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ABSTRACT

The paper tries to answer to the question of how to promote a preventive approach to labour exploitation and, consequently, the necessary steps to facilitate a multi-dimensional regulatory system. We begin by offering a literature review on the topic of the regulation of agricultural work, from a multidimensional perspective, outlining global regulatory challenges and specific contextual responses. Next, we provide a brief insight into recruitment mechanisms within the farm industry and its effects on farm workers. We look at the role of the public services and private intermediaries, while also briefly highlighting main structural and critical aspects of Italian's job placement services. In this scenario, technological solutions have been promoted to facilitate the matching of job supply and demand. The key issue concerns the following: are these services and measures able to encourage the interaction

between employer and employee and respond to the recent demand for a skilled, trained and regular workforce? Although the scope of this question is too wide to address in a single essay, evidence from our research suggests that they are necessary but non-sufficient. We will then analyze and critically evaluate several regulatory instruments, from aspects of collective regulation and representation of workers to institutional instruments put in place to enhance self-regulatory practices (the so-called Rete del Lavoro Agricolo di Qualità and Regional approaches to incentivize labour law compliance and responsible business operations) and the experience of voluntary approaches in the absence of institutional support. In conclusion, we draw from the analysis and the critical reflection to suggest possible regulatory solutions and intervention and to develop guidelines for policy makers and labour scholars. In particular, we support the idea of a necessary integrated and multidimensional regulatory approach, to combine labour law regulation and repressive measures with a system of shared governance and increased businesses participation, alongside with the need to create local regulatory forums and enhance social dialogue.

Keywords: agricultural work, labour exploitation, regulation, self-regulation, employment services.

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Regulating agricultural work and the labour market to prevent exploitation: the Italian perspective⁽¹⁾

SUMMARY: 1. Introduction – 2. An overview on the regulatory issues related to work in agriculture – 3. Challenges and weaknesses of the agricultural labour market. – 3.1 An overview of the recruitment methods and practices in the farm industry. 3.2 Technological solutions designed to ensure a closer meeting of supply and demand. – 3.3. The legal framework of technological recruitment apps. – 4. Regulating to prevent exploitation and gang-mastering, an holistic approach to understand regulation. – 4.1 Italian collective relations in agriculture. – 4.2 The ‘Rete del lavoro agricolo di qualità’ (Retelaq). – 4.3 Regional interventions to prevent labour exploitation and gang-mastering. – 4.4 Best practices and case studies. – 5. Conclusions: which way forward? Tackling current regulatory issues.

1. Introduction

In recent years, literature has shown how global value chains have been strongly affecting the agricultural sector, fueling market distortions, fostering illegal work and labour exploitation⁽²⁾. The Italian agricultural sector has not been spared by the effects of globalization, which has brought much pressure on small and medium enterprises to significantly reduce production costs, to survive in a market dominated by the unrestrained power of large multinational corporations and retailers. These macro-economic dynamics have contributed to accentuate even more some already existing weaknesses of the Italian agricultural labour market. As the literature has been documenting over the years⁽³⁾, most farm workers find temporary work through a widespread pool of illegal recruitment methods. Somehow, illegal work seems the only way of work supply capable of promptly ensuring unskilled labour availability in the agricultural sector, guaranteeing a significant reduction in labour costs for agricultural businesses⁽⁴⁾, but also unfair competition and social dumping to virtuous businesses and

⁽¹⁾ The reflections presented in this paper are borrowers of the research conducted within the FARm Project and are based on the work undertaken on the building of the FARm Reports, however they do not constitute the Project’s final conclusions and outputs, which will be further developed in future publications. The FARm Project, “A model for a responsible agricultural value chain”, is coordinated by the University of Verona and funded by the Asylum, Migration and Integration Fund (AMIF) 2014-2020. It aims to prevent and combat labour exploitation and “caporalato” by promoting a responsible agricultural value chain in the Regions of Lombardy and Veneto and the Autonomous Provinces of Trento and Bolzano. The paper represents the result of a collective reflection; however, paragraphs 1, 2, 4.3), and 5 have been written by Cristina Inversi; paragraph 3.1), 3.2) and 3.3) have been written by Stefania Battistelli; paragraphs 4.1) and 4.2) have been written by Olivia Bonardi and 4.4) have been written jointly by Stefania Battistelli and Cristina Inversi.

⁽²⁾ N. Phillips - F. Mieres, *The governance of forced labour in the global economy*, *Globalizations*, 2014, 12, 2, 244.

⁽³⁾ Osservatorio Placido Rizzotto, *Agromafie e caporalato. V Rapporto*. Ediesse Edizioni, 2020.

⁽⁴⁾ P. Campanella, *Vite Sottocosto*, Secondo Rapporto Presidio Caritas, 2018; I. Canfora, *Le regole del gioco nelle filiere agroalimentari e i riflessi sulla tutela del lavoro*, in *Agriregionieuropa* n. 55, 2018; V. Pinto, *Filiere agro-alimentari e*

to the society overall. In agriculture, the action of illegal intermediaries, the so-called “caporali”, holds multiple functions: it assures just-in-time workforce, it organizes working pace and discipline on the job, and it represents a ‘contact point’ between the workers and the employer, offering transport services, managing accommodations and providing ‘support’ with documents and visas⁽⁵⁾.

Regulating for contrasting work exploitation in agriculture has been typically addressed by criminal law, in areas of forced labour, severe exploitation and illegal intermediation through violence and intimidation. However, the discussion on labour exploitation in agriculture is not one that can be approached only from a criminal law perspective ⁽⁶⁾. This is firstly because criminal law can hardly be the only answer to a complex phenomenon, instead, an holistic approach to address the causes of exploitation, and prevent them, would be preferred; secondly, because the criminal sanction is deemed insufficient, as very often it is not able to intercept those forms of “routine labour abuses”, “consensual” or “contractual” exploitation, which require further attention ⁽⁷⁾.

The regulatory responses around the widespread phenomena of labour exploitation (from its most severe to milder displays) are fragmented in many areas of intervention and regulatory arenas. This multidimensional character is determined by the sectors’ features, in which globalization and financialization processes are influential, affecting both the international, national, and local playing fields.

In our article, we present and analyze potentials and limits of some of the regulatory strategies undertaken in the Italian context to promote a holistic approach to contrast and prevent labour exploitation in the agricultural sector⁽⁸⁾. The paper starts analyzing the current regulatory framework for agricultural work, providing an overview of regulatory approaches and sources. Then the analysis moves on focusing on labour market weaknesses in the recruitment of unskilled labour and labour supply, especially in the case of migrant seasonal workers. From a labour market perspective, we present

agro-industriali, rapporti di produzione agricola e lavoro nero, in *Economia “informale” e politiche di trasparenza*, V. Ferrante (ed.), Vita e Pensiero, 2017, 83.

⁽⁵⁾ It is important to point out that the illegal gang-master figure is ambivalent: from a migrant worker perspective, the gang-master often represents a sort of ‘friend’ which can be trusted (trust can also be based on a shared cultural background or nationality) and to which it is possible to resort to ask for help for job seeking, recruitment, relocation, transport, etc. For an insight on the sociology of agricultural work and illegal gang-mastering in Italy, see M. Omizzolo, *Sotto padrone: uomini, donne e caporali nell’agromafia italiana*, Fondazione Giangiacomo Feltrinelli, 2019.

⁽⁶⁾ V. Torre, *Il diritto penale e la filiera dello sfruttamento*, DLRI, 2018, 158, 2, 289; L. Calafà, *Per un approccio multidimensionale allo sfruttamento lavorativo*, LD, 2021, 2, 193; C. Faleri, “Non basta la repressione”. *A proposito di caporalato e sfruttamento del lavoro in agricoltura*, LD, 2021, 2, 257.

⁽⁷⁾ J. Davies, *From severe to routine labour exploitation: The case of migrant workers in the UK food industry*, *Criminology & Criminal Justice*, 2019, 19, 3, 294; M. M. Francanzani, *Stato e caporali: un’avventura giuspubblicistica di cent’anni (e più)*, in *Agricoltura senza caporalato: osservatorio sulla criminalità in agricoltura e sul sistema agroalimentare*, F. Di Marzio (ed.), Donzelli, 2010, 49; A. Jannarelli, *Osservazioni preliminari per una definizione giuridica per le forme contemporanee di schiavitù*, RDP, 2014, 19, 3, 335.

⁽⁸⁾ S. Borelli - L. Calafà - M. D’Onghia - S. Laforgia - M. Ranieri, *L’altro art. 18. Diritto del lavoro e sfruttamento*, LD, 2021, 2.

some innovative and technological solutions that have been elaborated by social partners and public bodies to respond to the increasing difficulties in matching labour supply and demand: the third section presents some IT solutions, such as Web Apps, to facilitate labour recruitment and to guarantee monitoring and transparency within the process. The fourth section focuses on various aspects of regulation, considering collective relations, institutional responses for the promotion of self-regulation, regional protocols to promote prevention and to create a multidimensional approach, and an example of self-regulatory best practice.

