

BARSERVICE

Towards smart bargaining in the social care sector in Turkey

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Table of contents

Executive summary	1
I. Sector identification and trends	2
II. Current state of collective bargaining.....	3
III. Challenges to collective bargaining.....	4
IV. Towards Smart Bargaining.....	6
V. European Perspectives	8
VI. Conclusions	9
References.....	10



Executive summary

This report aims to comprehensively evaluate the social care services sector in Turkey, with a particular focus on the current situation of workers under NACE 87 and NACE 97, the challenges in collective bargaining processes, and opportunities for improvement in this area. While addressing the key issues of the sector, such as gender inequality, informality, low unionization rates, and legal barriers, it proposes innovative and smart collective bargaining mechanisms to enhance workers' rights.

The report discusses unique factors, including challenges in the organization processes, the lack of structures representing employers, and pressures arising from gender roles. It presents recommendations aligned with international regulations, such as good practices from Europe and ILO Conventions No. 189 and 190, and discusses solutions to promote registered employment in Türkiye. By fostering stronger dialogue mechanisms among social partners, the report aims to align sectoral regulations with international standards and ensure workers' access to decent work conditions.

Additionally, the report highlights structural and legal challenges faced in the collective bargaining processes within the social care services sector. For workers under NACE 97, the lack of functioning collective bargaining mechanisms is explained by reasons such as informality, the fragmented nature of individual employers, and workplaces being private households. Similarly, for workers under NACE 87, collective bargaining processes are constrained by a lack of sectoral coordination and the broader structures within the healthcare sector.

The report emphasizes the need for sector-specific regulations, incentives to reduce informality, and the implementation of smart collective bargaining strategies to overcome these challenges. In this context, it underscores the importance of international best practices and strengthening social dialogue mechanisms as fundamental steps towards a more equitable and inclusive framework within the sector.

I. Sector identification and trends

The social care services sector, encompassing NACE 87 (residential care activities) and NACE 97 (activities of households as employers), provides a wide range of care and support services for the elderly, individuals with disabilities, those living with chronic illnesses, and domestic workers. In Türkiye, this sector has become an increasingly significant economic field due to societal transformations and the growing demand for care (HealthAsso, 2021).

As of 2021, data shows that under NACE 87, 41,569 people were employed in the sector. Of these employees, 69% were women, and only 25% had an education level of middle school or below. Approximately 33.4% of workers were employed in the public sector, while the remaining 66.6% worked in the private sector (TurkStat, 2021). Under NACE 97, domestic workers represent a larger group. According to the Turkish Statistical Institute (TURKSTAT), 173,663 individuals were identified as domestic workers in 2019, decreasing to 121,689 in 2020. However, trade unions organizing domestic workers claim that the number of workers in this field exceeds 1.5 million. Approximately 90% of these workers are women. Furthermore, the level of informality in domestic work is significantly high. While official statistics indicate an informality rate of around 70%, trade unions estimate this rate exceeds 90% (Guler, 2021a).

Trends in the sector are directly linked to societal changes, such as population aging, urbanization, the shift to nuclear family structures, and increasing female labor force participation. While institutional care services under NACE 87 have seen rising demand, home care services are undergoing professionalization. In contrast, domestic work under NACE 97 faces significant structural challenges due to irregular and precarious working conditions.

Technological advancements are playing a transformative role in social care services. Innovations such as electronic health records, remote monitoring systems, and mobile applications are becoming increasingly prevalent under NACE 87, enhancing the accessibility of services. However, domestic workers under NACE 97 largely remain excluded from these technological advancements. Given that their services are typically provided in private households, access to technological infrastructure and the ability to utilize such tools remain limited (Guler, 2021a).

Globalization has also impacted the sector. The adoption of international

standards and best practices has particularly contributed to improving care services for conditions such as Alzheimer's and dementia under NACE 87. However, compliance with international standards for domestic workers under NACE 97 remains insufficient. Domestic workers face significant challenges in participating in collective bargaining and organizing processes (HeathAsso, 2021). In conclusion, the social care services sector under NACE 87 and NACE 97 in Türkiye is undergoing a transformation to adapt to increasing care needs and a changing social structure. However, areas like domestic work, where informality and precariousness are widespread, require further legal regulations, the promotion of collective bargaining processes, and greater technological adaptation. These steps are essential for creating a more inclusive and sustainable structure for the sector, benefiting both workers and the individuals receiving care.

