific characteristics and needs of certain sectors and jobs, in order to allow a more flexible use of these rules in the light of the organizational requirements of certain activities, or of the peculiarities of certain types of work. It also seeks to establish additional constraints in order to reinforce the protection of workers' health and safety, especially in those cases where a prolongation overtime may present a risk.

As will be seen, the Royal Decree establishes reductions of the minimum breaks between days and weeks provided for the Statute and stated in the Directive, but these reductions must be compensated

by alternative breaks, in any case requiring one or more periods of rest each day of work and within the hours of service.

This Royal Decree allows collective agreements to authorize, by arrangement between the company and the worker concerned, that all or part of the compensatory breaks provided between sessions may be accumulated for their enjoyment in conjunction with annual leave, and in the same way will be able to accumulate the compensations contemplated for the half day of the weekly rest.

The Royal Decree establishes flexibility for some cases, for example the service of employees of urban properties, for these workers it establishes that they can have several periods of rest during the day, by agreement with the owner of the property, and reducing the minimum of general daily rest of twelve hours, compelling a minimum of 10 consecutive hours of rest between consecutive working days, determining that the differences up to the 12 hours should be compensated, generally established for periods of up to four weeks. Also, these employees can accumulate for periods of up to four weeks the half day of the weekly rest or even separate with respect to the one corresponding to the full day for their enjoyment on another day of the week. As a result, we can verify that for a specific service, with no more needs than social care, the general rule of the Statute of Workers' Rights has been modified, allowing for the opt-out by the art. 6 of in relation with the its art. 22 of the Directive.

Also making use of the possibility of non-application of the Directive, by the use of opt-out system, the Spanish legislator by Royal Decree of special working days, guards and watchmen and also in agricultural, forestry or livestock work, allows to extend the working day to 60 hours a week, with two limits: the daily work can't be able to exceed 12 hours of effective work, and the workers should enjoy a minimum of 10 consecutive hours of rest.

Also, it makes use of the non-implementation option of the Directive for trade, hotel and restaurants sectors, where it authorizes the accumulation of half-day of weekly rest, thus leaving only a minimum weekly rest of 24 hours, for periods of up to four weeks, having to compensate the rest afterwards, and can also agree in those sectors the reduction to ten hours of the rest between days.

This Royal Decree also includes exceptions for seafarers, and workers related to aircraft and railway activities and some others, reducing breaks between sessions, among other variations.

The Royal Decree does not provide any specific adaptation to the social care services, but it is possible to apply the adaptations of the general regulations established for shift work and in activities with divided days. Residences and sheltered homes provide 24-hour care services 365 days per year, so there is shift work and split days could be applicable, also these specific rules can be applied in home help services, for example when you have to support basic activities of daily living, such as getting up, going to bed, taking a shower, eating, dining, etc.

Article 19 of the Royal Decree establishes that in those works carried out by teams of shift workers, they may accumulate for periods of up to four weeks half day of the weekly rest, so the rest can be reduced to 24 hours. It also, gives the option to separate these 12 hours from the one corresponding to the weekly rest, and then the workers can enjoy the leisure on another day of the week, and it also allows to reduce the rest period between days to 7 hours when the workers change their shift, reducing drastically the 12 hours' rest between daily working days for such specific situation, it can be applied in residences and sheltered housing, and telecare services.

Moreover, art. 22 considers the activities with split shift, which do not exceed their total duration of the ordinary working day, must by their very nature, be discontinued over a period of time, greater than twelve hours per day, so that it is not possible for the worker to enjoy an uninterrupted rest of 12 hours between the end of one day and the beginning of the next. This article allows that by means of collective agreement or, in its absence, by agreement between the company and the legal representatives of the workers, a minimum rest be established between days of up to nine hours, provided that the worker can enjoy during the day, compensatory alternative rest, of an uninterrupted rest period of not less than five hours, it can be applied in and services related to personal care, in the realization of daily life, and also in sheltered housing.

Even though it would be better to have a legal adaptation for the social care services sector as the foresaid sectors affected directly by the Royal Decree, with the actual text of the law, through a pact with workers' representatives, the entities could adapt working hours. This could result in a better organization of the company making them financially sustainable, and especially better to guarantee the quality of service delivery to the people they care for.