Throughout our work, we mainly discuss two ideas: first, we argue that the organization of recruitment and labour market matching of demand and offer is a crucial element to prevent exploitative practices; secondly, we believe that addressing sectors' inequalities, in terms of unfair competition, controls and responsible business conduct, from a reflexive law approach⁽⁹⁾ is pivotal to promote effective regulation within the sector, supporting a more inclusive and multi-level regulatory strategy (both in terms of instruments adopted and actors' involved) to ensure decent, fair and sustainable work in agriculture.

2. An overview on the regulatory issues related to work in agriculture

Work in agriculture holds specific features that make the identification of a regulatory framework particularly complex and, to some extent, divergent when it comes to the application of general labour laws. Any labour lawyer that approaches the study of agricultural work will soon realize that learning about agricultural history, evolution, techniques, and collective territorial culture, is an inherent and essential part of the research process. Indeed, from a legal perspective, the specific features of the sector give shape to a peculiar set of rules and mechanisms about contracts, collective bargaining, collective representation, health and safety, social protection and welfare, financialization and incentives procedures. The current regulatory framework to contrast labour exploitation touches on several regulatory arenas, dealing with issues of human trafficking, irregular work and unfair working practices⁽¹⁰⁾. Work in agriculture is too often poor, unfair, undeclared, precarious, “invisible”⁽¹¹⁾ and characterized by strongly unbalanced power relations that permeate the whole value chain. Although we cannot aim to summarize and reflect on all the regulatory complexities of an entire sector, the theoretical perspective that this paper adopts is one focused on the issue of preventing labour exploitation and promoting dignity at work in agriculture, to

⁽⁹⁾ G. Teubner, *Substantive and reflexive elements in modern law*, *Law & Society Review*, 1983, 17, 2, 239.

⁽¹⁰⁾ C. Faleri, *Il lavoro povero in agricoltura, ovvero sullo sfruttamento del (bisogno di) lavoro*, *LD*, 2019, 1, 149.

⁽¹¹⁾ M. Omizzolo, *Sotto padrone: uomini, donne e caporali nell'agromafia italiana*, cit.

complement repressive regulation and a pure “command and control” approach⁽¹²⁾. With a strong connection with the theorization of labour right as human rights⁽¹³⁾, our reflection holds a double purpose: it aims both to improve a critical understanding of labour exploitation in agriculture in Italy, from a broad regulatory perspective, and to assess preventive measures for the development of decent work and fair employment relationships⁽¹⁴⁾.

Regulation happens at various levels (international, national and local) and within multiple ‘arenas’. At international level, the EU has a huge impact on agricultural policies and governance, that is exemplified by the Common Agricultural Policy (CAP), which represents the main funding instrument within the agri-food sector, and it steers to a great extent employers’ way of producing and organizing. At the same time, the regulation of work in agriculture is shaped by both EU and national labour laws, but also by migration policies, immigration laws and access to residency permits, being the migrant workforce of a huge portion of agricultural workers. Furthermore, the contrast of illegal recruitment systems and the control of labour intermediaries is pivotal to the understanding of the phenomena, both at a local and transnational level.

As a complex phenomenon, the regulation of the agricultural value chain is, inherently, a global issue: if we confine the study of agricultural working practices and relations to the national level, our understanding of regulatory dynamics, issues, and dilemmas would be very limited. Indeed, the agri-food sector appears to be dominated by lead firms of retailers, which in the Global Value Chain theory can be described as the large firms that have the power to decide the fate of production (where to produce, what must be produced, how and under what conditions, and the price of goods)⁽¹⁵⁾. The impact of a buyer driven system on the agri-food sector, which leaves consistent amounts of regulatory space and power to supply chain giants and leading firms (often MNCs), is well documented in the literature⁽¹⁶⁾, and it appears being a consequence of several factors: globalization, new ways of organizing production, the evolution of logistics and the intensification of workers’ exploitation, within and outside domestic borders⁽¹⁷⁾. Labour exploitation in agriculture becomes then a structural element of the economic cycle⁽¹⁸⁾: because producers are unable to set prices for their products, and

⁽¹²⁾ R. C. Baldwin - M. Cave - M. Lodge, *Understanding Regulation*, Oxford University Press, 2012.

⁽¹³⁾ K. Kolben, Labour rights as human rights, *Virginia Journal of International Law*, 2010, 50, 2, 449.

⁽¹⁴⁾ L. Calafà - S. Iavicoli - B. Persechino, *Lavoro insicuro: Salute, sicurezza e tutele sociali dei lavoratori immigrati in agricoltura*, Il Mulino, 2020.

⁽¹⁵⁾ G. Gereffi - J. Humphrey - T. Sturgeon, *The governance of Global Value Chain*, *Review of International Political Economy*, 2005, 12, 1, 78.

⁽¹⁶⁾ N. Lichtenstein, *Supply chains, workers’ chains and the new world of retail supremacy*, *Labour*, 2017, 4, 1, 17; S. Halebsky, *Superstores and the politics of retail development*, *City and Community*, 2004, 3, 2; P. Dobson, *Retailer buyer power in European markets: lessons from grocery supply*, Loughborough University Business School, Working Paper n. 1, 2002.

⁽¹⁷⁾ G. D’Onofrio, *Firms, labour migrations and unions within tomato value chain in southern Italy*, Ledizioni, 2020.

⁽¹⁸⁾ V. Pinto, *Filiere agro-alimentari e agro-industriali, rapporti di produzione agricola le lavoro nero*, in *Economia “informale” e politiche di trasparenza*, D. Ferrante (ed.), Vita e Pensiero, 2017, 83.

because they are frustrated by unfair commercial practices by leading firms and retailers. When farmers are not able to meet costs, they resort to cheap labour to keep themselves in business. This practice increases market distortions and initiates a “race to the bottom” in terms of labour costs and rights, where companies applying unfair working conditions hold a competitive advantage if compared with those that respect the law, putting the former in better position to stay in the market and meet retailers’ demands⁽¹⁹⁾. In liberal market economies, such as it is in the UK case, the narrative centered on the negative effect of unfair competition onto compliant businesses has been used by the Conservative government to expand on repressive regulation, with a light-touch approach regarding labour market interventions and the adoption of preventive measures⁽²⁰⁾.

On a different regulatory strategy, Italy has attempted to develop a more integrated system of intervention, which can value the repressive instance and foster a preventive approach, building on territorial networks and institutional support. This objective has been attempted through the definition of the “Three years plan against labour exploitation in agriculture 2020-2022⁽²¹⁾” jointly adopted by the Ministry of Labour and Social Policy, the Ministry of Agriculture, Food and Forest Policies and the Ministry of Justice to tackle labour exploitation and illegal recruitment in agriculture, which complements the process of criminal reformation started in 2012 and continued in 2014 and 2016. The “Three years plan” outlines four strategic axes of regulatory priority: prevention, contrast and control, protection and assistance, social and work integration. These axes are supported by legal reforms, policy making and institutional intervention to finance preventive approaches and best practices within the territories, keeping in mind local specificities. Furthermore, as a recent innovation in terms of governance and economic intervention, the “National Recovery and Resilience Plan” (hereafter NRRP) includes some interesting provision on the theme of the prevention of labour exploitation and illegal intermediation in its Mission 2 (Green revolution and ecological transition) and Mission 5 (Cohesion and inclusion). If the effects on the development of innovation and mechanization of agricultural work, logistics and the whole sustainability of the supply chain will definitely have an impact on workers social conditions (Mission 2), core actions in terms of outlining a preventive approach are left to Mission 5, which aims to sustain occupation, training and in-work transitions through the development and strengthening of public job placement services and the adoption

⁽¹⁹⁾ L. Mariucci, *Caporalato, le colpe della grande distribuzione*, *Strisciarossa.it*, 13th August 2018, available at: www.strisciarossa.it/caporalato-e-ora-di-intervenire-sulla-grande-distribuzione-che-impone-prezzi-al-ribasso/ (last access on May 2022).

⁽²⁰⁾ J. Fudge, *Illegal working, migrants and labour exploitation in the UK*, *Oxford Journal of Legal Studies*, 2018, 38, 3, 557.

⁽²¹⁾ Piano Triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020-2022, available at: www.lavoro.gov.it/priorita/Documents/Piano-Triennale-contrasto-a-sfruttamento-lavorativo-in-agricoltura-e-al-caporalato-2020-2022.pdf (last access May 2022).

of a new national program to guarantee workers employability and competences. Most importantly, under Mission 5, the NRRP fosters a new National Action Plan to fight illegal work, referring to the regulatory instrument of the “Three year plan” mentioned earlier. At present, this provision has found its first output through the creation of a technical body that has the objective to work on the development of the National plan to tackle illegal work, with deadline for October 2022⁽²²⁾.

If we look at the international context, the disproportionate impact of leading firms over small businesses through unfair commercial practices has required the EU intervention with directive n. 2019/633 of the EU Parliament and the Council “*on unfair trading practices in business-to-business relationships in the agricultural and food supply chain*”. This directive seeks to contrast most common unfair practices in agriculture and in the food supply chain, such as delayed payments, retroactive assumption of risks and costs, trade secrets disclosures, etc. Italy has transposed the Directive into national law with D. Lgs. 198 of November 2021. The new Decree Law aims to better protect producers from the unfair practices exerted in the Supply Chain, trying to re-balance powers within the agri-food system, discouraging unfair business behaviors. The Italian reception of directive n. 2019/633 contains more stringent provisions in terms of forbidding double down auctions and low-cost sells⁽²³⁾. Wherever businesses operate through good commercial practices and stable “value chain contracts” they request the apposition of a mark to show their compliance to good commercial standards to clients. However, it is important to note that the regulatory structure of the new Decree lacks coordination with the already existing preventive self-regulatory measures, such as the ‘Rete del Lavoro Agricolo di Qualità’, which will be further analyzed next (see section 4.2). The connection between the certification of good commercial practices with the subscription to a virtuous network of agricultural businesses could have brought the positive effect to incentivize employment law and social security compliance, with a positive effect in terms of protection of agricultural workers’ rights.

The EU intervention on commercial practices might be better analyzed together with the important changes that intervened with the new reform of the Common Agricultural Policy (CAP), which, for the first time, introduces the requirement to respect social conditionality to access EU funding. The provision is a very important win for the EU workers’ movement, and it can be registered as a landmark victory for the main EU agricultural trade union EFFAT. The social dimension introduced in the new CAP will require businesses to comply with certain EU labour law provisions in order to obtain CAP fundings. The new social conditionality mechanism will only cover three directives: directive 2019/1152/EC on transparent and predictable working conditions, directive 2009/104/EC and directive 89/391/EEC on occupational health

⁽²²⁾ Ministerial Decree n. 34, 24th February 2022.

⁽²³⁾ See art. 5, D. Lgs. 198/2021.

and safety. Despite its limited range of actions, social conditionality is a first step to introduce an important principle of social regulation, to incentivize agricultural businesses to comply with labour law provisions and protect workers' rights. As it will be discussed later, with regard to Italian regional protocols for the contract of work exploitation (see section 4.1.), social conditionality is deemed to be one of the most effective measures to promote compliance with employment regulation and prevention of illegal employment.

Furthermore, considering the EU regulatory level, it is important to mention as well the Resolution of the European Parliament of 10th March 2021⁽²⁴⁾ on corporate due diligence and corporate accountability, which encourages a new regulatory approach, less based on deterrence and 'command and control' regulation⁽²⁵⁾, and more focused on a peculiar form of controlled voluntary intervention, self-assessment, and prevention. The Parliament Resolution recognizes the limits of a pure voluntary approach to due diligence, thus deciding to promote an institutionally embedded concept of due diligence and corporate accountability, where the State maintains extensive control power and creates room for collective actors and negotiation.

Whilst legislative intervention has been very slow in promoting fair practices and legal intervention within the value chain, we also consider and evaluate self-regulation practices, such as the creation of associations and consortiums that are able to promote social and commercial justice within producers. If the causes of unfair trading practices are to be found in the GVC regulatory dynamics, the effects can be seen (and studied) at local level⁽²⁶⁾, where regulation is embedded in culture, traditions, and contextual factors. Further regulatory failures can be found in inefficient demand-offer public control in the labour market, difficulties in law enforcement and the pervasive presence of gang-masters and criminal organizations, which are extremely flexible and adaptable. These elements can in fact facilitate the recourse to illegal work, exploitation and gang-mastering, guaranteeing the reproduction of unfair value chain dynamics⁽²⁷⁾.

The harvesting season is by far the moment in which the higher number of workers are required: the areas in which we can find the larger incidence of labour exploitation are those where the harvest cannot be done mechanically, such as in the case, for instance, of high-quality wine production, fresh fruits (in particular, apples and berries), fast perishable vegetables. Agricultural work is strongly characterized by seasonality and peaks of labour demands, depending on climate conditions that can influence the timings and organization of work. Hence the employers' need to have a flexible and already specialized workforce is a key factor to effectively organizing work.

⁽²⁴⁾ See www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.html#title1

⁽²⁵⁾ R. C. Baldwin - M. Cave - M. Lodge, *Understanding Regulation*, *cit.*

⁽²⁶⁾ M. Dias-Abey, *Justice on our fields: Can alt-labour organizations improve migrant farm workers' conditions*, *Harvard Civil Rights-Civil Liberties Law Review*, 2018, 53, 1, 167.

⁽²⁷⁾ S. Barrientos, *Labour chains: analysing the role of labour contractors in global production networks*, University of Manchester, Brooks World Poverty Institute, Working Paper 153, 2011.

As it will be pointed out later, the organization of recruitment and labour market demand is a pivotal element to prevent exploitative practices. Social actors have indeed tried to address these issues through collective regulation, such as the establishment of bilateral bodies (the so-called “Enti Bilaterali” – hereafter ‘EB’) with the aim to promote good working practices and support for businesses, trade unions and employers’ associations.

In the agricultural labour market, informal labour contractors hold three fundamental functions: coordination of the labour force supply requested by farms; providing information and services to different groups (i.e. helping workers to overcome difficulties linked with documents, accommodation, transports, etc.); and guaranteeing efficiency, by reducing transaction costs and time within to the recruitment process⁽²⁸⁾. It is important to note that the Covid-19 pandemic had the result of making these issues more pressing and ‘visible’ to the public: the difficulties in farm workers movement across Europe (and internationally) has resulted in a shortage of manpower, raising lots of concerns in public authorities for food harvesting and production. The emergency has led governments (both at international, national and regional levels) to adopt different regulatory solutions, such as “green corridors”⁽²⁹⁾, special exemptions to travel restrictions for migrant workers and flexible sanitary procedures, extraordinary regularization processes.

Throughout our work, we strongly support the idea that issues that are now maintaining the “demand” for informal labour contractors and enhancing agricultural workers’ rights and services (such as services for migrant workers, matching demand and offer in the labour market and creating an institutional network of support) should be a regulatory priority both for the State and social actors. Furthermore, we aim to understand the complex and interlinked regulatory dynamics within the territories, and the combination of institutional legal and self-regulatory solutions. As regulation is composed by different sources and actors, our analysis has both focused on the institutional level of intervention, collective relations and self-regulation practices. In conclusion, we will outline some regulatory suggestions to improve standards, services and the creation of representative regulatory forums.

⁽²⁸⁾ *Ibidem*.

⁽²⁹⁾ An example may be those activated by the Italian employers’ association Confagricoltura, which organized charter flights to facilitate the arrivals of foreign workers during Covid times. See for instance: www.confagricoltura.it/ita/area-stampa/comunicati/fase-2-grande-risultato-di-confagricoltura-che-ha-attivato-i-primi-corridoi-verdi-per-il-rientro-della-manodopera-specializzata-extracomunitaria.

3. Challenges and weaknesses of the agricultural labour market

3.1 An overview of the recruitment methods and practices in the farm industry

In this section, we first outline the main features of the Italian agricultural labour market, then we turn to analyzing recruitment methods and practices, discussing their effects on agricultural workers. We will look at the role of public and private entities in this labour market, while also briefly highlighting the main structural and critical aspects of job placement services. We focus specifically on the technological solutions aimed at facilitating the task of matching supply and demand in the agricultural labour market, in which regard we will be asking three main questions: (1) Do these services and measures encourage a closer interaction between employer and employee? (2) Can they respond to the recent demand for a skilled, trained, and regular workforce? And (3) are they compliant with the legal framework governing labour-market intermediation?

It is commonly known that farm labour is a seasonal activity, with production peaks at specific times of the year, strongly affected by external and environmental factors such as weather conditions and climate change⁽³⁰⁾. This makes it necessary for the sector to rely on a casual workforce. The result is twofold, having given rise to an extensive use of fixed-term work, which has been found to be the most common form of employment in agriculture, coupled with a system of social security protections and contributions that can support seasonal workers when they are not working⁽³¹⁾. What has also been observed is a widespread use of outsourced workers, mainly through subcontracting and temporary agency work, so as to enable companies to replenish their workforce swiftly and on a cyclical basis, in keeping with seasonal farming demands⁽³²⁾. In this context, both EU and non-EU workers have become a linchpin of the entire agriculture sector in Italy, gradually replacing the local workforce⁽³³⁾. While the data

⁽³⁰⁾ A. Mariani - E. Viganò, *Il sistema agroalimentare dell'Unione Europea. Economia e politiche*, Carocci Editore, 2002.

⁽³¹⁾ W. Chiaromonte, “*Cercavamo braccia, sono arrivati uomini*”. *Il lavoro dei migranti in agricoltura fra sfruttamento e istanze di tutela*, DLRI, 2018, 2, 346; M. D’Onghia - C. de Martino, *Gli strumenti giuslavoristici di contrasto allo sfruttamento del lavoro in agricoltura nella legge n. 199 del 2016: ancora timide risposte a un fenomeno molto più complesso*, WP CSDLE “Massimo D’Antona”. IT, 2018, 352; C. Faleri, *Il lavoro agricolo. Modelli e strumenti di regolazione*, Giappichelli, 2020; V. Pinto, *Rapporti lavorativi e legalità in agricoltura. Analisi e proposte*, DLRI, 2019, 1, 7; V. Papa, *Dentro o fuori il mercato? La nuova disciplina del lavoro stagionale degli stranieri tra repressione e integrazione*, DRI, 2, 2017, 363; S. Sciarra - W. Chiaromonte, *Migration Status in Labour and Social Security Law. Between Inclusion and Exclusion in Italy*, in *Migrants at Work. Immigration & Vulnerability in Labour Law*, C. Costello - M. Freedland (eds.), Oxford University Press, 2014, 121.

⁽³²⁾ Osservatorio Placido Rizzotto - Flai-Cgil, *Agromafie e caporalato. V Rapporto*, Ediesse, 2020.

⁽³³⁾ According to Centro Studi e Ricerche Idos, *Dossier Statistico Immigrazione*, Idos, 2021, 280; the number of foreign workers employed in the agricultural sector at the end of 2020 was 357.768. Since 2018 and 2020, national representation of Romanian, Polish and Bulgarian workers has been decreasing. In 2020, diminishing trends were also registered with regard to Slovaks and Macedonian nationals. On the contrary, the number of Moroccan, Pakistani and Senegalese workers is still growing.

available on foreign workers is patchy and incomplete, what we do know is that each year seasonal workers come in from abroad to work on Italian farms, accounting for about half of the total workforce in the sector⁽³⁴⁾.

Turning to the agricultural labour force, it is worth considering how the labour recruitment system responds to the demand for labour. This is a crucial element when it comes to addressing and preventing labour exploitation. The Italian legal framework encourages the role of public and private activities in the agricultural labour market: these can be carried out, on the one hand, through public employment services and, on the other, through private employment agencies, as well as through other public or private entities⁽³⁵⁾. However, even if Italian legislation is crucially premised on the role of this “competitive” structure in guaranteeing a fair and efficient job-placement system, various studies have found that the intermediation services provided by job centers or private agencies in agriculture are used by only 2% of workers and companies⁽³⁶⁾. In fact, the primary avenue for labour recruitment is direct knowledge, through word of mouth and referrals from trusted individuals.

According to the above-mentioned Three-Year Plan, labour-market intermediation brings three main critical issues into focus: (a) the scarcity of official channels for connecting workers with companies; (b) the limited appeal of public intermediaries, owing to bureaucracy, (c) the scarce supply of services for workers and employers in the sector, (d) the challenge that employment centers face in quickly adapting to the market’s changing needs.

The inefficiencies of public-sector employment agencies and the lack of private agencies as labour-market intermediaries in agriculture have resulted in practices of illegal subcontracting and posting of workers⁽³⁷⁾. As the literature has been documenting over the years, most farms find temporary work through a widespread pool of illegal recruitment methods⁽³⁸⁾. Illegal work appears to be the only labour-supply system capable of ensuring just-in-time and flexible labour in the agricultural sector, with an

⁽³⁴⁾ As stated by Centro Studi e Ricerche IDOS, *Dossier Statistico Immigrazione, cit.*, 283, the main nationalities of seasonal workers regulated by the Flows Decree are Albanian (487), Indian (481), and Moroccan (226). The provinces with the highest use of seasonal entry flows are Cuneo (303), Verona (300), Pordenone (111), Forlì (115) and Trento (75). For an in-depth look at the presence of foreigners in Italy and their contribution to the agricultural sector, see M. Macrì (ed.), *Il contributo dei lavoratori stranieri all’agricoltura italiana*, Centro di ricerca Politiche e Bio-economia, 2019.

⁽³⁵⁾ On employment services in Italy, see A. Sartori, *Il jobs act e la riforma dei servizi per l’impiego in Italia: finalmente la svolta nel solco dell’Europa?*, RIDL, 2016, 1, 19.

⁽³⁶⁾ Nomisma, *Rapporto annuale su Occupazione in agricoltura: il ruolo del lavoro dipendente*, 2017, available at www.confagricoltura.it/ita/network-confagricoltura/enti-collegati/eban-ente-bilaterale-agricolo-nazionale.

⁽³⁷⁾ V. Nuzzo, *L’utilizzazione di manodopera altrui in agricoltura e in edilizia: possibilità, rischi e rimedi sanzionatori*, WP CSDLE “Massimo D’Antona”.IT, 2018, 357.

⁽³⁸⁾ A. Andronio, *Il reato di intermediazione illecita e sfruttamento del lavoro: evoluzione normativa e giurisprudenziale*, DLM, 2019, 3, 431; C. de Martino - M. Lozito - D. Schiuma, *Immigrazione, caporalato e lavoro in agricoltura*, LD, 2016, 2, 315; D. Perrotta, *Ben oltre lo sfruttamento: lavorare da migranti in agricoltura*, il Mulino, 2014, 29.

aggressive downward retail pressure that secures significantly reduced labour costs for agricultural businesses⁽³⁹⁾.

3.2 Technological solutions designed to ensure a closer meeting of supply and demand

In our assessment, the situation just described is not likely to improve in the near future. In the context of the ongoing global COVID-19 pandemic, social distancing and border closures have exacerbated the strong dependence of agricultural enterprises on EU and non-EU workers, making it all the more urgent to intervene by improving the recruitment system⁽⁴⁰⁾. In fact, in addition to the problem of poor working conditions, there is also a severe shortage of foreign labour in the sector⁽⁴¹⁾. This shortage has prompted several countries to act in response⁽⁴²⁾. In Italy, this has meant extending the expiring work permits of seasonal workers already in place, as well as regularizing foreign workers living in Italy, promoting “green corridors” from Eastern countries through employers’ associations, and launching public and private recruitment Web apps to make it easier to match job supply and demand⁽⁴³⁾.

Worth pointing out among these measures are the “green corridors,” which have gone some way to responding to local demand for a skilled, trained, and “regular” workforce, allowing both European and non-European workers to reach Italy⁽⁴⁴⁾. The regularization program, on the other hand, has been a (predictably) missed opportunity⁽⁴⁵⁾. The Law Decree n. 34 of 2020 appears to be relevant, but still very

⁽³⁹⁾ L. Mariucci, *Caporalato, le colpe della grande distribuzione*, in Strisciarossa.it, 18 aprile 2018; V. Pinto, *Filiere agro-alimentari e agro-industriali, rapporti di produzione agricola e lavoro nero*, in *Economia “informale” e politiche di trasparenza*, V. Ferrante (ed.), Vita e Pensiero, 2017, 83.

⁽⁴⁰⁾ M.C. Macrì (ed.), *Le misure per l'emergenza Covid-19 e la manodopera straniera in agricoltura*, Centro di ricerca Politiche e Bio-economia, 2020.

⁽⁴¹⁾ With a joint declaration on the deployment of seasonal workers from European countries in the EU, the European social partners of agriculture – Geopa-Copa and Effat – in 2020 outlined a series of detailed actions employers should take to protect seasonal workers from other EU member states and to ensure that they have decent and safe working conditions (available at <https://www.effat.org/>). In response to these indications, the European Commission issued a communication on July 17, 2020, regarding “Guidance on seasonal workers in the EU in the context of the Covid-19 outbreak”.

⁽⁴²⁾ D. Szelewa - M. Polakowski, *European solidarity and “free movement of labour” during the pandemic: exposing the contradictions amid east-west migration*, CEP, 2022, 20, 238 ; M.L. Augère-Granier, *Migrant seasonal workers in the European agricultural sector*, February 2021, available at <https://www.europarl.europa.eu>.

⁽⁴³⁾ A. Corrado - L. Palumbo, *Essential Farmworkers and the Pandemic Crisis: Migrant Labour Conditions, and Legal and Political Responses in Italy and Spain*, IMIS, 2021.

⁽⁴⁴⁾ As already pointed out in the footnote n. 29, with the cooperation of agricultural companies (which paid for the flight for their employees), employer associations such as Confagricoltura have activated green corridors through bilateral agreements with foreign countries to allow agricultural workers to come to Italy for the agricultural season.

⁽⁴⁵⁾ L. Calafà, *Legalità e lavoro nel diritto “dopo” la pandemia*, 2020, available at www.questionegiustizia.it/; M. Paggi, *La sanatoria ai tempi del coronavirus*, 2020, available at www.questionegiustizia.it/.

limited, as it is a temporary measure limited to specific economic sectors and based on strict eligibility requirements. From the regular monitoring of file progress carried out by the "I was a Foreigner" Campaign, there were 207,542 applications submitted by employers: 85% of which related to domestic and care work and 15% to the agricultural sector. While, applications submitted directly by foreigners with previous experience in the sectors covered by the regularization program were 12,986⁽⁴⁶⁾.

Technological recruitment apps are designed for regional as well as national employment agencies, farms, and farm workers. With responsive Web design (available for smartphones, tablets, and desktops), these apps are conceived as a way of simplifying labour-market management by allowing jobseekers to upload their CV as well as farms to post job vacancies complete with terms and conditions (such as tasks and pay). These apps were either introduced or significantly updated in 2020⁽⁴⁷⁾. Some of them were developed as part of an effort to set up "exchange protocols" between public employment services and private entities licensed or accredited by the Ministry of Labour and Social Policy to provide employment services. A prime example is the app *Restoincampo*, developed by ANPAL (National Agency for Active Employment Policies) in collaboration with the aforementioned Ministry, which can be downloaded free of charge for all devices in five languages⁽⁴⁸⁾.

