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Lavoro in ambiente domestico, telelavoro e lavoro a progetto: linee guida e buone prassi per la prevenzione dai rischi, anche in chiave comparata, alla luce della riforma del mercato del lavoro in Italia

Executive Summary

EXECUTIVE SUMMARY

Statistical framework

For reasons of competitiveness and productivity, especially in the context of the economic crisis which has affected the global economy since late 2007, the companies – both at the national and European level – were forced to implement plans for internal flexibility encouraging thus the use of non-standard organisational models and institutionalization of atypical employment relations. These choices have consequences also from the point of view of workers health and safety which should be estimated not only in base of the number of the reported work related accidents but also in base of the information about professional diseases and risk perception at work.

The latest data on the Italian situation recently published in the Annual Report 2008 of Inail (National Institute for Insurance against Industrial Injuries) allow to draw a map of the contexts and workers mostly at risk. As for the overall level, the budget for 2008 work related accidents shows a declining trend if compared to the previous year; there are contexts and employees more frequently exposed to the accidents which inevitably influences social inclusion of certain categories of workers and segmentation level of the Italian labour market.

From the stakeholders' point of view, a significant change in the composition of the workforce is occurring at national level resulting in an increasing presence of immigrants, women, youth and workers aged over 50. For women – and especially for immigrant women workers – the area which scores the highest rate of accidents is domestic work. The reasons are: the lack of information, reckless behaviour, growing number of electronic appliances and lack of adequate space.

The analysis also shows how the marginalization of certain business realities, such as craft industries and small businesses, as well as certain types of contract, represents an extremely important element to assess health and safety conditions of workers.

Often the duration of the contract term (as is the case of project workers) is already an important variable in the level of workers protection. Short duration of employment, as well as its seasonal nature, reduce the incentives to invest in adequate training on safe behaviour at work and potential health risks. At the same time, the workers are likely to fail, precisely because of short term employment, to acquire these skills independently.

The consequences in terms of social costs and productivity are likely to be very high. Workers in atypical employment suffer greater job insecurity in terms of lower wages and increased numbers of accidents at work. As for the labour demand, the improper use of atypical contracts is likely to have very negative consequences due to reduced human capital accumulation with the consequent decrease of the productivity.

Level. It becomes essential to ensure an adequate level of training to all workers, regardless of their professional status, type of contract and sector. Particular attention should be paid to younger workers entering the labour market as they are the main holders of quasi-subordinated employment contracts.

Introduction and methodology

This report was derived from a study of existing materials on the relationship between guidelines and good practice in OHS and those workers concerned with domestic work,

teleworking and economically dependent work. No new empirical work was carried out for the report, but rather there was a dependence upon a survey of available literature and documentation. There was a particular focus on web resources linked to the International Labour Organisation (ILO) and the European Union (EU), including the European Foundation for the Improvement of Living and Working Conditions and the European Agency for Safety and Health at Work (OSHA).
Some considerable resources were also spent on trying to access English language materials of relevance from national health and safety bodies and sources of research and literature. This proved of limited value and the outcome was very varied. This explains why there is material from some individual countries and little from others. Despite this it was decided to include the material that was obtained for illustrative purposes. These difficulties did not occur, of course, with regard to material from the United Kingdom.
Finally it should be said that the material available was varied. Much of the material available concerning domestic work was about the particular issues relating live in workers and, in particular, migrant domestic workers. This is, an issue which is of importance today with new initiatives being taken by the ILO. With regard to teleworking, much of the material is somewhat dated. A lot of material was produced on this subject when it was perceived as being a new form of work, probably during the latter part of the 1980s and 1990s. Now that it is no longer 'new', but an accepted method of working, less is being written on the subject and it appears to be no longer the subject of intense research. The most difficulty occurred with finding suitable material in relation to the dependent self-employed. Much of this difficulty stems from a lack of satisfactory statistical data in that it is rare for national data collecting organisations to identify this group and collect specific data. In quantitative terms, the nearest analysis that we could do was to look at the dependent self-employed.

Definitions and scope

The Report begins with a brief attempt to put the issues related to these types of precarious work in context. These categorisations of work are perhaps part of the ILO concept of informal work and the informal economy and its further work on campaigning for 'Decent Work'. The EU also has a perspective on this with the European Commission report *Decent Work for all* which is a report on the EU contribution to the promotion of decent work. This contains an assessment of progress made since 2006 as well as proposals where further headway could can be made as part of the strategies outlined in the 2006 Communication on 'Decent Work', taking into account new developments. 'Decent work' is a term that was coined by the ILO and its Director-General Juan Somavia in a June 1999 report, where it was defined as follows:
The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. [...] Decent work is the converging focus of all its four strategic objectives: the promotion of rights at work; employment; social protection; and social dialogue.
A number of authors have tried to analyse the relationship between different contractual relationships and occupational safety and health. Quinlan *et al*[1] concluded:
1. The vast majority of studies (74) found a relationship between precarious employment and a negative indicator of OSH;
2. With regard to outsourcing and organisational restructuring/downsizing, well over 90% of the studies found a negative association with OSH;

[1] Quinlan, Michael, Mayhew, Claire, Bohle, Philip, 'Contingent work: health and safety perspectives or the global expansion of precarious employment, work disorganisation and occupational health: a review of recent research', Paper presented to 'just in time employed – organisational, psychological and medical perspectives', European Union Research Workshop, Dublin 22-23 May 2000, organised by Gunnar Aronsson and Kerstin Isaksson, National Institute of Working Life, Stockholm.

3. With regard to temporary workers, 14 of 24 studies found a negative association with OSH;
4. The evidence is less strong with regard to small businesses;
5. Findings of a small number of studies of part-time workers found no clear relationship between part-time work and negative OSH outcomes;
6. Five out of seven studies that considered gender issues concluded that women were especially vulnerable to adverse health effects.

Jobs which result from outsourcing may enter the category of dependent self-employment and may be the cause of insecurity. This is turn may characterise them as being part of the precarious work that can result from new forms of working.

The OSHA experts forecast[2] stated that there was growing evidence that there are specific risks for health and safety in the workplace connected with the conditions that characterise these forms of work. Their report cited Rodgers and
Rodgers[3] as proposing four dimensions to precarious working:

• the low level of certainty over the continuity of employment;
• low individual and collective control over work (working conditions, income, working hours);
• low level of protection (social protection, protection against unemployment, or against discrimination);
• insufficient income or economic vulnerability.

Additionally, employees who seem to be at a special risk of precarious employment are migrant workers. Data provided by the Dublin Foundation[4] shows that in many countries temporary contracts are more prevalent among migrant workers than among national employees.

Quinlan et al identified three sets of factors which appear to explain why precarious employment was linked to inferior OSH outcomes. These were (1) economic and reward systems:, where there is greater economic pressure in terms of competition for jobs; pressure to retain a job and earn a liveable income; (2) disorganisation, where workers are liable to be less experienced and perform unfamiliar tasks and are less familiar with OSH rules; (3) increased likelihood of regulatory failure because OSH regulatory regimes are designed to address full time and secure workers in large workplaces. In a large number of industrialised countries most of the self-employed subcontractors and home based workers fall outside this regulatory protection.

The challenges for OSH as a result of these developments are, according to the report:

1. Organisations are becoming more dynamic and complex, which, in turn, requires a dynamic approach in OSH prevention;
2. OSH representatives and management must learn how to deal with complexity and integrated approaches to OSH prevention;
3. Employees may lose their understanding and influence over the changes, whilst, at the same time, self-control and self-steering become more important;
4. The interdependency between companies has grown, including in the field of OSH prevention, while, at the same time the pressure on subcontractors is high;
5. An important challenge is to put OSH prevention on the agenda of companies as a beneficial investment, and not just a cost.

Benach et al[5] describe three impacts of new types of employment on health. Firstly, there is strong evidence that unemployment is associated with ‘mortality and morbidity, harmful

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[2] Expert forecast on emerging psychosocial risks related to occupational safety and health (2007) European Agency for Safety and Health at Work *osha.europa.eu/en/publications/reports/7807118*.

[3] G. Rodgers, J. Rodgers, Precarious jobs in labourmarket regulation: the growth of atypical employment in western Europe, International Institute for Labour Studies, Free University of Brussels, Brussels, 1989.

[4] M. Ambrosini, C. Barone, ‘Employment and working conditions of migrant Workers’ European Foundation for the Improvement of Living and Working Conditions, 2007, in *www.eurofound.europa.eu/ewco/studies/tn0701038s/tn0701038s.htm*.

[5] Benach, Joan; Gimeno, David; Benavides, Fernando G. (2002) ‘Types of employment and health in the European Union, *www.eurofound.europa.eu/pubdocs/2002/21/en/1/ef0221en.pdf*.

lifestyles and reduced quality of life'. They suggest that new forms of work organisation and flexibility of employment will share some of these characteristics, in relation to insecure jobs. Downsizing also has shown to be a risk to some employees. Secondly, the working conditions of non-permanent workers are worse than those of permanent workers, so those in flexible employment are exposed to more hazardous and dangerous work. Temporary workers, when compared to permanent ones, are also more likely to have poor working conditions such as vibration, loud noise, hazardous products or repetitive tasks. Thirdly, some studies have suggested that different types of flexible employment have worse health impacts than more standard types of employment.

Domestic work

International material on this subject is contained in part of Part 1 and Part 2 of the Report.
According to the ILO Encyclopaedia of Health and Safety[6] domestic work is characterised by labour for another family within their home.' Employment within a home is a unique and often isolated work environment. 'The position of domestic worker is almost always considered menial or inferior to the family for which they are employed'.
In its 2009 document 'Decent work for domestic workers' the ILO states that domestic work is 'undervalued and poorly regulated, and many domestic workers remain overworked, underpaid and unprotected.' The ILO has placed the subject of decent work for domestic workers on the agenda for its 2010 session of its conference and is working towards the adoption of international standards for the protection of these workers. The objectives of the proposed convention will be to ensure, firstly, broad coverage to reach as many domestic workers as possible; secondly, wide immediate ratification and continuous improvement of domestic workers' working and living conditions; and finally, provision of sufficient guidance and incentives to enable the provisions to be meaningfully implemented into practice.
There is a distinction between domestic workers who are employed as live-in servants and those who live in their own home and commute to their place of work. There are particular issues for live in workers who are often isolated from their own family, as well as often from their own country of nationality. Because of the worker's disenfranchisement, work contracts and health and other benefits are negligible. This situation is particularly critical for the overseas worker. 'Sometimes, infractions concerning agreed-upon salary, sick leave, working hours, vacation pay and regulation of hours and duties cannot even be addressed because the worker is not fluent in the language, and lacks an advocate, union, work contract or money with which to exit a dangerous situation. Domestic workers usually have no workers' compensation, nowhere to report a violation, and are often unable to quit their employment'.
Domestic work can therefore often be exploitative. Major problems include long hours of work and heavy workloads; inadequate accommodation and inadequate food; lack of privacy and interference in personal matters; being vulnerable workers subject to abuse; arbitrary changes to work contracts, pay cuts or non-payment; low pay; lack of working benefits; and violence at the workplace.
All data concerning domestic workers can only be an estimate as many work in the informal economy and are therefore in undeclared work. One ILO estimate was that there are some 100 million worldwide.[7] A further ILO report shows that domestic work is a significant proportion of the workforce. In developing countries it accounts for between 4% and 10% of the total employment, compared to industrialised countries where the figure is between 1% and 2.5% of

[6] *www.ilo.org/safework_bookshelf/english*.
[7] International Trade Union Confederation Publications - Spotlight interview with Barbro Budin (Equality Officer) March 7 2008, *www.ituc-csi.org/spip.php?article1895*.

total employment. Examples in the EU include France where 2.5% of employment was domestic work in 2005 and Spain where the figure was 3.85%[8].
In France, Greece, Italy and Spain domestic work or housekeeping is the most common occupation open to female migrants[9]. The supply of domestic workers, both declared and undeclared is fed by migration to the EU. The EC report 'Employment in Europe 2008'[10] shows that migration from third countries outside the EU to countries in the EU has increased substantially in recent years, rising threefold between the mid-1990s and early 2000s. 'Indeed, recent non-EU migrants who have arrived since 2000 account for almost one-third of all non-EU migrants of working age. This recent flow of third country migrants has been notably higher (almost 2.5 times) than the recent internal movement of EU citizens between EU countries. According to the report the pattern of immigration flows has become more diversified, with a greater influx of migrants from Central and South America and much greater migration to countries in southern Europe than previously. Recently arrived immigrants, have generally been complementary to EU-born workers rather than substitutes, and have added to greater labour market flexibility and have helped to alleviate labour and skill shortages, tending to be employed in those sectors and occupations where demand has been greatest, in particular at the low-skill end of the jobs spectrum, i.e. in private household, construction, hotel and restaurant sectors'. The high share of recent non-EU migrants in the private household sector is a feature which is likely to continue in the future as demographic ageing and greater labor market participation of women continue to create demand for childcare and elderly care services.
According to a SOPEMI report (2003), more than 10 per cent of foreign workers in southern Europe were employed in household services, especially in Greece, Italy and Spain. In France and the United States, about 51,000 and 150,000 foreigners respectively provide care for the elderly and children at home. More than 950,000 Italian families hired foreign workers to tend to the needs of the elderly or children in 2002. Another important aspect of this is that many of these workers may be in irregular status.

Gendered nature of domestic work
The overwhelming majority of domestic workers are women and, uniquely, their employers are also women[11] – they provide a waged substitute for unwaged labour. Secondly, they are migrants from poorer to richer parts of the economy or world, so often supporting large families in place of origin. Thirdly, they work in a private home and live with their employer. 'Ironically, it is precisely because domestic workers are employed within the "private sphere" that there is resistance to recognizing the domestic work relationship, and appropriately regulating it. The cumulative result is that these workers experience a degree of vulnerability that is unparalleled to that of most other workers'.

Domestic work and exploitation
An ILO report states[12] that migrant women domestic workers are among the world's most vulnerable workers: 'Most are women moving from poorer to richer countries for economic reasons, and most leave their children behind, often in the care of relatives or a hired local maid, creating global care chains. The availability of foreign maids, in turn, allows women with

[8] 'Decent work for domestic workers' ILO 2009.
[9] 'Towards a fair deal for migrant workers in the global economy'. International Labour Conference, 92nd Session, 2004,:ILO Publications, 2004, *www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-vi.pdf*.
[10] *ec.europa.eu/social/main.jsp?catId=119&langId=en*.
[11] Blackett, A (1998) 'Making domestic work visible: The case for specific regulation' *Labour Law and Labour Relations Programme Working Paper No. 2.* Geneva: ILO.
[12] Towards a fair deal for migrant workers in the global economy. International Labour Conference, 92nd Session, 2004; *www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-vi.pdf*.

children in destination countries to work for wages, so that many of the world's women between the ages of 15 and 64 years are able to pursue paid employment outside the home'.
A study on the subject of why there is an increasing demand for private domestic services throughout the EU and why this demand is being met by migrant women[13] concluded that migrant labour is flexible and women who are removed from their own family demands can devote themselves to the employing family. In addition their race and citizenship status differentiates them from the female employer.
All exploitation matters are health and safety issues as exemplified in a US study[14]:
'Domestic workers complained of sleeping arrangements ranging from sleeping in their employers' basements in utility rooms next to gas furnaces to sleeping in an unheated basement under construction, to sleeping on the basement floor. In addition to such sleeping situations, domestic workers also described unsafe working conditions that endangered their health. In two cases, domestic workers described cleaning their employers' homes with cleaning products that made them ill due to lack of proper protective measures….. In a few cases, such as the case of Ahmed, workers were also allegedly denied sufficient nourishment.
Another consequence of domestic workers' 'social and cultural isolation, low wages and long hours, lack of or insufficient health insurance, and restricted freedom of movement is their inability to access medical care, even for work-related injuries, without the permission and assistance of their employers'.

