

---

## HOW TO GET AROUND THE EU POSTED WORKERS DIRECTIVE

-

22.06.2018

---

EU Observer (20 June 2018)

"We are a legal organisation and our people work legally in Belgium. You pay your invoices every month and we will pay our ladies."

With these words Silviya M., manager of Seniorcare24, reassures potential clients when they call with requests for information.

Together with her sister, Teresa, she runs a Belgian-Dutch-Bulgarian million-euro business in residential elderly care. Its services are marketed through websites such as [www.seniorcare24.be](http://www.seniorcare24.be) in Belgium, the Netherlands and Luxembourg.

The sisters market their companies' services to those elderly people who need intensive assistance but are reluctant to move to an old-age home.

What Silviya does not mention is that the elderly who take up her offer are opening their doors to nine Bulgarian-based companies, at least one of which has been in trouble with the law, and are suspected of exploiting vulnerable women.

### **Where €2,500 a month goes**

The eyes of 92-year old Chris light up as she demonstrates how her personal caregiver makes her life more bearable.

"Ginka takes care of me and my husband, Willy. She cooks, does the laundry, and cleans the house. With her help and the help of a homecare nurse who comes by twice a day, we can get by."

Ginka gives us a forced smile. "She doesn't speak Dutch," Willy explains. "In the beginning it was difficult, but after a while you find ways to communicate. Of course, it's impossible to have a normal conversation."

Nevertheless, Willy and Chris are satisfied customers.

"We've had three caregivers before now, and we simply can't live without one. This is the only way we can stay together as a couple. In a home, we'd probably be separated." His eyes betray a certain helplessness. "My wife and I need very different types of care."

He looks at his right hand, which dangles over his left one. A brain haemorrhage has paralysed the left half of his body. He can no longer stand or walk. "I'm not naive", he adds. "I've seen how couples get split up in nursing homes." Chris, who suffers from dementia, nods silently.

The Bulgarian 63-year old Ginka is the couple's guarantee that they won't be separated. She does all the housework during the day and is available all night.

"Ginka is strong and hands-on. Once, when I fell, she lifted me up in one go", Willy says.

However, we soon learn where Ginka acquired her skills. We're told she left her own disabled relative behind in Bulgaria. "Here in Belgium, she can earn the money to buy the medication he needs. It bothers me that she came from so far away to take care of us, while someone back home needs her help," Willy admits.

Nevertheless, the arrangement, on the face of it, seems like a win-win situation.

A happy old-age in familiar surroundings goes hand-in-hand with a financial transfer to a disadvantaged family in one of Europe's poorest countries.

This is the European single market showing its most human face...at least at first sight.

The family pays around €1000 a month for the service. This may not be a bargain, but it's not a bad deal.

For that price, they get a personal assistant who is available 24 hours a day, almost seven days a week.

We decided to take a closer look at the company providing these services.

Business registers reveal that, in addition to Seniorcare24, the sisters and their father have established no fewer than nine companies, all of them in Bulgaria.

These companies, with names like Bauring, Molenburg, Care4You, Lavato, and Myosotis, all have their headquarters in the same building in the Bulgarian town of Veliko Tarnovo.

The Belgian entity, Seniorcare24, turns out to be no more than a very nearly empty showcase to lure unwary customers.

In 2016, one of these Bulgarian entities, Care4You, ran into legal trouble.

It turned out that 82 employees active in Belgium had received wages far below the minimum wage.

Moreover, payments were often deferred, and unlawful deductions were common. Belgian regulations regarding hours of work and rest were not respected, and the company failed to provide payslips for a number of employees.

What is more, employees were strictly forbidden to talk to inspectors, under threat of immediate

dismissal and a penalty of €1,000.

In November 2016, the criminal court of Antwerp, Belgium, sentenced Teresa M., manager of Care4You, to 15 months imprisonment with immediate effect, and imposed a combined fine of almost €5m on the manager and her company.

However, neither she nor the company were represented at the trial.

Further investigation shows that, in the same month, another company belonging to the sisters, Lavato, lost a civil lawsuit in a Bulgarian court case.

The plaintiff in that case, a former employee hired in 2016 and immediately sent to Belgium as a posted worker, had received not even half the Belgian minimum wage.

Moreover, one month's wages were not paid at all and social security payments were non-existent.

In fact, the plaintiff had gone to court to contest the termination of her contract. Her manager, Teresa, had simply declared that it was the caregiver who had requested her own dismissal and who was therefore liable for compensation due to breach of contract.

The caregiver vigorously denied the claim, and requested that the judge reinstate the contract and order the payment of the unpaid wages. The Bulgarian judge agreed.