II. Current state of collective bargaining

The social care services sector in Türkiye demonstrates varying levels of organization and participation in collective bargaining processes. Workers engaged in residential care activities under NACE 87 are organized under the Health and Social Services sector. However, the CBAs in this sector are not directly related to social care services. It is important to note that the entire workforce in healthcare is organized under this sector, with social care services accounting for a very small share. According to 2023 data, there were 53 collective agreements signed in the Health and Social Services sector, covering 215,712 workers, 186,261 of whom were unionized. The total workforce in this sector is around 710,000, with 251,734 unionized workers. This data highlights that care workers under NACE 87 represent a very limited proportion of the sector (CSGB, 2023).

Domestic workers under NACE 97, on the other hand, largely operate within a system based on individual employment contracts and are not included in collective bargaining processes. Collective bargaining mechanisms in the social care services sector are generally decentralized and fragmented. For workers under NACE 87, there is a lack of sectoral coordination, while collective bargaining mechanisms for domestic workers under NACE 97 are almost non-existent. Although trade unions representing domestic workers, such as EVİD-SEN and İMECE, are authorized to sign CBAs, they are unable to participate in collective bargaining processes due to existing legal and structural challenges (Guler, 2021a).

The strengths of collective bargaining mechanisms in the social care services

sector include the efforts of organized trade unions to defend workers' rights in some areas. However, the weaknesses are more pronounced: legal barriers such as sectoral thresholds, high levels of informal employment, the fragmented nature of individual employers (households), and low levels of union organization are major obstacles to effective collective bargaining. Over the past decade, there has been no significant change among the actors involved in collective bargaining in the sector. However, increased awareness of organizing in domestic work and the establishment of trade unions such as EVID-SEN (Trade Union of Domestic Workers Solidarity) and IMECE (IMECE Trade Union of Domestic Workers) are notable developments (Guler, 2021a).

In collective bargaining processes, trade unions generally have weak bargaining power. For domestic workers in particular, the fragmented structure of individual employers and the fact that workplaces are private households make it difficult to establish a representative employer body. This further weakens the bargaining power of trade unions. Over the past decade, the power dynamics have remained largely unchanged. However, the lack of legal regulations supporting collective bargaining mechanisms for domestic workers has enabled employers to maintain their dominant position. No specific data exists on direct CBAs for social care workers under NACE 87, while collective bargaining mechanisms for domestic workers under NACE 97 remain largely ineffective. An evaluation of the past decade shows that the scope of collective bargaining has remained limited in both sectors. Participation in organizing and collective bargaining processes for domestic workers continues to be extremely low due to informality and the fragmented nature of employers (Ilendemli, 2018; İlkkaracan, 2020; Guler, 2021b). To expand the scope of collective bargaining, legal frameworks need to be strengthened. For domestic workers, in particular, eliminating the sectoral threshold, promoting organizing processes, and defining private employment agencies to represent employers could be effective solutions. Additionally, enhancing social dialogue mechanisms and ensuring the active participation of domestic workers in collective bargaining processes could contribute to resolving the sector's challenges.

III. Challenges to collective bargaining

In Türkiye, structural issues stemming from the general unionization framework and sectoral characteristics present significant barriers to collective bargaining processes. These challenges are particularly pronounced in the social care services sector. Domestic workers (NACE 97) and social care workers (NACE 87) are largely

excluded from collective bargaining processes. The social care services sector, especially for domestic workers under NACE 97, faces severe structural and legal obstacles in collective bargaining.

Among the fundamental structural issues hindering unionization in Türkiye are the sectoral threshold and collective bargaining authorization procedures. Under the Trade Unions and Collective Bargaining Act No. 6356, the 1% sectoral threshold makes it challenging for trade unions to obtain collective bargaining authority. This threshold renders the activation of collective bargaining mechanisms nearly impossible, particularly for hard-to-organize groups such as domestic workers. Additional challenges include the prevalence of informal employment, limited participation in collective bargaining processes, workplaces being private households, and worker-employer relationships existing outside traditional employment structures. It is noted that 70% of domestic workers lack basic social protections, with unions reporting this figure to be over 90%. While trade unions representing domestic workers are authorized to sign collective agreements, the fact that workplaces are private households and employers consist of individual homeowners makes the implementation of collective bargaining processes nearly impossible (Guler and Benli, 2020; Guler, 2021).