2.3. Collective agreements

The WTD in multiple articles mentions that collective agreements can improve the working conditions it regulates, in addition specifically allowing in its article 18, among others, exceptions to the application of some of its provisions, granting high importance of negotiation between the social partners.

Regarding the social care services sector, in Spain there are many national, autonomous, provincial and company agreements, covering them all would greatly exceed this research, so it will only deal with state agreements, in particular the "*XIV General collective agreement of centres and services of assistance to persons with disabilities*", (hereinafter referred to as *Centres and Services Agreement*) and the "*VI Collective Agreement for the state framework of services for care of Dependents and Development of the Promotion of Personal Autonomy*" (hereinafter referred to as *Dependency Care Agreement*).

These agreements cover the subsectors of residential services, day centres, care for people with disabilities and home help services, both were in force in February 2017. The two agreements have areas of quite similar application, in both cases they affect centres of public or private ownership, with or without profit.

The two agreements have as scope of application the care of residences, day centres, night centres, sheltered homes. The most notable differences in its scope are that the *Centres and Services Agreement* also include diagnosis, rehabilitation, training, education, promotion, and labour integration of persons with disabilities, activities which are not included in the other agreement. The *Dependency Care Agreement*, includes residences of seniors, service of help at home and telecare, services that are not within the scope of the first one. So, the scope of application of the two agreements, especially in what concerns this study, is quite coincident.

In both agreements, as in the Statute of workers' rights, it's established that the company may distribute the working time irregularly in a percentage of 10% in annual computation. Therefore, when the *Centres and Services Agreement* establishes that the weekly working day will have a maximum duration of 38 hours and 30 minutes of effective working time, but also that the number of daily hours of effective work cannot exceed 8 hours, and in addition determines that over 45 hours of work it will be considered as overtime hours. It's evident the complication to apply not only the limits of Directive,

Statute, Royal Decree and the three different limits of the agreement. Also, the limit of 45 hours is near the limit of the WTD, but this limit of 48 hours established in the Directive, is counting also the overtime, and the agreement only takes into account ordinary hours.

Differently, the *Dependency Care Agreement* is clearer when it states that "no more than nine hours of effective work" may be carried out "unless a minimum of 12 hours has elapsed between the beginning of one day and the beginning of the next". "Always respecting the maximum annual hours of work that this agreement establishes."

It is interesting to note that in Spain, for a better determination of working times, agreements usually fix annual hours in this way. Many of the issues that arise in the application of rests, vacation and other rules can be delimited in annual computation. The application of the Statute, without conventional improvements, are 40 hours a week, (it would force between 1808 and 1826 hours per year), but collective agreements usually improve these conditions. In particular, the *Centres and Services Agreement* establishes that the workers will have a maximum annual working day of 1729 hours of effective working time (37,5 hours/week) differently the *Dependency Care Agreement* determines 1792 hours (39 hours/week) for their services except for the home help service, whose maximum hours in a year will be 1755 hours (38 hours/week).

Regarding the weekly rest, in the *Dependency Care Agreement*, the staff will be entitled to a minimum weekly rest of a day and a half, in the same terms as determined by the Directive. The *Centres and Services Agreement* establishes three specialties regarding the rest period, a) it will be accumulated for periods of up to fourteen days, stating that the accumulated rest days must be enjoyed in an uninterrupted manner, b) workers with disability will be entitled to two uninterrupted days of rest, and c) in shift works and irregular distribution of working days, the general rules could not be applied, because they can follow what is established in the Royal Decree 1561/1995, which has been explained previously.

The breaks when the duration of the daily continuous work exceeds 6 hours, for the agreement of attention to dependents, will be at least 15 minutes of duration, and this quarter of hour will have the consideration of effective time of work to all the effects. This agreement also establishes that when the breaks are longer than 1 hour it will be understood as split shift, not being able to divide the day in more than two fractions.

On annual leave, if art. 7 of the Directive, determines a minimum of four weeks, the *Centres and Services Agreement* establishes the right to enjoy twenty-five paid working days and the *Dependency Care Agreement* fixes it in thirty calendar days also paid, improving both the agreements of the Directive. They both describes a preferential enjoyment of this leave, if the needs of the service allow it, between June and September, both months included, and determines that it can be enjoyed split over 2 periods.