At the local level, technological recruitment apps operate approximately in the same way. In the Veneto region an app called *Meeting Agricultural Jobs* has been set up by Veneto Lavoro, the regional body entrusted with managing, coordinating, and monitoring a public network of thirty-nine local public employment services⁽⁴⁹⁾.

Great emphasis has also been put on the role of social partners in the labour market, and particularly on the role of bilateral bodies, through an effort to promote public and private websites to facilitate the matching of job supply and demand. Because these entities are widespread across the territory, they can respond quickly and effectively to the needs of both workers and employers, offering innovative services and tools and creating community-based networks⁽⁵⁰⁾.

⁽⁴⁶⁾ "Ero Straniero" Campaign (available at <https://erostraniero.radicali.it/>), launched in 2017, has been promoting a reform of immigration law in Italy, with particular attention to the introduction of legal residence, through a draft law of popular initiative "New norms for the promotion of regular stay and social inclusion and employment of non-EU foreign nationals" filed in Parliament on October 27, 2017. The campaign is promoted by Radicali Italiani, Fondazione Casa della carità "Angelo Abriani", Arci, Asgi, Centro Astalli, Cnca, A Buon Diritto Onlus, Oxfam Italia, ActionAid Italia, Fcei.

⁽⁴⁷⁾ An overview of the initiatives adopted to better match labor supply and demand in agriculture is available at <https://integrazionemigranti.gov.it/it-it/Dettaglio-approfondimento/id/9/Lavoro-agricolo-le-iniziativa-per-incrociare-meglio-domanda-e-offerta>.

⁽⁴⁸⁾ For further information, see www.anpal.gov.it/-/restoincampo-l-app-per-cercare-e-offrire-lavoro-nel-settore-agricolo-1.

⁽⁴⁹⁾ For further information, see www.regione.veneto.it/article-detail?articleId=4535291.

⁽⁵⁰⁾ M.C. Cimaglia, A. Aurilio, *I sistemi bilaterali di settore. La bilateralità in agricoltura*, in *La bilateralità fra tradizione e rinnovamento*, L. Bellardi, G. De Santis (eds.), Franco Angeli, 2011, 145.

Other apps and platforms are worth mentioning that have been developed with a view to improving the marketplace for jobseekers and employers in the agricultural sector. *Agrijob* is the result of a collaboration between Confagricoltura (General Confederation of Italian Agriculture) and the employment agency Umana, making it possible to find free training specific to the needs of each agricultural business⁽⁵¹⁾. *Jobincountry* is a recruitment app launched by Coldiretti (National Confederation of Independent Farmers), authorized by the Ministry of Labour and Social Policy⁽⁵²⁾. Likewise, *Lavora con agricoltori italiani* is a recruitment app launched by Confederazione Italiana Agricoltori (CIA), authorized by the Ministry of Labour and Social Policy⁽⁵³⁾. In the autonomous province of Bolzano, the South Tyrolean Farmers Union and Südtiroler Bauernbund have adopted *AgriJobs*, while in the autonomous province of Trento, the provincial employment agency supports the matching of supply and demand in the agricultural sector in Trentino in collaboration with four agricultural employers' associations (Confederazione Italiana Agricoltori, Confagricoltura, Coldiretti, and Associazione Contadini Trentini)⁽⁵⁴⁾.

In offering recruitment services, some apps also make it possible for workers to find decent working conditions, including accommodation, transportation, and training for seasonal workers, as well as a healthy and safe working environment⁽⁵⁵⁾.

Although the range of platforms is extensive, the results have failed to meet expectations. The reasons are generally to be found in the difficulty of (1) finding and offering a specialized or already trained workforce, (2) guaranteeing pay and social security conditions fully in compliance with local and national collective agreements; and (3) guaranteeing adequate levels of workplace health and safety to contain the virus with regard to accommodation and transport. In particular, farmers complain that workers lack experience, are slow, and are poorly motivated, with little aptitude for agricultural work, while workers complain that contract terms are unclear and wages low, and that they are working under the lowest tier of the collective bargaining agreement, inconsistently with the kind of experience required for the job. A problem reported by both farmers and workers is a lack of public transport to reach the workplace.

In addition, a number of critical issues have been observed with these applications: farms are not required to notify the employment agency if they hire a

⁽⁵¹⁾ Job applications are selected by Umana and made available to agricultural businesses that have partnered with Confagricoltura, making it easier for workers to find job postings at more favorable conditions. Furthermore, through Umana and Enapra (Ente Formazione di Confagricoltura), the app makes it possible to train workers for free according to the skill set required in each sector (grape harvesting, pruning, landscaping, livestock work, tractor driving, etc.). For further information, see www.confagricoltura.it/ita/agrijob.

⁽⁵²⁾ For further information, see www.coldiretti.it/tag/jobincountry.

⁽⁵³⁾ For further information, see <https://lavoraconagricoltoriitaliani.cia.it>

⁽⁵⁴⁾ For further information, see <https://agrijobs.it/it> and www.agenzialavoro.tn.it/TESTI-AVVISI/IL-SETTORE-AGRICOLO-ASSUME.

⁽⁵⁵⁾ HumusJob is proof of that, as it is described in the section 4.4.

worker sent by the agency; the salary and the type of contract are rarely stated in the offer; offers are often incomplete, missing critical information; some employment agencies classify each worker as belonging to only one specific “working category”; and farms are not required to report hiring results. Consequently, the job matching excludes job openings posted under slightly different categories. Few apps act as an advertising space for farms to directly reach workers. As a result, there is no oversight whatsoever over the whole hiring process, and hence no protection for workers⁽⁵⁶⁾.

3.3. The legal framework of technological recruitment apps

As outlined in the previous section, labour recruitment, even in a “traditional” sector such as agriculture, is increasingly being shaped by technological advances⁽⁵⁷⁾. Given these circumstances, the first question that comes to mind is whether technological-recruitment apps can be legally qualified as players in the labour market⁽⁵⁸⁾.

As set out in Article 2(1)(b) of Legislative Decree No. 276/2003, matching labour supply and demand includes a whole range of activities, among which collecting the curricula of prospective workers, preselecting and creating the relevant database, and promoting and managing the intersection of labour supply and demand. Also falling within the scope of the law are the services offered by the above-mentioned apps. Under Article 5 of the same law, however, these activities are subject to a number of legal and financial conditions that need to be met. These conditions vary depending on the type

⁽⁵⁶⁾ The remarks, which address some of the critical issues affecting the apps described above, are borrowings of the research conducted within the FARm Project, which will be further developed in future publications. In particular, one of the main goals of the FARm Project has been to elaborate a Web App for regional employment agencies and local farms, aimed at facilitating job matching (available for smartphone/tablet/desktop). Features of the FARm App have been elaborated by M. Mantovani, FARmAPP: *from technical legal solutions to IT outputs*, Presentation at the LLRBN5 Conference on 28th of June 2021, available at www.project-farm.eu/wp-content/uploads/2021/07/FARmAPP-from-technical-legal-solutions-to-IT-outputs-Mantovani.pdf; M. Mantovani, *Focus digitalizzazione. FARmApp*, Presentation at the Final FARm Conference on 27th June 2022, available at www.project-farm.eu/wp-content/uploads/2022/06/Evento-finale-FARmAPP-27-giugno.pdf.

⁽⁵⁷⁾ Ceps - Iza, *Online talent platforms, labour market intermediaries and the changing world of work*, 2018, available at www.ceps.eu/; E. Dagnino - S. Spattini, *Evoluzione del mercato dell'incontro tra domanda e offerta di lavoro all'epoca della disintermediazione e dell'uso delle piattaforme tecnologiche*, Booklab, 2017; F.A. Schmid, *Digital Labour Markets in the Platform Economy. Mapping the Political Challenges of Crowd Work and Gig Work*, Friedrich Ebert Stiftung, 2017; J. M. Leimster - S. Zogaj – D. Durward, *New Forms of Employment And IT - Crowdsourcing*, in 4th Conference of the Regulating for Decent Work Network, Genf, Schweiz, 2015. On the role of platforms that carry out intermediary activities on the web, see A. Donini, *Il lavoro digitale su piattaforma*, LLI, 2015, 1, 50; P. Tullini, *C'è lavoro sul web?*, LLI, 1, 2015, 6.

⁽⁵⁸⁾ On the legal effects of the “parallel” labour market created by digital labour platforms (referring to the entire scope of work through digital infrastructures), the related distorting phenomena as well as the new needs for worker protection, see P. Tullini, *L'economia delle piattaforme e le sfide del diritto del lavoro*, ESR, 2018, 1, 36. More recently, regarding the Proposal of the Directive concerning platform workers' minimum rights and their employment status in the digital economy, see P. Tullini, *La Direttiva Piattaforme e i diritti del lavoro digitale*, LLI, 2022, 1, 46.

of entity applying for authorization⁽⁵⁹⁾ or accreditation⁽⁶⁰⁾, this since a number of new players were subsequently included within the scope of the law⁽⁶¹⁾. As a result of the increasing spread of online platforms not authorized to offer job-matching services, legislation was passed introducing a new system for authorizing Internet network operators to offer such services under “special” conditions. Under Article 6, they are required to operate on a not-for-profit basis, and their website must list the data identifying their legal representative. This provision needs to be read in conjunction with Article 9, which prohibits these entities from “using any print, online, broadcast, or other media to place any notice, in any form whatsoever, relating to job-matching activities — including personnel search and selection, professional outplacement, labour-market intermediation, and labour staffing — if these activities are carried out anonymously or by public or private entities that are not authorized or accredited to match labour supply and demand, but not so if these notices explicitly name the entities in question or their parent companies or subsidiaries as potential employers”.

As stated in a circular the Ministry of Labour issued on 13 January 2011, when the intermediation is carried out for profit, the site manager is required to apply for ordinary authorization to offer such intermediation as set forth in Article 4, in compliance with the requirements set forth in Article 5.

Specifically referring to crowdsourcing innovation intermediaries, with Ruling No. 12 of 27 March 2013, the Ministry of Labour stated that no prior authorization is needed if the aim pursued through these intermediaries is not for jobseekers to enter into employment contracts but generally for them to enter into commercial contracts.

Under this legal framework, in order to determine whether a technological recruitment app is operating legally on the market, it is necessary to check whether the application is duly registered in the IT register maintained by ANPAL and is therefore authorized for online intermediation with the Ministry of Labour⁽⁶²⁾. That is the case with apps such as the ones supporting the activities carried out by the employers’

⁽⁵⁹⁾ Under Article 2(E), *authorization* means that the national government authorizes or licenses a public or private entity to act as an employment agency.

⁽⁶⁰⁾ Under Article 2(F) *accreditation* means that a regional government recognizes a public or private entity as qualified to provide employment services within the region. These services can be offered using public resources, and accredited entities can also participate in the network of labour-market services, particularly services designed to match supply and demand.

⁽⁶¹⁾ In order to ensure greater transparency and efficiency in the labour market, the Ministry of Labour by Ministerial Decree September 20.09.11 expanded the number of entities that can carry out intermediation activities under special arrangements (provided for in Legislative Decree no. 276/2003). The new entities that can access the special system include upper secondary schools, universities, municipalities, chambers of commerce, employers’ and workers associations’, *patronati* (entities created by workers Unions in order to provide workers and citizens assistance with the access to social security schemes), and nonprofit websites.

⁽⁶²⁾ The ANPAL (Agenzia Nazionale Politiche Attive del Lavoro) register includes employment agencies authorized to do labour staffing, labour-market intermediation, research and selection of personnel, and support for professional outplacement. The register is divided into five sections: (1) labour staffing for temporary or permanent work, (2) labour staffing for permanent work, (3) labour-market intermediation, (5) personnel search and selection, and (5) outplacement support.

associations mentioned in the Section 3.2. It is worth pointing out, however, that the entities applying to provide job-matching services may be treated differently under the law depending on their type, meaning that they could also be accredited by the regional government or be authorized (licensed) by the Ministry of Labour as employers' associations or as bilateral bodies rather than as website operators⁽⁶³⁾.

As a result, it can be difficult to identify the procedures observed by the labour-market intermediation services available in the agricultural labour market. Given the growing role of online services in this field, it would be useful to have legislative or ministerial intervention to clarify the general principles governing the legality of such platforms under existing legislation⁽⁶⁴⁾.

4. Regulating to prevent exploitation and gang-mastering, an holistic approach to understand regulation

This section outlines some of the peculiar characteristics of Italian regulatory framework to prevent labour exploitation in agriculture: at first, we will present some of the institutional solutions adopted at national and local level by state or regional authorities (regional interventions to prevent labour exploitation and gang-mastering and the discussion on the 'Rete Laq'). Secondly, we will present experiences of self-regulation that can contribute to sustain and promote regular and ethical work⁽⁶⁵⁾. Such practices cannot be conceived as purely 'private', as they are embedded in an international and national regulatory framework and constructed by a range of actors such as social parties, local governments and public services⁽⁶⁶⁾. The adoption of voluntary standards and best practices by firms and organizations can potentially contrast exploitation practices and promote the respect of human rights, labour laws and social security for workers. Indeed, voluntary standards contribute to the definition of a system of rating of agri-food enterprises, where they are subject to private audit mechanisms. However, the literature is cautious in celebrating the effectiveness of voluntary self-regulation measures to promote quality labour and prevent exploitation: without a multiple set of actions, able to intervene on the regulation of value chain and

⁽⁶³⁾ Similar reflections about the law regulating technological recruitment apps are included in the case study regarding Justknock, a platform operated by Justknock LLC, aimed at connecting registered companies and users who propose an innovative project, as a response to a job call posted on the site by one of the registered companies. In this regard, see A. D'Ascenzo - T. Grossi, *Piattaforme digitali e legittimità nell'attività di intermediazione tra domanda ed offerta di lavoro: il caso JustKnock*, 2017, available at www.bollettinoadapt.it/. The authors wonder whether or not the service provided by JustKnock can be legally qualified as an intermediary activity between labor supply and demand.

⁽⁶⁴⁾ On the risk that the network fosters "dis-intermediation" to institutional actors (public and private ones) through the spread of informal channels, see P. Tullini, *C'è lavoro sul web?*, *cit.*, 15.

⁽⁶⁵⁾ L. Paoloni, *La filiera agroalimentare "etica" e la tutela del lavoro*, *Diritto Agroalimentare*, 2020, 3, 635.

⁽⁶⁶⁾ S. Brown - S. Getz, *Privatizing farm worker justice: regulating labour through voluntary certification and labelling*, *Geoforum*, 2008, 39, 3, 1184.

enforcement of labour laws, these measures are deemed highly ineffective⁽⁶⁷⁾ and sometimes even able to “hide” unfair practices⁽⁶⁸⁾.

As it will be pointed out, regulatory interventions need to be integrated altogether, with a close look to institutional interventions that can sustain further delegated regulation such as collective bargaining solutions, social partnership and self-regulation mechanisms. We strongly support the necessary idea to adopt coordinated regulatory solutions, which are not only focused on the repression of exploitation phenomena, but that are also able to incentivize the adoption of good practices and to promote the construction of regulatory forums to respond to specific territorial needs and issues.

4.1 Italian collective relations in agriculture

In the field of agricultural employment relations, few studies in the legal sphere have investigated the structure, functions and achievements of agricultural collective relations⁽⁶⁹⁾. In particular, those studies have focused mainly on trade unions, while employers’ representatives have been considered reluctant to social dialogue and accused of cultural underdevelopment. At the opposite, political studies have highlighted the strengths of agricultural associations, in particular pointing out at their lobbying activity, resulting in obtaining huge amounts of financing programs, both in Italy and all over Europe⁽⁷⁰⁾.

The original aspect of our research lies in the in-depth analysis of different employers’ associations: considering their objectives and goals and, importantly, their strengths and weaknesses. In agreement with previous studies, we found that the promotion of working conditions is not one of the employers’ associations priorities. However, we argue that their wide presence on the territory, and their close ties with local businesses and institutions, together with their traditional ability to provide services for their associates, might play a pivotal role in fighting workers’ exploitation and in the development of good practices for decent work. Their local direct presence within the territories is fundamental to monitor criminal organizations’ infiltrations. In particular, in the Northern Italian regions, the criminal control of agricultural activities goes

⁽⁶⁷⁾ I. Canfora, *Le regole del gioco nelle filiere agroalimentari e i riflessi sulla tutela del lavoro*, cit.

⁽⁶⁸⁾ Oxfam, *Al giusto prezzo. I diritti umani nelle filiere dei supermercati italiani*, 2018, available at: www.oxfamitalia.org/wp-content/uploads/2018/11/BtBP_ITA_Annex_v1.1.pdf (last access: May 2022).

⁽⁶⁹⁾ M. Marazza, *Il lavoro nei processi di raccolta dei prodotti agricoli*, in, *Agricoltura senza caporalato. Osservatorio sulla criminalità nell'agricoltura e sul sistema agroalimentare*, Di Marzio F. (ed.), Donzelli, 2017, 71; G. Urbisaglia, *Genesis, inquadramento teorico ed influenze dell'associazionismo padronale agrario*, LLI, n. 2, 2018, 119; C. Faleri, *Il lavoro povero in agricoltura, ovvero sullo sfruttamento del (bisogno di) lavoro*, LD, 2019, 1, 149; P. Campanella, *Vite Sottocosto*, cit.

⁽⁷⁰⁾ P. Settembri, *I gruppi d'interesse agricoli in Italia. Ridefinizione e differenziazione dopo le riforme della Pac degli anni '90 e 2000*, *Riv. It. Pol. Pubbl.*, 2011, 243; A. Mafri, *Storia della Confagricoltura dalle origini ai giorni nostri*, Gangemi ed., Roma, 2018; R. Lizzi, *I gruppi di interesse in agricoltura*, in *Riv. It. Pol. Pubbl.*, 2014, 480.

through the offering to employers of apparently convenient legal and business services, provided by consultants of questionable fairness and professionalism⁽⁷¹⁾. Therefore, we argue that the direct provision of services by employers' associations (EAs) and their key monitoring role within the territory is of paramount importance for the protection from criminal infiltrations and for the promotion of legality and the fight to work exploitation.

On the other hand, one of the most challenging weaknesses of EAs is their fragmentation⁽⁷²⁾. Most of the new associations, or at least the most important ones, have been created to give voice to new employers' needs and interests, such as the ones producing organic food. On one side, this might have the effect of weakening political action. But on the other side it is somehow a good symptom of the increasing importance that sustainable agriculture and fair working conditions are gaining as a new first-world global trend.

This brings us to the second peculiarity of Italian agricultural collective relation system, that is the proliferation of collective agreements, both at national and at local level. While analyzing collective agreements, we found that very few provisions try to challenge issues related to migrant workers, while some attention is paid to labour exploitation and gang-mastering. Moreover, the complexity of the Italian collective bargaining system, characterized by the (often complex) coordination between the national and local level, makes it difficult for a worker to precisely know his rights, and his pay rate too. Indeed, in the agriculture sector, leading national collective agreements establish a minimum wage rate, but different parts of wages are contracted at county level, which means that each county has a different minimum wage.

It is possible to say that the lack of consideration of migrant workers in collective bargaining might be justified for different reasons. The most important one might be considered the choice to protect all workers jointly, with the same strategies and tools. This indeed is due to the fact that gang-mastering affects both nationals and foreigners. Another reason lies in the Italian legal framework. Most scholars have strongly criticized the Italian migration policies, which are accused of being so strict that workers are forced to migrate illegally⁽⁷³⁾, and this observation is certainly confirmed here. However, it has to be highlighted that, once the worker has entered legally in the Italian territory, he/she enjoys the right to a treatment that is not less favorable than the one of the nationals. This is because Italy is one of the few EU countries that has ratified the ILO convention n. 143 of 1975 on the rights of migrant workers. According to art. 10, Italy has the duty to ensure “equality of opportunity and treatment in respect of employment

⁽⁷¹⁾ Eurispes, *Rapporto Agromafie. 6° rapporto sui crimini agroalimentari in Italia*, 2018, consultabile sul sito <https://eurispes.eu/ricerca-rapporto/agromafie-6-rapporto-sui-crimini-agroalimentari-in-italia-2019/>.

⁽⁷²⁾ A. Mafri, *Storia della Confagricoltura dalle origini ai giorni nostri*, cit.

⁽⁷³⁾ W. Chiaromonte - M. D'Onghia, *Migranti, lavoro e pandemia: nuovi problemi, vecchie risposte?*, RGL, 2021, n. 1, 3; W. Chiaromonte - D. M. Ferrara - F. Malzani, *The Migration Governance through Labour Law: the Italian Case*, RDSS, 2019, n. 1, 367.

and occupation, of social security, of trade union and cultural rights and of individual and collective freedoms for persons who as migrant workers or as members of their families are lawfully within its territory”. The same principle of equality is enshrined in art. 2 §3 of law decree n. 286/1998, which is the consolidated act of provisions concerning regulations on immigration and rules about the conditions of foreigners. Moreover, even though the employment contract with an irregular migrant worker is null and void, he/she enjoys full rights arising from the past employment, such as, as remuneration, working conditions and the large majority of social security benefits (unemployment security schemes being excluded for seasonal migrant workers, which entails a form of discrimination⁽⁷⁴⁾). According to art. 43 “*discrimination is any behavior which, directly or indirectly, entails a distinction, exclusion, restriction or preference based on race, color, ancestors or national or ethnic origins, religious beliefs and practices, and that has the aim or the effect to destroy or compromise the recognition, the benefit or the exercise, in conditions of equality, of human rights and fundamental freedoms in economic, social and cultural ambits and in any other ambit of public life*”. So, collective bargaining has not been requested taking care of the right to equality of migrant workers, as Italian law already provided for it. The legal framework therefore implied that collective agreements provisions gave some protection against undeclared work regardless of nationality issues and we can affirm that migrant workers’ protection comes together with the one of nationals. However, it is important to point out that collective agreements may contain specific provisions for the protection of migrant workers too. Indeed, most local agreements provide for Italian language courses, and some of them also offer health and safety information and training activities in workers’ native language.

As far as the efforts to fight undeclared work are concerned, it is quite easy to observe that most of the strategies and instruments provided for by collective agreements have been also taken into consideration by national and regional protocols signed by public institutions in the most recent years. The main difference lies in the fact that while collective bargaining is, to a certain extent, focused on prevention measures, public strategies are instead particularly focused on law enforcement and sanctions. The leading national collective agreement⁽⁷⁵⁾ sets its strategies to fight labour exploitation both at national and at county level, relying on two different institutions. Firstly, the collective agreements gave birth to national, regional, and local observatories. They are in charge of the monitoring of the labour market, taking into consideration migrant workers movements and working conditions too. Among their tasks we find the analysis of local seasonal labour demand, training needs, labour cost dynamics and

⁽⁷⁴⁾ W. Chiaromonte - A. Guariso, *Discriminazioni e welfare. La tutela antidiscriminatoria. Fonti, strumenti, interpreti*, M. Barbera - A. Guariso (eds.), Giappichelli, 2019, 329.

⁽⁷⁵⁾ The last one was signed the 24th of June 2022, by Confederazione generale agricoltura, Confederazione nazionale coldiretti, Cia – agricoltori italiani for the employers and Flai_Cgi, Fai-Uil, Uila-Uil for the workers, for the years 2022-2025.

progress in health and safety protection. More recently, collective agreements gave birth to of bilateral bodies. Those are in charge of matching labour demand and supply in cooperation with public job centers. They are also entrusted with the organization of logistic and transport services in cooperation with public companies. However, their main activities are focused on training, health and safety and occupational protection schemes. Provisions related to labour market management have been reinforced in the last 2022 agreement: employers might define hiring programs by guaranteeing the re-hiring of former workers for the next season, and the bilateral body will provide for specific training and access to incentives and facilities related to health and safety protection.

To the same aim, the leading national collective agreement entrusts the county collective bargaining with the duty to meet 2 months before the beginning of the seasonal work period in order to organize the employment and transport services.

Specific provisions try to prevent gang mastering by regulating outsourcing. The national Collective agreement sets rules both for service contracts and for sales in the field (where the buyer directly harvests products). In both cases the workers involved in the activity must be considered agricultural workers, in order to benefit from all the special social security schemes reserved to this category of workers. They also enjoy the same rights provided for by national collective agreements. In both cases, the farmer has a duty of information. But while in case of sales in the field the communication must be given to the local observatory, in case of contracts of service the information goes to the bilateral body (implying that, where this is not established, control is seriously at risk). For service contracts only, the national collective agreement binds the farmer to assess and control the technical and professional competence required to carry out the work and to verify the fulfillment of social security obligations towards his employees. The unions' claims for more detailed information to the bilateral bodies concerning outsourcing didn't meet the employers' associations consent in the last collective bargaining negotiations, therefore the social partner agreed to meet again by the end of the year to find strategies to protect both workers and farmers.

These provisions show a real commitment of the social partners in the fight of gang masters. Nevertheless, different weaknesses can be detected too. First of all, collective agreements suffer from a widespread problem of effectiveness and there are large discrepancies in their effective implementation and respect. This is true also for the bilateral bodies and the observatories. Where they are well established and efficiently operating, they can be considered among the best practices in the fight to gang-masters and labour exploitation. However, in many parts of the country they are hardly established and operating. Moreover, in the most recent years they have been charged of many other functions, such as the managing of occupational welfare, which are absorbing their resources. There is also a certain confusion and competences overlapping between the observatories and the bilateral bodies. This is mainly due to

the fact that the national collective agreement decided that national, regional and county observatories would continue their activities until the bilateral bodies take them into charge. As their functions have been negotiated in different times, and those provisions are largely ineffective, it might be possible that in some regions and counties the local social partners might have established the observatories but not the bilateral body or vice versa.

Secondly, as pointed out earlier, cooperation with public institutions such as job centers or transport services is difficult, because of the lack of attention and resources specifically dedicated to agricultural issues.

Thirdly, management of workers' flows face serious hurdles in the migration legal framework. In the end, except from some regional attempts the public funding of agriculture, with the huge resources coming from the Cap, has done nothing to bind its recipients to the respect of labour standards and collective agreements.

4.2 The “Rete del lavoro agricolo di qualità” (Retelaq)

The Retelaq was established by Law n. 116/2014 to fight agricultural workers' exploitation and to help the agricultural system recovering from the difficulties it faced during the economic crisis started in 2008. To achieve that goal, the law provided for a series of incentives for businesses in agriculture, including administrative simplification, tax credits, recruitment incentives for young workers and so on. It is possible to say that, in the original formulation of the law, working conditions (and migrant workers' conditions in particular) were not lawmakers' priority at the time. In practice, the Retelaq was a register of businesses that was kept and updated by the INPS (the main Italian public social security institute). Businesses in the agricultural sector could apply if they complied with the social security contribution schemes and had not been subject to administrative or criminal sanctions related to working conditions. The only advantage coming from the registration to the list was the guarantee that the undertaking would not be subject to labour inspections.