It appears that Belgian Seniorcare24 is used for marketing purposes, while customers sign a contract directly with one of the family's firms in Bulgaria.

These firms then hire a Bulgarian caregiver who is immediately sent to Belgium. Usually, the caregiver is not employed in Bulgaria before being sent to Belgium. The vacancies published in Bulgaria explicitly mention Belgium or the Netherlands as the place of employment.

According to Frederic De Wispelaere, a researcher at the University of Leuven in Belgium who is a specialist in intra-European labour mobility, the company's practices are contrary to the spirit of the laws related to posted workers.

"Posting was always intended as a temporary solution to enable cross-border services. It should never become the sole business model. European legislation clearly states that a company should develop real business activities in the country in which it is based."

It looks as if there hardly is such activity where the Bulgarian companies behind Seniorcare24 are concerned. Moreover, the companies' practice of replacing workers with other posted workers is in direct contravention of the law.

Belgian clients are required to sign a contract of six months' duration.

Afterwards they are asked to sign a new contract.

"Sometimes the contracting company changes. We've already signed contracts with several different companies. Apart from the fact that we were assigned a new caregiver, everything else stays the same", says Willy and Chris' daughter Tineke, who on behalf of her parents has taken care of the administrative side of the arrangement. She admits that she has always found this practice a bit odd.

De Wispelaere, however, gives us a clue as to why the sisters do this. "If one company hires someone to replace the employee of another legal entity, it becomes much more difficult to check if a business is actually respecting the 'replacement restriction' imposed by the European regulations on posting. To adequately monitor this, you need to compare the employee base of both companies."

The caregivers tell of a culture of fear in which deception and threats prevail.

They also make clear that they are ill-equipped for their work.

32-year old Pavlina is a case in point. She was sent to Belgium without any training or experience.

The company had told her the work would be social in nature. She would keep an old lady company, do household chores and support the lady's social life.

The reality was very different.

"Upon arrival, I discovered that I was to care for a lady who had lost both of her legs. I panicked." Pavlina called Silviya, and asked to return home, but she was told this was out of the question. Her contract contained a clause that obliged her to pay €10,000 compensation if she resigned.

In addition to being poorly prepared, some of the caregivers are the victims of outright fraud.

They are obliged to sign countless documents, far too many to examine in detail. Another caregiver recounts that the documents included blank cash receipts.

"By signing them," she relates, "we were declaring that we had already received a portion of our wages in cash." The upshot was that they could never claim their unpaid salary.

The elderly are also the victims of fraud.

They are required to cover the caregiver's living expenses, plane tickets and internet access, expenses which the company then illegally deducts from its employees' already low wages.

Five ex-caregivers, who were expected to be available almost 24/7, reported that their monthly wages varied between €350 and €700.

### **How can such practices continue?**

According to Stanimir Vaglenov, an investigative journalist specialising in organised crime, there is a direct link between the complex corporate structure set up by the sisters and the fact that their business seems to be immune to legal proceedings throughout Europe.

"If you split the enterprise into various legal entities and one of them is prosecuted, then you simply dump the firm in trouble and transfer the activities to the other entities."

That is exactly what the sisters did with Care4you.

Six months before the Belgian judgment, the firm was sold to "Gercho", a man whose name shows up in relation to 30 other companies.

Vaglenov is not surprised: "We call such a person 'a company cemetery'. They're already bankrupt, so they'll sign anything for a penny. They take over the company's liabilities, but they have no assets."

With the transfer of Care4You to Gercho, everything of value was passed on to Myosotis, another firm belonging to the sisters. "Care4you is now an empty box, and while Gercho might be the owner of 30 firms, he doesn't even own the house he lives in."

The sisters, however, are still in business.

A simple phone call to SeniorCare 24 is all it takes to arrange for new caregivers.

Silviya explains to us, kindly and in impeccable Dutch, how her 'family business' can be of service. She then forwards a sample contract related to the firm, Molenburg.

The Bulgarian business register informs us that Silviya and her fugitive sister each represent half of the company's share capital. It would seem that the sisters M. have no immediate plans to shut down their SeniorCare24 gold mine.

*This article is a shorter version of the original that was published in Knack. The investigation was the result of a collaborative effort by Knack and VTM-Telefacts (Ruben Brugnera and Michael Merrigan), De Groene Amsterdammer (Jasmijn Post and Anoeke Hofkens) and 24Chasa (Stanimir Vaglenov) and supported by Fonds Pascal Decroos voor Bijzondere Journalistiek and Journalismfund.eu*

---

Kaynak/Source: