

THE VALUE OF DOMESTIC WORK

THE ECONOMIC AND SOCIAL ROLE OF EMPLOYER FAMILIES



Disputes in domestic work: The boundary between legality and necessity



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THE VALUE OF DOMESTIC WORK

THE ECONOMIC AND SOCIAL ROLE OF EMPLOYER FAMILIES

Dossier 10

**Disputes in domestic work: the boundary between
legality and necessity**

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DELL'IMMIGRAZIONE



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Introduction

by Lorenzo Gasparrini, Secretary-General DOMINA



As we have been able to observe in recent years; the sector of care and assistance is one of the few sectors that seem to have been immune to the economic crisis and unemployment.

This is demonstrated by the fact that in the last 10 years the total number of domestic workers has increased by 42%. This is also due to the population's ageing and the continuous cuts to social and health assistance that have imposed home hospitalisation modules and therefore decentralising care and state costs to the citizens. Families, as we know, in order to carry out the task of caring prefer family assistants (carers) to private structures, for both emotive and economic reasons. The ultimate Italian care model is that of seeing the elderly or sick at home surrounded by their loved ones. This choice brings with it the outline of a very precise commitment on the part of the family: the task of being a domestic work employer.

To become an employer brings with it rights and responsibilities that the family often struggles to fully take on board. Passing from a hand shake with the lady next-door who helped in the home, to the signing of a contract with a worker isn't so immediate.

As contested in the previous research dossiers, families today represent the central element of welfare: they allow the government to save the management costs of assistance structures and they provide work for 3.5% of the employed in Italy, spending 7 billion euros a year. We can therefore affirm that the "family business" is the true social shock absorber of the 21st century. The economic burden taken on by care work isn't followed though by the family's full awareness of their own duty. The absence of awareness of own duties in the quality of employer often costs a lot to themselves who, ever more often, find themselves having to deal with the law following a domestic work dispute.

In the course of research on "The value of domestic work" we couldn't miss an in-depth look at union disputes that, up to today, represent the biggest snare of the sector. The topic has called for an in-depth reflection on the directly connected themes (undeclared work, trust relationship, atypicality of the employer), an analysis of the trigger causes, a case study on the subject and the availability of a general handbook of advice that the families can use.

The first amongst many is the respect of the current legislation, the application of the national collective bargaining agreement and the awareness of one's own role as employer in its fullness.

The rooted presence of DOMINA in the territory has allowed us to enter into direct contact with citizens and offering us the possibility to reveal how our members, both the assisted and their relatives, find it difficult to see themselves as employers. This difficulty in accepting the role continues to feed the "do it yourself" phenomenon: the families tend to not contract the employment relationship or treat it as "informal". In both cases the dispute is always around the corner. In the first case, the absence of declaring the start of the employment relationship to INPS takes us immediately to that which is called "undeclared work". While in the second case we have the legal employment relationships that are however managed lightly or with dynamics which are aren't so clear, so-called "grey employment". From the study on the subject the tendency of the families to manage lightly the domestic employment relationship emerged, since, in many cases it is a common belief that the employers' commitments end only with the contract signature and the reporting of the employment relationship to INPS. In reality, this is only the beginning. Domestic work is a work like any other and, as such, requires accurate management: we need to take into account the hours worked and sick days, holidays and permissions that must be agreed in written form, the payslips must be given at the end of every month and countersigned by the domestic worker and more. This documentation, typical of employment relationships, is seen as unnatural by the domestic employer families. The informality given by the place of work, in other words the home, tends to extend the perception of informality of the role covered to all the management of the relationship with home helps, carers and babysitters. To improvise as employers following a need must not lead to improvising the management of the worker. It is exactly the atypicality in the work environment that calls for higher cautions and the "do it yourself" almost always leads to a hand shake in court. The phenomenon of union disputes for damages to the family, as we will analyse in this dossier, is very common in the domestic sector. Despite the percentage of cases increasing though, this aspect is still taken lightly by employers who base their employment relationship on only the given word. The relationship of trust, a fundamental element in domestic work, cannot be founded only on word. As we well know "*verba volant, scripta manent*", therefore to safeguard ourselves and protect ourselves from hidden dangers from disputes it is necessary to complete all the traditional functions of an employer.

Disputes in domestic work: The boundary between legality and necessity

The risk of disputes in domestic work is increasing



8,3% of Italian families has at least one domestic worker

BLACK LABOUR is growing: rate of irregularity at 58,3%

For the 53,7% employees, the relationship is based on TRUST

LABOUR INSPECTORATE

Low frequency of
low court cases,
Informal
agreement are
increasing

In 2017, out of
1068 open files
by the INL,
54,2% were
irregular

Main causes of disputes

Black
labour
Art 13 CCNL



Under-
employment
Art 10 CCNL



Extraordinary
hours, holidays,
permits
Art 14, 16, 17,
18 CCNL



Social security
Contributions
INPS



How to prevent a dispute



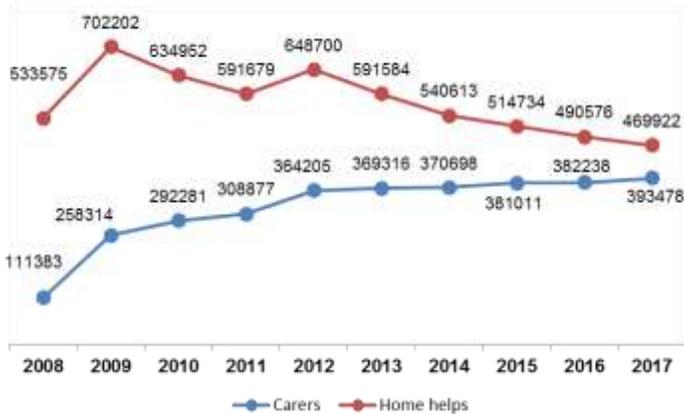
1. Clarity and transparency since the first interview
2. Declare the employment relationship to INPS and sign the contract
3. Draw up your paycheck and pay by bank transfer
4. Pay INPS and Cassacolf contributions
5. Keep all documentation

Sources: Istat, Gensis, INL

Introduction

According to INPS data, there were 864,526 domestic workers in Italy in 2017, a slight decrease compared to the previous year (-1.0%) and in progressive decrease since 2012(-14.7%). This was the year in which there was the verification of the first annulment that took domestic worker numbers over a million (In 2012 there were 134,775 applications to legalise, of which 116 thousand from domestic work. Internal Ministry source). The tendency from 2008 to 2017 clearly shows how numbers of carers are following a constant and positive evolution, whilst the evolution of home helps has felt the administrative provision for legalisation much harder (2009 e 2012). Since 2012, home helps are decreasing also due to the economic crisis, while carers are in constant growth due to the ageing of the population and the entrance of many women into the employment market. We are dealing with a phenomenon that has grown enormously in the last decade, on one side in order to face a generalised decrease in the supply of services to the family by public institutes and on the other side thanks to that offer of a work force; above all women from eastern Europe.

Historical sequences carers and home helps



Fondazione Leone Moressa elaboration on INPS figures

To these domestic workers we must also add those who are “undeclared”: according to Istat data, the rate of undeclared work of those employed in domestic work is 58.3%, clearly higher compared to the average of all economic activities; in which the undeclared rate is 13.5%. These workers create a notable contribution to the economy: they are equal to 7 billion euros spent by families for legally employed domestic workers. To this sum, the cost for undeclared workers should also be added (naturally only the salary) that, as we have seen, represent about 60% of the total.