OHS and employment protection
There is firstly an issue about the recognition that domestic work is 'work' and that the worker should have a contract of employment and the same rights as workers outside the domestic sphere. As it takes place in the domestic sphere there seems to be an assumption that it should be treated differently. An IRENE/IUF conference demanded 'recognition that domestic work is 'work' and that those who do it are 'workers' with the rights that all workers have including the right to be heard'[15]. This perhaps should include an appreciation of why people do domestic work[16]:
'For me one of the most startling aspects is the complete non-comprehension by the employer that these women are workers first and foremost needing to earn a living wage. The fact that they live in on the job should not detract from that reality. Many of the employers in this survey are business people and professionals themselves who wouldn't dream of treating their business staff in this way'.
In 2005 the ETUC organised a conference called 'Out of the Shadows: organising and protecting domestic workers in Europe: the role of trade unions'. One outcome was a model contract of employment for domestic workers, contained in Appendix 1 of the report[17].
The development of domestic work within the home was crucial for its exclusion from labour law and initially governed by family law. Fudge points out 'the ideologies of domesticity and privacy have historically combined to provide a justification for exempting these workers from

[13] Anderson, Bridget (2001) 'Why Madam has so many bathrobes?: demand for migrant workers in the EU' *Tijdschrift voor Economische en Sociale Geografi* 92(1) 18-26.
[14] 'Hidden In the home: Abuse of Domestic Workers with Special Visas in the United States' (2001) Human Rights watch vol. 13(2), *www.hrw.org*.
[15] 'Respect and Rights: Protection for domestic/household workers' (2008) published by IRENE and IUF *www.domesticworkerrights.org/sites/default/files/report_en.pdf*.
[16] Healey, Margaret (1994) 'Exploring the slavery of domestic work in private households' unpublished MA thesis University of Westminster cited in Anderson, Bridget (2000), *Doing the Dirty Work? The Global politics of Domestic Labour*, Zed Books, London and New York.
[17] See also Anderson, Bridget (2000) *Doing the Dirty Work? The Global politics of Domestic Labour*, Zed Books, London and New York.

some of the basic legal entitlements available to other workers'[18]. Fudge studied the laws in 60 different countries and found that 19 had enacted specific laws or regulations dealing with domestic work; a further 19 had devoted specific chapters or sections of labour codes or acts concerning contracts of employment; 17 countries had no specific employment legislation with respect to such workers; and 9 countries excluded domestic work from the labour code. Only a small number of the national laws analysed require the conclusion of a written contract of employment for domestic work, and only rarely do national laws on domestic work refer to standards and specifications to be dealt with in those contracts. In addition, some countries either exclude domestic work from the requirement of establishing a written contract, or allow such contracts to be of an oral nature. As a result, this legal situation tends to generate uncertainty and create problems in determining and enforcing the conditions of work agreed upon by the parties. To avoid such problems and curtail any possible abuses and uncertainty, some national laws provide a standard form contract to be used as a model. Domestic workers tended by law to work longer hours than workers in other categories. In some countries, they are excluded from general norms on the matter. In some others, the law merely fixes standards on minimum rest. Several national laws on domestic work contain specific provisions stipulating the number of working hours per day and additional regulating mechanisms to avoid, as far as possible, situations of being on-call 24 hours per day. However, according to Fudge, 'given the nature of the work and the lack of control by the authorities, employers have a tendency to disregard such standards when they exist'.

The ILO Encyclopaedia on Health and Safety[19] states that the physical hazards arising from domestic work include: 'long working hours, insufficient rest time and sometimes insufficient food, exposures to hot and cold water, exposure to hot kitchen environments, musculoskeletal problems, especially back and spinal pain, from lifting children and furniture, and kneeling to clean floors. Precautions include limitations of working hours, adequate rest and food breaks, gloves for dishwashing and other water immersion, training in proper lifting techniques, mechanized carpet cleaners and floor polishers to minimize the time spent on the knees and provision of knee pads for occasional tasks.

Particular hazards include, firstly, chemical hazards by exposure to a wide variety of acids, alkalis, solvents and other chemicals in household cleaning products which can cause dermatitis. Domestic workers may not know enough about the materials they use or how to use these products safely. The entry states that

'There is inadequate training in chemical handling or hazard communication for materials that they use. For example, a severe poisoning case in a servant who was using cadmium carbonate silver-cleaning powder has been reported. The worker used the product for one-and-a-half days, and suffered abdominal cramps, tightness of the throat, vomiting and low pulse. Recovery took 24 days (Sovet 1958). Many products used or handled by domestic workers are known allergens. These include natural rubber protective gloves, house plants, waxes and polishes, detergents, hand creams, antiseptics and impurities in detergents and whiteners. Irritant dermatitis may be a precursor to allergic contact dermatitis in housekeepers, and often starts with the development of erythema patches on the backs of hands (Foussereau et al. 1982). Inhalation of solvents, household pesticides, dusts, moulds and so on can cause respiratory problems.

Secondly, there are biological hazards arising from responsibility for the care of young children which can result in a greater risk of becoming infected with a variety of illnesses, especially from changing diapers, and from contaminated food and water.

Thirdly, there are psychological and stress hazards, including isolation from one's family and community; lack of paid vacation and sick or maternity leave; inadequate protection of wages;

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[18] Fudge, J (1997) 'Little victories and big defeats: The rise and fall of collective bargaining rights for domestic workers in Ontario' in A.B. Bakan and D. Stasiulus (eds) *Not one of the family: Foreign domestic workers in Canada* University of Toronto Press 1997.

[19] *www.ilo.org/safework_bookshelf/english*.

rape, physical and mental abuse; over-extended working hours; and general lack of benefits or contracts.
Live-in domestic workers face greater danger from hazards including violence, harassment, physical and mental abuse and rape (Anderson 1993). 'Prevention of abuses of domestic workers can be aided by establishment of laws that protect these comparatively defenceless workers'.
There is a considerable practical literature on hazards applicable to cleaners, in both the domestic and non-domestic sphere. The ones collected during this report are contained in Appendix 2.

Decent work for domestic workers[20]
This ILO publication is concerned with an agenda item for the 2010 conference on setting labour standards for domestic work. It states that domestic work is undervalued and regarded as traditional women's work. When it becomes paid work it is often undervalued and poorly regulated. In Europe and elsewhere the majority of domestic labourers are migrant women. Another phenomenon is the number of domestic workers who work for more than one employer or who do not live in. Nevertheless in recent decades demand for domestic work has led to mass migration of women from one hemisphere to another. A crucial element of the ILO focus on decent work is that domestic workers are workers. 'Domestic work requires specific effective laws and regulations. It means acknowledging the personal character of the work and context in which it takes place, while reaffirming its compatibility with the employment relationship. Domestic work must be treated both as work like any other, and as work like no other'.
The Report makes a number of specific recommendations to end force labour in migrant domestic work. These include:
- Forbidding possession of the passport by the employer.
- Removing binding requirements or, at least, providing renewable bridge extensions to prevent immediate expulsion on termination of the employment contract.
- Removing the requirement to reside in the home of the employer.
- Banning the payment of agency fees by workers and restricting similar deductions from their pay.
- Requiring agencies to be accredited.

In most of the ILO member States surveyed for this Report, domestic workers are not covered by occupational safety and health legislation. It is mistakenly regarded as safe and non-threatening. There are a number of serious potential risks, which increase as a result of fatigue from working long hours.
'The work tends to involve a great deal of repetition, bending and reaching, lifting heavy objects, extremes of heat (cooking and ironing), sharp objects (knives), handling potentially toxic cleaning products and prolonged exposure to dust'.

Teleworking

Obtaining absolute data on the numbers of teleworkers is difficult because of the variety of work practices and hence variety of definitions.
The EU Survey of Working Conditions 2000 survey revealed that 'teleworking was no longer an exceptional phenomenon. One self-employed person in ten and 4% of all employees telework for at least one quarter of their time. Teleworking on a full-time basis was carried out by just over 1% of the working population (1.5 million). Occasional teleworking is more widespread (5% of workers), particularly among northern European countries'. There were wide disparities between different countries, with the UK having the highest number of persons (10%)

[20] ILO Conference 99th session 2010.

teleworking at least one quarter of the time. A later EU analysis[21] showed that only 2.07% of male and 2.1% of female respondents stated in 2005 that their main job involved working at home with a PC all or almost all of the time. A further 7.46% of men and 4.72% of women reported that their main job involved working at home with a PC for between one quarter and three quarters of the time.

Figures, such as those from ECATT[22], tend to include those who are supplementary home teleworkers (i.e. those who work occasionally from home and/or telework from home beyond their regular hours. ECATT's estimation (which it viewed as conservative) was that in 2006 some 6% of the EU workforce were teleworkers. This included the following estimates (Table 1):

Table 1. Proportion of teleworkers in selected Member States (2005).

Country	Estimate (%)
Denmark	19.4
Finland	29.4
France	4.8
Germany	12.6
Ireland	7.7
Italy	7.1
Netherlands	25.2
Spain	5.4
Sweden	24.3
United Kingdom	11.7
EU10	10.8

There is a wide variety of levels of working at home in different Member States. These ranged from over 10% of total employment in Denmark, France, Luxembourg and Austria to less than 3% in Bulgaria, Greece, Estonia, Cyprus, Lithuania, Hungary, Poland, Portugal and Romania (Italy was at 4%). There is also, according to the report, a big difference between sectors of the EU economy. Education is the sector with a notably high number of people working from home (around one third works either mainly or significantly from home).

Framework agreement on telework[23]

The Social Partners started negotiations on telework following the Commission decision to launch formal consultation of management and labour. This was the first European agreement to be implemented by the social partners themselves and was focused to give more security to employed teleworkers in the EU, whilst maintaining business flexibility. The agreement defines telework (see above) and created a general framework at European level for teleworkers' working conditions. Part 4 of the Agreement is concerned with working conditions and provides that teleworkers benefit from the same employment rights as comparable workers at the employer's premises. Part 8 is concerned with health and safety and provides that:

(a) The employer is responsible for the protection of health and safety of the teleworker in accordance with Directive No. 89/391 and relevant daughter Directives;

(b) The employer should provide information on its policies on occupational health and safety, especially with regard to visual display units. The teleworker is responsible for applying these policies correctly;

[21] Fourth European Working Conditions Survey 2005 *www.eurofound.europa.eu/ewco/surveys/EWCS 2005/*.

[22] Electronic Commerce and Telework Trends; *www.flexibility.co.uk/flexwork/location/ecatt.htm*.

[23] Directorate-General for Employment, Social Affairs and Equal Opportunities, 2002, *ec.europa.eu/employment_social/news/2002/oct/teleworking_agreement_en.pdf*.

(c) The employer, workers' representatives, and/or relevant authorities should have access to the telework workplace, subject to prior notification of the worker, if the premises are the worker's own home. The teleworker has the right to request an inspection visit.
Thus the issues identified here are, firstly, the employer has responsibility for health and safety; secondly, the employer must provide information; and, thirdly, the teleworker premises should be available for inspection.
The European Social partners adopted the first joint report[24], on the implementation of the framework agreement on telework in Member States and EEA countries, in 2006. According to the report, almost all EU25 Member States[25] as well as Iceland and Norway, had implemented the telework agreement. This has been carried out in line with national industrial relations systems and traditions so provisions for telework have been put in place in different ways such as through national and sectoral collective agreements (FR, IT, LUX, GR, DK, SW), codes of conducts (UK and IRL) and legislation (CZ, HU).

Health and safety research
The ILO Encyclopaedia of Occupational Health and Safety[26] highlights the OHS hazards associated with teleworking. These are:
- indoor air quality; often no supply of fresh air
- fire hazards; electrical wiring is not designed to meet the needs of all the IT equipment
- ergonomic hazards; reliance on personal furnishings
- lighting; inadequate lighting may result in awkward body postures, eye strain and visual disturbances
- occupational stress; resulting from isolation
- injury and illness compensation; employer responsibility; sometimes linked to the shift to independent contractor

It states that the contract between the teleworker and the employer must address the overall work environment, safety and health standards, training and equipment. Employers should inspect the home workspace (at agreed-upon times) to ensure worker safety and to identify and correct risk factors that could contribute to illness or injury.
'Place of work and working conditions: comparative study'[27] is an analysis that outlines a number of health and safety issues for those working away from the employer's premises, including teleworkers. For teleworkers the risks include inadequately designed workstations, a lack of risk assessments and health and safety and ergonomic checks, and a higher propensity to work without taking adequate breaks. Evidence also suggests that employers and employees are not as aware of their rights and obligations regarding the health and safety of remote workers as they are in relation to office-based staff.
The specific issues are (as stated in the report):
- *Computer workstations and work environment*

Specific problems connected with workstations and equipment may arise for homeworkers and teleworkers, as they do not have access to the constant technical and ergonomic support that their office-based colleagues enjoy.
- *Risk prevention*

Health and safety policies and absence or sick leave policies are the main means by which companies try to minimise the risks associated with working away from the employer's premises. These policies include elements such as ensuring regular breaks from screen work, the

[24] Implementation of the European Framework Agreement on Telework. Report by the European Social Partners, Directorate-General for Employment, Social Affairs and Equal Opportunities, 2002. *ec.europa.eu/employment_social/news/2006/oct/telework_implementation_report_en.pdf*.
[25] Except Cyprus, Slovakia, Estonia, and Lithuania while the joint implementation process has not yet started in Bulgaria and Romania.
[26] *www.ilo.org/safework_bookshelf/english*.
[27] *www.eurofound.europa.eu/docs/ewco/tn0701029s/tn0701029s.pdf*.

provision of regular eye tests and glasses with a protective coating and the offer of posture-improving exercise classes.

- *Work organisation*

Some countries maintain controls on the organisation of work in the case of teleworkers and homeworking. For example, according to the Report, in Belgium, national collective agreement 85 states that agreement on a range of issues must be reached between the teleworker and the employer before the teleworking begins. These include the frequency of telework, periods of work in the office, issues surrounding technical support, employer financial responsibility in the case of equipment repairs, and the conditions under which the teleworking may stop.

- *Autonomy and supervision*

Workers who carry out work away from the company premises have more autonomy than their office-based colleagues as they are subjected to less managerial supervision. This raises issues in areas such as how remote employees cope with autonomy and how employers manage and supervise these workers.

- *Social support*

People who work away from the employer's premises all of the time may suffer from a lack of social contact with their colleagues. This appears to be an issue in many countries and is more apparent among lower-skilled workers than those with relatively higher skills, as the lower-skilled workers are less likely to participate in team briefing meetings.

- *Demands of the job and pace of work*

People who work at home rather than on their employer's premises will generally have more freedom to choose their own pace of work than their office-based colleagues have. This is borne out by data from the EWCS 2005. When asked whether their pace of work was dependent on the work done by colleagues, 83.2% of those working at home, including teleworkers, responded that it was not. Similarly, 73.9% of those combining work at home and away from the company premises gave the same answer.

- *Blurring of boundaries*

One of the potential problems of working away from the company premises and working at home is that the work/non-work boundary can become blurred and people tend to carry on working in the evenings and at weekends, particularly if their office is in their home.

'The high road to teleworking'[28] is a study that reports on previous research concerning stress, which lists stress inducing factors in teleworking. These include: poor communications; poor problem solving environment; law participation in decision making; career uncertainty and stagnation; poor status work; poor pay; job insecurity or redundancy; unclear role in organisation; role conflict; ill-defined work; high uncertainty; lack of variety; fragmented work; meaningless work; under utilisation of skills; work overload; high level of pacing; lack of control over pacing; time pressure and deadlines; inflexible work schedule; unpredictable hours; long or unsocial hours; social or physical isolation; lack of support from other staff; conflict with other staff; conflicting demands of work and home; low social or practical support from home; dual career problems; inadequate preparation for more difficult tasks; concern about technical knowledge and skill; lack of resources and staff shortages; poor work environment (lighting, noise, bad postures). The study from which this came took place in 1994. Di Martino emphasises the issues of overwork and social isolation and the importance of inserting the teleworker into the normal lines of communication and suitable job design.

'Employment of homeworkers: examples of good practice'[29] gave examples of good practice in relation to homeworking generally. They highlight the issue of minimising VDU health related problems and state that any health and safety policy designed to protect homeworkers or teleworkers should ensure that: the work processes and working conditions are as safe as the equivalent work carried out on the employer's premises; they are fully informed about safe

[28] Di Martino, V (2001) 'The high road to teleworking' ILO Geneva.

[29] Huws, Ursula and Podro, Sarah (1995) 'Employment of homeworkers: examples of good practice' ILO Geneva.

working practices and potential hazards; they have the same right to elect health and safety representatives and to call in independent safety inspectors or trade union representatives as others; they have the same right to compensation as on site workers in the event of work related illness or injury. They then list examples of good practice.

'Expert forecast on emerging psychosocial risks related to occupational health and safety';[30] this report summarises the results of an expert forecast on emerging psychosocial risks related to occupational health and safety. The top 10 emerging psychosocial risks, according to the experts, are related to: new forms of employment contracts and job insecurity; the ageing workforce; work intensification; high emotional demands at work; and poor work/life balance. Chapter 4 highlights the use of more precarious employment contracts, together with a trend towards leaner production (less waste) and outsourcing, and how this can affect workers' health and safety. Workers in precarious jobs tend to carry out the most hazardous work, have poorer conditions and receive less OHS training. The report cited the example of workers in outsourced firms and stated that the 'consequences of these forms of employment may mean less training opportunities, de-skilling and a decrease in their job control. More generally, in the context of unstable labour markets, workers increasingly have a feeling of job insecurity, which augments the level of work-related stress and the negative impact on workers' health. Also, the experts highlight the risk of marginalisation as a consequence of successive short-term contracts and of the resulting discontinuity in work careers. It was further mentioned that new forms of working patterns such as telework or temporary work, as well as the growing need for mobile workers, may result in workers' isolation. According to the experts, one factor contributing to this phenomenon is the stronger international competition in the context of the globalisation of labour markets, which pushes companies, for example, to move abroad, to reduce the number of workplaces and to adopt the contracting practices described above, so as to cut costs and remain competitive'.

The report also highlights the connection between job insecurity and mental and physical health. Most research stresses the effect of stress on the mental health of the individual and job insecurity. It states that 'the phenomenon of stress has often been linked to mental and physical illness. For instance, correlations to coronary heart diseases, musculoskeletal diseases or depression were found'.

According to 'Risk Assessment for Teleworkers' (2008)[31]: 'Teleworkers' health and safety creates a specific challenge. Preventing occupational risks for teleworkers means considering work organisation and working conditions at home during the risk assessment phase as they are an integral part of any successful quality programme. The report contains a check list for risk assessment for teleworkers which is copied in Appendix 3. These relate to workplace environment and equipment; visual display units; software and hardware ergonomics; work organisation; psychosocial issues; health and safety management issues; information and training. The report also contains an interesting case study to highlight the issues connected with introducing teleworking.

Economically dependent workers

Economically dependent workers were part of the first consultation by the Commission on the Framework Agreement on Teleworking. The problems associated with writing about this group is, firstly, the lack of clarity in terms of defining such an employment status and, secondly, the lack of specific quantitative data.

[30] *osha.europa.eu/en/publications/reports/7807118*.
[31] *osha.europa.eu/en/publications/e-facts/efact33*.

A scoping study on the health and safety of homeworkers, carried out in 2002[32] reported that 'There is considerable confusion regarding employment status. The lack of clarity in the distinction between employee and self-employed status makes it very difficult for both homeworkers to interpret the current HSE [Health and Safety Executive] guidance on homeworking.'

The National Group on Homeworking in the UK stated that the most common request which they had from employers was for information about their health and safety responsibilities to homeworkers.[33] They further stated that:

'Many homeworkers have unclear employment status, and although they work for another person or company in a dependent relationship it is often unclear whether they would be considered employees, workers or self-employed under existing employment law'.

The 91st conference of the ILO[34] had, as part of its second item, the issue of the employment relationship. It summarised:

'The situation of dependent workers who are not covered by legislation on the employment the employment relationship, on account of their disguised or ambiguous employment status, is a worldwide problem which lies at the heart of labour law, as the effectiveness of national and international labour legislation depends on it. This problem is prejudicial to the workers concerned, but it is also likely to prove damaging to enterprises, jeopardise social peace and place the health and safety of the population at risk'.

It was also the subject for discussion at a meeting of Experts on Workers in Situations Needing Protection in 2000.[35] The concern was that concealment and ambiguity in the employment relationship are likely to lead to a real lack of protection of workers, by totally or partially preventing the application of labour legislation. One of the strategies recommended was the application of basic rights to all workers.

The European Foundation carried out a comparative study in 2002 which had contributing material from 16 Member States. It stated that the issue is relevant from the industrial relations point of view since economically dependent workers do not generally benefit from the protection granted to employees both by law and collective bargaining, including provisions on health and safety etc.

Economically dependent workers are characterised by being formally self-employed and depending upon one employer for their income, or at least a large part of it. In some cases they share characteristics with employees by having no clear organisational separation from employees; by performing the same tasks as employees; and by the service that they sell to employers being outside what is rationally regarded as professional services.

The problem with looking at this subject from a health and safety perspective is that much of the comment has been confined to legal analysis and little has been done in terms of sociological or economic research.[36] They are sometimes referred to as the dependent self-employed. One source of such people is the outcome of outsourcing where the worker becomes economically dependent upon the employer and is in hierarchical subordination to it. The two types of dependency are, firstly, an economic one where the workers takes the entrepreneurial risk, and, secondly, dependence in terms of time, place and content of work.

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[32] O'Hara, Dr Rachel (2002) 'Scoping exercise for research into the health and safety of homeworkers' Health and Safety Laboratory, UK.

[33] Response to' Improving outcomes from health and safety' BRE consultation November 2007. *www.ngh.org.uk/resource-files/Health-and-Safety-consultation-20071196339745.doc*.

[34] International Labour Office Governing Body 280th session 2001.

[35] 'Experts on Workers in Situations Needing Protection' (The employment relationship: scope) ILO Geneva, 2000.

[36] Böheim, R and Muehlberger, U (2006) 'Dependent forms of self-employment in the UK: identifying workers on the border between employment and self-employment'. IZA Discussion Paper No. 1963.

Muehlberger and Pasqua[37] looked at workers with a contract of continuous collaboration (parasubordinati) in Italy who amount to between 1.8% and 5.3% of the Italian labour force. The differences in estimates arises from the lack of a standardised definition. Although the aim of these contracts is to have a more flexible contract to be of benefit to the employer and the worker, they have, according to these authors, been used as a low-cost alternative to fixed-term and permanent contracts. Since the 'Biagi law' the rules have become more fixed. There is also the alternative of employing workers on a contract for a project (co.co.pro.). They cite a number of pieces of research from other European countries about self-employment. Also in an IRES study 2005 analysing 640 collaborators, the authors here found, unlike the UK, that older as well as married workers were less likely to be collaborators than employed or self-employed. Also, unlike the UK, they found that highly educated workers are much more likely to work as collaborators.

According to the OECD 'the working conditions of the self-employed differ from those of employees in a number of ways, even after allowing for a number of differences in the types of jobs they do. Self-employed people tend to report poorer working conditions, including longer hours of work, and (unless they are employers) less training, less use of computers, and feelings of lower job security'. There is no reason to assume that this is not also the situation with the dependent self-employed.

An OSHA survey of Member States[38] further commented that self-employed, temporary workers and those on short term contracts were frequently discussed and commented upon by the Member States as being more at risk because of their restricted resource in particular limited access to safety and
health training and information.

There is concern amongst trade unions about the lack of protection for the dependent self-employed. Böheim and Muehlberger[39] report that the ETUC as stating in 2006 that 'the figures indicate an upward trend in the number of bogus self-employed (almost 23 million), two thirds of whom may be classed as dependent workers, but who have no contractual cover and no social protection worthy of the name'. Similarly the UK construction industry trade union stated that 'the bogus self-employed and cowboy contractors are also making building sites less safe because corners are cut and safety training is almost nonexistent'. The author's research in the UK found that dependent self-employed were, on average, older than employees and younger than the self-employed. Working hours were an average of 41 for the self-employed, 37 for the dependent self-employed and 34 for employees. Dependent self-employment is associated with high market fluctuation, lower tenure of employment and the poorest qualifications; making them possibly the first to be laid off in times of restructuring.

A major issue for health and safety protection is the length of working hours. A Eurofound survey in 2002[40] found that the average working week of the self-employed was 48.2 hours, 10½ hours longer per week, on average, than that of the dependent employee. While only 12% of dependent employees worked more than 50 hours per week, almost 50% of the self-employed did so. The survey data also showed that a significant proportion (16%) of the self-employed work part-time, against 21% in the case of dependent employees.

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[37] Muehlberger, U and Pasqua, S (2006) 'The "continuous collaborators" in Italy: hybrids between employment and self-employment?' Centre for Household, Income, Labour and Demographic economics, (CHILD), Italy.

[38] The State of Occupational Safety and Health in the European Union – Pilot Study 2000 *osha.europa.eu/en/publications/reports/402*.

[39] Böheim, R and Muehlberger, U (2006) 'Dependent forms of self-employment in the UK: identifying workers on the border between employment and self-employment'. IZA Discussion Paper No. 1963 *//repec.iza.org/RePEc/Discussionpaper/dp1963.pdf*.

[40] Self-Employment: Choice or Necessity?, *www.eurofound.europa.eu/pubdocs/2000/22/en/1/ef0022en.pdf*.

There was also evidence that many self-employed persons worked part-time on various jobs or contracts, which added up to longer working hours. Over one tenth (11%) of the self-employed indicated that they have more than one job in addition to their main job as entrepreneur: only 5% of dependent employees are in this situation.
An indicator of health problems by type of contract is contained in Table 2.

Table 2. Distribution of health indicators by type of employment

Type of employment	Absenteeism %	Stress %	Fatigue %	Backache %	Muscular pains %
Permanent	14.8	29.2	19.9	31.0	30.3
full-time	15.4	30.2	20.6	31.6	31.1
part-time	13.1	26.3	17.8	29.2	28.0
Small employers	8.7	33.7	27.0	32.2	30.3
Self-employment	7.7	30.4	32.5	36.0	34.0
full-time	8.0	30.7	31.2	25.9	33.5
part-time	6.7	29.5	36.3	36.5	35.2
Non-permanent	12.3	23.8	21.2	30.6	30.5

Source: Third European survey on working conditions, 2000

Vulnerability, Stress, Insecurity and Outsourcing

Vulnerability, stress, insecurity and outsourcing are the subject matter of Part 3. This is done, as far as is possible, in relation to the three types of employment relationship discussed in Part 2. Vulnerability is considered in relation to migrant workers, child workers and women workers.

Migrant workers
There are numbers of studies about migrants in the EU.[41] In 'Counting the cost: working conditions of migrants' (2008)[42] issues relating to detriment in employment are considered. Despite the contribution that they make to their host countries, migrants often face serious labour market disadvantages. In job-seeking, for instance, a French survey found that men with French or European-sounding names were five times more likely to be called for interview than applicants with equivalent qualifications and experience, but with North African names. Overall, according to this study, migrants face a greater likelihood of unemployment than nationals, certain groups being especially disadvantaged – non-EU nationals, younger people, and women.
In many countries, migrant workers are more likely to work on fixed-term contracts, and less likely to be retained in employment. Some countries have a policy of issuing short-term work permits: hence, workers can only take jobs of limited duration. Many migrants work in seasonal sectors, and in some countries temporary employment agencies are a key recruiter of migrant workers. While such non-standard jobs could potentially lead to stable employment, a Swedish study suggested that fixed-term contracts lead to stable jobs for migrant workers less often than for Swedish workers.
The ILO report titled 'Towards a fair deal for migrant workers in the global economy'[43] states that there are two aspects of health issues for migrant workers. The first is related to occupational health and safety (OHS) at the workplace; and the second concerns the general health condition of the migrant worker and her family. Health is an important issue because, as

[41] See, for example, Spencer, Sarah (2008) 'Equality and diversity in jobs and services: City policies for migrants in Europe' w*ww.eurofound.europa.eu/pubdocs/2008/71/en/3/EF0871EN.pdf, www.eurofound.europa.eu/pubdocs/2008/92/en/1/EF0892EN.pdf*.
[42] *www.eurofound.europa.eu/pubdocs/2008/893/en/1/EF08893EN.pdf*.
[43] Towards a fair deal for migrant workers in the global economy. International Labour Conference, 92nd Session, 2004; *www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-vi.pdf*.

the Report states, migrant workers tend to be employed in high risk occupations; secondly that there are language and cultural barriers to OHS communication, in particular OHS training and instruction; and, thirdly, many of the migrant workers overwork and/or suffer from poor general health, and so are susceptible to occupational injuries and work-related diseases. In terms of seeking assistance, temporary workers, and in particular migrants in an irregular status, are often not able to access social security benefits such as those relating to employment injuries and occupational illnesses. They often do not seek medical treatment because 'of the cost, inability to take time off work, lack of childcare, and problems of transportation. Many are unfamiliar with the local health-care systems and may have linguistic or cultural difficulties in communicating their problems'.

Child labour

The OSHA has produced this information on young workers in the EU[44]: 'In comparison to the workforce generally, workers aged 15–24 years are less often in full-time employment (72% vs 82%), more often on temporary contracts (39% vs 14%), and more often salaried workers (94% vs 83%). Most temporary workers in the EU-25 are under 25. About 37.5% of young workers in the EU-25 have a temporary contract. The percentage of young workers in temporary employment ranged from 6.8% in Ireland to 59.4% in Spain'.

In 2001 an ILO[45] stated that 'It is likely that, whatever the published figures, more than half of all teenagers below the age of 18 are in the labour force in every industrialized country. In countries for which there is more detailed evidence, children commonly begin work by the time they are 15, although the type of work they do changes as they grow older. Except in the United States, where there is no national system of registration, the overwhelming majority of young workers are working illegally, and even in the US illegality is widespread. This ubiquitous contravention of child labour law is one of the most significant aspects of children's labour.

Children tend to work primarily in trade and services, although there are significant numbers in agriculture, manufacturing, and construction in some regions. The countries of southern Europe – Portugal, Spain, Italy, and Greece – reveal employment patterns that resemble in some respects those of the developing world, with children still employed in large numbers in core activities, particularly footwear, apparel, and textiles in the manufacturing sector, and agriculture. Economic privation does not underlie most youthful labour market participation; in fact, the poorest children are less likely to work in the better-off countries'.

There appears to be a particular issue with regard to Roma children in some countries. The report suggests that Roma children start work early in the family business and, often, are in full-time work by the age of 12. Another group with distinctive child labour problems appears to be the ethnic Chinese population. This is because of the large number of family businesses that exist in which the children are expected to work. Related to this is the issue of bonded Chinese children, in payment for debts incurred in the migration process. According to the Report, in Italy such children are thought to work in the clothing industry. The risks highlighted in the report include:

- chemicals; use of and lack of training about;
- musculoskeletal problems; because a child's body is still growing child workers are a special risk;
- care and supervision, isolation working long periods in isolation, with no human interaction, may have both short term and long term negative psychosocial consequences;
- noise;
- electricity; exposure to shocks;

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[44] OSH in figures: Young workers - Facts and figures, Institute for Occupational Safety and Health, for the European Agency for Safety and Health at Work, 2006, *osha.europa.eu/en/publications/reports/ 7606507*.

[45] Dorman, Peter (2001) 'Child labour in the developed economies' ILO Geneva.

- long hours of work, fatigue and sleep needs of adolescents; child workers should not be on call to work at any hours;
- falls;
- diseases; children need to be immunised;
- information and instructions, contact numbers; what to do in emergencies;
- sleeping in employers' homes; can be of great benefit, but also poses significant hazards, especially for girls.

Women workers

Work done on women and OHS tends to identify a number of factors for the nature of hazards for women. Firstly, occupational segregation is important as women will face the hazards that are connected to the occupations in which they predominate[46]; secondly, many more women work part-time in paid employment but may work longer hours than men in total if one adds the unpaid work done in and for the family.

There are, of course, general issues related to the health of women workers, which also apply to the types of work considered here. Traditionally this has focused on the physical difference in reproductive systems. In practice, because work is still generally segregated on gender lines, the hazards which women encounter are related to the occupations in which they predominate, rather than because of their gender. In addition there is also the issue of women being regarded as the home keeper which accentuates problems relating to long hours of work[47]:

The OSHA report on gender issues in safety and health at work[48] summarises the differences in OHS between women and men:

'Even when adjustments are made for the number of hours worked, men still suffer more accidents and injuries at work than women do, whereas women report more upper limb disorders and stress. Occupational cancer is more common among men than women, but there are some occupations, such as food service and certain manufacturing industries, where women have higher rates. Asthma and allergies appear to be more common among women than men. Sources of respiratory hazards in women's work include cleaning agents, sterilising agents and protective gloves containing latex dust used in the healthcare sector and dusts in textile and clothing manufacture. In addition, women suffer more skin diseases, for example due to working with wet hands in jobs such as catering, or from skin contact with cleaning agents or hairdressing chemicals. Men suffer more from noise-induced hearing loss than women, from exposure to noisy machinery and tools, but women in textile and food production can also be exposed to high noise levels. Women are more exposed to infectious diseases particularly in care work but also in the education sector. Men carry out more heavy lifting, but, for example, women in cleaning, catering and care work suffer injuries from heavy lifting and carrying. Women report more upper limb disorders and high incidences are found in some highly repetitive work carried out by women such as 'light' assembly line work and data entry work, where they have little control over the way they work. Both women and men report high levels of work-related stress; it is certainly not just a 'women's problem'. However, there are certain stressors to which women are more likely to be exposed because of the jobs they typically do. These include emotionally demanding work and work in low-status jobs where they have little control over the work they do. Discrimination and sexual harassment are also sources of stress that women face more than men, as well as the double burden of paid work and unpaid work in the home. Women workers have more contact with members of the public and consequently are more exposed to work-related violence'.

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[46] Gender issues in safety and health at work. A review, in *osha.europa.eu/en/publications/reports/209*.

[47] Forastieiri, Valentina (2000) 'SafeWork: Information Note on Women Workers and Gender Issues on Occupational Safety and Health'; ILO Geneva.

[48] *osha.europa.eu/en/publications/reports/209*.

Stress

'Stress is a work related disease of multicausal origin. It can be defined as a physical or psychological stimulus which produces strain or disruption of the individual's normal physiological equilibrium. The most frequent disorders range from chronic fatigue to depression by way of insomnia, anxiety, migraine, emotional upsets, stomach ulcers, allergies, skin disorders, lumbago and rheumatic attacks, tobacco and alcohol abuse, heart attacks and even suicide'[49].

The OSHA has produced a study of the psychosocial issues related to stress[50]. This study pointed out that work-related stress is the second most common work-related health problem, after back pain, affecting 28 % of workers in the European Union. According to the report, 'stress at work often reflects problems with the psychosocial work environment'. Its consequences, according to this analysis, can have a detrimental effect on the quality of life and work: 'it might influence overall well-being, social relations and family life, or cause absence from work, early retirement, lower productivity and lower quality in service or products. Furthermore, chronic stress can be indirectly related to mental and physical ill health and eventually to death. It is scientifically supported, that chronic stress can increase the risk of heart disease and depression and that stress can weaken the immune system and thus our resilience to illness. The Report, of course, is general in its application and is not specific to the contractual relationships considered here.

The Framework Agreement on work-related stress

This was signed by the Social Partners in October 2004 and was due to be implemented within three years. It defines stress as:

'a state, which is accompanied by physical, psychological or social complaints or dysfunctions and which results from individuals feeling unable to bridge a gap with the requirements or expectations placed on them'.

The Agreement distinguishes between short-term exposure to pressure and prolonged exposure, which may lead to reduced effectiveness at work and may cause ill health. The Agreement does not provide a list of potential stress indicators, but does state that identifying whether there is a problem of work-related stress may involve an analysis of factors such as work organisation and processes (working time arrangements, degree of autonomy, match between workers' skills and job requirements, workload etc.), working conditions and environment (exposure to abusive behaviour, noise, heat, dangerous substances, etc.), communication (uncertainty about what is expected at work, employment prospects, or forthcoming change, etc.) and subjective factors (emotional and social pressures, feeling unable to cope, perceived lack of support, etc.).

Measures for reducing such problems include management and communication measures such as clarifying objectives and the role of individual workers, ensuring adequate management support; training managers and workers to raise awareness and understanding of stress; provision of information and consultation in accordance with EU and national legislation.

The ETUC interpretation guide to the Agreement[51] states that work-related stress should not be considered as being solely a health and safety problem, but should be looked at within the whole context of work content, working environment and work organisation. It also provides a list of EU Directives relevant to the subject (contained in Appendix 4 of this report). Annex 3 of the Guide also provides a list of potential stressors, including: work content, evaluation system of the work and worker, mental load, social environment relationships, time management system

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[49] Forastieiri, Valentina (2000) 'SafeWork: Information Note on Women Workers and Gender Issues on Occupational Safety and Health'; ILO Geneva.

[50] 'How to tackle psychosocial issues and reduce work-related stress' *osha.europa.eu/en/publications /reports/309*.

[51] *www.etuc.org/IMG/pdf/Brochure_stress_EN-3.pdf*.

and work distribution system, climate of professional incertitude, respect of personal integrity, relations between professional and personal life, and general work environment.

Insecurity

A relevant report published by the European Agency for Safety and Health at Work[52] suggests that the new forms of organisation that have emerged in the shift from an industrial mass production to a knowledge intensive/service based society are varied. There has been an increase in decentralisation in organisations with a low 'human factor orientation' such as in lean production. There has also been an increase in network based organisations. Companies have retreated to their core competencies and outsourced other functions and formed chains of suppliers and sub contractors. These changing contractual relationships result in an increase in self-employment (especially those without employees); increases in part-time employment and those that work long hours; increases in temporary employment.

Benach et al[53] describe three impacts of new types of employment on health. Firstly, there is strong evidence that unemployment is associated with 'mortality and morbidity, harmful lifestyles and reduced quality of life'. They suggest that new forms of work organisation and flexibility of employment will share some of these characteristics, in relation to insecure jobs. Secondly, the working conditions on non-permanent workers are worse than those of permanent workers, so those in flexible employment are exposed to more hazardous and dangerous work. Temporary workers, when compared to permanent ones, are also more likely to have poor working conditions such as vibration, loud noise, hazardous products or repetitive tasks. Thirdly, some studies have suggested that different types of flexible employment have worse health impacts than more standard types of employment.

Job insecurity was a greater worry for those in the private, rather than the public, sector; there was also a correlation between the level of education and feelings of insecurity and mixed results in the literature on a connection between gender and feelings of insecurity. Much of the research has been focussed on the mental and psychological health effects of insecurity and there is a concentration on the issue of stress resulting from this insecurity. The study cites an analysis by Sverke et al.[54] This analysis included 37 surveys carried out between 1980 and 1999 among a total of 14,888 respondents. It showed a correlation between job insecurity and poorer mental health in that the higher the level of job insecurity, the poorer the mental health.

Sverke's analysis also showed a correlation between job insecurity and physical health. The higher the level of job insecurity, then the poorer the level of physical health. High insecurity is connected with worse self-reported health (headaches and spinal aches).

Outsourcing

It is clear that issues relevant to outsourcing are also relevant to domestic work, teleworking and self-employment e.g. a 2005 Eurofound report on Employment in Household Services[55] stated that the tendency to outsource household work in recent years has led to the creation of new jobs. An international study of outsourcing and new forms of technology found[56] a number of relevant types of outsourcing: firms contracting with temporary work businesses to supply them with workers on a temporary basis; the use of freelance workers to undertake work which at one time would have been done in-house; contracting out of work to third party contractors, either

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[52] 'New forms of contractual relationships and the implications for occupational health and safety' Goudswaard, Anneke (2002) European Agency for Safety and Health at Work.

[53] Benach, Joan; Gimeno, David; Benavides, Fernando G. (2002) 'Types of employment and health in the European Union'*www.eurofound.europa.eu/pubdocs/2002/21/en/1/ef0221en.pdf*.

[54] Sverke, M., Hellgren, J. and K. Näswall, 'No security: a meta-analysis and review of job insecurity and its consequences', *Journal of Occupational Health Psychology*, No. 7, 2002, pp. 242-264.

[55] Cancedda, Alessandra 'Employment in Household Services', 20 December, 2005, *www.eurofound.europa.eu/pubdocs/2001/13/en/1/ef0113en.pdf*.

[56] *www.ftu-namur.org/flexcot/index.html*, *www.ftu-namur.org/fichiers/FLEXCOT-rapfinal.pdf*.

on a project basis or on a long-term basis was becoming common with an increasing tendency to contract out activities which until recently would be seen as 'core' to the organisations operation; and outsourcing work which can be done cheaper elsewhere, either at home or abroad.
Quinlan et al[57] concluded in their analysis of studies that 'with regard to outsourcing and organisational restructuring/downsizing, well over 90% of the studies found a negative association with OSH'.
The report discusses a number of studies, but the OSHA expert forecast[58] summaries the situation by stating:
'A growing body of research indicates that changes to work organisation associated with outsourcing adversely affect occupational safety and health (OSH) for outsourced workers as well as for those who remain at a company'. Temporary workers are more often exposed to adverse conditions in their physical work environment, such as noise, painful and tiring positions, and repetitive movements. They have also less control over working times, often work in less skilled jobs and have less insight into their work environment, mainly resulting from a lack of training. Fewer opportunities for training and lifelong learning are specifically characteristic of non-permanent or atypical employment'.

The United Kingdom

The last substantive part of the report examines all these issues in relation to the United Kingdom. We firstly discuss health and safety legislation in the UK and its application to the types of workers considered in this report. The Health and Safety at Work Act 1974 and its subsidiary Regulations has a wide application, including employees and the dependent self-employed, but not domestic servants.
For domestic workers we highlight the work of Kalayaan, an NGO that provides services to migrant domestic workers. The abuse suffered by some workers is highlighted. The limited work of the Health and Safety Executive in this regard points out that 'Section 51of the Health and Safety at Work Act (HSWA) states that Part 1 of the Act does not apply in relation to the employment of domestic servants in a private household (see part on the legal situation). HSE cannot therefore enforce the provisions of HSWA against an employer insofar as those provisions relate to the employment of a domestic servant, nor against the domestic servant him/herself.
The issues relating to telework are, of course, similar to the issues found in the international research done for this project, best summarised perhaps by Ward and Shabha[59] who assess the social and psychological impact of telework in small to medium size businesses in Birmingham, UK between 1996 and 1998. The study found that teleworkers may lose the ability to exchange ideas, feel lack of companionship, isolation and a sense of belonging. It also found that the prevailing view of many managers is that people with high need for social interaction are simply not suitable for teleworking. This would mean that organisations could not utilise a significant number of their existing work force. The study suggests that the ideal approach would be to

[57] Quinlan, Michael, Mayhew, Claire, Bohle, Philip, 'Contingent work: health and safety perspectives or the global expansion of precarious employment, work disorganisation and occupational health: a review of recent research', Paper presented to 'just in time employed — organisational, psychological and medical perspectives', European Union Research Workshop, Dublin 22–23 May 2000, organised by Gunnar Aronsson and Kerstin Isaksson, National Institute of Working Life, Stockholm.
[58] Expert forecast on emerging psychosocial risks related to occupational safety and health, OSHA (European Agency for Safety and Health at Work), European Risk Observatory Report, 2007. *osha.europa.eu/en/publications/reports/7807118*.
[59] Neal Ward and Ghasson Shabha "Teleworking: An assessment of socio-psychological factors" Facilities, Vol 19, Issue 1 /2, 61-71.

create a flexible mix of home-based and office-based work. Social factors at work need to be retained in order to meet the basic human need for companionship, otherwise social isolation might be experienced. Stress in the teleworker is more difficult to identify. While work related stress may be reduced by teleworking, domestic stress may worsen by interfering with family life and space. The findings also suggest the home environment is not a suitable place for work. The study identified advantages and disadvantages of teleworking. Advantages include increased productivity, effectiveness, retention as well as reduced stress, absenteeism and lower mileage. Disadvantages are isolation, loss of team feedback, difficulties with providing training, control and support.

The Health and Safety Executive points out that the Health and Safety at Work Act 1974 (HSWA) places a duty on employers, self-employed people and employees. Employers have a duty to protect the health and safety of their employees, including homeworkers. Most of the Regulations under the HSWA apply to homeworkers as well as to employees working at an employer's work place. Examples include the Management of Health and Safety Regulations 1999, the Display Screen Equipment Regulations 1992, the Manual Handling Operations Regulations 1992, the Provision and Use of Work Equipment Regulations 1998 and the Control of Substances Hazardous to Health Regulations 2002.

The Management of Health and Safety at Work Regulations 1999 require employers to carry out a risk assessment of the work activities carried out by homeworkers. Completing a risk assessment involves identifying the hazards relating to the homeworkers' work activities and deciding whether enough steps have been taken to prevent harm to them or to anyone else who may be affected by their work. A risk is the chance that someone will be harmed by a hazard. A hazard is anything that may cause them harm.

In terms of the dependent self-employed the TUC Commission on Vulnerable Workers[60] is considered. Itincluded, in its final report, a concern with bogus self-employment. It stated that a growing number of workers are being classified as self-employed but in reality are dependent workers who do not have the independence and autonomy over their work that characterise genuine self-employment. 'This group are described as the 'bogus self-employed'. Many construction workers are classified in this way, as are many home-workers engaged in manufacturing, courier or telesales work. These workers can work for the same employer for years without entitlement to the most basic of employment rights, for example paid holiday, maternity leave or statutory sick pay. They can also be sacked or asked to leave at a moment's notice, and cannot claim unfair dismissal or redundancy pay'. Its research found three examples of this issue affecting homeworkers:

(a) Research by the National Group on Homeworking (NGH) and Oxfam provided evidence that the lack of clarity in employment law means that many homeworkers find themselves falsely classified as self-employed. Findings from an NGH survey of 200 homeworkers found that only 33 per cent received holiday pay, and even fewer were provided with sick pay, although only 1 in 40 were found to have clear self-employed status. The vast majority of homeworkers were women, around 50 per cent of whom were from minority ethnic groups. 44 per cent had low awareness of their rights, and 40 per cent were not aware that their employment status had an impact on their treatment. Importantly, even among those who were classified as self-employed, very few claimed expenses against tax. The homeworkers were therefore doubly disadvantaged from bogus self-employment, losing employee rights and employment protections, and also unaware of the possible tax benefits.

(b) The Welsh Minority Ethnic Women's Network reported on their research which found that out of a group of nine homeworkers six received none of the rights of 'workers' or 'employees', despite doubting that they were self-employed.

(c) NHG have also published a new study on the experiences of homeworkers, based on the experiences of 67 workers across the UK. It found that few of the homeworkers were seen as 'employees' and around half were not even considered 'workers', instead being defined by

[60] *Supra*.

employers as ‘self-employed’ – despite lacking the genuine autonomy that characterises self-employment.

The Italian context

Under the Italian law, domestic work is a special employment relationship. Its main characteristics are: it is provided within and in favour of a one or several households and it is free of limitations of dismissal law.
Telework as defined by the interconfederal Agreement concluded on June 9, 2004 transposing the European framework agreement on telework concluded on July 16, 2002 by UNICE / UEAPME, CEEP and ETUC, is «a form of organising and/or performing work, using information technology, in the context of an employment contract/relationship, where work, which could also be performed at the employers’ premises, is carried out away from those premises on a regular basis». Project work, it is employment relationship when work is performed personally, on a project basis, with continuity and coordination, i.e. quasi-subordinated relationship. One of the main characteristics of the project work is that the employee, being self-employed, can manage his working time and determine, unless otherwise agreed with the client, the place of work that, can also be his own home. Another important feature of this employment relationship is the necessary determination or determinability of its duration.
It is clear from the above mentioned information that in case of domestic work, telework and project work the work place can be the employee’s home or the home of other service beneficiaries (especially in case of homework). The increasing spread of these forms of employment is a part of a wider phenomenon of changing patterns of work organization. Due to their specific working conditions, both objective and subjective, these workers are exposed to particular problems of health and safety making them particularly vulnerable. These problems concern in a transversal manner multiple productive sectors.
The Legislative Decree n. 81/2008 tried to remedy, at least from the normative point of view, this vulnerability. For the first time, the Italian legal system created a complete framework for the management of health and safety for these contractual types, with particular regard to telework and project work.
Safety at work, especially due to the involvement of the fundamental interests of the national legal system, is one of the most important issues in the field of labour. It also, as emphasized by the recent European sources (European Commission White Paper *Together for Health: A Strategic Approach for the EU 2008-2013* and the European Commission Communication: *Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work*) is an absolute value and transversal tool to achieve higher levels of wellbeing, productivity and economic prosperity. Each year an average of 6% of Italian workers suffer work related accidents. It is about one million accidents of different nature and degree, of which about 600 thousand accidents bring to work incapacity superior to three days, over 27 thousand cases lead to a permanent disability of the victim, and more than 1,300 - to death. That is to say that every day three people are killed by work related accidents.
In the Italian legal system, the landmark step in this direction, especially in light of the recent changes introduced by the Legislative Decree No. 106/2009, is the Legislative decree No. 81/2008. Indeed, for the first time in Italy, at least from the formally legal point of view, the Single Act (Testo Unico) tried to remedy the particular vulnerability of such workers, trying to create a complete legal health and safety framework in relation to these contractual types, with particular regard to telework and project work. It abrogated the previously existing legal norms (Legislative Decree. No. 626/94, Legislative Decree. No. 494/96 and the decrees of 1950s.) and re-regulated the whole issue of safety at work.
With specific regard to the types of employment, matter of this research, art. 3 of the legislative Decree No. 81/2008 the first time regulated in terms of prevention, subordinated telework

employment relationship (paragraph 10) and integrated as part of a special legislation on accidents prevention, an ad-hoc provision for the project work (paragraph 7). The Single Act changes significantly the legal framework, meeting the needs for major protection and greater effectiveness. In the past, various attempts were undertaken to regulate in a consolidated manner health and safety issues; all of them failed. In course of these attempts they tried to look at the comparative, European and international experience in order to draw inspiration from the mostly advanced regulatory models; however such affords did not brought to any concrete outcome. The legislation in matter of domestic work still represents lacunas and inconsistencies. In particular, in case of this employment relationship, the issue of work related accidents is especially problematic since it involves about 6000 thousands accidents annually.

The latest statistics confirm, that home where the services are often carried out, does not guarantee at all a safe working environment; on the contrary, the rate of injuries is increasing. In 2009, in fact, an estimated increase in deaths related to accidents at home is around 20%, involving mainly women. Such accidents can relate to physical risks due to the exposure to electrical and heating facilities. The dimensions of the phenomenon, moreover, had already led the legislator to recognize the need for protection of persons who suffer injuries at home. In this sense, already the Law of 3 December 1999, No.493, enacted the principles of health and safety at work enshrined in the Constitution. On these principles, widely confirmed at the European level, the norms concerning prevention against work related accidents and occupational diseases and the obligation to adopt preventive measures for safety at work were based. This discipline contributed domestic work receiving a deserved dignity and protection recognition.

In order to reinforce the protection of these subjects, then, in March 2005, the single chamber Parliamentary Commission of inquiry on occupational accidents, established by the Senate, had reported the following proposals for regulatory intervention: increased information and training on safety at home, the establishment of an observatory at the Ministry of Health; the preparation of a plan of safety at home; the establishment of two national registers, one for domestic accidents and another- for occupational domestic work related illness, the extension of the types of the protected domestic injuries, including fatal accidents and reducing the minimum degree of disability for compensation.

However, despite the importance of the phenomenon, while the new regulatory framework designed by the Single Act, on the one hand, guarantees a more meaningful and strong protection in case of work at domestic premises, on the other - does not cover domestic care workers and domestic workers, in general. In matter of home work, the Articles 36, paragraph 2, let. b) and 37, paragraph 4, let. c) provide respectively that, even in case of home workers, the requirements on «information on hazards related to the use of dangerous substances» and training obligation «when introducing new dangerous substances» are applied. The legislative Decree No. 81/2008 thus confirmed the obligations of information and training (Article 3, paragraph 9, and Art. 36, paragraph 3), already contemplated by Article. 1, paragraph 3, of Legislative Decree No. 626/1994, albeit with some limitations compared to the general information.

However, in case of domestic work and for domestic care services the legal framework seems to be still uncertain. Article 2 paragraph 1, letter a) of Legislative Decree No. 81/2008, in fact, defines the worker as a «person, who regardless of the type of employment contract, carries out working activity in the public or private employers' organisations, with or without remuneration, with the mere aim to learn a craft, art or another profession, excluding workers assigned to domestic and family duties»; thus, many professional figures are cut off in an unclear manner among which are domestic workers, care and health workers, some of whom of a great social importance. However, it seems that the exclusion of these subjects, as outlined by the Single Act, is valid only for the care workers at the employer's premises, and not for employees assigned by their employer to the third parties (employees of social cooperatives, temporary agency workers, public health care workers required to provide services at the private domicile of the assisted people).

Care workers, in fact, working at the premises of the clients, seem to fall within the definition of the domestic service workers. Care workers perform a kind of domestic work aimed to ensure assistance to non fully self-sufficient people, or to those needing assistance because of health conditions or age. These persons are exposed to peculiar risks stemming from the organization of working time, from the risks related to the assistance to sick or dependent persons and handling loads; besides, the are more easily exposed to biological risk, allergies and risks related to job related stress or burnout. Also a lack of language knowledge should be cosidered, if one takes into consideration that the majority of domestic and domestic care workers usually come from abroad. So to the above mentioned difficulties one should add problems of language understanding and different risks perception .

Certainly this is a stronger regulatory intervention in matter of telework in relation to which, for a long time the needs for regulation had been expressed in order to complete the limited discipline dictated by the interconfederal agreement for the public administration, because of individual and social advantage of this instrument. In fact, already the latter agreement, outlined an interesting definition of this phenomenon by providing that «telework is a way for companies to conduct the service which in particular can enable employers to modernise the way work is organised while for the workers it is a way of work which help in reconciling work and family life due to the greater autonomy in carrying out their duties». It also dictated rules to be adopted with regard to health and safety providing an opportunity to verify that the applicable health and safety provisions are correctly applied and the employer, workers' representatives and/or relevant authorities have access to the telework place. If the teleworker is working at home, such access is subject to prior notification and his/her agreement. The teleworker is entitled to request inspection visits'.

The legislative Decree No. 81/2008, then, provides the ad hoc prevention provisions for subordinated, self-employed and quasi-subordinated teleworkers. The first are those who «provide continuous service at the distance, by using informatics and telematics facilities», including one under the presidential decree of 8 March 1999, No. 70, also contemplated in the European framework agreement on telework concluded on July 16, 2002 '(Article 3, paragraph 10 of Legislative Decree No. 81/2008). In order to verify that the applicable health and safety provisions are correctly applied article 3, paragraph 10 of Legislative Decree No. 81/2008, moreover, specifically regulated the terms and legitimate forms of access at home of workers by employers, workers' representatives and/or relevant authorities. Repeating almost word to word the provisions adopted at the Community level in the framework agreement of 16 July 2002 (art. 8) and, at national level in the interconfederal Agreement of 9 June 2004, the quoted paragraph 10, provides that the access to the home of the teleworker is subject to prior notification and his/her agreement, within the limits of national legislation and collective agreements.

Compared to the latter ones, the Legislative Decree No. 81/2008 re-regulated and broadened the accident prevention protection extending to them what was stipulated in the article 21, paragraphs 1 and 2 (for self employed workers in general) to work equipment, prevention and protection devices, health surveillance and training. As for quasi-subordinate telework, with regard to project workers, paragraph 7 of Article 3 of Legislative Decree No. 81/2008 merely reiterates what has already been provided for in Article 61, paragraph 4, of the Legislative Decree No. 276/2003, namely the full applicability of the accident prevention regulations in cases where work is conducted at the clients' premises. This protection was, however, extended by the new decree also to quasi-subordinate teleworkers excluded from the scope of the aforementioned Legislative Decree No. 276/2003.

However quasi-subordinated workers who do not work at the employer's premises remain excluded from these more stringent legal protective provisions. To them, in fact, more lenient provisions for self-employed considered to be comparable are applied. This leaves open the doubt what should prevail: the criteria of technical and organisation nature or legal link with the client.

Regarding project work, introduced by the Legislative Decree No. 276/2003, Legislative Decree. No. 81/2008 was limited to recall and repeat the matters already expressed by art. 66, co. 4 of the Legislative Decree No. 276/2003 reiterating thus the same problems of interpretation, and enforcement existing under the previous legislation.
Despite the legislative intervention, unequal treatment in matter of work related accidents prevention between employees who perform their work at the employer's premises and the "outsiders" still persists. In fact, the quasi-subordinate project workers, who perform their work at the employer's premises, can benefit from the work related accidents prevention legislation – like "standard" workers"; on the contrary – project workers providing services outside the employer's premises, not only do not enjoy the above-mentioned protection, but are also required to respect "self-protection regulations" provided by Article. 21, Single Act, like self-employed workers.
It is clear from this survey that the expansion of the scope of the protection field, regulated in the Legislative Decree No. 81/2008, does not seem to be followed by the response of the legal system able to ensure technical and organizational responses to mitigate the specific weaknesses of the various forms of employment, especially those more hybrid in their nature, such as home work, telework and project work. This produces a lack of effectiveness and the need to develop virtuous practices that can bridge these gaps and accompany legal wording with 'implementation of guidelines and best practices, which the law No. 123/2007 and the Single act refer to. It is required to put in practice the models for managing health and safety to compensate for the increased vulnerability of these workers and ensure the desired increase in the levels of effectiveness and "decent," work according to the dear to ILO wording. With more specific reference to the domestic work and provision of personal care services, the framework seems to be still incomplete, excluding these individuals from the scope of protection legislation, at least where these individuals carry out the activity in direct favour of the employer and his family.

Telework

The Italian legal system lacks the definition of "telework", even if one can come across different definitions both in the regulatory environment and in the current contractual arrangements. In any case, among all the existing definitions, the most comprehensive is the one adopted by the European Foundation in Dublin, defining telework as «a form of organising and/or performing work using information technology, for the employer or a client by the dependent, self-employed or home worker, where the work, which could also be performed at the employer's premises, is carried out away from those traditional premises, on a regular basis».
As it is well highlighted by the above definition, the essential elements of teleworking are: job activity is performed in locations different from the employers' ones, so there is a situation of production decentralization characterized by the logistical allocation of the worker outside the enterprise; the use of information and communication technology in the work performance and the link between employee and employer; the corporate structure is based on interdependence between individuals and flexibility in forms of employment and working time. As for the legal status, it should be noted that telework is not an autonomous contract of employment, but it is simply a particular form of work organization and performance, deductible in one of several employment contracts existing under the Italian law, depending on the presence or not of the elements of subordination. Therefore, telework can be performered either in an autonomous or in quasi-subordinated form. This distinction is important in terms of prevention.
Indeed, the Legislative Decree No. 81/2008 provides for the ad hoc prevention provisions only for subordinate teleworkers, those who «carry out distance work on a continuous basis, using communications technology, including one regulated in the presidential decree from 8 March 1999, No. 70 (subordinated teleworkers civil servants) and in the European framework agreement on telework concluded July 16, 2002 (Article 3, paragraph 10 of Legislative Decree

No. 81/2008). This provision exactly reproduces the provisions defined at Community level namely in the framework agreement of 16 July 2002 (art. 8) and, at national level, in the interconfederal Agreement of 9 June 2004. Different from those for subordinate teleworkers is the prevention protection regime for self-employed and quasi-subordinate teleworkers.
According to the current regulatory framework, only provisions of Article 21, paragraphs 1 and 2, of Legislative Decree No. 81/2008 are applicable to the self-employed teleworkers with reference to the work equipment, devices for prevention and protection, health surveillance and training. More problematic is the matter of prevention of quasi-subordinate teleworkers. Indeed, even the Legislative Decree No. 106/2009 did not dismiss doubts about the applicability to them of Article 3, paragraph 7, of Legislative Decree no. 81/2008, which declares full applicability of the accidents prevention regulations only in cases where the work is carried out at the employer's premises.
On this point, there are different doctrinal positions. A part of the doctrine firmly supports the thesis that the provision in question cannot "ontologically" regard teleworkers. According to other authors, however, paragraph 7 of Article 3 of Legislative Decree No. 81/2008 applies also to the quasi-subordinated teleworkers, although only in cases in which they work in the locations which, in some way, fall within the client's responsibility, such as, for example, "telecentres", or "telecottage" or any other client's remote and satellite center.
Certainly, however, especially for quasi-subordinated teleworkers who carry out their work outside the employers' premises, but also for all quasi-subordinate workers in general, there remains a lack of specific protective legislation or ad hoc provisions taking into account the organizational peculiarities of this type of employment. They can benefit from the Article. 2087 of the Civil Code with the exclusive reference to the private sector, and art. 62, comma 1, let. e) of the Legislative Decree No. 276/2003. This lack of legislation could be overcome returning to the project concerning the "Statute of Works", as presented in the White Paper of last May. Moreover, in light of changes introduced by the Legislative Decree, No. 106/2009 to the original text of the Legislative Decree No. 81/2008, one can agree with that part of the doctrine, which highlighted the fact that it could provide real protection to teleworkers also by means of a proper risk assessment, taking into account the «particular risks associated with the certain organisational nature of this form of employment».
To this end, it is reported that a check-list, recently developed by OSHA could be a good starting point.
Not only the law but also national and second level collective bargaining provide for the specific provisions to protect health and safety of teleworkers. In this respect, one should note that the first contracts and agreements, signed in the absence of a clear legislative regulation, were mostly experimental in their nature and were limited at providing mostly the introduction of training courses, and focused the attention on the importance of ergonomic and suitable work stations, without making explicit references to the use of video terminals. Differently, upon the conclusion of the interconfederal Agreement of 9 June 2004, implementing the European framework agreement of July 16, 2002, almost all national contracts began to deal in more specific and detailed way with the issue of health and safety of teleworkers. Some contracts, when renewed, limited themselves to adopt the rules provided by the mentioned above Agreement, as, for example, that of Print workers, real estate, of Stone workers, Vocational Training and Crafts. Others, however, in addition to implement the interconfederal Agreement, integrated it with specific security requirements. Among these are: the Textile, consortia, pharmaceutical industry, electric, Italian Posts, Anas, Glass, Lamps and others.

Economically dipendent, quasi-subordinate and project employment

Until the Legislative Decree No. 276/2003 entering in force, health and safety had been anchored to the existence of the traditional employment relationship. The only provision dealing in an organic way with protection of health and safety of self-employed workers who worked

inside the enterprises was article 7 of the Legislative Decree No. 626/1994 which had, however, a limited scope, since the obligations consisted, essentially, in the verification of the technical-professional requisites of self-employed workers, information about the specific risks existing in the environment in which he/she was intended to work, on prevention and emergency measures in relation to the work; differently in case of the activities aimed to implement preventive and risks protection measures, the employer (client) and the self-employed worker were required to cooperate and coordinate their actions.
The Biagi law, with Article 66, paragraph 4, undermined the previous system, extending the protections provided by the Decree No. 626/1994 also to the quasi-subordinate project workers who performed their activity at the employers' premises. In essence, the delegated legislator acknowledged with regard to the quasi-subordinate project workers also the case law practice. For other employees the parties were able to agree "any possible health and safety protection measures".
However, only with the Legislative Decree No. 81/2008, protection of these workers was extended in a considerable manner.
Article 3, paragraph 7, provides that «in respect to project workers mentioned in Articles 61 and et seq. of the Legislative Decree of 10 September 2003, No. 276, and subsequent modifications and integrations, and in respect to quasi-subordinate workers mentioned in Article 409, n. 3 of the Code of Civil Procedure, the provisions of this Decree shall apply where work is performed at the employers' premises».
The forecast does not exclude that the parties may agree or determine the application of certain health and safety measures and information / training possibility also to other worker. Besides, the used provision leads to some preliminary thoughts: first, it has extended the scope of application since protection covers all quasi-subordinate forms of employment following Article 409, No. 3, of the Code of Civil Procedure. Moreover, the provision is applied also to so called "mini co.co.co.", i.e. to those relationships which are regulated by Article 61, paragraph 2, of the Legislative Decree No. 276/2003; they are excluded from the project employment relationship due to their limited nature and link to the same employer/client (total duration with the same employer/client should not exceed 30 days within the calendar year and the compensation earned during the same calendar year should not exceed 5,000 euros).
The legislative Decree No. 81/2008 confirms, however, that the application of the decree is limited to employees who work at the employers' premises, thus not accepting the need to protect even those employees who, working outside in any case are in contact and (especially) use the employers' tools.
As Article 3, paragraph 7 of the Legislative Decree No. 81/2008 provides for the general application of the Decree to employee performing his work in those places, it must be deducted that not only the rules of health and safety inter alia should be applied to these workers, but also other provisions relating to information and training about the risks at the client-enterprise, in general, and in particularly, in relation to the activities that the employee is required to perform.
In particular, the employee will be applied, inter alia, Article 20 and - as regards sanctions - Article 59 of the Legislative Decree No. 81/2008. Under Article 20, the employees have the following duties: «to observe the directions and instructions imposed by the employer, managers or personal in charge of collective and individual protection», «not to remove or modify without authorization safety, alarm or control devices», «not to make on their own initiative any operations or manoeuvres beyond their competence that can endanger the their own safety or safety of other workers», «to participate in training programs organized by the employer», «to undergo health checks provided by this Legislative Decree or otherwise arranged by the company doctor», «to undergo medical check ups contemplated in the present legislative Decree or imposed by a competent doctor».
From this set of duties one can suppose that the legislator recognized to the employer/client a real managerial authority in the field of health and safety (including information and training) with the consequent employees' conformation duty. If on one hand, it would result in a clear employer's/client's duty in the matter of health and safety, the circumstance which raises such

“internal” employees up to the same level of the dependent employees (with the consequent positive impact in terms of greater security and transparency of responsibility), one the other hand, in practice, there may be concerns over the execution methods, and in particular, over the autonomy of the employee, who, as noted above, will be required – only in relation to the issues of protection of health and safety, as in the Article 20 quoted above – to follow the employer’s/client’s directives.

So from the clear determination of rights and duties in the Legislative Decree No. 81/2008, it follows that the behaviour of the employee deviating from the employer’s/client’s directives in matter of health and safety (in addition to non-compliance of the requirements one can consider also a refusal to participate in training courses or to be subject to competent medical control) can result in beach of the contractual obligations and could justify the termination of the employment relationship by the employer/client for just cause. Moreover, in cases of violation of the duties specified above the quasi-subordinate, also on project, employees can bring to fines, under Article 59.

Undoubtly regarding health and safety measures: it will at the employer’s charge to ensure the respect of such health and safety measures for the employees when they perform their activity at the employer’s premises. The same logic should be applied with regard to information and training (therefore the employee will be entitled to information / training about the risks that might affect him directly while working at the employer’s/client’s premises).

Moreover, since Article 3, paragraph 7 provides for the general application of the provisions of the Decree, it seems to be not a minor issue the appointment of the health and safety representative. Logically, if employees working at the employers’/clients’ premises are applied the Legislative Decree No. 81/2008 (with all relative set of rights, obligations and duties), then the same employees (some doubts can arise with regard to mini co.co.co.) should participate in the passive and active electorate of health and safety representatives.

The Legislative Decree No. 81/2008 with reference to organizations up to 15 employees (Article 47, paragraph 3) states that the workers’ health and safety representative is usually elected directly by the workers within the enterprise, thereby not excluding from the passive and active electorate quasi-subordinate project workers (according to the adopted reasoning). On the contrary, in case of the establishments with more than 15 employees (Article 47, paragraph 4) only individuals “members of the enterprise union” may be elected thus limiting the passive area of dependent employment. It is true, however, that in the absence of such employee representative bodies the employee representative is elected directly among the workers. This issue is not at all trivial, especially in those particular instances, where the vast majority (if not all) employees are employed on project (as in case of the work in call centres).

The Legislative Decree No. 81/2008, then, takes into account the quasi-subordinate employees, including those on project, for the calculation of a number of workers required for the purposes of implementation of certain specific regulations. In particular, Article 4, paragraph 1, letter l, provides that, for purposes of determining the number of workers of whom the Legislative Decree No. 81/2008 laying down special obligations, the quasi-subordinate employees of whom Article 409, n. 3 of the Code of Civil Procedure, are not counted as well as the project workers under Articles 61 et seq. of the Legislative Decree No. 276/2003, as amended and supplemented, if their activity is not carried out exclusively for a single employer/client. This provision has a subjective field different from a one specified in Article 3, paragraph 7 of the Legislative Decree No. 81/2008, regarding employees who work for a single client (monocommittenza).

First, a doubt about the scope immediately arises: if the above reasoning which presumes included in the protection regime also those who are employed on mini co.co.co contracts is correct, is it possible that these individuals, working for a single client (monocommittenza) (albeit temporary), are included in the workers counting? Logically, the answer should be negative, but in such a case we will have two identical provisions with different interpretations over the scope of application.

If we look further unless we see a systematic defect in the Legislative Decree No. 81/2008, it appears that the provision should be analyzed jointly with that of Article 3, paragraph 7, stating that the provisions of the Legislative Decree No. 81/2008 «shall apply where work performance is carried out at the employers'/client's premises». It could be presumes that as for the counting of workers, there is actually a double determination standard due to the combination of two provisions. So only those workers should be counted who work for a single client (monocommittenza), but also at the employers'/client' premises.
However, the problems over application arise. On the one hand, there is the problem of how to assess the regime when employee is working for a single client (regime di monocommittenza). More specifically, the question is whether, to avoid the counting of the employees, it is sufficient to specify in the contract that the employee can also be engaged in the activities for other clients (or, better, the silence would suffice, since the basic discipline of the project work presumes the possibility for an employee to work for several clients (pluricommittenza), or whether it is necessary to verify in practice that the employee, even if being formally free to enter other contractual relationships, is in fact under the obligation to work for a single client not due to his inertia.
In other words, the problem concerns the formal or substantial evaluation of the case when employee is working for a single client (regime di monocommittenza). The solution which seems to be more suitable is the latter, which involves, however, at the application level greater uncertainty than the formalistic one (a first problem, already reported, concerns precisely the employee intertia). The solution, however partial, might consist in recognizing employees' duty to report about the performance of other activities. The communication can be carried out also in course of employment relationship for any changes relevant to the calculation. This would still remain uncertain when, instead, there should not be (i.e. over the calculation of workers to assess whether or not one falls under a certain discipline).
Second, it raises the further question over the employee (who works for a single client), which carries out work only partially at the employers' premises. The question is: if and when he shall count, how one can define the useful for calculation time frame and if for this purpose one should consider the prevalence of time of performance of working activity at the employers' premises respect to the outside activity. Finally, the Legislative Decree No. 81/2008 clarifies over the person in charge of the costs of health and safety matters, stating in Article 15, paragraph 2, that «the measures relating to safety, hygiene and health at work may in no case entail financial burden on workers».
In some agreements good practices have been developed. The first document to analyse is the one signed by Unci - National Union of Italian Cooperatives and by CLACSO CISL, on 4 June 2008. The agreement states, in Article 9, that «the parties agree on the need to strengthen measures to guarantee the safety of members with not subordinate employment relationship. The Parties undertake to develop in the seat of joint Bilateral bodies the initiatives and services aimed to support cooperatives in improving health and safety standards at the workplaces. Article 62 paragraph 1 and Article 66 paragraph 4 of Legislative Decree 276/03, state that when the work is performed at the employer's/client's premises the latter adopts health and safety measures and ensures the compliance with the provisions of art. 21 and 22 of the Legislative Decree 626/94 and subsequent amendments; with particular reference to the provisions of art. 21 paragraph 1 letter b) of this Decree he should inform the employee over the presence and powers of the employees' representative in matter of health and safety».
Another agreement was signed on 7 March 2007 (which is also not subject to change following the Legislative Decree No. 81/2008), by ALCST-Legacoop Lombardia e Clacs Cisl Lombardia and relates to the field of transport (in particular, it is the regional *Collective agreement for cooperatives operating in the haulage sector whose members operate on the autonomous basis*). In particular, Article 9 repeats word to word the requirements stipulated in the agreement signed by UNCI so that the problem of the workplace seems to be obvious. Finally, in the group agreement (Group Cos - territorial structures of Palermo with social partners SLC-CIGL, Fistel-CISL, UIL-Uilcom) of 13 January 2005 stated, respect to in Article 14 that, «without prejudice

to the full implementation of all local rules in force in matter of health, safety and hygiene (Legislative Decree 626/94 and subsequent amendments), accidents at work and occupational diseases, the COS Group has committed itself to ensure that all project workers who use video equipment, can benefit from the breaks and activity suspensions provided by the Legislative Decree No. 626/94, without prejudice to the full respect of the autonomous nature of their employment relationship without the obligation of subordination».
Regional Law of Valle d'Aosta of 21 July 2009, No. 21, entitled «measures to assist the families of victims of occupational accidents and the prevention of work related injuries» contemplated the una *tantum* contribution, in favour of the family members of the worker who died because of injuries at workplace. In particular, the legislation provides that the assistance is granted, regardless of the nature and type of employment held by the victim and that the grant will also be available for family members of self-employed workers (and therefore also to the project workers).
In addition, the legislation provides the opportunity for family members specified in the Law to benefit from an additional score or preference in hiring at the Regional Administration as well as allowances or contributions to study; this provision should be also applicable to self-employed persons (more problematic, at least from a formal point of view, is the possibility of extending this rule to the employees of joint venture partnerships- as logic suggests - as they operate not in base of the employment contract but in base of service contract.
It results to be very interesting also the adoption on 3 June 2009, by the Country Council (Giunta) of Emilia Romagna of an "Extraordinary Plan for safety training" specified in the Agreement under Article 11, paragraph 7, of Legislative Decree April 9, 2008, No. 81, of 20/11/2008 and public notification for actions aimed at its implementation. This plan is about training of workers and employers in relation to health and safety at work, and it presupposes a broad acceptance encompassing the promotion of psychological and physical wellbeing of workers, improving the quality of working life with general training measures legal (on legislation, on issues related to safety organization, the concepts of risk, injury, prevention and protection, rights and duties of workers, etc.) and specifies (particular risks associated with the sector to which the enterprise belongs and specific measures implemented to prevent such risks, as well as safety and hygiene procedures of the enterprise).

Domestic work

From its origin, the ratio of domestic work has been characterized with strong personalistic connotation which justified its deviation also in matter of health and safety, from the typical discipline of dependent work according to Art. 2094 of the Civil Code. In reality, the allocation of safety protective legislation inside the Civil Code gives reason for recognition, even by the doctrine, of the special nature of domestic work but also the undeniable prevalence of subordination, evaluated in the light of the classical criteria for qualification of the relationship, identified in the first case law on this theme. Without any doubt, the special character of domestic work had a significant implication for its exclusion from the collective regulation.
The choice seemed to be deprived of any reasonable justification, being quite acceptable the configuration of trade unions and collective bargaining regulation of that relationship. Only in 1969, with the judgement of April 9, No. 68, the Constitutional Court has intervened to solve the conflict of interpretation by asserting the illegality of the removal of domestic work from collective bargaining regulation, recognising its full role of a source of collective regulation between the parties. Coming back to the issue of health and safety protection, its original source of regulation is contained still today in the Law No. 339, 1958. In particular, the employer is under the obligation to ensure to his employees safe physical and moral environment.
Despite the intentions, both of the constitutional provisions and of those of the Civil Code towards a broad concept of work environment, with the undeniable purpose to extent protection also to the domestic work, a very different technical solution was opted out. It places this ambit

in a very limited context taking it as a synonym of the "premisesor room", limiting it to the cases in which domestic worker cohabits with his employer. This choice, undoubtly simplistic, has required the reformulation of a second precept with similar to the first contents, but referred to the generality of domestic workers, including those not cohabiting with the employer, where the employer is obliged to protect worker's health.
Appears to be shareable the affirmation in base of which it could be possible avoid the duplication of the provisions weather the protection of personality and moral freedom of the worker were included in the more comprehensive previous formula, requiring to ensure healthy and not detrimental environment without prejudice to the employers' obligations in relation to the inclusion of domestic minor in the regime of cohabiting.
Without doubt, one should upheld the importance of the doctrine according to which the mere fact of referring to the Constitution and relative legal provisions is not sufficient to solve the problem, nullifying the aforementioned choice and reducing it to a sort of slip of the pen. If one of the most incisive reform measures on the health and safety at work – i.e. the Legislative Decree No. 626/1994 - excluded the application of domestic work from the scope of protection, the reason must be considered associated with the choice made 50 years ago in the first application of Article 2239 of the Civil Code; a choice determined by the consideration that domestic work presents unique features such as to exclude the application of the rules for the dependent work. The rebalancing of the interests at stake implied the elimination of the duty of conformation to the current legal provisions, in favour for a very static safety obligation justified by the absence of the production apparatus, the logic lack of production processes to update, methodologies to modernize and the inherent danger of the activity performed in domus.
With respect to the case law on the protection of health and safety of housewives one must stress that with the judgement of 21 September 2007 No. 19493, the Supreme Court recognized the economic importance of domestic work, establishing the possibility of compensation for property damages both for housewives and for those who carries out activities at home; besides, it recognised the possibility of compensation for property damages to the relatives of the victim performing domestic activities.
Further, the Law No. 493 of 1999, in Article 6, put in evidence the importance of the domestic work in which social and economic value is recognized and protected by the State in relation to its undeniable benefits for the whole community. Also case law did not fail to point out the importance of domestic work, according to the constitutional provision that protects work in all its forms, considering for example, that domestic activities cannot bring to the reduction of the disability allowance. There are also numerous judgments on legitimacy in terms of assessing personal damage, in order to assess the configuration of the housewife or its close relatives damage, have emphasized the possibility to assess in economic terms housewife's service.
With respect to the protection of health and safety in light of the new single Act, domestic work is the area where, more than in any other area, concomitant interests of the employer and domestic worker (who may already enjoy pension treatment), infuse more frequent recourse to undeclared work, with its important implications for the workers welfare.
One of the most significant legislative measures in matter of undeclared work is the Legislative Decree No. 276/2003, which introduced in Italy occasional work (Article 70 of the Legislative Decree No. 276/2003) dedicating to it three respective articles.
Later, with the next article 22 of the Law No. 133 of 2008, the discipline of occasional work was substantially re-written determining that it could be applied in many fields of activity.
The compensation in case of occasional work may not exceed EURO 5,000 per calendar year, if the service is provided for the same employer. Besides, occasional work is encouraged in various ways. No income tax is payable and the worker continues to be classified as unemployed or not in employment. Furthermore, occasional employment relationships are not subject to the preliminary on-line communication to the employment centre, and are not recorded in the Unique labour register. This regime seems to be consistent with the fact that, since these are marginal jobs, in most cases performed in the family environment, it would not be appropriate to impose additional burdens on employers.

