

Domestic Workers in Switzerland Protected by the Country's First Sectoral Employment Contract

by Vania Alleva and Mauro Moretto

In Switzerland as elsewhere, the State has been retreating on social policy in recent years. This is leading to a decline in social service provision and, consequently, to an increase in demand for domestically based services. Nobody knows exactly how many waged employees are currently at work in Swiss private households (as many are unreported), but statistical estimates suggest that their numbers are continually increasing. At the end of 2007, the Unia trade union, on the basis of various studies¹, put the number of full-time jobs in the sector at about 125,000 (approx. 4 per cent of the total workforce). More than 90 per cent of these employees are women. Many are migrants, often without any legal residency status. They come from a whole range of countries where they had often previously gained academic qualifications and worked in other occupations. Recently, increasing numbers of women from the new EU member states have been finding jobs in Swiss private households.

Fighting low wages and poor working conditions

Despite the legal risks, and other incentives to stay hidden, more and more private household workers are venturing out to see Unia. They report appalling working conditions: extremely low wages, combined with hefty deductions for board and lodging, often no social security or pension coverage, massive daily workloads, pay stoppages if they fall ill or if the employer goes on vacation, uncompensated work on public holidays, obviously no overtime arrangements, and so on. No wonder that all the available studies pinpoint this sector as the one with the highest proportion of precarious employment relationships and working poor.

For more than ten years now Unia has, together with other unions in the Swiss Federation of Trade Unions (SGB/USS), been fighting against the social scandal of the working poor and for substantial pay rises in low-wage sectors. At the turn of the 21st century, it chalked up some important successes in sectors such as hospitality and retailing. However, as Switzerland still does not have a general legal minimum wage, this struggle runs up against certain limits – especially where there is no organized negotiating partner on the employer side with whom to agree on binding minimum wages. As that applies particularly to domestic workers, Unia and the SGB/USS called on the Swiss government, at the end of 2007, to make use of the legal possibilities that were created as part of the accompanying measures for the free movement of persons between Switzerland and the European Union, and to decree for this category of workers the first-ever Switzerland-wide “standard work contract” (*Normalarbeitsvertrag* or NAV)

with binding minimum wages and working conditions. An NAV is not a collective agreement, but a sector-specific legal minimum wage for sectors in which there are no collectively agreed provisions.

At the same time, Unia drew public attention to the highly precarious working conditions experienced by domestic employees. The government finally took up the union concerns and asked an experts group to work out the parameters for an NAV with binding minimum wages. Taking part in that group were representatives of the cantonal and national authorities, employer organizations, and organizations in related sectors (cleaning and hospitality), as well as the authors of the present article, who were representing the unions. The experts group reported back in mid-2009 with a proposed NAV that took account of multiple elements and requirements. The main focus was on the setting of minimum wages that would reflect the wide-ranging and physically demanding tasks involved in private domestic work. Concretely, the experts' group defined three wage categories on the basis of experience and training: 1. untrained employees, 2. experienced employees and 3. employees with vocational training or long experience. For the domestic employees' protection and security, other elements going beyond the legal requirements are vital. Among them are working time arrangements (including overtime), holidays and leave, and the continued payment of wages in case of illness. Although the Unia representatives pressed for these elements to be included in the proposed NAV, they were left out – both because they are covered by existing cantonal NAVs and because the legislation underpinning national NAVs does not provide for them.

A first step in the right direction

On its way through the political and administrative procedures, the draft NAV had to overcome some resistance and many hurdles. Some cuts also had to be accepted, notably to the effective minimum wage levels, before the national government decreed the first NAV for domestic employees, with binding minimum wages and the force of law, in October 2010 (see the full text of the law at <http://www.admin.ch/ch/d/as/2010/5053.pdf>²). To date, this is the only national-level NAV, so its significance goes beyond the sector for which it was adopted.

The NAV came into force on 1 January 2011, and it is an important step in the right direction. The compulsory minimum wages are:

- CHF 18.20 per hour for untrained workers
- CHF 20.00 per hour for untrained workers with 4 years of professional experience or for workers with two years' training
- CHF 22.00 per hour for workers with three years' training.

