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A Systematic Literature Review of Au Pairing: Insights From the Path***

ABSTRACT: *Different definitions of Empirical Legal Studies (ELS) have, at their core, the systematisation of legal data. The systematic literature review (SLR) is a technique that can be used in the scope of ELS, to collect and analyse all relevant studies of a given topic. To this end, SLR employs a staged procedure to increase the transparency of the research being performed and to present it coherently. This technique plays a major role in exploring subjects which are underexplored and undertheorised, as well as when lacking official data. In this paper, we present an SLR focusing on the definition of au pairs in the scientific literature. Au pairing is one of the most frequent forms of care provision in Europe. However, the inclusion of au pairs' mobility under the definition of 'labour migration' for the purpose of care provision is still debated, leaving the phenomenon in a grey area. This can impact both the social and labour rights of au pairs. On this basis, we identify the need to investigate the au pairing phenomenon through a legal approach, grounded in a multi-disciplinary perspective. In this context, we present our protocol for a systematic literature review, composed of five steps on top of the definition of the research design (Step 0): Search protocol (Step 1); Non-relevance criteria and duplicates (Step 2); Relevance criteria (Step 3); Analysis (Step 4); Coding (Step 5). The development of this approach is part of a broader research, representing one of its conceptual foundations.*

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1. Introduction

The debate concerning the ways in which legal research can investigate its relationship with ‘society’ is not a new one¹. Such a relationship is necessarily bilateral: the forces of society shape legal frameworks, institutions, and representations, and are at the same time influenced by them. Different branches of legal scholarship have developed to investigate this perpetual two-way movement, going under the various labels of Socio-Legal Research, Empirical Legal Studies, and Law and Society.

Despite their specificities, these approaches are connected by their focus on studying the legal phenomenon in the real-world, and on developing ways in which to explore this object. Notably, this implies going beyond the doctrinal approach², intended as a hermeneutic discipline based on the interpretation of specific documents³. To do so, researchers have had to recourse to a variety of methods, using quantitative, qualitative, or mixed-methods approaches. In the context of this article, we shall focus on those developed under the (broad) umbrella of ‘Empirical Legal Studies’ (ELS).

Epstein and Martin⁴ define ELS as “research based on observations of the world or data, which is just a term for facts about the world.” Data can be words (e.g. legal decisions), number (e.g. statistical values), or images, without a hierarchy between them as to which one is “more ‘empirical’”⁵. Likewise, Cane and Kritzer⁶ highlight how empirical legal research deals with “the systematic collection of information (‘data’) and its analysis according to some generally accepted method.” Thus, the systematic collection and treatment of data are at the core of ELS. These systematised processes can be developed in various ways. For instance, the analysis can be through “simple counting, sophisticated statistical manipulation, grouping into like sets, identification of sequences (in some circumstances called ‘process tracing’), matching of patterns, or simple labelling of themes”⁷.

1 Tomlins, 2007.

2 Banakar and Travers, 2005; Calavita, 2010; McConville and Chui, 2007.

3 Van Hoecke, 2011, p. 4.

4 Epstein and Martin, 2014, p. 14.

5 Epstein and Martin, 2014, p. 14.

6 Cane and Kritzer, 2012, p. 26.

7 Cane and Kritzer, 2012, p. 26.

Thus, ELS is characterised by a commitment to systemising research processes. This refers to the goal of analysing and presenting all the available data under a given scope, with said data being identified and filtered through a pre-defined set of criteria⁸. ELS pursues the general goals of collecting and summarising data, to make descriptive or causal inferences⁹. Collecting the data includes documenting the strategies of collection, supported by the idea of “the more data the better”¹⁰. In its turn, summarising the data means separating the relevant information from the useless (for the given research), as well as organising it coherently. This can be achieved through the creation of datasets, which can then be shared with the scientific community. On this basis, Epstein and King¹¹ point to the goal of making descriptive or causal inferences, illustrating that “We do not make them by summarising facts; we make them by using facts we know to learn about facts we do not observe.” Its purpose is to go beyond sampling.