Domestic workers in Italy, 2017

Type	Number of workers	Distr.%	Variation 2012-17	Variation 2016-17
Carers	393,478	45.5%	+8%	+2.9%
Home help	469,922	54.4%	-27.6%	-4.2%
TOTAL¹	864,526	100%	-14.7%	-1%

Fondazione Leone Moressa elaborations on INPS and Istat figures

The increase of domestic workers has brought, in recent years, an increase in union disputes: according to analyses by Domina – National Association of Domestic Work Employer Families, an increase equal to 3-5% every year is recorded, with a total increase in the decade between 30% e 50%. The figure could be an underestimate, given that in many cases the dispute is resolved in within the domestic walls.

¹ In the total, 1126 non distributable domestic workers are included

Union disputes

What do we mean by union disputes or employment disputes ? It is a contrast that is created between the employer and employee when the terms of the national contract are not respected. It represents the first phase of an employment lawsuit and has the function of avoiding that the disagreement between the two parties moves into the courtroom.

The worker creates a lawsuit when their rights are not recognised: from the non-payment of the salary, to holidays or overtime not being recognised. Sometimes paying the owed amount by payslip isn't enough. Often employer families don't stipulate a contract that well outlines the rights and responsibilities of the worker, in other words the jobs, (e.g. what happens in the case of sickness), essential elements that become a rick of successive misunderstandings. The statistics show that, for whatever reason an employment lawsuit arises, this ends in the favour of the worker who has reported the wrong and the costs in economic terms fall, more or less, on the employer families.

The main source from which the figures of this dossier have been elaborated are the statistic archives of the employment inspectorate that, amongst its publications, counts the annual reports on the vigilance activity on the subject of employment and social security.

These reports supply the representation vigilance results on the subject of employment and social legislation carried out by inspectorate personnel from the employment and social policies Ministry, INPS and INAIL. Amongst these there are employment inspectorate, technical and military inspectorate from the Comando Carabinieri for the safeguarding of employment, the Carabinieri group and nucleus employment inspectorate.

The annual reports highlight a number of monitored companies (in slight decrease over recent years), revealing the rate of undeclared work, number of undeclared companies and undeclared workers, payment of contributions and evaded premiums etc. It also underlines the contrast of the most relevant substantial offences; amongst which the incorrect qualification of employment relationships, infraction of working hours, criminal or security violations etc.

The representation of such figures in the reports is subdivided into 4 categories within the different product market sectors, in other words agriculture, industry, construction and tertiary which are then in turn subdivided into micro-categories of the sector.

It is only since the 2015 report that the category of domestic work has been put into evidence and identified as a category in its own right in the tertiary sector, corresponding to the Ateco code Ateco "T". In other words *"Family and co-habiting activity such as work employers for*

domestic personnel; production of undifferentiated good and services for the families' own use", from this point on in this Dossier it will be referred to as *Employer families* or simply indicated with the letter "T". Prior to 2015, this category wasn't attributable to specific data; therefore the historical series proposed later highlight the numbers which resulted from the inspectorate vigilance in the last three years.



Fondazione Leone Moressa elaborations on figures from Central supervisory board, legal affairs and litigation - INL

The analyses of the results of verifications offer an overview of the evolution of regulation and irregularity in domestic work. Amongst which, for example, the legal practices and those which are not in the employment families' sector.

The total of inspectorate "T" customs worked from 2015 to 2017 has decreased, with a low incidence in all the customs of all the other product sectors. With them the percentage of irregular checks has also had a downward trend: overall, 72% of the employer families' practices were confirmed undeclared in 2015, 69.3% in 2016 and 54.2% in 2017.

It is interesting to note how the decrease in percentage of illegal checks of the employer families is contrasted with the general total bearing, that instead tends to remain constant (60.3% in 2015, 60.4% and 60.1% in 2017).

This is, therefore, an opposite trend compared to the data from 2015 to 2017 where the situation seems completely upside down. This is possibly a sign of a trend of the families to legalise the employment relationships and at least a partial decrease of the submerged economy.



Fondazione Leone Moressa elaborations on figures from Central supervisory board, legal affairs and litigation - INL

The phenomenon of disputes is a delicate topic that affects families in social and economic terms. It therefore becomes important to analyse beyond the figures, also the “suspicion” of those who deal with workers and employer families on a daily basis. For this we have asked **Rosetta Raso – Fisascat CISL Nazionale** for a brief description of the situation of disputes in Italy. Her contribution is fully reported below.

“As we know, employment disputes have the fundamental goal of restoring the economic balance of an employment relationship between employer and employee, which has broken down. The workers’ union carries out this role of individual safeguarding as well as collective and it is necessary in the world of work, with the goal of giving a guarantee to workers who don’t know their own rights and don’t have the possibility to enforce them.”

The theme of disputes is complicated more when it is lowered in the domestic work sector above all in the constant employment relationship.

The problems that incide in this sector are:

1. The peculiarity of the domestic work relationship;
2. The absence of an employer culture on the part of the families;
3. The lack of information amongst workers in the domestic sector;
4. The professional recognition of the worker.

An important figure to consider, together with these points; is that the irregular employment relationships in Italy are estimated to be more than one million.

This gives us an idea of the starting background of the disputes in the domestic sector. The numbers become even more important and significant if they are read within the whole national overview of irregular work in general. Furthermore, even if the employment relationship is declared to INPS, **the absence of an employer culture in the families doesn't help in the management of the legal employment relationship.** In fact, the family tends to concentrate on the difficulties of managing critical situations and the events they have to face. This could obviously be due to a lack of will of some but even to an Italian cultural heritage that sees domestic work as external help or support more than a real profession. The same is true for our workers who, in the most part of cases, improvise working in the sector because of social or economic problems. In the fact that they come from other countries where they carry out different work activities and, not knowing the Italian language, they don't know and they aren't informed about the important problems that concern them. Most of them are women and immigrants. Finally, widening the look at the current national social situation, another element to examine is the economic crisis that families have lived in recent years. **A large number of domestic employers are retired and not able to fully cover the costs of care and assistance.** In many cases the same employers give up personal expenses and, more seriously, health expenses.

In this frame the workers' union is developed and it represent the first reference for workers to be able to check their salary and correctness of the employment relationship compared to the national contract and law on the subject of domestic work relationships. The union, at the request for information on the part of the workers concerning their correct correspondence of monthly pay, through official union disputes and all available instruments, carries out an individual safeguarding role. This is with regards to all the monies due from the salary difference, holiday, permissions, sickness and all other contractual institutes expected at the start of an employment relationship, whether worthwhile or not. The role of collective representation and individual assistance is carried out with a network of activity and actions supported by employment offices, dispute offices, reception and information offices where

they can receive the necessary information and consequent safeguarding in the case of a lack of the national contract.

In the case where it is discovered that there hasn't been the application of the contract and current legislation, the procedure is activated in order to recognise how much has been matured and not given on the part of the employer towards the employee. The procedure always has a first phase that involves the attempt of a good-natured composition in order to find conciliation to the emergence of the controversy that generally finds a good percentage of positive outcomes and has the intention of often avoiding the lengths of possibly turning to the employment judge. When helping those who have suffered a violation of rights, one of the first jobs that the union must activate is the right and correct action of claiming the rights of workers and always it acts in full compliance with the contract and the law. In reaffirming the primary role of the union in safeguarding the workers' rights, we consider it essential in order to support the domestic work sector, that the national government, regions and local bodies provide economical support to the families. This is for the care of the house and assistance to the children and elderly who are often not self-sufficient and regarding workers who represent a peculiarity of the sector in the fact that they are women and often immigrants. **In order to guarantee the dignity of the work and workers it is necessary, as well as indispensable, to support the families that have to resort to external personnel like home helps and family assistants for help in the home.**

The correct application of classification levels compared to the jobs undertaken and therefore the correct contractual pay on the part of the employer would clearly be beneficial in order to avoid employment controversies and conflict situations which increase the social and economic inconvenience of the employers and also the families. We hope, at the same time, for a regulation on the part of the **national government that provides tax benefits for domestic work and specific supports in crisis situations of the families in the face of a structural lack of dedicated public services.**

Italian families made up of employees and retired people and women in particular, in order to reconcile life and work and in face of an almost non-existent public welfare and lack of social services and family support, are forced to take on themselves the high costs of hiring home helps and family assistants that can help with the care of the house, children and the elderly person.