That is less than the experts group proposed, but it is nonetheless a significant improvement on the current situation and it sends out an important signal to domestic workers employed in Switzerland. The minimum wage for untrained domestic employees corresponds to about 55 per cent of the average gross wage. The mandate given to the group had specified that the minimum wages set for domestic employees were under no circumstances to exceed the minimum wages negotiated by the social partners for the related cleaning and hospitality sectors. But by pointing to the many different tasks performed by domestic workers, who for example often help to care for children and elderly people, the experts were able to justify a partial waiver of this requirement. For these minimum hourly wages to apply, a domestic employee must work on average at least 5 hours a week for the same employer. The main reason for this is that home helps who clean several households on a purely hourly basis in fact earn considerably more (as a rule, CHF 25.00 or more) and are therefore scarcely affected by wage dumping.

The Swiss delegation will now be in a good position, at the International Labour Conference in June 2011, to push hard for the adoption of the new Convention that will enshrine fair employment conditions for domestic workers worldwide.

Implementation: an uphill task

Now for the difficult, challenging part - implementation. Ever since 1 July 2004, the canton of Geneva has had its own domestic workers' NAV with minimum wages – a precursor to the national NAV. So far, experiences with it have been very positive. Admittedly, it is difficult to monitor whether the NAV is being correctly applied, as we often do not know in which households domestic employees are working. But word has increasingly got around among these workers that the NAV gives them certain rights. And when necessary, they do go to the labour courts to get those rights upheld. The highest-profile case was won by Unia Geneva, which secured back payments of CHF 70,000 for a married couple who were both working as domestic employees. The NAV does provide protection, and it enables employees to defend their rights more effectively. The experience in Geneva shows that employers want to avoid the courts and will often, in case of dispute, pay up the minimum wage without

further ado. Employers are also better informed about their duties.

In the case of the national NAV on domestic work, verification is seriously hampered by the opaque and fragmented nature of this part of the labour market. Monitoring of compliance with the NAV is first and foremost the task of the tripartite commissions in the cantons. Thanks to the binding minimum wage rates embodied in the NAV, these commissions have been provided with the instrument they need in order to ensure and enforce, at the very least, effective protection against wage dumping. To get the new NAV applied, the tripartite monitoring bodies will need to be supported with various instruments, including broad information campaigns aimed at both employers and employees.

Still to be tackled is the question of the residency status of domestic employees from non-EU countries. Although the degree of exploitation certainly does not depend on residency status alone, the demand for the regularization of undocumented immigrants remains crucial. Only through such legal security can lasting improvements be achieved in the living and working conditions of these employees and their families. Beyond regularization, it is absolutely crucial to de-couple access to courts from the residency status of migrants; this will go a long way in reducing their precariousness.

Information and targeted union organizing

There are also challenges for Unia and other organizations engaged in this field. As domestic employees cannot be informed and organized at their workplaces, alternative locations have to be sought or created. Essential to this is the closer networking of trade unions, migrants' associations with strong representation of women, and organizations working in the migration field. Here, Unia in particular can build on its long years of cooperation with the many associations through which migrants maintain links with their countries of origin. The union's experience as an intercultural mediator must be adapted to the domestic workers' situation. Conscious efforts must be made to recruit and train contact persons and reps who know the specific living and working circumstances of domestic employees and speak their language. Equally, social and political alliances are needed in order to offset the limited scope for self-organization. This entails organising targeted information meetings, language courses, or integration courses, which promote empowerment, exchanges of experience and collective processes.

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¹ Including Alleva, V. and Niklaus, P-A (2004) *Leben und Arbeiten im Schatten. Studie der Anlaufstelle für Sans-Papiers und GBI*, Basel: ECOPLAN.

² This is the German-language version of the text. It is also available in French (<http://www.admin.ch/ch/f/as/2010/5053.pdf>) and Italian (<http://www.admin.ch/ch/i/as/2010/5053.pdf>).