The systematic literature review (SLR) can be used to pursue these goals. Through a staged procedure, SLR is relevant for “mapping out areas of uncertainty, and identifying where little or no relevant research has been done, but where new studies are needed. Systematic reviews also flag up areas where spurious certainty abounds”¹². It is designed to avoid a haphazard and non-reproducible data collection (in our case, the literature review), reviewing what has already been produced on a given subject in a controlled way. According to Petticrew and Roberts, “Systematic reviews are literature reviews that adhere closely to a set of scientific methods that explicitly aim to limit systematic error (bias), mainly by attempting to identify, appraise and synthesise all relevant studies (of whatever design) in order to answer a particular question (or set of questions).”¹³

This technique differs from other forms of literature review for its staged procedure, as well as for its purpose. In lieu of summarising ‘all’ that has been published of a topic, it intends to answer a question and/or test a hypothesis¹⁴. For that, the SLR can be explored in various ways, such as using statistical techniques to synthesise the results (meta-analysis) or delving descriptively into the results (narrative review)¹⁵. Chapman¹⁶ investigated the systematic literature review in the social sciences’ scientific literature. She highlighted how it is broadly used in medicine and health sciences, becoming more common in the social sciences. It is important to note that

8 Salehijam, 2018, p. 36.

9 Epstein & King, 2002.

10 Epstein and King, 2002, p. 24.

11 Epstein and King, 2002, p. 29.

12 Petticrew and Roberts 2006, p. 2.

13 Petticrew and Roberts 2006, p. 9.

14 Petticrew and Roberts 2006.

15 Petticrew and Roberts 2006.

16 Chapman, 2021.

her work did not include legal research, which is indicative of the ever-debated place of our discipline among the social sciences.

In summary, an SLR allows the collection of data through a staged procedure; controlling the biases of the study; recognising the limitations of the researcher; joining discussions and findings on a given topic. It plays a major role in subjects underexplored and undertheorised, as well when lacking official data.

Here we present the concrete application of the SLR to the phenomenon of au pairs¹⁷. This is part of a broader research on the relationship between labour law, temporary labour migration, and au pairing. In proposing this example we wish to highlight how the SLR can increase traceability and transparency, helping to recognise and present the limitations of a given study, and explore the relevant literature going beyond legal research. Therefore, while engaging with the content of the research in question, our aim is to focus on the functioning of the SLR in practice. In the remainder of this introduction, we will present the main subject. In Section 2 we focus on the various steps composing our protocol for the SLR. We also highlight the way in which we built our corpus and determined the relevance criteria. In Section 3 we present our interpretation of the results of the SLR. Section 4 is devoted to some final remarks concerning the SLR, and what we believe to be the added value it can bring to legal research, as well as pathways for future research emerging from our initial findings.

Au pairing is formally designed as a cultural exchange program, in which the participants – the host family and the au pair – are inserted into a dynamic of offering and retribution¹⁸. The offering is based on accommodation, feeding, and ‘pocket money’, whereas the retribution is based on caring for children – which can include teaching languages, cleaning services, washing clothes, and cooking. Within this multilingual environmental, the discourse surrounding au pairs defines them as part of a cultural exchange, since they experience a different culture while (supposedly) having the opportunity to be treated as a ‘family member’ in the country of arrival.

As for legal regulation, the 1969 European Agreement on Au Pair Placement (hereafter ‘the Agreement’) of the Council of Europe represents an important reference. This Agreement constituted an attempt to standardise the legal status within European countries, by defining the au pair who “belong[s] neither to the student category nor to the worker category but a special category.” The *Explanatory Report to the Agreement* provides clarifications and an interpretation of the document. It presents the previous work leading to the Agreement, such as the Motion for a Recommendation on Au Pair Employment (1964); the inclusion of the topic on ‘Living and Working Conditions of ‘Au Pair’ Girls’ in the 1966 Intergovernmental Work Programme,

17 This is a French expression meaning ‘in pairs’. We do not use quotation marks or italics, since it is widely used in English.

18 Cox, 2015; Lutz, 2002; Kofman, 2014; Ikaksen and Bikova, 2019.

the adoption of a *Recommendation with Draft rules on Au Pair Employment* (1966), the preparation of a draft Convention (1967), and its discussion in the following years. Both the Motion of 1964 and the Recommendation of 1966 included the term 'Employment', which interestingly did not make it to the final versions of the *European Agreement on Au Pair Placement* and its *Explanatory Report*.

Almost fifty years later, EU Directive 2016/801 – commonly known as the Researchers and Students Directive – included au pairs in its scope as an optional category. It defines them as someone from a third country temporarily received by a family based in an EU member state, to improve their linguistic skills and knowledge of the country itself (Art. 3, 8). For that, au pairs must perform 'light housework' and provide childcare. This instrument innovates upon the Agreement of the Council of Europe, since – despite not being included in the definition – recognises that au pairs can be considered in an employment relationship or not. This differentiation has an impact on the rights of au pairs. Those considered to be in an employment relationship will be entitled to the right to equal treatment (Art. 12, Directive 2011/98). For those who are not, the application of this principle will be restricted to the access to/supply of goods and services and, where applicable, to the recognition of diplomas, certificates, and other professional qualifications.

Definitions play a role in delineating the rights to which a category is entitled or not. In practice, au pairs commonly experience lack of rights and protection in several European countries, under the cover of being treated as a 'family member'¹⁹. This issue is compounded by the potential increase in the recourse to au pairs in EU member states, without reliable data on their quantity. This scenario is connected to rising demands for care work, border dynamics on labour migration schemes, and the differences in childcare provisions between welfare state regimes²⁰.

2.

The Path into Steps – our Protocol for Systematic Literature Review

In this section we will present the steps of the SLR, performed in the context of the research on au pairs. We organised the SLR in five steps, preceded by the designing of the research itself (*Step 0*), covering the identification of the research question(s), hypothesis(es), and methodology.

In the first step (*Step 1 – Search protocol*) we identified the relevant databases and the search queries – including the options used in the search. Regarding the

19 Cox, 2015; Rohde-Abuba, 2016; Ikaksen and Bikova, 2019; Hess and Puckhaber, 2004.

20 OECD, et al, 2021; Hirata, 2002.

databases, we worked with those available at our institution at the date of submission of the query (30 January 2023). Indeed, noting the date of the query itself is a necessary part of the protocol which allows us to explain potential discrepancies with replications in the future. We selected the relevant databases according to the discipline. As our study was designed to be multi-disciplinary – to investigate a legal phenomenon through the lens of different social sciences – we selected databases for Law, Political Sciences and Europe, and Social Sciences.

Our library provided the list of available databases for each discipline, organised by available content.

Table 1: Available databases – University of Strasbourg (Jan 2023), by discipline

| Law | Political Sciences and Europe | Social Sciences |
|---|---|--|
| Dictionaries and encyclopaedias | | |
| | L'International Encyclopedia of Political Science | eHraf WORLD CULTURE |
| Articles of academic journals and book chapters | | |
| Dalloz.fr Dalloz Revues Ledoctrinal Lamyline Lexis360 Lextenso.fr La base Navis Stradalex Europe | Cairn Open Edition Journals Persée Jstor SpringerLink Sage Journals Wiley Online Library ScienceDirect Stradalex Europe | Cairn Open Edition Journals Persée Isidore Jstor SocINDEX Sociological Abstracts Social Services Abstracts Sage Journals Wiley Online Library ScienceDirect Proquest Sociology Humanities International Complete SpringerLink |
| E-books | | |
| Cairn La bibliothèque numérique Dalloz La base Navis | DALLOZ Bibliothèque Espace mondial, l'Atlas OpenEdition Books l'Harmathèque EU Bookshop | OpenEdition Books l'Harmathèque ScholarVox by Cyberlibris Dawsonera |
| PhD Theses and Dissertations | | |
| Theses.fr Thèses-Unistra | Theses.fr Thèses-Unistra | Theses.fr Dumas Thèses-Unistra |

Source: Own elaboration.

On this basis, we identified the databases to gather materials in the form of articles of academic journals, book chapters, and e-books. Eleven common databases in the disciplines of Law, Political Sciences and Europe, and Social Sciences were identified (Cairn; Stradalex Europe; Sage Journals; OpenEdition Books; Jstor; l'Harmathèque; OpenEdition Journals; ScienceDirect; Persée; SpringerLink; Wiley Online Library). Due to the number of available databases, we performed several test queries in order to define which one would be used.

Tests were run with different combinations – “Au pair + Work”; “Au pair + Migration”; “Au pair + Europe”; “Au pairing”. In the end, we chose to run our tests with the expression “Au pair*”, in order to avoid biases related to the field of the research. The asterisk was used to cover the variations of the last word (i.e. au pairs, au pairing, etc.). This test had no temporal delimitation. Results were restricted to the content for which our institution provided access, and the term had to appear in the text of the source. We excluded the databases which did not allow for a sufficient granularity in the filters – for example, when the journals were presented without the articles and when there were no filters to indicate directly if we would have access to the full text.

These tests were fundamental to define the selected databases – Sage Journals, Jstor, ScienceDirect, and SpringerLink – and the search queries to be used. Ultimately, we used the expression “Au pair*” (with quotation marks and asterisk), which had to be in the full text; the results had to be published from June 1953 to June 2023; the content was restricted to what we could access with our institutional login; the results were restricted by language (English, French, Spanish, or Portuguese) and format (articles, reviews, books, book chapters, or research reports). This resulted in our first corpus, comprising 2157 items (R).

In our second step (Step 2 – Non-relevance criteria and duplicates) we defined what was not relevant, what was a duplicate, and which duplicates were included or excluded from the data collection (and the criteria for this inclusion/exclusion). In this sense, we submitted the results (R) to two filters: the first (R1) was to identify the non-relevant content, and the second (R2) to eliminate the duplicates.

Therefore, the results (R) were filtered without an analysis of a sample of the content, being based only on the title and the journal (in the case of articles) or on the title of the book (in the case of book chapters or reviews). The purpose was to identify the field of the study, as well as to reduce the number of items by excluding apparent mismatches. This step was necessary since we identified the use of the expression “Au pair” in publications of Linguistics, Literature, Biology, and Chemistry, for example, with different meanings (e.g. the position of molecules/components in pairs). This was a cursory analysis by design, so we included the items where the reading of the title (and publishing journal, where applicable) was not sufficient to evaluate them. This filtering (R1) resulted in 481 items.

These materials were filtered one more time (R2), to remove duplicates. A ‘duplicate’ was identified in the following cases: (a) when there was more than one item in the results, with the same title and the same author(s), in the same journal, and published in the same year; (b) when there was more than one book, with the same title, the same author(s), and the same publisher or the same year. Also, when there was more than one chapter from the same book, with the same author(s), we excluded the individual chapters and included the whole book as a single item. This filtering (R2) resulted in a corpus of 440 items, which included publications by the same author(s) and similar subject, but in different outlets and/or years. These are publications presented the same dataset but exploring different research questions²¹. We opted to include these items separately in our corpus, on the basis of the different aspects of the phenomenon which might have been investigating.

In the third step (Step 3 – Relevance criteria) we filtered the results based on the definition of the criteria for inclusion or exclusion of materials. In contrast with R1 (Step 2), we performed a more in-depth analysis of the content to refine it based on thematic pertinence. We analysed it through reading the abstract and, when absent, the introduction, in order to identify the research question(s), goals, and methodology.

In our corpus, we included the introduction and editorials for thematic or special issues of scientific journals. These materials usually explore the main discussions of the published articles. The purpose of including them was to achieve articles with thematic pertinence in relation to the research, which, eventually, had not been captured in our research in the databases. We decided to include them in order to make our final corpus more robust, by capturing (in a systematised way) as many sources caught in our data collection as possible. Ultimately, we had two introductions/editorials of special or thematic issues of scientific journals in our corpus, which led to the inclusion of four journal articles.

A similar procedure was performed with book reviews. These can be used to include entire books or book chapters with thematic pertinence, which had not been captured via the query. Despite this, we ultimately discarded the 21 book reviews on the basis of the previous steps, and, as a consequence, no further books and book chapters were included through this method.

At the end of Step 2, our corpus included 123 items.

21 For example: Geserick 2012, 2016; Dalgas 2016a, 2016b; Búriková 2016, 2019; Eldén and Anving 2016, 2019a, 2019b, 2022.

Table 2: Results and filtering during the SLR

| Date of data collection | Database | Results (R) | Results (R1) | Results (R2) | Results (R3) |
|-------------------------|---------------|-------------|--------------|--------------|--------------|
| 20 Jul 2023 | Sage Journals | 33 | 20 | 440 | 123 |
| 21 Jul 2023 | Jstor | 1251 | 305 | | |
| 20 Jul 2023 | ScienceDirect | 506 | 36 | | |
| 21 Jul 2023 | SpringerLink | 367 | 120 | | |
| Total | | 2157 | 481 | | |

Source: Own elaboration.

Afterwards, we proceeded with our fourth step (Step 4 – Analysis), in order to perform an in-depth analysis of each item of the corpus. This in-depth analysis comprised the reading and systematising of the comparable content in a table. This table included technical information on each item (database where it was found, the reference, year of the publication, format, and URL), as well as the comparable content. A SLR can be used to identify different comparable contents, which will be determined by the subject and the research design, since the goal and the research questions will guide what the researcher(s) need to look for. In our case, we wanted to explore a) definition and adjacent concepts of au pairing; b) flows (through the identification of au pairs' countries of origin and arrival); c) indications of the quantity of au pairs in the country of arrival; d) the methodology of the study; and e) discussions of regulation, social rights, and migration status of au pairs.

These columns were constructed based on exploratory research that indicated gaps in the literature in relation to data on au pairing. We found that few countries publicise their data regarding visas for au pairs, since some of them do not have a specific scheme. In the scope of the EU, capturing their number faces other obstacles related to the free movement of persons, since EU citizens do not need a visa to move to another EU member state²². Difficulties in collecting au pairs' numbers are also connected with informal arrangements, for example the case of a non-EU au pair already present in a given country on the basis of a student visa. In this sense, the SLR enabled us to identify numbers regarding the quantity of au pairs, albeit in a fragmented way.

Another gap was the identification of au pairs' flows. We identified that most of the studies on au pairing were based on a qualitative approach, notably based on interviews. Non-representative samples do not allow us to capture the quantity of people involved in their flows. Despite this, we traced au pairs' flows that were more commonly analysed in the scientific literature.

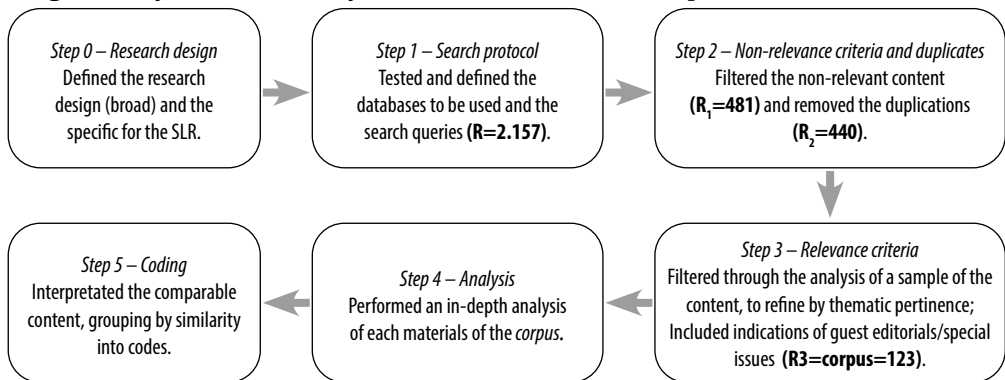
²² Zwysen and Akgüç, 2023, p. 9.

This data was collected based on the information available on the countries of origin and arrival, relying on primary or secondary sources. The more common data was gathered from interviews with au pairs, former au pairs, and their host families/employers. We did not include countries of origin and arrival when au pairing was just mentioned without underlying data (e.g. “It is a common practice in the USA”) or when the flow in question was only mentioned by reference to other research (in order to avoid double counting). We identified some items in which the direction of the flow of au pairs was mentioned, but referred to a different historical period. For example, McDowell²³ investigates the flux of Latvian migrant workers in the 1940s and 1950s for the UK, based on her data from 2000 and 2001.

Then, we proceeded with our final step (Step 5 – Coding), devoted to the interpretation of the comparable content, in order to group items into clusters. Since the corpus comprised long materials, the purpose was to reduce its content to units. These units can emerge from the data (in a grounded theory approach) or from a pre-established theoretical framework. They can be used to identify patterns (in a time period, for example) and the relationship between them, to enable the drawing of inferences. We present the codes and the results in the next section.

To close the present section, the following diagram summarises the five steps of our SLR.

Diagram 1: Synthesis of the systematic literature review (protocol)



Source: Own elaboration.

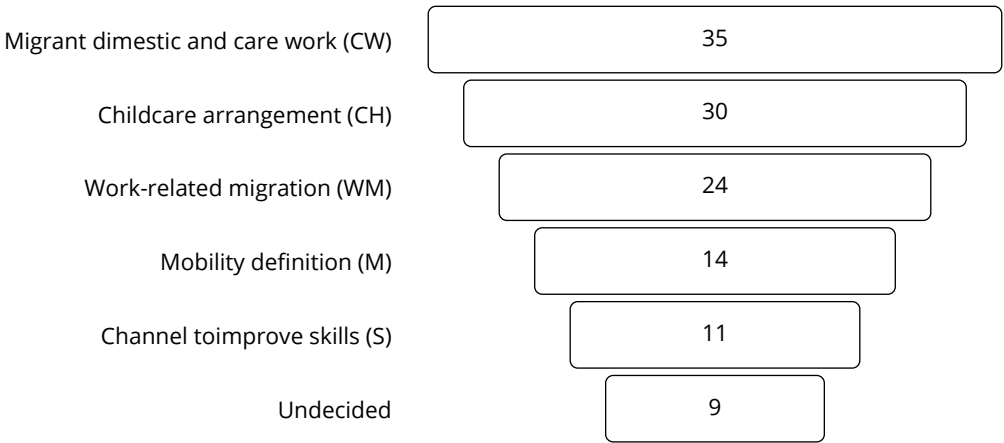
23 McDowell, 2003.

3. Coding

In our fifth and final step (*Step 5 – Coding*), we applied a set of codes to items included in our corpus. This coding is based on what emerged from the data (in a grounded theory approach).²⁴ In the present research, the procedure of creating codes was inspired by content analysis techniques²⁵, focusing on words mentioned by the authors. On this basis, we created six units identifying how au pairs were defined. They are: mobility definition (M); work-related migration (WM); channel to improve skills (S); migrant domestic and care work (CW); childcare arrangement (CH); and undecided. These codes do not have any hierarchical purpose or pretention of exhaustiveness. The purpose was to organise them based on the description of the given arrangement.

After proceeding coding, we obtained the following results:

Graph 1: Coding of our corpus



Source: Own elaboration.

- Migrant domestic and care work definition (CW): The author(s) position(s) au pairing in the scope of transnational/international migration for domestic and

24 The coding was refined on the basis of the feedback received in two occasions: “II Annual Scientific Conference of the Central European Academy” (Central European Academy – Budapest, September 2023) and “2023 Graduate Student Symposium: Critical Conversations in Work and Labour” (York University – Toronto, October 2023). We wish to thank all the participants to these events for their comments, feedback, and questions.

25 Bardin, 2011.

care work purposes. Thus, we applied this code when the phenomenon was situated in the context of care labour markets, in connection to migration dynamics. E.g.: “The liberalisation of the au pair law can be seen as a political recognition of the rising demand for migrant domestic workers in Austria”²⁶. Domestic and care work encompasses services performed in or for a household (cleaning, caring, cooking etc.). In some situations, we identified the mention of remittances.

- Childcare arrangement definition (CH): The author(s) mention(s) au pairing as a possible childcare arrangement (an option between nannies, childminders, etc.), without focusing on migration. We applied this code when the focus of the given item was on the provision/availability of care services, as well as on work-life balance and types and motivations of parents for choosing a modality of childcare service, without mentioning migration. For example, “Although their working conditions differ in some ways, nannies and au pairs both represent groups that are performing paid care work primarily centred on children in the private setting of a family home”²⁷.
- Mobility definition (M): We applied this code to the items where au pairing was presented as a general strategy of temporary mobility, which was not attached to a labour purpose. It was commonly described as a strategy for cultural exchange, so the publications mainly deal with some au pairs’ motivations to have a gap year or being a stepping stone in their transition to adulthood. Therefore, we employed this code when the focus was the mobility *per se*, for example: “As Laura (25, MA, Northern Italy), who decided to become an au pair (in the UK) at the age of 18 due to the uncertainty of choosing the right university course, recalls, her mobility experience had the effect of ‘weaning’ her from her parents”²⁸.
- Channel to improve skills definition (S): These items present au pairing as a channel to improve and develop skills and acquire professional experiences in a different country. The skills/experience investigated deal mainly with languages and care activities. As such, these items focus on broadening labour market opportunities (in the country of origin or arrival). This code does not refer to the ‘skilled’ or ‘unskilled’ character of the activity performed by au pairs. Instead, it refers to the goal pursued by au pairs. As an illustration: “She used an au pair job only for learning English, then obtained an education as a nurse specialist in Norway, and then used this to obtain an interesting job at an English hospital”²⁹.

26 Jandl, 2009, p. 121.

27 Eldén and Anving 2016, p. 47.

28 Grüning and Camozzi, 2023, p. 11.

29 Christensen, 2020, p. 28.

- Work-related migration definition (WM): These items present au pairing as a migration strategy, with the specific purpose of work. This link was identified, for example, in sending remittances. However, the items in this group do not focus on the role of au pairing in the context of domestic and care sector. Instead, they deal with borders and barriers to labour migration, and attempts to pursue long-term migration projects through au pairing. As an illustration, “Temporary contracts for au-pairs providing short-term residence permission in their first country of immigration led the nurses to seek further alternatives for staying abroad”³⁰ and “However, like Gil, many also engage in au pairing as part of longer-term migration processes.”³¹.
- Undecided: This code was included when we reached different conclusions, without a unified position regarding the given item.

Following the coding, we identified that the majority of the items concentrated in the definitions that recognised the provision of care as a goal. This provides an indication of how au pairing is considered in the literature, notably as part of the transnational/international migration in the domestic and care economy – theorised under “global care chains”³² and the intersections of regimes³³.

Among the items included under this code, we identified scholars analysing the changes that occurred in au pair programs in the past years. These refer to the fact that it has become “a form of domestic work with quite similar working and living conditions to that of live-in migrant domestic worker”³⁴; “(mis-)used by employers for the performance of maidservants’ tasks”³⁵; and “means of importing cheap labor primarily by dual career families”³⁶. Despite this, Cox³⁷ identifies that they experience similar problems to the ones that motivated the European Agreement in 1969 by the Council of Europe. This suggests that the phenomenon has not changed, but that it continues to develop in the grey area of ‘something other than work’³⁸. These different approaches to the official design/purpose of these programs warrant further investigation of the law-making process for regulating au pairs in different legal orders.

The analysis of the results also led us to the conclusion that au pairing seems to be investigated by the scientific literature mainly at the intersection of migration and labour. In this sense, we also identified some discussions regarding the (un)

30 Erdal, Korzeniewska and Bertelli, 2023, p. 31-32.

31 Dalgas, 2016b, p. 199.

32 Hochschild, 2000.

33 Lutz, 2008; Williams, 2012.

34 Hess and Puckhaber, 2004, p. 65.

35 Lutz, 2002, p. 70.

36 Kofman, 2014, p. 88-89.

37 Cox, 2015.

38 Cox, 2015.

skilled nature of the work performed. These were not related to the potential skills and experience that can be acquired through au pairing, but mainly to the way in which au pair programs enable “skilled workers occupying unskilled jobs abroad”³⁹. In the same vein, some of the items explored the ‘de-skilling’ process that some au pairs experience, having qualifications that are not formally required for the role nor are reflected in their salaries (or pocket-money)⁴⁰.