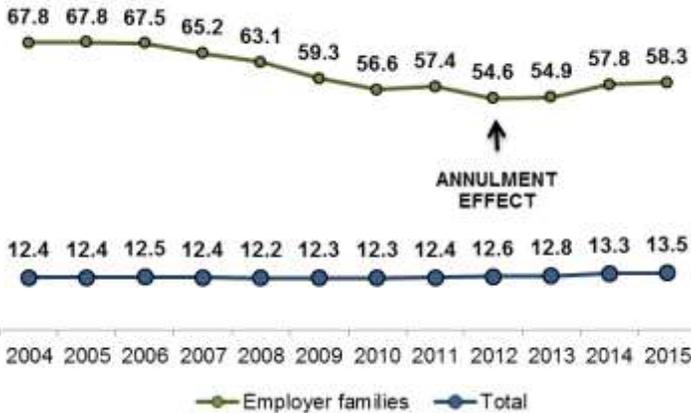
We need adequate family policies for the needs of a population which is ageing. This would be with care cheques as an economic contribution for the home assistance of the non-sufficient elderly person and also bonuses for babysitters, as well as the introduction of higher tax benefits compared to now.

With the implementation of economic instruments to support families, domestic work can be protected and guaranteed in its contractual and regulatory application. The reflection on the caregiving work of family assistants must be done taking into account that the phenomenon has become structural for a series of reasons; ranging from the ageing of the population to the lack of social-sanitary assistance services in the person's home for non-self-sufficient people or those with serious illnesses. There is also the fact of career progression of women with the need for sufficient welfare politics that guarantee the reconciliation between life and work. It is the economic crisis that has put Italian families in difficulty as they have noticeably reduced the expenses, even giving up receiving necessary medical care that the public health system is no longer able to guarantee due to cuts in resources destined to welfare. The care work carried out by family assistants will have to come out of a logic of isolation of the problem of care, taken on by the families who live it, but must have the recognition of a decent work carried out in a context of social and cultural enhancement of the professionalism of the family assistants who must be sufficiently trained to overcome the often silent situations of a few protections and a lot of precariousness”.

Irregular work

Amongst the categories of irregular work offences, the undeclared work is certainly one of the most widespread. In the average of the reports considered by the national employment inspectorate of the last three years, undeclared employment accounts for more than 48% of the total irregular work. Even though the resorting to the submerged economy is the right of native workers², a consistent part hit also foreign workers. Amongst the sectors largest hut in absolute terms of undeclared work are construction, commerce from detailed to bulk, agriculture and accommodation and refreshment. Care and domestic work, although it doesn't figure in total numeric terms amongst the first sectors, shows a high concentration of undeclared employment. This strong presence of submerged work can, more or less, be attributed to a marked computerisation of the previously mentioned areas of work³. This results in non-legalised employment relationships, situations of contrast between the employee and employer and a lack of safeguarding for both parties.

Historical series on the rate of irregularity 2004-2015

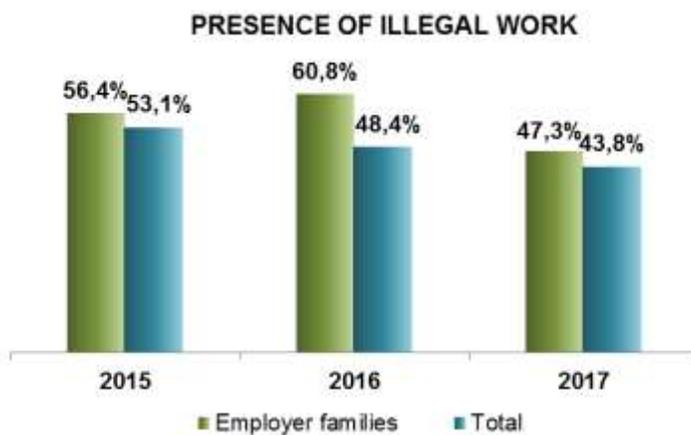


Fondazione Leone Moressa elaborations on Istat data

² F. Perocco, M. Ferrero, 2011, "Racism at work. The system of discrimination at work, the justice frame and the safeguarding instruments" FrancoAngeli.

³ F. Perocco, 2016, global transformations and new inequalities. The Italian case, FrancoAngeli.

A first overview of the phenomenon is provided by Istat, through the estimates on regular and irregular work in the national accounts and based on the new European accounts System (SEC 2010) which allows quantifying and analysing the phenomenon at a sector and territory level. The sectorial division also allows us to identify in this case the "T" sector relative to domestic work employer families and to analyse figures relative to the irregularity rate⁴. In 2004 the irregularity rate in employer families was close to 70%, from that moment it has started to decrease to reach its historical minimum in 2012 (54.6%), a result obtained thanks to the annulment. Once the annulment effect was over and with the economic crisis, it started to grow again reaching 58% in 2015 (the last available figure). Unlike domestic work, the total irregularity rate doesn't seem to be influenced by possible annulments and the lowest result of employer families is in fact certified at around 12% (with a minimum value in 2008). The analysis of employment inspectorate figures shows similar considerations; the presence of undeclared work in employer families is particularly marked and its concentration is more consistent compared to the average of the other product sectors. The evolution of undeclared work in the T sector reveals a fluctuating trend, reaching 56.4% in 2015, 60.8% in 2016 and 47.3% in 2017, whilst in the total of other investigations a slight decrease was verified (53.1% in 2015, 48.4% in 2016 and 43.8% in 2017).

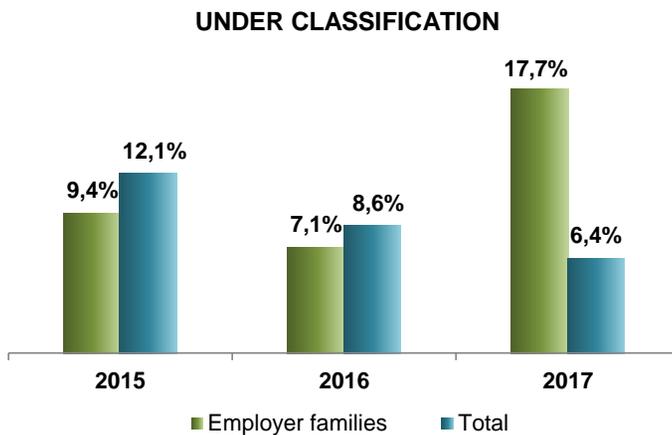


Fondazione Leone Moressa elaborations on data from the general directive for inspectorate activity - INL

⁴ Percentage relationship between number of irregular work and total work

Other types of irregular work are found in the so-called “grey areas”. This concerns those employment relationships which are only partially legalised: resorting to flexible or atypical contracts, for example, that hide the real employment relationship. It could also be agreed contracts that cover only a part of the hours that the worker carries out, whilst the remaining are recognised illegally.

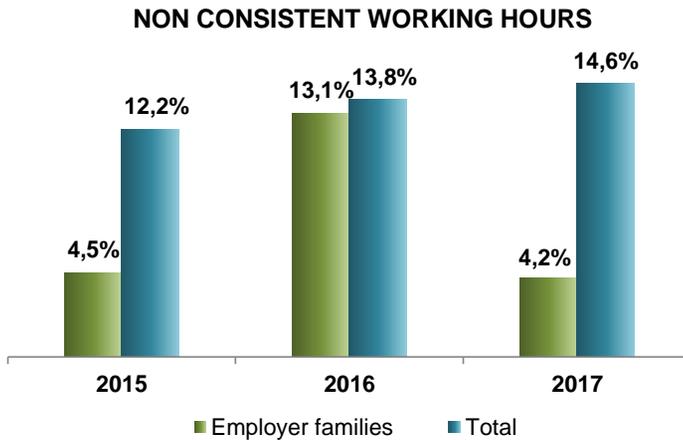
The first graphic that follows is relative to the correct qualification of employment relationships, from here on more specifically referred to as **under classification**. Indeed, most of the time, the ultimate purpose of entering into a contract with a lower level than the actual one is to be able to pay less for your own employee. An example of this is signing the home help contract, even if the domestic worker also carries out tasks covered by the carers’ role.



Fondazione Leone Moressa elaborations on data from the general directive for inspectorate activity - INL

The inspectorate figures show how the cases of under classification in employer families from 2015 to 2016 have followed the general trend in other sectors, suffering a slight fall and passing from 9.4% to 7.1%. Instead in 2017, even though the total percentage continued to drop, the amounts of domestic work suffered an increase; reaching 17.7 percentage points. This abnormal peak could probably be attributable to an increase in the rate of legalisation of domestic employment relationships: an increase in the stipulations of contracts can have led to the families using a cheaper contract, therefore under classifying their employee.

However, the digression from one classification to another, even if it can lead to an economic saving in the short term, can also result in union lawsuits moved forward by the domestic collaborator. In order to have a good outcome in an employment relationship, it is necessary to appropriately classify the state of need of the assisted person's family: do they need a home help ? Or rather a full time carer ? Is the assisted person self-sufficient or not ?



Fondazione Leone Moressa elaborations on data from the general directive for inspectorate activity - INL

In the graphic the figures relative to **irregularity in working hours** are reported. In this case, whilst a part of the hours worked are envisaged and covered by the stipulated contract, the remaining hours are recognised illegally; in a sporadic or systematic way. Compared to the average percentage of sector totals, this phenomenon is more subtle in employer families. In 2015 and 2017, the difference between sector "T" and the total is quite marked: in the first year there was a deviation of 7.7 points (sector "T" 4.5% and the total 12/2%); in the second, the difference is 10.4 points (sector "T" 4.2% and total 14.6%). 2016 registered rather an atypical breaks, reaching a peak of 13.1%, but staying however lower than the total (13.8%).

But, for what reason is the phenomenon of undeclared work so widespread in Italy and how could the situation be improved ? What are the advantages that legalising a domestic employment contract would bring to the government ? And the advantages for the domestic work employer families ?

We asked these questions to **Michele Carpinetti, Responsible for bilaterally FILCAMS CGIL nazionale**. His contribution is fully reported below.

*"Certainly, **in the domestic sector the submerged work is still prevalent.***

*The analyses that, also as union organisations, we have done are based on comparisons with other European countries or compared to other sectors related to services in general. **This in order to understand the true reasons of a trend in Italian families to undervalue the consequences of undeclared work and the birth of many disputes following employment periods.***

*The answer is also in the application for work. A very high number of workers are foreigners: their awareness of the rules is modest; the family doesn't consider this activity which is done in favour of the family, or house, exactly as a job. Almost to say that for few hours, it isn't worth having a contract and paying contributions. **Therefore, it is a cultural fact on one side and a lack of awareness on the other.** When I speak of little information, I am referring also to the institutional message that doesn't arrive as it should.*

When have we ever seen an informative campaign on the part of the government or INPS on these aspects ? Even though this is a sector that involves millions of people between families and workers.

*This means contribution evasion but also, maybe more importantly, scarce qualification of workers who are left to themselves in their training and awareness of their rights and responsibilities. If we pay attention to this it appears absurd in as much as the "profession" of home help and carer implies abilities, which are also more important than other professions where more rigorous training courses exist. **Only the national collective contract exists and the role of social parties.** It is obvious that this is not sufficient.*

Another problem that hasn't been governed in recent years is the link between the great basic needs of the workers and the inadequate integration policies if we are dealing with foreign workers. The contradiction lies in the Bossi/Fini law, which has a short circuit between application, offer and regularisation. Therefore more than an annulment, a modified legislation would be needed that could regularise the flow and be based on real needs, with training courses and the integration of the more qualified.

Some suggestions have been put forward by different political forces. The need for regulations to build advantages, also of a tax nature, for families that motivate regularity against undeclared work as well as rewarding also the qualification and training of workers.

In all of this though, the roles of employment centres appears inadequate while we need to also face some aspects linked to working conditions: when the worker is cohabiting, on the working hours, days off, the bond with the assisted person and the family.

It is evident that these millions of workers represent a social resource for the country, but there is a need for policies that are able to meet the challenge that involves the institutions at various levels and social parties.

Relationships of trust

The relationship of trust that is established between employer and worker seems to not always be a deterrent for the formulation of union disputes from the part of the latter towards whom has hired them.

As various factors highlighted in the news; many families are subject to disputes on the part of their ex-domestic worker, even if confirming that they would never previously have expected a similar event, exactly for this almost family relationship with the employee. Due to the particularity of how the care and domestic work tasks are carried out, a bond of trust in inevitably established, both friendly and even sentimental, between employer and worker. The place itself where the work activity is carried out creates the prerequisites for a less static and superficial relationship, but rather more informal and intimate, in which the continual or constant cohabitation requires a trust base in order to work. Furthermore, without trust the employer could not delegate to strangers the care of their home and trust their loved ones into the hands of apparent "strangers".

Because of this, according to a 2009 Censis survey, the factor that most influences the choice of domestic worker is the trust transmitted at the first meeting (4.4% of cases), and only 25.9% are guided by suggestions from friends and family for whom the assistant has previously worked or the urgency to have a domestic help (21%). Looking instead at the other side of the coin, always in Italy in 2009, 66.5% of families declare to have had some difficulty in the recruitment process. The problems encountered mainly reside in finding a person who is capable to quickly instill a certain trust (33.5%), while only in part we are dealing with the lack of information able to direct the research (15.4%), unavailability of people with whom agreements were already made (10.8%) and the difficulty to reach an agreement with the people contacted (6.8%).

As far as the development of a working relationship is concerned, for the major part of Italian families, that is 53.7%, the trust that is created with a domestic collaborator goes beyond a purely working one. For even 13.5% it results in a confidential relationship that causes the person to be considered part of the family. Almost all of the remaining families (30.3%) instead deny the existence of a more personal relationship, affirming that is limited instead to a professional sphere. It is almost irrelevant the amount of families that admit to wanting to change their assistant as soon as possible (1.5%) and of those who don't trust and continually check the work they carry out (1%).

Nevertheless, exactly because of the existence of a trust relationship, it is necessary to regulate the work with a written contract and rules; in order to safeguard both social parties from a tendency of informality that could cause more damage than benefit.

As a matter of fact, **the trust relationship tends to informalise the working relationship.** For example, it could push the employer to make demands with incautious lightness that, in due course, risk turning against the employer family. Demanding that the employee carries out some extra hours or that they sometimes skip envisaged breaks is unfortunately not justifiable by a friendship or sentimental relationship that is created between the assisted person and carer.

In many cases there have been reports, on the part of workers, if not even on forms of exploitation that are difficult to identify; precisely due to the informality of the relationship that is being interwoven and that maybe the employer does not realise to be carrying out.

For example, some ex-care workers affirm to have been treated like a relative, but to not have had any days off available, or to do something extra because of the affection that has been created with the family, but to not receive as much understanding when there is a small delay when returning from a break. Therefore, to treat one's own employee as "one of the family", even if it can be a way of assuring a happy social relationship, creates ambiguity that can become a problem if then the envisaged rest hours aren't conceded or holidays aren't paid. The latter can finally become a cornerstone that triggers disagreements and controversies on the part of the worker and end in a dispute. All of this would have been started by a trust relationship that has disintegrated.

In conclusion; it is symptomatic that there are complaints on the part of the domestic collaborator who express a real discomfort in their relationship with their employer. This then collides with the more "intimate" part of domestic work; the sharing of daily life that is found in a direct relationship that leans on reciprocal trust.

All of this is an alarm bell of the risk that a domestic collaborator being "one of the family" can fail, but it is also a revealing factor of a working model that isn't planned but delegated to the behaviour of individuals. It is exactly in the reproduction of these same informal routes, typical of the private market, which generates precarity and insecurity and creates new dimensions of vulnerability for both parties.

In the light of these considerations what are the precautions to adopt in order to avoid unpleasant situations that can become disputes ? Could clarity and transparency of the

contract and accounts help to increase the level of trust between the parties and be a deterrent to limit the need for disputes ?

Ivana Veronese, National Secretary UilTucs, gives her reflection on the topic and her contribution is fully reported below.

*There is no doubt that in the case of domestic work **the trust relationship between employer and employee plays an important role**. If only because the place of work is the house in which the employer lives and on many occasions the family and worker cohabit. We often put into the hands of a carer or home help our house and loved ones: things that are very precious to us.*

This has a value that is higher than the monetary one and only the harmony between the two parties make the relationship flow. Sometimes this doesn't happen and problems arise.

It is true that many employers stipulate a contract that covers only in part the hours and functions that are actually asked of the employee.

It is true that many people are asked to work undeclared or in a grey area.

*I believe that a professional relationship of these characteristics, that **in order to function needs to be based on trust between the parties cannot be based on contractual ambiguity**, even when this ambiguity is tolerated or even asked for by the same worker.*

***The problems are increased exactly by irregular contracts** (entirely or in part). I'm not saying that problems cannot arise also because of character contrasts, but if the employment relationship is transparent it is more difficult that character contrasts can be transformed in disputes. While the most idyllic relationships based on contractual ambiguity sooner or later turn into problems.*

Peculiarity of domestic work

In Italy 35% of companies have more than one and a half million employees. When a company is created, the goal isn't to build a company but to make a profit.

In order to reach it not only an entrepreneurial idea is necessary, but also to analyse in detail every phase of the production process and assign responsibility and roles to professional figures present. At the moment of hiring the first employee, a relationship of social insurance is built between the employer and employee. This brings with it the obligation of the employer to subscribe to social security bodies, as well as paying the salary and respect for the contract on both parts.

There are, rather, over 2 million domestic work employers (8.3% of Italian families have at least one domestic collaborator, Censis surveys 2015) and to become "an employer" doesn't answer a profit need but an ever more present family problem (it's enough to think of the amount of carers hired). In many cases there is the search for help in a critical situation, without knowing the rules that discipline the work; looking more to contain the costs of the obligations and management of an employee.

Another particularity also exists that makes them different from normal entrepreneurs: the activity is not linked to the object of the performance itself, but rather to the context in which they are inserted, which is that of "family life" and not of the "company organisation" as for the most part of subordinated employment relationships. Therefore the domestic employer is primarily a private subject that employs staff to carry out house or care management activities, to respond to a family need and not for profit. This activity is normally carried out within their own home.

Of all these specificities, the Italian order keeps track by simplifying some procedures, but the insurance and bureaucratic obligations are present also for these employers. In many cases a lack of knowledge of the obligations is therefore found and this can lead to disputes and often ends in the favour of the employee. This is because the bureaucratic system considers that whoever assumes is almost an entrepreneur who is able to unravel contributions, pension funds, permissions, holiday, sickness and payslips. While the employer, as well as feeling the lack of administrative and bureaucratic abilities, must also manage high management costs (salary, taxes and contributions, lodging, added services – telephone, internet etc.) that they are often not able to support. *It becomes a war amongst the poor;* the difference compared to

the worker that creates a lawsuit with the company is that there is not a David versus Goliath, but two private subjects.

To this we also need to add **the problems with security**, there is a lack of a global prevention strategy, but also rather incomplete communication between collaborators and families and the scarce awareness of risk factors. A higher education of security could instead motivate through the adoption of small realisations, so contributing to reducing the most common injuries, such as the employer’s responsibility, as well as the workers themselves. The goal of this is to avoid those limited situations (excessive workloads, presence of risks in the home and so on) that make fertile ground for accidents CENSIS 2009. It seems that improvised employers, who until a short time ago carried out the same jobs as people – like many continue doing – are not naturally gifted at considering the risks of the job, because they themselves don’t give much importance to the problem (CENSIS 2009).

The Istat workforce survey based on a sample survey registers 476 thousand people who work as unqualified personnel in domestic services (home help) and 493 thousand qualified professionals in personal and similar services (babysitter, carer). Therefore almost one million workers subject to professional risks. A risk which is well summarised in the table below.

Accidents at work positively defined by the year of the event

	2015	2016	2017	Injury every 1000 workers 2017
Personnel not qualified for domestic work	2893	2897	2788	5.9
Qualified professions in personal services	6033	6374	6032	122

Fondazione Leone Moressa elaborations on INAIL figures

Every year almost 3 thousand domestic workers report an injury and over 6 thousand people dedicated to care services. These values, which are different from each other, clearly show the different incidence compared to number of workers. It seems that it is riskier to be involved in care services compared to house management.

We find a similar evolution – even if contained – in certified professional diseases; mainly present in care services. This detail finds an explanation, in part, in the fewer hours that a home help works but maybe also in the higher clear/dark areas of work of the home help compared to the carer.

Professional diseases positively defined by year of protocol

	2015	2016	2017	Professional diseases every 10,000 workers 2017
Personnel not qualified for domestic work	32	23	20	0.4
Qualified professions in personal services	146	136	124	2.5

Fondazione Leone Moressa elaborations on INAIL figures

Rita De Blasis, General-Secretary Federcolf with her contribution highlights the changes of the employer that have taken place over the years, passing from work without safeguards to work managed by a national contract, but with a high incidence of undeclared relationships. Her contribution is reported below.

The domestic employment relationship is absolutely peculiar compared to other employment relationships for various reasons, not least the fact that social changes have deeply altered the boundaries and characteristics.

Historically; resorting to domestic work was the prerogative of high social classes: the relationship employer/employee was a pre-modern relationship, of slavery, and **there was no type of recognition of the workers' rights**. Also from the "nominal" point of view, in the fifties and sixties, we still defined domestic workers as "servants" until when, thanks to the commitment and hard work of the workers themselves, we started to speak of family collaborators (COLF).

Obviously today the general picture has completely changed: the domestic work is widely diffused in society and the families that resort to it are strongly differentiated by economic possibilities and necessities. **But if on one side the working conditions have**

improved, on the other they are still not fully satisfying; in fact, differently to other sectors in which, at the increase of applications corresponds to a bettering of conditions of who gives the offer, in domestic work this hasn't completely happened. Indeed, often the condition of greater social and material weakness of a part of the employers' sector is taken for granted by the workers, with increasing phenomena of precariousness, salaries below the minimum union level, and undeclared work.

Processes which are often strengthened by a still diffused cultural tendency present in Italian society not to consider domestic work as a job endowed with the same dignity as others.

Another consequence of the big (and fast) social change that has represented the ever more frequent resorting to care work in families is that employers today are often people unprepared to carry out the role. Maybe they find themselves also at the first "employer" experience and they don't know how to behave; they don't know their obligations or the legislation references that rule domestic work. So, very often, they trust "word of mouth" and "hearsay", with negative repercussions on the recognition of dignity and rights of the sector worker.

A task of the unions and category associations has to be, therefore, that of continuing to inform and to "make culture" with the same commitment that the first courageous home helps did and which that gave life to movements organised by the category.

National collective bargaining agreement on domestic work

In a working sector like the domestic one aimed at computerisation; the presence of a national collective bargaining agreement is a national response aimed at regularising employment relationships and safeguarding both parties, in other words the employer families and their employees.

The current national collective bargaining agreement (CCNL Domestico) goes back to the signature of 2013; the year in which it entered into force, of the employer associations DOMINA and Fidaldo, together with Filcams CGIL, Fisascat CISL, UilTucs and Federcolf. As has been remembered in other occasions it involved 2 million subjects, both employer and workers and it is one of the most used national collective contracts in Italy.

As already mentioned; the domestic employment relationship is characterised by a great informality compared to the rest of the working world: it can be founded on a stipulation which is even only verbal, in as much as by law a written contract isn't envisaged, hiring usually happens thanks to word of mouth of acquaintances and relatives, for the annulment of the contract only an advance warning is requested; etc. Furthermore, in many cases the employer only provides a salary statement or payslip, without contract, thinking that it can be enough to clear every aspect but obviously it isn't so. Even if the payslip gives a lot of information, amongst which the normal and overtime hours, sickness, holidays taken and remaining etc., it doesn't discipline all the other aspects linked to the work relationship such as the classification, trial period, days off etc. that are instead regulated by the employment contract.

It is exactly this informal characteristic that gives rise to misunderstanding, ambiguity and problems. In order to solve all of this, the stipulation of a written contract, more particularly the national collective bargaining agreement, is the safest solution. The form of a black and white contract isn't only a question of working dignity, giving a professional tone to the role of employee, but also to safeguard the parties that sign it, above all the employer.

Even though in recent years the percentage of irregularity has reduced, the rate is still high: more than 50% of the practises analysed by the employment inspectorate result in being irregular (54.2% in 2017). Nonetheless, for the remaining part of the regular there are also many "grey" cases, so not all effective employment is declared and regularised. This irregularity, or to be more precise, the lack of a stipulation of a written agreement between the parties and the breach of the contract rules are the cause of the appearance of lawsuits.

Having considered the strong increase in domestic work disputes and the atypical type of the sector, it could be important for national contract's signatory social parties to reflect if in the contractual text there are unclear or complex parts, or if it is a valid instrument for the families. **Renzo Gardella, President of ASSINDATCOLF -**, association adhering to Fidaldo signatory of the national collective bargaining agreement has contributed to the research with his opinion.

Assindatcolf is amongst the historical signatories of the national collective bargaining agreement that disciplines domestic work. In the contractual renewals it has always tried to adjust the contract to the needs of the families, modifying it over the years. It's enough to think of the inclusion of some contractual figures (babysitter and carer), to new levels of classification based on requested tasks and workers "substituted" in order to assure the family has assistance 7 days a week at lower costs.

*About the ease of interpreting out national collective bargaining agreement, I honestly feel that it isn't more difficult to apply compared to the totality of the other Italian contracts. In fact, having basic institutions, I would say that it is **a very clear national contract, where the formulation of the institutions is less complex.** Regarding disputes, for the direct knowledge of associates of Assindatcolf and their work stories, I cannot confirm that is increasing but that it has remained constant over the years. Certainly amongst the reasons for subscription to our organisation there is also the search to safeguard from a dispute promoted by the worker, or more often by an ex-employee. Although this isn't the first reason that new associates come to us. The main reason that they come to our association to be supported in managing their own domestic employee, **with a greater knowledge, compared to the past, of the awareness to be an employer at all effects.** We reveal that often the dispute comes about, not because the employer for their choice hasn't applied the contractual institutes, but because they don't have the knowledge of the existence of a national collective bargaining agreement that rules this sector and of the union salary tables to which they should refer.*

***Therefore there is a need for higher awareness on the diffusion of the national contract** that we employment associations are committed to do daily with every method of communication in order to bring ever more families to knowledge of the rules. **A promotion that we should do, not only as social parties, but that the government should also do in recognising the social value of the section** is the message of regularity in the domestic employment relationship that has to pass, and this can be achieved not only by the contract, but also and above all by welfare support policies. Until our section has the right attention that it deserves.*

Government support is indispensable through policies in favour of families and domestic workers. The biggest wound of our section is undeclared work, which we cannot combat with the adaptation of contractual institutes and, obviously, as long as undeclared work costs less than regular work, the situation will not see big changes. **For this we ask and will continue to ask for tax deduction for the cost of domestic work; for all the work costs and not only INPS contributions.** On the other side, when the government intervenes, for example with the annulment of 2002 that regularised non EU workers (domestic work and immigration are often overlapping themes) employment contracts in our sector tripled. Many families reply in order to enter into legality, not only therefore immune to the topic but they have to be encouraged and supported by means of policies that only the government can offer and go back to their functions.

From the news: some examples of disputes

Below are some newspaper headlines that report occurrences of lawsuits, brought about by care and domestic workers towards the employer families. The following cases are subdivided in four theme areas: undeclared work, overtime and holidays, contributions not deposited and under classification.

Undeclared work

È allarme per il lavoro nero: braccianti e colf i più colpiti

E aumentano le vertenze

Daily newspaper Puglia, 15 February 2018

Badanti all'attacco: Boom di denunce per il lavoro nero

Newspaper Vicenza, 3 July 2016

Undeclared domestic work is still a very widespread phenomenon today that doesn't solve problems either to the worker or their employer. Resorting to undeclared work can make the employers subject to civil penalties and financial administrative penalties, while on the other hand it exposes the worker's situation and all the risks that derive from the absence of a contract. In the short term resorting to the submerged could result advantageous from an economical point of view: contributions aren't deposited and the salary tends to be much smaller. But the advantage of resorting to undeclared work finishes sharply when controversies arise and the worker demands all that the absence of a contract has denied them. Not necessarily the number of irregularities present in the work environment mirrors faithfully the cases of disputes (since there is however a part of work that remains submerged), but it is certainly a symptom.

Below examples are shown that regard the arising of the dispute cases in the sphere of undeclared work. The first article shows the results of a survey carried out by the inspectorate of Brindisi, where domestic work is one of the sectors most hit by undeclared work, together with agriculture and construction. As the work inspectors underline; the correlation between resorting to undeclared work and the controversy is an indicator of the general tendency of the phenomenon. The second case brings to the light in particular more concrete employment relationships. First and foremost it emerges that 90% of disputes by workers are presented only after the conclusion of the employment relationship, that is most cases corresponds with the death of the assisted person. In fact once the employment relationship is dissolved, the cases shows how the workers discover that due to the hours recognised illegally, they have the right to a reduced unemployment payment. Other newspaper articles bring other cases of dispute origins. For example, submerged work is rather present during the trial period (which instead should be paid and considered as a regular working period according to l'art. 13 of the national collective bargaining agreement). This is mainly linked to the fact that initially the presence of a foreign worker who isn't legal in the country and, not having the documentation, regularising the contract becomes difficult. But there is also a grey component of domestic work where a part of the work services are regularised by contract, whilst the rest of the hours, for example Sundays or night hours, are paid illegally. All of this is often at the centre of lawsuits: once an employment relationship is terminated the worker refers to the period or amount of undeclared hours in order to ask for compensation.

The extent of the phenomenon of undeclared domestic care work reveals itself also in consideration to the figures brought by annulment: both the annulment of 2009 and the following one of 2012 have seen only a partial appearance of undeclared work, compared also to those which were envisaged. In 2012; the forecasts announced from 300 to 400 thousand requests, whilst at the end of the month at disposition there were only little more than 105 thousand forms present. The reasons behind the scarce results of such annulments have different roots, going from the economic burdens places on the employer to initiate a regularisation procedure, to the eligibility criteria which are able to demonstrate being already present in the Italian territory from the previous year.

Overtime, days off, holidays and public holidays not recognised

Badante fa causa e chiede 88 mila euro per gli straordinari

Trascina famiglia bolzanina in tribunale per farsi pagare 12 mila ore mai incassate

Alto Adige, 26 January 2013

Badanti, vertenze in aumento nel vastese

Stipendi non pagati, riposi non goduti, weekend senza maggiorazioni

Central Italy, 26 January 2018

A large share of the disputes moved by domestic care workers are based on lack or inaccurate payment of overtime, recognition of holidays, days off not taken, warnings and the Christmas bonus etc. Even though the national collective contract for domestic work declares a great transparency of details about the regulation of domestic work, the parties, or better the employer, don't always sign a written agreement that reports in detail the necessary information. It is unfortunately in this "transparency" lack in stipulating the agreements that the most part of carers and home helps find fertile ground for the formulation of disputes. The first case illustrates the situation of a family from Bolzano, against which a union disputed was moved on the part of the Ukrainian carer. Once the employment relationship was concluded, at the death of the assisted person, the carer made the request to be paid 12 thousand overtime hours which had never been recognised during the space of their employment relationship over 8 years and to the sum of 88 thousand euros. Among the possible causes that have brought about the damaging of the relationship is the bond of trust and almost family that is created with the employer which could have apparently created the prerequisites to form ambiguity and little clarity in the stipulation of employment terms. The second headline reports a similar event where, also in this case, it seems that the trust relationship created should overcome the disagreements in extra hours worked and freely but instead has brought the worker to enforce their rights. Overtime must be regularised according to the points in art. 16 of the national collective bargaining agreement – overtime work, whilst articles 14, 17 and 18 respectively discipline the weekly day off, public holidays and holidays.

Badanti, decine di cause in arrivo: dal giudice per risarcimenti e contributi

Massa Carrara, donne straniere che hanno accudito gli anziani adesso chiedono alle famiglie i soldi per ferie e riposi non goduti

Edition Massa-Carrara, 18 August 2015

Alto salasso agli anziani: più contributi per le badanti

Proposta dei sindacati: 2 miliardi in più per alzare le pensioni delle colf. Una mossa per attirare nuovi iscritti

Il Giornale, 6 October 2017

The depositing of social security contributions to INPS is compulsory for whoever hires a domestic worker, whether that be carer, home help, babysitter etc. Taking into account the fact that in this sector the employer is more often a private who isn't always expert in the subject and has flaws as a cultural entrepreneur, missing deposits of such trimestral contributions may happen. The missing contribution payment is logically to the detriment of the hired worker and, indirectly, to the employer and therefore becoming a subject for a lawsuit. The first case, similarly to what has already been reported, sees the formulation of a dispute once the employment relationship is terminated and among the various causes that bring about the arising of the disagreement, there is also the lack of deposited contributions. Rather the second article illustrates the union position compared to that of the associations which support domestic work employers, who oppose the support of the former for the increase in contributions to the work of domestic employees. An increase in contributions to deposit for domestic workers would incide on the employer family's finances, especially if the employee is a carer who is present 24/7. We need to remember that employer families are not entrepreneurs that have a profit from their activity, but they are simply citizens that look to respond to a family emergency.

Other newspaper articles report, in more explicit way, the disagreement between the assisted person and the care worker on the subject of contributions. On the one hand the worker asks for sums due to him; the employer, who many times is elderly, declares that he has provided everything he could be expected too. The only way to clear the dispute is to rewrite the contract, on the receipt of payments etc. in order to not need to leave anything ambiguous in the case and in order to defend themselves with the necessary documentation.

Under classification of workers

Badante full time per 93enne a 0,29 cent l'ora

«Lui è autosufficiente, è per farci la compagnia»

Meridonews.it, Palermo edition, 29 December 2017

In many cases at the base of the dispute there are cases of under classification that are verified in the case in which the contract is stipulated between parties and inserting the employee in a category, usually inferior, that doesn't correspond to the effective role and jobs for which the worker is responsible.

Very often there are economic motives behind under classification since a contract for a "home help" is less heavy for the employee in terms of salary and contributions compared to a contract of "carer".

Art. 10 of the national collective bargaining agreement presents the contract categories for domestic work, classifying in 4 levels, to which 2 salary parameters correspond and of which the highest is named "super".

The case relative to the title shown concerns an online public announcement from a private in Southern Italy in search of a carer for a relative who was alone. Not only the demands of this employer quickly seem unthinkable (a salary of 200€ a month with one free afternoon a week, going against all the regulations of the CCNL), but there isn't even the minimum information on the part of the requesting family of what are the categories of different levels of domestic work.

More in general, other news facts report episodes of disputes due to inadequate classification, equally due to a lack of knowledge of the structure and regulation of domestic work or due to the informed search for a less expensive contract.

Conclusions

by Massimo De Luca, lawyer for DOMINA association

As we well know, at times the key to avoid repeating a crisis situation in the social environment; financial, political or economic, is given by the overall analysis followed by an individualisation of the procedures and standardised instruments used to reduce the aspects that are triggered.

We can suggest the same for the employer family for which, nowadays, the main case of contractual crisis is due to receiving lawsuit from the domestic worker who has decided to claim their rights in every way. Records from the domestic sector teach us that unfortunately it isn't possible to determine for the family a unique "anti-crisis" which is valid for all situations. As we have read in the dossier, there are many variables that intervene in the employment relationship with home helps, carers and babysitters. As a consequence, triggering reasons of the disputes can also be multiple. Nonetheless, in the light of the analysis course carried out and the baggage of experience gathered in the field, it is possible to outline good practise standards which are useful to the families and that merit being synthesised in a sort of domestic employer's handbook. This is a useful summary instrument to conduct a serene employment relationship and avoid finding problems even once the work performance with regular conclusion has been successfully completed. The disputes are not a consequence only of irregular employment, in other words, undeclared work. An example case in this regard was trusted to me a few years ago by a domestic employer client from Rome of whom 128,143.83 Euros were asked for the salary of the carer who assisted the mother who was affected by Alzheimer.

The woman, a citizen from Eastern Europe, was hired as a home help until 2013, because the woman who carried out the work was in a specialist centre for people affected by Alzheimer from 8 to 5. In the late afternoon it was the daughter who assisted the elderly woman. In 2013 the son changed house and stipulated a new contract with the ex-home help, classifying her as a cohabiting carer.

The singular aspect of the problem is that the same worker, in her judicial appeal admitted to having already received the net sum of € 51.800,00 for all of the employment period. The woman, therefore, for a regular and well managed employment period, fully respecting the national legislation and minimum salary with all the signed payslips, claimed to have the right to a total salary of 179.943,82 euros for only three years of work (of which 51.800,00 euros

were already received in the constant relationship). In this case the skill of the employer in managing and keeping accounts has allowed us to compare all the worker's requests demonstrating and groundlessness in fact and in law before the judge, and demonstrating the speculative intentionality of judicial action.