The employer must fulfil simple communication duties: in particular, he must register to the National Institute of Social Insurance (Inps) in order to benefit from carnets of vouchers to be given to domestic workers whose social protection is ensured, in part, by the nominal value of the voucher. The value of the voucher is 10 euro, which net, after the payment for social insurance and industrial injury insurance contributions (Inail and Inps) is 7.50 euro.
Regarding the specific issue of health and safety protection it must be noted that, by confirming the terms of the No. 626/1994, the new Legislative Decree No. 81/2008 excluded domestic work from the protection scope (see Article 2 of Legislative Decree No. 81/2008, where domestic worker is excluded from the definition of protected worker).
However, the next paragraph 8 of Article 3 of the Legislative Decree No. 81/2008 extended the scope of protection legislation to workers engaged in occasional labour relations, pursuant to Article 70 of the Legislative Decree No. 276, 2003.
The following categories are excluded from safety protection regime: «small extraordinary domestic works, workers who teach in a private manner, care domestic work to children, old people, sick or disabled». The rationale is to exclude from the scope of the new Legislative Decree all activities, characterized by family character which do not fit into the traditional scheme of the dependent work. Regarding safety protection, it can be therefore affirmed, that domestic workers are excluded from the scope of protection defined in the Single Act. It seems that domestic workers engaged in the work of a non-exceptional, but ordinary nature, are protected. However, interpreted in such a way, the norm is not coordinated with the provision of Article 2 of the Decree, excluding from the definition of the protected worker the domestic ones.
If, in fact, a safety protection should be accorded to domestic workers employed under occasional employment contract, also the protective provisions of Article 2 of the legislative Decree No. 81/2008 should be applied to these workers. A clarification by the legislator should be appropriate. Considering this, the protection of domestic workers is still assigned to the Article 6 of Law 339 of 1958 stating that, since not expressly abrogated by the Legislative Decree No. 81/2008, it must be regarded fully applicable.

Activity of care workers and domestic helpers

Besides all that has already been noted on the legal framework of domestic work, great importance must be recognized to the collective regulation, in particular contained in the national collective agreement of 13 February 2007. This collective agreement is an important normative reference containing the overall regulatory protective framework with regard to working time, holidays, rest and protection in case of sickness and work related accidents, protection of working mothers and necessary characteristics of the work environment .
In connection with the special nature of domestic work the fact that the employer has no obligation to assess the risks present in the workplace can be explained. However there are numerous environmental hazards relating to domestic work: the risk of falls, which is the most important risk that can occur at home, followed by fire risk from fire, electrical hazard, chemical and food safety risks.
Then there is the need for protection of care workers and domestic care helpers. Domestic helper, in most cases, carries out simultaneously both activities for home, rooms cleaning, meals preparation, laundry, and care activities, hygiene, companionship, supervision, and activities which ensure the maintenance of relationships with the “outside”. This mix is typical for the role: the activities for home care and for personal care are parallel and intertwine with each other. This fact makes it necessary to compare with the figure of the so-called “care domestic worker”. If domestic helper has as a prime objective the household and care work as a minor activity, in case of the “care worker” the priorities are reversed: the person is recruited specifically to assist to not self-sufficient person or persons.

For a long time there has been no legal definition of the figure of the so called “care worker”. Such figure was only referred in the National Category Contract of domestic work. A first true legal definition of the care worker was introduced by the 2005 Financial Law (legge finanziaria), or with the Law No. 311 of 2004 which mentions them as «employees for personal assistance in cases of non-self-sufficiency in carrying out acts of everyday life in order to identify the employees, not necessarily foreigners, allowing thus tax deductions».
As for as it concerns the definition of “assisted non – self-sufficient”, further clarification was provided by the Circular No. 2 of 2005 of the Revenue Agency. It specifies that “ not self-sufficient are considered those unable in carrying out acts of everyday life, for example, to feed, to carry out physiological functions and take care of personal hygiene, walk around and wear clothing. Furthermore, it must also be considered a non – self-sufficient person who needs continuous surveillance. As for the distribution of care workers over the national territory, the data collected in 2007 were confirmed in 2008; in particular, in late 2008, more than half million active working relationships were registered at the National Institute of Social Insurance (Inps) and 600,000 registered domestic employees, mostly foreign women.
But the estimates that include irregular “domestic helpers” and “care workers” arrive to estimate twice of these figures. The final flux decree provided for the entrance in 2008 of about 100,000 (105,400) domestic care worker, in addition to the earlier Decree which had registered 420,366 claims for the performance of domestic and care work of the total 740,813 applications submitted. From regularly registered 600,000 domestic workers, the majority come from foreign countries, only 22.3% of the total, less than a quarter, is of Italian nationality. Women represent 87% among foreign workers and 96%- among Italians. With regard to the nationality of the family care workers, to name the most numerous ethnic and national communities- 20% are from Romania, 12.7%- from Ukraine, about 9%- from the Philippines and 6% - from Moldova followed then by Peru, Ecuador, Poland and Sri Lanka, with rates ranging from 3.6 to 2.8% and many other countries with minor presence, European, Asian, African and South American.
The distribution of injuries closely mirror the distribution of the working population: 90% of injuries concern women (mostly aged between 35 and 64 years) and 62% people of foreign origin (Ukraine, Romania, Ecuador, Philippines and Poland). Accidents in the area are almost doubled, rising from 1590 cases in 2002 to 2767 cases in 2006. Then there are, specific risks related to home care of the elderly, sick and disabled. This analysis does not consider the employees of social cooperative, temporary work agencies, public health care facilities required to provide their activities at private residence of the assisted people, as they are fully included in protective legislation in matter of health and safety.
In particular, elderly care work could be characterized by a particularly heavy working time. It is important that the client ensure to the worker rest periods under the national collective agreement applicable to the domestic work, as well as a working time organization. Life of care workers is not easy. This difficulty is due to a specific condition of double isolation: that of a weak old man, in need of care and understanding, and that of a worker (mainly foreign women) involved in a relationship of total nature.
In most cases, care worker is employed to work only for a single employer (mono commitenza); and the total character of the employment relationship is determined by the fact of cohabitation which often takes place. This situation is then more problematic because of the fact that the care workers’ own children often remain, in the countries of origin with another spouse. So often it is a case of single women away from their country of origin and their family. Most of the time, partly because of language difficulties care worker find it difficult to plug in and integrate into the host society. So the only possible relationships are often connected with the family of the assisted person and domestic worker compatriots.
Care workers are often at risk of burn out. This is especially due to a change of attitude towards people, often innocent, who suffer an imbalance between resources available and personal requests received, with feelings of anxiety, tension and irritability, which may lead the worker to adopt a stereotypical working model, characterized by rigid and standardized procedures. The

choice of this model, which helps to reduce or abandon the risk of involvement and identification, does not seem to be the solution of the state of uneasiness, as it does not concern the causes that determine this state. The total involvement of the care worker in the life of the assisted person puts these workers at high risk, because of the impossibility to be detached from working reality and the remoteness of their own family and friends.
Care workers are often people without a special study degree working without any knowledge about the risks they face every day. Also the fact that most of the care workers come from abroad should not be underestimated. So to the already mentioned difficulties also those related to language and different risk perception should be added. Until the legislator obliges the employer to provide information and training in matter of health and safety to domestic workers, it seems appropriate to organize training courses for such workers at territorial level. Such training should be focused and should involve local authorities (city council, Province), the ASL (local medical centre), the Associations. One might think of a genuine requirement of attendance for domestic care workers providing an appropriate register. So people can establish relationships and exchanges that can last even after the termination of the course.

The case of personal services

Another area to consider is that of health and social services in which, according to the latest figures of the National Institute for Insurance against Industrial Injuries (Inail) 35,302 accidents were reported in 2006, equivalent to 3.8% of the total. This sector is characterized by an increase of 0.6% over the previous year, recording a contrast with the general trend (-1.3% the workers of all sectors). Compared to 1999 accidents in the health sector actually increased by 50.7%. Also fatal accidents increased up to 27 in 2006, which is almost double compared to those that occurred in the last two years (17 in 2004 and 14 - in 2005). The relative frequency of accidents in the health sector is above the average respect to service secor, with 25.7 cases per one thousand employees against 22.12. Compared to the average, however, the sector recorded the lowest levels since the most risky areas are concentrated in industry. The highest number of accidents is reported by the nurses (35.2% of total injuries), followed by the sanitary staff (24.0%), hospital orderly (10.8%), and health care assistants (22 , 1%). As for women, health sector presents as very high risk: about 35,302 accidents in total, 25,713 are reported by women (73%), partly as a result of their high quota of employment in this sector.
Sanitary work is often characterized by the organization of exhausting shifts, which are linked with multiple situations of risk for workers. The effects of these uncomfortable conditions can be multiple: in particular cardio-vascular, gastro intestinal problems, stress and anxiety and pathologies of female reproductive function. In that regard it was noted that a pattern of short-shift system or a rotation scheme that follows the rotation of the sun implies fewer risks to health and safety of workers.
To minimize the risk of burn out, more training for workers is needed; besides the training, work organization must prevent the birth of those environmental factors favouring burn out.
Also the importance of work redistribution to avoid work overload and stress should not be underestimated. With regard to domestic helpers and care workers, the provisions on health and safety contained in the applicable to them national collective agreement, are particularly important. Despite these provisions, the information on risks related to the performance of this work seems not to be sufficient. It would therefore seem necessary to organize training courses for such workers, who often assist people without any degree or knowledge of the risks to which they are daily exposed.

Protection of employees safety in case of irregular and non declared work

The data provided by the ILO during the World Day on the health and safety at work (28 April 2008) seem to be relevant. First of all, there is strong difficulty of measuring and monitoring

data, especially in case of developing countries; these problems were overcome in Europe due to such mechanisms as the Eurostat survey.
At Community level, the fight against undeclared work is closely related to the policies aimed at improving the working conditions under which a strong weight should be attributed to the health and safety in workplaces. A work environment with the majour presence of undocumented workers is more likely to be non-compliant with the safe working practices. For these reasons, the decrease of the use of illegal workers will inevitably lead to a drastic reduction of accidents. The issue is very topical considering that undeclared work in Europe is defined as a growing phenomenon for essentially two reasons: firstly, because it allows to cope with the demand for cheap labour, another - because it guarantees economic benefits to employers in terms of reduction of labour costs.
On several occasions the European Commission has expressed a willingness to reduce the magnitude of the problem through joint action providing for administrative reform, simplifying the tax system and identification of a system of benefits for the legalization of employment relations. In this perspective, certainly a big step forward was made with the communication of 24 October 2007 *Stepping up the fight against undeclared work*, with expresses willingness to break the phenomenon of undeclared work.
To achieve such an ambitious goal one should require also single Member States for a detailed action plan. To tackle the phenomenon of undeclared work within the ambit of the *European Employment Strategy*, a progress has been achieved through the implementation of *National Action Plans* (NAPs). One must also take into account the fact that the number of accidents contained in the official statistics do not respect real data.
Many immigrants perform exhausting jobs in areas where it is very difficult to find indigenous workforce and where there are more critical environmental conditions.
Further complications related to the risks of accidents regard the very status of immigrant worker which determines, in particular during the phase of integration, difficulties of linguistic communication, learning, integration in the unknown production and cultural context. Each of these factors increases the risk of accidents. In addition to the specific work context, also personal conditions of daily life can influence accidents, mainly in the period immediately upon the arrival in the host country, when the state of unease and disorientation is the highest. Accordingly, it is particularly difficult to give reliable estimates on the extent of injury statistics, not being able to have accurate figures. Closely related to illegal and irregular work are the conventions aimed to promote decent work.
A confirmation of the issue during the *World Day for Safety* celebrated on April 28, 2009, the ILO once again reiterated the importance of recognition of the global right to health and safety at work through international campaign aimed at promoting decent work as a fundamental human right. Since the adoption of these regulatory instruments there is a need to create greater international awareness on health and safety at work by promoting actions that ensure the dignity of human life in work according to the principle that work has to grant life, not remove it.
One of the more recent challenges for the ILO is the extension of protection of health and safety to the case of so-called informal work through information campaigns aimed at raising awareness on health and safety and refocusing of the role of inspection services. These actions, started for example in the Philippines, are producing good results. Also in Asia, good results were achieved in Cambodia through the promotion of four courses Tot (Training Of Trainers) part of the program within the Occupational Safety and Health Master Plan (2008-2012) of Cambodia, aimed at promoting nationwide training of workers in matter of preventive protection. In this way, through a structured training system of trainers it is possible to cover the entire national territory and provide the largest number of workers with basic training on the risks associated with working conditions. In light of this new approach to security, it is estimated that from April 2008 some 3,000 workers have been affected by this program; the results, in terms of lower incidence of workplace accidents, may be found in coming years.

Then there are the issues affecting young workers, first of all the children who often have to start working hard because of scarce economic conditions of their families of origin. Many of the risks that young workers face at the workplace are related to the low level of their experience. So further training to the task they are called to perform is needed.
To this end, significant results could be obtained if the employer provides skilled in a given kind of job experts working alongside young people.
Also not negligible is the role of the schools should in training in order youth enter working life with a mentality already prepared to tackle the problems of health and safety at work. Another category of vulnerable workers is undoubtedly represented by migrant workers who are too often victims of discrimination in the workplace. One of the most frequent forms of discrimination of such workers is allocation of tasks, often very tiring and disqualifying for which protection is often inadequate or absent. Given the importance of the problem, the ILO in 2004 developed an Action Plan for migrant workers. The latter is a novelty because it puts at the disposal of all countries a consolidated guide and a set of tools aiming to develop and improve programs and policies on immigration.
Among the relevant novelties introduced one should mention a preparedness of the ILO to provide technical assistance to the countries requesting it, by promoting activities that ensure the health and safety at work for migrant workers.
Through its intense activity, the ILO points out three major reasons why migrant workers must be the focus of international and national policies in matter of health and safety: high concentration of migrant workers in the areas of greatest risk of accidents, the existence of cultural and language barriers to overcome which require specific instruments which differ from traditional methods of prevention and accident prevention training, their different working conditions.
From the point of view of the international protection of workers, one welcomes the adoption by the ILO the Recommendation No. 198 of 2006 on the employment relationship, accompanied by a resolution on the same subject, with which it is agreed that the states in building up national policy, must take measures to protect migrant workers who may suffer prejudices or damages because of the uncertain classification of employment relationship seeking to prevent the phenomena of non application of the workers' rights. From this point of view, even considering praiseworthy the work put in place by the ILO at the international level, it is required from single countries a greater action to prevent abusive and fraudulent practices intended to evade the application of rules protection of employment and occupational safety. It would be a good idea, for example, that the States concerned by the migration phenomenon conclude bilateral agreements to manage the flow of workers and identify forms of prevention to be implemented directly in the country of origin.

Protection of women workers

Approach chosen by the ILO, in the matter of women's health coincides with the protection of her distinctive biological status of mother and puerpera. Indeed, the Convention establishes among the individuals protected not only women workers but also children. In particular, in 2000 ILO intervened with a convention on protection of motherhood which modifies and revises the previous Convention of 1952. The ILO extends the right to maternity protection, protected and respected, to the increasing number of women workers. In fact, the scope of the new Convention will extend to women, defined as any female person without discrimination, and the child; in addition, protection applies to all women employees, including women in atypical employment.
However, as previously planned, each Member State may exclude from its scope certain limited categories of workers when its application to these categories would raise special problems of particular importance.

Of central importance is the introduction of a recommendation addressed to all Member States about the health of breast-feeding women; in particular, it is necessary to adopt measures to ensure that pregnant women are not forced to perform specified tasks defined by the competent authorities as detrimental to their health or the health of their children or assessed as involving a significant risk to the health of the mother or the baby. The duration of maternity leave was raised from twelve to fourteen weeks; also the right to additional leave, before or after the period of maternity leave, in case of illness or complications resulting from pregnancy or childbirth. Cash benefits, medical care, breaks for breastfeeding are ensured then to all working mothers.

The convention of 2000 improved temporal aspects and effectiveness of the prohibition of dismissal; in particular, the employer cannot dismiss a woman during pregnancy, periods of leave (maternity, illness or complications), or during a period following her return from leave, calculated in accordance with national law; the burden of proof in case of dismissal of a worker on maternity leave is on the employer's charge. So it is the inversion of the burden of proof from the employee to employer.

With regard to maternity leave, there is a maximum freedom of choice for women, i.e. they can choose when they wish to benefit from the non-compulsory portion of her maternity leave, before or after childbirth. As regards, however, the funding of benefits, any contribution due under compulsory social insurance providing maternity benefits and any tax computed on the basis of salaries and perceived to provide such benefits must be paid in base of the total number of paid workers, without distinction of sex.

For the purpose of determining the rights of the women workers, the period of leave is calculated as a period of service. Another element of great novelty is the possibility to benefit of maternity and parental leave by the father of the child; in the first case, the father may benefit from it in case of death of the mother before the expiry of maternity leave or illness or hospitalization after the childbirth. As for parental leave, the Recommendation states that woman dependent worker or the child's father, if dependent worker, must be granted leave during the period following the expiration of maternity leave. Finally, we recognize equal rights and equal protection to the adoptive parents.

At national level, Chapter II of the Legislative Decree No. 151 of 2001 deals specifically with the protection of the health of pregnant women or puerpera. That provision should be read in conjunction with Article 28, paragraph 1, of the Legislative Decree No. 81/2008 under which the risk assessment should cover all risks to safety and health of workers, including those for groups of workers exposed at particular risks, including those relating to pregnant workers according to the provisions of the Legislative Decree 26 March 2001 No. 151, as well as to those related to gender differences. Thus, the legislator provides for special protection for women workers in all phases of her life, and not limited to the period of pregnancy and puerperium.

Despite these undeniable progresses of regulation still uncertain is the culture of health and safety in relation to gender differences; there is a need to develop greater awareness of the differences between men and women, protecting reproductive health and their role within the family. Women workers must be especially protected because of their role of mothers and holders of obligations related to home and family care.

It is not sufficient to ensure specific attention to the women workers during pregnancy, childbirth and lactation: it is necessary to ensure to the woman a job respecting her role as a mother. In this sense, it is necessary to develop a "culture of equal opportunities"; this approach can be built on several factors including: the absence of discrimination in career development, equal pay, enterprise or territorial childcare services, flexible working, part-time required for working mothers requiring it up to three years of age of the child. Only through the development of that culture, together with the safeguards provided by law No. 151, 2001, one can ensure effective and complete protection of women worker and mother.

Protection of health and safety at work and decent work in textile, Protection of health and safety at work and decent work in textile, clothing and footwear sectors, commerce, tourism and agriculture.

The textile industry, clothing and footwear is considered one of the most productive sectors in the globalized world, characterized by the use of manpower often composed of young women, underpaid and deprived of any protection of accident prevention. Under these conditions, many people realise that more should be done by the international community to identify the districts where people use this type of labour. Only an effective repressive action would identify the employers, in many cases coinciding with well-established corporate structures in the territory, who exploit labour force for the production of items later placed in the international market of counterfeit goods.
Considering the awareness that in some parts of the world, the economy of entire areas is based on illegal production of textiles and footwear, the question is of how to ensure a system of protection to workers. It is not easy to solve a problem that requires a major commitment both in terms of identifying programs that allow transposition of illicit production within licit production systems, both in terms of implementation of security measures against workers who have never had any kind of protection in this area.
Another element that distinguishes the workers in the textile and footwear sector is the low level of education and the low perception of the dangerous character of the services performed. It is more obvious in case of immigrant workers. In view of these facts, taking account of the specific risks faced by workers in this sector, it suggests the need for prior plan for accident prevention training activity that takes into account these needs.
Exposure to risks such as vibration, noise, high temperatures, inhalation of fumes and vapours, contact with chemicals, should be the subject of a detailed specific training plan which takes account the categories of workers to whom it is addressed: women, immigrant workers or workers with low education level. Tourism sector is also characterized by the use of very young work force and the phenomenon of so-called seasonal peaks.
Tourism sector is characterised by the presence of small and medium enterprises, often family ones. There are many ways in which they try to better protect this category of vulnerable workers: either by means inspection, or collective bargaining or by providing specific training and information. Pregnant is also the need to protect health and safety of workers in agriculture.
Today there is a lack of effective tools to protect these workers.
In 2002 an interesting experiment at the European level was carried put which introduced a "passport of professionalism" (Skills Passport) in which seasonal migrant workers indicate their qualifications. The aim is to show the skills of each worker in his passage from one country to another facilitating thus the work of the employment centres. Obviously, this kind of practice is not applicable for undocumented workers. Relating this experience to the safety of workers, in some ways the creation of a "license" on job security could be an innovative proposal to ensure basic safety knowledge.

Good practices, collective bargaining and bilateral nature in some sectors: textile, footwear, agriculture, commerce and tourism

A study on health and safety of workers in these sectors reveals that the preparation and training of these workers is very low. Moreover, these workers are more frequently exposed to the risks of noise, vibration and alternation of high and low temperatures. In most of the studies conducted in the textile industry, great attention is paid to the chemicals used in manufacturing processes, as potential risk factors of cancer. In production cycles such substances as benzidine and chrome, assessed by all international organizations as sure human carcinogens, are present.

Other substances (or groups of them) are assessed as probable carcinogens: benzidine-based dyes, 4-chloro-o-toluidine, diethyl sulfate, formaldehyde, ercloroetilene, o-toluidine, trichlorethylene, tris (2,3-dibromopropyl) phosphate . And some are suspected carcinogens.
Workers in the tourism sector, then run several risks, including the fact of working in hot or cold work environments, especially at high temperatures combined with air currents and open doors open; cuts and burns, trips, slips and falls caused by wet and slippery floors and, obstacles and falls from hight; hazardous substances.
The most important psychosocial risk factors are: long working hours and overtime: the sector is characterized by long shifts and irregular or unusual working hours, a large part of the work is done when other people are not at work; difficulty to maintain work-life balance, due to the unpredictability of working hours, long days and lack of control over work, heavy loads and work patterns: about 75% of workers complain the high work pace, 66% must work with tight deadlines, while 48% say they do not have enough time to complete their work, low control at work: monotonous work that leaves no room for creativity and requires little initiative is widely spread.
For the purpose of injuries prevention in the tourism sector a Bilateral National Institute of Tourism was established. It is in charge of implementing each initiative, monitoring and detecting professional needs in terms of vocational training, including those in relation to national and EU laws in cooperation with the Regions and other competent bodies aimed at creating the conditions necessary for their practical implementation at local level; monitoring the implementation of training activities and development of the systems of recognition of skills for workers in the sector; developing and / or coordinating training schemes for specific professions, to the best use of training and employment contracts; performing the duties delegated by collective bargaining in matter of health and safety of workers at the workplace.
Management bodies of the Joint Bilateral national institute will be formed on the equal basis between trade unions and employers associations. In this context very important is effective human resource management that allows companies to have some important implications on the efficiency of staff. Even in the agricultural sector collective bargaining plays a significant role.
In particular, the national collective labour agreement (CCNL) of the farm workers and nursery gardeners provides that contracts at provincial level identify heavy or harmful jobs, any limitations of working time in case of the harmful activities and wage increases for workers in the period they perform heavy works.
Moreover, in order to safeguard the health of workers employed in jobs presenting “factors of harm” in the nursery gardens workforce, companies will limit the daily service to 4 hours and give to the workers 2 hours and 20 minutes of paid break.
The remaining period to complete the normal daily hours will be used in other normal work of the enterprise; in case of agricultural workers, provincial contracts of employment shall establish a reduction of working time – in base of equal pay and qualification - to 2 hours and 20 minutes daily without prejudice to the more favourable conditions. Even within the agricultural sector then, the Court confirmed the interpretation of Article 2087 of the Civil Code in sense of a net protection of the worker’s needs admitting that the conduct of the employee can exclude the employer’s liability only if it is absolutely abnormal.
Also in the national collective agreement for workers in the commerce sector the parties gave importance to the rules protecting worker’s safety. Social partners pointed out that the legislation to protect health and safety applies to all workers, regardless of the type of contract between employee and employer. Finally, in the national collective agreement is also expected that companies that apply flexible forms of employment under the Law 30/03, identify the means to protect and apply health and safety legislation.

The evolution perspectives: the certification of the organisation and management models and contractual standards

The attempt to better adapt the regulatory framework applicable to the evolution of organizational models of enterprise is one of the characteristic features of the Legislative Decree No. 81/2008, as supplemented and amended by the Legislative Decree No. 106/2009.
The new set of norms expresses a more modern approach to health and safety at work and lays the foundations for a new cultural model for risk management in which the prescribed part of the norm should be accompanied by the business/organization element essential for the major effectiveness of protection. This explains some key provisions functional to the development of best management practices for workers safety.
First, Article 28 of the Legislative Decree No. 81/2008 is referred to. It provides that in the assessment of special risks also the specific contractual types should be considered.
Art. 30, then, then provides explicit guidance on the requirements that must have organization and management models for the purposes referred to in the Legislative Decree No. 231/2001. The requirements are mandatory, but not exhaustive.
The prescription is that the organizational model should be effective for the prevention of homicides and negligent injuries that may occur because of the breach of accident prevention measures. The model should not be a mere theoretical construct, but a real operational tool subject to verification and monitoring to ensure effective prevention of injuries.
The company must therefore be in possession of an organization allowing to control all critical to safety aspects and be able to prevent possible accidents/crimes. This implies the presence of different critical issues. To have a proper organization, the company must establish and inform, in the first place, who and what does in matter of safety and with what means. Tasks and responsibilities of all members of the organization must be defined because every member of the organization has the real possibility of committing acts or omissions that may endanger himself or other workers. Inevitably, the duties and responsibilities that fall on the part of workers will, in large part, those under Article 20 of Legislative Decree No. 81/2008, however, climbing the hierarchical ladder, the tasks and responsibilities will be "cut" on to be suitable for the enterprise technological and organizational reality.
This mapping of tasks and responsibilities is essential to be able to give evidence of the prevention work was carried out by company and is a direct expression of the transverse view of security, such as problems involving all the actors operating within a particular organizational system. From a mere operational point, paragraph 1 of Article 30 has also provided a series of "key processes" that must be kept under control. The model should be in fact not only "adopted" but also «implemented effectively, ensuring a corporate system for the fulfilment of all respective legal obligations, for example: a) compliance with the legal technical standards relating to the equipment, facilities, workplaces, chemical, physical and biological agents b) the activity of risk assessment and preparatory measures for the further prevention and protection d) the activity of health surveillance, f) monitoring activities with respect to compliance procedures and safety work instructions by workers g) the acquisition of documentation and certification required by law».
For each of these processes a mapping must be carried out to establish rules allowing to enact the process without errors or omissions. The list is not necessarily exhaustive, but it represents a starting point for designing and adapting the model to the different production realities. Paragraph 2 of Article 30 requires that, for activities the objective evidence to be provided and provides that the organizational and business models referred to in paragraph 1 has to predetermine suitable recording system for the carried out activities referred to in paragraph 1.
The subsequent paragraph 4 states that «the organizational model should also provide an adequate system of control over the implementation of the same model and the maintenance over time of the eligibility conditions of the measures taken. The review and possible modification of the organizational model must be adopted when significant violations of the rules relating to accident prevention and hygiene at work are found, or in course of

organizational changes or changes in the activity relating the to scientific and technological progress».
The provision clearly highlights the renewed perspective of the legislator, according to which the security at the workplace should be measured not only in base of a mere compliance with formal requirements of organizational models, but basing on the actual capacity of these models to manage the risk and to take into account concrete dynamics present in a single company.
In a renewed approach to security, based on the interpenetration between regulatory instruments and organizational forms, the Article 27 of the Legislative Decree No. 81/2008 is inscribed thereof, as last amended by the Legislative Decree No. 106/2009 that launched the introduction in our system of an innovative and modern rationale for the selection of qualified entities to operate in a particular market, based on substantial assessments, related to skills and compliance with certain organizational and contractual standards, access to a certain market; under it the contractual and organizational standards of certification is a key element for the development of virtuous and modern company.
Article 30, paragraph 5, provides, then, that at first application, the models of business organization established accordance to the UNI-INAIL guidelines for a system of health and safety at work (SHSM) management of 28 September 2001 or to the British Standard OHSAS 18001:2007 are presumed to be conform to the requirements of this article for the corresponding parts.
These provisions therefore seem to pave the way for a major development of the instrument of voluntary certification of management systems for health and safety at work of business practice.

A model of quality certification

In an organization of work subject to sudden changes and increase of atypical work an important role, even within the same Legislative Decree No. 276/2003 and then in the Italian case, is played by the Commissions of Certification whose task, as is clear from the wording regulatory, consist in deflation of the use of litigation in labour law matters, giving an important effect related to the judgment issued by the same Commissions of Certification. On the other hand, in the field of health and safety at work, the Art. 30 of the Legislative Decree No. 81/2008 provides for the creation of their organizational models and management suitable for an effective defense of administrative responsibility, depending on the adoption of regulatory and technical standards. This could lead to the implementation of the certification of quality in the field of OSH management, where remains firm that in this matter a preponderant role should be assigned to risk assessment, specific training for workers and to identify means of collective and individual protection for use by workers, especially those atypical. In collective bargaining there is a large referral to the bilateral institutions which task consist in promoting health and safety at the workplace. A better promotion of the health and safety protection certainly should pass from the mechanisms of soft law, starting with good techniques for monitoring of the phenomenon of work related accidents, which appears to be essential element. Another important mechanism of protection is that of certification, very similar to the path of quality certification. The principles identified by ISO certification for quality are as follows: customer orientation, that means exceed their expectations, leadership, staff policies. This is a tool for validation from outside of the quality of policies and product produced by a company. It is therefore important the recognition that given inside the Legislative Decree No. 81/2008, through art. 30, while a concrete example of quality certification is one of the OHSAS 18000, as a mechanism of certification processes, especially to the health and therefore the complete welfare of all workers. Now, we should also see beyond the already positive result achieved by the Legislative Decree No. 81/2008, namely to get the certification of labour relations, and in this way the companies can take the double advantage of these procedures, that means the correct implementation of organizational and managerial models and credibility with shareholders. This

evolutionary perspective of the managerial model of labour relations, in which it applies a management process that has the characteristics of transparency, of the absence of negative externalities for the worker. Therefore it could be hypothesized - to use an image dear to those who, like Marco Biagi, envisaged the establishment of a "Statute of the work" - a certification concentric circles, which, starting from the analysis of compliance with the rules of law and the collective agreement applies (minimum standard of legal and formal coherence), extending and arrivals to measure, for successive circles and therefore beyond mere legal requirements, the compliance with certain standards of quality and optimal management of staff along the lines of certification of excellence and good practice, evidently still to be defined. Or, on the contrary, one could imagine the reverse path, enabling the achievement of excellence only to companies that perhaps matches the certification of a limited number of reports, then have embarked on a path of change in the management of human capital through the implementation of measures distinctly labour friendly. Obtaining the certification should be placed in close correlation with a trend increase in business productivity. This, as the proper management of human resources and employment relations in general involves better management, and consequently raises the quality yield to the client or end user. Before undergo to the certificated procedure, and later the obtaining of the validation, should also have positive reflections on the management of corporate reputation, which, especially (but not only, of course), for companies suffering from a bad reputation on the management of labour relations or have lived moments of crisis management specialist. They may in fact follow the path offered by the new product to make the necessary changes to your system, so as to rehabilitate the company image. From last (but certainly not in order of importance), certification should serve as a "guarantee" towards third parties.