Workers under NACE 87, on the other hand, are part of the Health and Social Services sector. However, collective agreements in this sector do not directly represent the scope of social care services. While unionization in this sector is around 35%, the number of workers covered by CBAs remains particularly low in care services compared to the overall workforce. Therefore, legal and structural changes are needed to enhance unionization and the scope of collective bargaining in social care services (CSGB, 2023).

Social partners highlight informality and low unionization rates as primary challenges in organizing domestic workers. The fact that workplaces are private households is a key factor preventing the initiation and continuation of collective bargaining processes. Additionally, domestic workers often cannot dedicate time to trade union activities due to long working hours, low wages, and poor working conditions. Societal gender roles further exacerbate the barriers to women's participation in trade union organizing. Other significant issues include the lack of social dialogue mechanisms and the absence of a representative structure for employers in collective bargaining processes (Erdogdu and Toksoz, 2013; Tilic and Kalaycioglu, 2012).

To enhance domestic workers' participation in collective bargaining, establishing an effective registration system to combat informality is a priority. Expanding domestic workers' access to social security and strengthening basic labor standards could contribute to addressing these issues. Furthermore, creating a representative structure for employers in collective bargaining processes is essential. Integrating private employment agencies into collective bargaining mechanisms is one potential solution to consider. Lastly, developing sector-specific model contracts to protect domestic workers' rights and increase their participation in collective bargaining is recommended. These CBAs could not only establish labor standards but also help build trust between parties.

All these steps would enhance the effectiveness of collective bargaining mechanisms, contributing to the establishment of a more inclusive and fair working environment in the social care services sector (Evid-Sen, 2020).

IV. Towards Smart Bargaining

In the context of the social care services sector, smart collective bargaining refers to innovative negotiation strategies designed to improve workers' rights, reduce informality, ensure gender equality, and consider the sector's unique working conditions. For social care service workers under NACE 87 and NACE 97, smart collective bargaining addresses sector-specific needs, differentiating it from traditional collective bargaining mechanisms. Key elements of smart collective bargaining include facilitating organizing processes for hard-to-organize groups like domestic workers and establishing more effective communication networks with structures representing employers.

It is crucial for trade unions organizing domestic workers and social care employees to adopt a data-driven approach to better understand the needs of their members and strengthen their representational capacity. For instance, trade unions can conduct regular surveys to analyze workers' issues and use the data to develop various bargaining strategies. As previously discussed, integrating private employment agencies into collective bargaining processes for domestic workers can institutionalize worker-employer relationships. These agencies can be considered a structure to protect workers' rights and strengthen collective bargaining mechanisms.

Expanding the scope of collective bargaining requires critical legal reforms by the government. Eliminating or lowering the sectoral threshold is one significant step

toward broadening the scope of collective bargaining. Strengthening communication networks among social partners and enhancing dialogue mechanisms can help build mutual trust in bargaining processes. Such mechanisms can also enable typically underrepresented groups, like domestic workers, to participate in collective bargaining processes.

The effectiveness of collective bargaining processes in Türkiye largely depends on legal regulations. The Trade Unions and Collective Bargaining Act No. 6356 imposes limitations on the scope of collective bargaining and makes organizing processes more challenging through measures such as the sectoral threshold. For domestic workers, in particular, there are significant legal obstacles to gaining collective bargaining authority.

To implement smart collective bargaining processes, it is necessary to address sector-specific issues and develop innovative solutions. Tools such as incentive systems to reduce informality and sector-specific model contracts should be introduced to enhance the participation of domestic workers and social care service employees in collective bargaining processes. Additionally, aligning legal regulations with international standards is a critical step to expand the scope of collective bargaining and protect workers' rights. Dialogue mechanisms created through collaboration among social partners can play a central role in this process. Smart collective bargaining should contribute to establishing a fairer, more sustainable, and inclusive negotiation system in the sector.

It is essential to note that social care services require specific regulations due to the individual working conditions and structural characteristics of the sector. Structuring smart agreements effectively and inclusively for domestic workers can help address existing issues in the sector. Smart agreements should clearly define working hours for care workers and mandate additional pay for overtime. For live-in care workers, implementing a mandatory shift system should be included in the agreements as a solution to prevent excessively long working hours. Smart agreements should also include provisions that clearly define the employer's responsibilities to ensure timely and full payment of workers' wages. Regulations preventing payments below the minimum wage based on working hours and job type should be introduced.