The circumstance just described clears how the causes that bring about lawsuits in domestic work are the most desperate and sometimes even groundless. I could tell a dozen and from every one of them we surely have something to learn. The situations of irregularity and superficiality of management can put at risk an employment relationship which is already delicate in itself for its atypicality.

But let's enter into the merit of our domestic employer's handbook beginning by saying that "who starts well is already halfway". The good result of an employment relationship in fact begins with a correct preparation. In first place there is the **interview phase**; it is necessary to verify that there are all the prerequisites in order to begin the employment relationship. It is necessary, therefore, that the worker identified has very clear the tasks to carry out and the place in which they will work. The employer must also ensure that the employer hands over all the useful documents in order to be hired.

The next step is that of avoiding every form of irregularity **by declaring the start of the relationship** to INPS. All personal and contractual information agreed with the worker is supplied to this authority. Then it is necessary to **sign the contract** between the two parties; since this explicit all the commitments taken by the part of the employer and employee, freeing the working bond from potential ambiguity. I always advise everyone to **follow the national collective bargaining agreement**, which is signed by DOMINA – Fidado – Filcams CGIL – Fisascat CISL – UilTucs – Federcolf. Since the text is easy to use and has been elaborated in order to draw near, as much as possible, the families to the management employment relationship in fundamental autonomous way whilst fully respecting the rights of the employees. A fundamental precaution in the stipulation of the contract, as we have already seen in the research, is that of giving the employee the correct **contractual classification**. This must be stabilised based on agreed tasks and correspond to the minimum reference contract.

Albeit not envisaged by the law, the national collective bargaining agreement of the sector asks to compile a **payslip** and to give a copy to the employee. Compiling a payslip should become a healthy habit for the family, since is it one of the few evidentiary elements that the employer has in this sector in order to demonstrate the correct management of the

employment relationship. This considering that they don't have a personnel office in the home or a clocking-in card or colleagues that can give witness to the case. In the payslip there is a summary of the hours worked and every single contractual institute inherent to the economic and working parts, to show the fulfilment of responsibilities. Therefore holidays, sickness, overtime of any nature, public holidays, paid permissions, absence, severance pay, Christmas bonus, room and board, maternity, paternity, death and anything else provided by the law and the national collective bargaining agreement is inserted in the payslip.

A particular attention is merited then to the **method of payment**. The current law exempts domestic work from the obligation to pay by bank transfer. This surely eases the family with payment. Nonetheless, the bank transfer is an instrument that helps the employer to find the traceability of the payment by also binding it, through the reason section, to the signed payslip. This payment instrument, even if not obligatory as disclosed, is strongly advised since it represents a useful element in reconstructing the employment relationship in the case of dispute.

If irregularity of problems were to arise in the work area, unfortunately, the blame would fall on the employer even if they are an elderly expert or grandchild of the assisted person. The employer also has the obligation to prove, in front of the judge, the correctness of the employment relationship. For this it is important **to lean on sector experts** that know how to guide the family in the correct management of the employment relationship.

A further point to insert in our employer's handbook is that they can't miss paying INPS the social security contributions relative to the actual hours worked. As INPS reminds in the letters that they send home, the form which is sent to the employer includes social security contributions that are elaborated based on the contractual indications reported when the start of employment is declared. It is, therefore, important to always re-elaborate the contributions for two reasons: the first is that the INPS calculations, as we have just described, are average values and don't take into consideration, for example, if the employee has taken unpaid permission days for which they aren't owed any social security payments. It is so for many other establishments. The second reason is that the form, which is sent by INPS, doesn't provide the contractual assistance amount, better known as CAS.SA.COLF.

The welfare contribution expected by article 52 of the national collective bargaining agreement is not a legal obligation, but becomes compulsory at the moment in which the contractual parties; employer and employee, decide to apply the contract in order to discipline the domestic employment relationship. The fact of being compulsory is born, therefore, from the

will of the employer and employee to apply a regulatory body of an intent nature that is the national collective bargaining agreement. Considering, therefore, in the case that social security contributions aren't deposited, clause 3, article 52 on the contract reminds us that the latter has a salary nature and therefore the employee can ask for the difference in their payslip at the end of the employment relationship. It is good to remember too that missing payment of welfare contributions is also a reason for lack of access to the refund request to CAS.SA.COLF. Lastly, as a final piece of wisdom, I would suggest **saving all documents** related to payments made, holiday requests, permissions, severance payment advance and others. This documentation in fact allows identification and confirmation of the payment of salary and in such a way that, without prejudice to the provisions of the law, if in the future the employee reports missed payments, you can have all the necessary information to hand. The advice gathered in this brief handbook can seem obvious but in reality it isn't. Every culture that is respected is based on shared values and procedures. One of the problems that we have found in our course of research is that it was shown, also by experts in the sector who have contributed to producing this dossier, that there is an absence of a real employer culture.

The lack of perception of their own responsibilities as a domestic work employer in fact obstacles the development of a generalised culture that brings values and practices that are capable of defining a correct development of the employment relationship over time and of the entire sector. The contract, in fact, is made of two parties; employer and employee. For its success and for the healthy growth of the sector, it is necessary that both recognise their role, the rights and obligations that follow and the official nature of the agreement.

One of the intentions of DOMINA research is exactly that of increasing and spreading the domestic work culture and establishing an awareness of employer culture amongst families. The title given to the research "The value of domestic work" isn't by chance. The values are the foundation at the base of every culture, as well as the aspects that direct its future development. The value of domestic work isn't only due to the economic weight but also the social and cultural implications. In this perspective it is fundamental to examine and formalise all aspects of the sector, advice included, in order to ensure that they are on hand to the employer, employee and personnel. As in every respected discipline and also in domestic work, the *corpus* of research represents a resource to turn to in order to resolve problems, look for long-term strategies and the base from which to start to elaborate regulatory improvement proposals that are centred on the real needs of the sector.

THE VALUE OF DOMESTIC WORK

THE ECONOMIC AND SOCIAL ROLE OF EMPLOYER FAMILIES

DOMINA Research

National Association of Domestic Work Employer Families

Carried out by Leone Moressa Foundation

- DOSSIER 1.** Profile of domestic work employers in Italy. Dimensions of the phenomenon, population trends, economic and social impact.
- DOSSIER 2.** The National Collective Bargaining Agreement on Domestic work and its future prospects.
- DOSSIER 3.** The socio-economic impact of domestic work on the family.
- DOSSIER 4.** Domestic work policies concerning the ILO convention n. 189/2011. The Italian situation and international comparison.
- DOSSIER 5.** Welfare policies in support of employers' households: European comparison.
- DOSSIER 6.** Care economy: domestic employers as economic actors.
- DOSSIER 7.** Criminal offences in domestic work.
- DOSSIER 8.** Domestic work and disability.
- DOSSIER 9.** Domestic work in Italy: regional deepening.
- DOSSIER 10.** Disputes in domestic work: balance between legality and necessity.

THE VALUE OF DOMESTIC WORK

THE ECONOMIC AND SOCIAL ROLE OF EMPLOYER FAMILIES

Dossier 10

Disputes in domestic work: The boundary between legality and necessity



Firmataria del C.C.N.L. sulla disciplina del rapporto di lavoro domestico

DOMINA - National association of domestic work employer families, signatory of the National Collective Bargaining Agreement on the discipline of the domestic employment relationship. Safeguarding and assisting Italian families who, by taking on a domestic collaborator or a family assistant, become employers.

The Association is active throughout the country with its Operational Points in support of domestic work employers.

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