Regarding night work, the two agreements establish that a bonus will be paid on the hours worked by night. In addition, the *Dependency Care Agreement* establishes that not only will the period established in the Statute be considered for the computation, between 22:00 and 06:00 in the morning, also adds one hour more to the night time schedule and establishes in it the period between 6:00 and 7:00. The arrangements seem not to be worried about the health of night workers, but on the extra cost of the hour.

3. Implications of the EU Working Time Directive on working conditions in the Social Care and Support Services in Spain

The first consequence of the Directive on Spanish legislation is the adaptation of all labour legislation, so as not to go against this EU rule in any of its aspects, except in those where it is possible to choose not to follow what is prescribed in it. As has been seen on many occasions in this research, the limits used by the WTD and the Spanish regulations are different but complementary, for example, the directive speaks of a maximum of 48 hours of work per week, and Spanish legislation refers to 45 hours, but only ordinary.

On the full adaptation of Spanish legislation to the Directive, it is remarkable that the European Commission addressed to the Kingdom of Spain, an Opinion in 2014², for not correctly incorporating part of Article 8 of the WTD into national law. The basis of this document was the European Commission's consideration that Spain had not transposed the eight-hour absolute limit for night work involving special risks or significant tensions, provided for in Article 8.b) of the Directive.

Because this was considered a breach, and its transposition was mandatory Spain published Royal Decree 311/2016, of July 29, which adds a new article, determining it to Royal Decree 1561/1995, on special working days. This last legal amendment about a special aspect of the WTD, clearly indicates that the rest of the articles of this Royal Decree, despite being drafted in 1995, prior to the publication of the current Directive, is in accordance with it. The Spanish State understood that it had to determine more clearly that in the case of night work when there were jobs with special risks or significant tensions the prohibition of exceeding 8 hours should be total and unconditional, and modified the Royal Decree in 2016.

National labour laws do not fully meet the needs of the sector, since none of them has been adapted to social services for people and it would be advisable, in order to give a higher quality of service, to better serve the needs of the users of Services, as well as to give employers more flexibility in their organization to promote exceptions such as other sectors in the Royal Decree of special days.

A legal amendment could help not to increase the cost of services, and therefore comply with what the European Commission established in the Gottemburg Council³ in 2001, where it establishes that all policies also care in situations of dependency, should have as objectives accessibility, quality and financial sustainability. This latter objective provokes a tension between two elements that should not be contradictory, but are conflicting: the economic and institutional pressure in favour of the containment of expenditure and the growing demand for long-term personal care, these two realities require more flexibility for the organization of working time.

But the need for flexibility of the service and the rights of workers cause friction, mostly in care services, in sheltered housing and residences and also, in those dedicated to the care of basic activities of daily living, in those activities that must be rendered every day of the year in very long hours and in the case of homes and residences 24 hours a day, 365 days a year.

In my opinion, Spanish legislation should be adapted in the social services and support services sector (SCSS) just as it has done in other sectors, for example by allowing employees of urban properties to reduce rest between working days to 10 hours because their services require a broader schedule. In

² Reasoned Opinion 2014/4169 of the European Commission

³ http://ec.europa.eu/regional_policy/archive/innovation/pdf/library/strategy_sustdev_en.pdf

our case this possibility would help to improve personal services to help lift and bed a person, since such services provided by a single person, allows daily rest to occur during the day and that rest between days is reduced so as not to force the dependent to get up very late and go to bed early and thus be able to give him the possibility of having a more standardized life.

The possibility of working as in the agricultural sector for twelve hours, if the activities are not very painful, would also be positive to implement in the services of sheltered housing, where the carer should support the work of housing and the lives of users and it is difficult to allocate work shifts that do not cut half the daily activities in half, requiring a long service.

The needs of the sector are more evident to normalize the lives of people living in sheltered homes, at weekends or vacations trips are scheduled to encourage leisure in the community. If the trip occurs outside the city of habitual residence, even if the excursion is a single day, changes of shifts are impossible to manage with working days of 8 or 9 hours, except that the worker who must replace the shift has also gone on the journey and this increases the cost of the outing to extremes that force them not to do it.