A further dimension related to the work performed by au pairs emerged from our coding. Some authors identify au pairing as a form of de facto temporary labour migration⁴¹. As an illustration, Vosko⁴² investigated the “back-door entry” to labour migration in Australia and Canada, revealing how programs forged under the cultural exchange discourse foster “precariousness among participants in programs imagined as fulfilling non-work purposes.”

Our results emphasise how the phenomenon of au pairing is multifaceted, both in its empirical reality and its scientific representation, being explored through various perceptions on its use (by au pairs and by host family /employers). Finally, a cross-cutting theme emerging from our SLR is the role played by the state in regarding the scheme, in relation both to the legal framework and to the broader policies affecting the phenomenon⁴³.

4.

Final remarks

In this article we presented our first, tentative and perfectible, application of the SLR to conduct a literature review. The main inspiration for this methodology comes from medical research. It goes without saying that such a transplant requires important changes to the methods developed in other fields. In particular, we draw from systematic reviews, which are a type of study that aims to comprehensively identify and synthesise the available evidence on a particular research question or topic. It is characterised by a rigorous and structured approach to reviewing the literature and by a focus on a precise description of the criteria used to identify, select, and synthesise the relevant evidence⁴⁴. The main objective of a systematic review is to provide a comprehensive summary of the current state of knowledge on a particular topic, which can then be used to inform decision-making, policy development, and

39 Williams and Baláž, 2005, p. 441.

40 Moroşanu and Fox, 2013; Pietka, Clark and Canton, 2013; Gotehus, 2021.

41 Andersen, 2017; Morokvasic, 2004; Vosko, 2023.

42 Vosko, 2023, pp. 93-94.

43 Anderson, 2009; Spanger, Dahl, and Peterson, 2017.

44 Harris et al., 2013.

future research⁴⁵. In borrowing from other scientific disciplines, we are not driven by the aim of anchoring the always contested nature of legal research to other, more widely recognised as 'scientific' fields. Indeed, we do not claim that this methodology makes legal research in any way more 'scientific'.

Instead, a double goal drove us to design and then refine this technique. First, we wanted to reinforce the 'systematic' nature of legal research, which is sometimes described as one the elements characterising it⁴⁶ but seems to be scarcely considered in the literature. In reflecting on this characteristic, we were confronted by the problem of how to prove that a given corpus of literature that we identified as relevant to explore a given subject was not simply cherry-picked to lead to a pre-determined conclusion.

Second, we aim to improve the transparency of our process, allowing for debate and critique of our choices, both in terms of the scope of the corpus, the rules adopted to determine relevance, and the coding of the items. At the end of this exercise, we were also convinced that this approach has the potential to help researchers identify their own biases in the selection of relevant literature, reducing reputational and network approaches to the construction of a literature review. Ultimately we believe that, while our specific protocol only represents one possible application, a systematic approach would improve literature reviews underpinning both doctrinal and interdisciplinary legal research.

As for au pairs, our analysis highlights how the multifaceted nature of the phenomenon demands multiple scientific approaches, and methods, to investigate it. At the same time, our coding allowed us to identify common patterns across different disciplines, pointing to the fundamental interaction between migration and domestic and care work – even when such work is not legally defined as 'employment'. In doing so, our literature review strongly points to the need of adopting a socio-legal perspective when investigating the legal regulation of au pairing. Furthermore, policy responses to the challenges highlighted by the literature should simultaneously take into account the role of au pairing as a response to care demands, and as a tool to enact migratory strategies, develop/improve skills, and knowledge of a given culture.

45 Ng and Peh, 2010.

46 Nielsen, 2010.

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