Smart agreements should incorporate provisions that ensure the physical and psychological safety of care workers. Mechanisms for workers to report harassment or mistreatment in the workplace should be established. Provisions

enabling the inspection of workplaces, while respecting the inviolability of private residences, should also be included. Smart agreements should encourage employers to provide care workers with opportunities for professional training. For instance, financial support for participation in certified training programs in their field should be considered. Special protection provisions should be created for care workers employed through digital platforms. These should include safeguarding personal data and developing mechanisms to protect against unfair evaluations in rating systems. Provisions requiring private employment agencies and intermediaries to fairly compensate workers and provide detailed information about working conditions should also be included.

Smart agreements should be designed to fully comply with ILO Convention No. 189. Specifically, provisions related to freedom of association, collective bargaining rights, and social security coverage must be included.

V. European Perspectives

As a candidate country for the European Union, Türkiye is not subject to the binding provisions of the European Commission's Directive on Adequate Minimum Wages, yet it aims to align with European standards during its accession process. The irregular and inconsistent nature of wages for care workers employed in private households in Türkiye, especially in the context of widespread informal employment, underscores the necessity for more effective implementation of minimum wage policies. Regulating wages for domestic workers in consideration of the nature and continuity of the work and harmonizing these regulations with European practices are critical for enhancing workers' economic and social security (EC, 2022).

Organizations such as the European Federation of Food, Agriculture, and Tourism Trade Unions (EFFAT) and the International Domestic Workers Federation (IDWF) play significant roles in supporting collective bargaining processes and strengthening minimum wage policies for care workers. Leveraging the experiences of these organizations regarding domestic workers' rights offers an opportunity for Turkish unions to learn and collaborate.

Mutual learning and cooperation among social partners in Europe can make significant contributions to Türkiye's efforts to strengthen workers' rights and collective bargaining mechanisms. Particularly in line with the provisions of ILO Convention No. 189, sharing experiences in collective bargaining processes can

enhance the capacities of domestic workers' trade unions in Türkiye. Additionally, the international standards introduced by ILO Convention No. 190 to combat workplace violence and harassment serve as a crucial reference point for ensuring safe working conditions for domestic workers. Collective agreements in Europe are a vital tool for improving wages and working conditions for domestic workers. Successful practices such as the "titre-service" voucher system implemented in Belgium, which promotes the formal employment of domestic workers, are noteworthy examples. Adopting similar systems in Türkiye could support the inclusion of domestic workers in social security schemes and the regulation of their working conditions. Examining the content of collective agreements in Europe could also help shape the demands of domestic workers' trade unions in Türkiye.

VI. Conclusions

The social care services sector, particularly for workers under NACE 87 (residential care services) and NACE 97 (domestic work), faces unique challenges that create significant limitations in collective bargaining processes. In Türkiye, the sector lacks an effective collective bargaining mechanism due to both legal regulations and sector-specific structural issues.

The smart collective bargaining approach offers innovative strategies to make existing bargaining processes more inclusive, fair, and sustainable. This approach aims to reduce informality, ensure gender equality, and protect workers' rights in the social care services sector. Developing structures to represent employers, establishing incentive systems to combat informality, and implementing sector-specific model contracts are among the key elements of smart collective bargaining strategies, particularly for hard-to-organize groups like domestic workers.

Current collective bargaining processes have limited impact due to legal barriers such as the sectoral threshold and the lack of coordination at the sectoral level. While the level of organization and collective bargaining mechanisms for social care workers under NACE 87 are relatively more developed, these processes are often constrained by the broader framework of the healthcare sector. For domestic workers under NACE 97, collective bargaining is virtually non-existent. High informality rates, the fragmented nature of individual employers, and workplaces being private households are the main obstacles in this area.

Despite these challenges, best practices from Europe and international standards provide significant opportunities for sectoral transformation in Turkey. The provisions of ILO Convention No. 189 and the experiences gained from collective bargaining processes in Europe can serve as a platform for learning and collaboration for Türkiye's social partners. Systems like Belgium's voucher scheme can be a model for promoting formal employment among domestic workers in Türkiye.

In conclusion, developing smart collective bargaining mechanisms in the social care services sector is essential for reducing informality, promoting gender equality, and ensuring workers' access to decent work standards. Achieving these goals requires the creation of sector-specific model contracts, the implementation of legal regulations aligned with international standards, and the strengthening of dialogue mechanisms among social partners.

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