In long trips, accompanying people with disabilities, you can organize shifts with responsibilities in each of the shifts, and agree with workers that rest times that are not counted as working hours, but either they carry out very long hours with little attention staff or the increased travel costs due to travel times and carers' accommodation costs, increase the amount of the bill in a way that reduces the viability of travel for leisure.

It also affects very negatively the legislation on night work, since it is established that when more than three hours of work are carried out during the night, the whole day is work at night, and workers cannot work on this schedule more than 8 hours on average. This not only makes the service more expensive to pay for nightly expenses, but also makes it necessary to hire three workers per day to attend these services, which leads to a large turnover of staff, which complicates organization and is not good for the people served who, far from feeling at home see workers who attend them, come and go when they are doing activities.

Nights in a protected housing are not a painful job and could be taken care of to such circumstance to modify the hourly limits and their salary complements, in addition the distribution of the hours of sheltered homes with broader hours would help to accommodate the shifts of work in a more rational way, to serve people with disabilities and also improve the lives of workers, who in fewer working days could complete their week schedule.

Recently, in 2013⁴ a greater flexibility was added in Statute of Workers Rights, determining that, on the published annual calendar, and taking the limitations explained in the previous points, the company may have as a flexible bag of hours up to 10% of these annual hours, to distribute them irregularly. This gives a margin of flexibility to accommodate schedules, but since notice in Spain is mandatory, with at least five days, for work on call, this flexibility can only be used in a structured and planned manner, not in cases of necessity of specific support services, which cannot be anticipated in advance.

Collective agreements do not observe an adaptation of the norms to the sector of social care and support services, but a main concern is found to improve the working conditions, mainly tending to reduce the hours of work and increase the wages, not finding a will to adapt to the needs of the sector.

⁴ Royal Legislative Decree 16/2013

This has an exception on the hours of availability that should be mentioned as an example of good practice and which could also be proposed to be regulated not only in the conventional way but also in national legislation and in the Directive.

It must be taken into account that in Spain the hours of availability that must be carried out within the premises of the employer are hours of work that are remunerated as worked, but nothing is contained in the legislation on the hours of availability that are held outside the premises of the company, waiting to be called. In the *Dependency Care Agreement* it is determined in its art. 45 additional availability, which will be paid to workers who volunteer to be available during the day to meet any requirements that may arise due to a specific emergency at work. The agreement specifies that the availability time will not be computed for the computations of the ordinary day and that the period of extra time actually rendered will count from the call to thirty minutes after the end of the service that had been provided. In my opinion, a similar idea could be established in general terms as a recommendation for future legal modifications, since this time availability modality for possible emergencies can be useful to avoid having excess staff contracted, it also increases the wage cost in a rational way.

It would be advisable to establish the social care and support services of sector within the exceptions determined in art. 17.3.c of the Directive, in addition to stating in the Spanish legislation, in the Royal Decree on special working days, some specialties for the sector because of the need to guarantee the attention of a continuous service.

It could be useful if the reference periods taken to compute the average weekly hours were broadened, as well as for the non-sanitary care of persons with disabilities to increase the maximum number of night hours that can be performed and also their period of reference, in order to achieve greater flexibility and better attention to users.

Perhaps the most important mismatch between the labour rights determined both in the Directive and in Spanish national legislation is that some of the services provided for persons with disabilities, in particular those related to personal care for daily life, can also be carried out by self-employed workers, in addition to non-professional relatives, who have no obligation to prevent occupational risks or schedules. Self-employed persons, who can only be hired directly by the people to be served, never by companies, are not applicable to the Statute of Workers Rights, nor any collective agreement since they are assimilated to individual entrepreneurs and therefore do not have time limit on the provision of services. The general scheme of employed persons, the system of self-employed workers and that of non-professional family caregivers have very distinct obligations and rights.

Lastly, it should be noted that many workers prefer the concentration of working hours in a few days, above the limits currently established, since this provides more free days during the week and therefore a better reconciliation of working life with family, so that in jobs without special risks and that are not physically hard like the majority that are provided in this sector, extending the limits of hours of service delivery would also benefit workers.

EASPD is the Association of Service providers for Persons with Disabilities. We are a European not-for-profit organisation representing over 15,000 social services and disability organisations across Europe. The main objective of EASPD is to promote equal opportunities for people with disabilities through effective and high-quality service systems.

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