Overall, the establishment of the Retelaq was, at first, a complete failure: it took a long time for the administrative bodies to create the register and employers had no interest at all in applying for it. In this context, Law n. 199 of 2016 was enacted with the aim to fight gang-masters and worker exploitation. It revised the rules and functioning of the Retelaq. The modifications introduced by Law n. 199 changed the direction of the body from mere administrative functions to a promotional approach. The idea is to support joint actions, based both on the repressive intervention of public authorities, and on the support of those businesses who decide to comply with the law. The Direction board of the Retelaq (which indeed was established since 2014, but started operating only after the 2016 reform) is now rendered effective: it is composed by the

representatives of the most important public institutions dealing with agriculture and employment and by social partners (trade unions, employers' associations, etc.). The Retelaq also significantly increased its functions: it now has the duty to monitor the agricultural labour market, to promote active labour market policies, to organize seasonal workers' traveling and to provide overall assistance to migrant workers.

In our opinion, the most important innovation of Law n. 199 lies in the possibility to create local boards of Retelaq which can involve local stakeholders, such as the job centers and private employment agencies, migration centers and, under certain conditions, NGOs too. The creation of local boards of Retelaq is particularly interesting because it opens the door to the possibility of active integrated policies, where private and public institutions cooperate to achieve the goal of fairness at work and decent work. Secondly, it appears as an important strategy to mobilize local level institutions, and it may be the only way to value peculiarities and needs of the different agricultural regional systems. At the same time, local actors' agencies may be most suited to challenge specific types of exploitation within territories.

It is to say that neither this revision of the network has brought to significant improvements: new applicants are recorded at a pace of 1000 per year, and by July 2022 only around 6000 firms were enrolled in the register of Retelaq. These are very little numbers, considering that there are more than 1.100.000 firms in the sector. Moreover, there are still significant differences in terms of development in different parts of Italy. This is due on one side to the promoting action of some regional governments which, for instance, have passed laws according to which only the undertakings enrolled in the Retelaq can access financing programs. On the other hand, this has been also influenced by some of the lead distribution firms who engaged in the respect of working conditions all along the supply chain, asking their suppliers to register to the Retelaq as a requirement to engage in business. This somehow shows how the integrated and interactive action of public policies and private stakeholders might represent the best way to promote compliance and best practices within firms in specific territories.

4.3 Regional interventions to prevent labour exploitation and gang-mastering

In Italy most regional governments have adopted laws and/or institutional protocols to contrast labour exploitation and gang-mastering in agriculture. These protocols, however, have been (historically) very much differentiated in content, destination and approach, often evidencing the variety of political will and attention to the subject of labour protection and the development of value chain regulations of

territorial governments⁽⁷⁶⁾. It is interesting to compare different regional approaches to learn about best practices and regulatory techniques: this brief paragraph will outline some innovative solutions adopted. For brevity's sake, we will not focus on the critique of those protocols that, throughout our research, we identified as often inefficient or too narrow-focused, at least in northern Italian regions.

In general, regional policies differentiate themselves on the themes concerned and the areas of intervention. Common to all laws and protocols is the creation of monitoring bodies, data collection and the promotion of social actors' coordination within the territories. However, we can testify very different approaches in terms of aims and objectives of the regulatory intervention: some regions appear to be mostly focused on the repression of exploitation cases and gang-mastering (this is the case of Lombardia and the province of Trento in particular)⁷⁷, while others have integrated policies, which combine repressive mechanisms with incentives and promotional efforts (for instance, Lazio⁽⁷⁸⁾, Puglia⁽⁷⁹⁾, Piemonte⁽⁸⁰⁾, Toscana⁽⁸¹⁾, Emilia Romagna⁽⁸²⁾). In particular, Puglia Region has been the first to introduce special indexes that can help in the assessment of labour force needs in relation to specific areas (based on the calculation of products needs in terms of cultivation and harvesting, and local specificities such as field extensions) with the aim of monitoring compliance in terms

⁽⁷⁶⁾ V. Pinto, *Gli interventi legislativi regionali di contrasto al lavoro nero e sostegno all'emersione*, RGL, 2012, 1, 291.

⁽⁷⁷⁾ See "Linee Guida per la prevenzione e il contrasto al fenomeno del caporalato" promoted by Eupolis and Regione Lombardia, 2 March 2016; and "Protocollo a tutela dell'economia legale per il contrasto alla commercializzazione di prodotti contraffatti e pericolosi, al lavoro nero/irregolare e all'abusivismo commerciale" enacted on the 7th July 2020 by Provincia Autonoma di Trento, Procura Distrettuale della Repubblica di Trento, Procura della Repubblica di Rovereto, Camera di Commercio, Industria, Artigianato e Agricoltura di Trento, Istituto Nazionale della Previdenza Sociale - Direzione Regionale Trentino-Alto Adige, Istituto Nazionale per l'Assicurazione contro gli Infortuni sul Lavoro - Dir. Prov. Trento, Università degli Studi di Trento, CODACONS, CRTCU, INDICAM, Consorzio per la tutela dei Vini Valpolicella, Consorzio di tutela Vini del Trentino, Federazione Trentina della Cooperazione Associazione Produttori Ortofrutticoli Trentini (APOT s.c.a), CGIL, CISL, UIL del Trentino, anche per conto delle proprie associazioni di tutela dei consumatori (rispettivamente Federconsumatori, Adiconsum, ADOC), CIA, Coldiretti, Confagricoltura del Trentino, AcliTerra, Associazione Contadini trentini, Comando Regionale Trentino-Alto Adige della Guardia di Finanza.

⁽⁷⁸⁾ See Regional Law n. 18 of 14th August 2019 "Disposizioni per contrastare il fenomeno del lavoro irregolare e dello sfruttamento dei lavoratori in agricoltura".

⁽⁷⁹⁾ See Regional Law n. 28 of 26th October 2006 "Disciplina in materia di contrasto al lavoro non regolare", and "Linee guida - Valutazione di congruità in Agricoltura", D.G.R. n. 2506 del 15/11/2011.

⁽⁸⁰⁾ See "Protocollo Sperimentale per la promozione del lavoro regolare in agricoltura, facilitare l'incontro tra domanda e offerta di lavoro stagionale e dare soluzioni al problema di trasporto dei Lavoratori", 1st March 2019, Regione Piemonte, Prefetture di Alessandria, Asti, Biella, Cuneo, Novara, Torino, Vercelli, Verbano-Cusio Ossola, Direzione Interregionale del lavoro di Milano, INPS, INAIL, Agenzia Piemonte Lavoro, ANCI Piemonte, CIA Piemonte, Confagricoltura, Confcooperative Piemonte, Lega Coop Piemonte, CGIL e FLAI Piemonte, CISL e FAI Piemonte, UIL e UILA Piemonte, Arcidiocesi di Torino, Diaconia Valdese.

⁽⁸¹⁾ See "Protocollo Sperimentale contro il Caporalato e lo Sfruttamento Lavorativo", 5th August 2021, Regione Toscana, Ispettorato interregionale del lavoro di Roma, INPS - Direzione Toscana, INAIL - Direzione Toscana, Confederazione CGIL Toscana, FLAI-CGIL Toscana, Confederazione italiana sindacati lavoratori CISL Toscana, FAI-CISL Toscana, Confederazione UIL Toscana, UIL-UILA Territori Toscani, Coldiretti Toscana, CIA Toscana, Confagricoltura Toscana, AGCI Toscana, Lega Regionale Toscana Cooperative e Mutue, Confcooperative Toscana.

⁽⁸²⁾ See Regional Law n. 18 of 28th October 2016, "Testo Unico per la promozione della legalità e per la valorizzazione della cittadinanza e dell'economia responsabili".

of labour regulations and contrast illegal recruitment⁽⁸³⁾. Indexes for the monitoring of labour force in agriculture have been planned also in Lazio Region with Regional Law n. 18/2019. Furthermore, the laws of Emilia Romagna and Toscana appear to be very innovative for their attempt to regulate the supply chain and to control subcontracting systems.

The Emilia-Romagna law n. 18 of 28th October 2016 contains several measures that have the objective to create a ‘legal compliance rating’ of businesses, giving priority in access to fundings to those businesses that operate fairly, respecting commercial and labour laws. Furthermore, it gives priority in accessing financial help to those businesses which have entered the Retelaq, giving effectiveness and tangible incentives to the instrument. Emilia Romagna is, in fact, one of the Italian regions with the higher number of businesses who have subscribed to the Retelaq, this can also be explained by the action of leading firms in the territory (such as ‘Coop’) that have required their producers to adhere to the Retelaq scheme. In line with the regulatory approach adopted by the EU through the above-mentioned Resolution on Due Diligence and Corporate Accountability (see section 2), Emilia Romagna can be seen as the Italian Region that has come closer to the regulatory approach of constrained voluntarism and the creation of institutional business incentives to the assessment and prevention of potential human rights and environmental harm, together with Toscana Region, which we outline next.

The protocol of Toscana does not contain any incentive for the enhancement of the Retelaq, however, it contains some interesting rules about the promotion of CSR and conditional clauses. The protocol provides conditionality clauses that subject the access to national and European financial funds to the respect of workers’ rights and health and safety provisions; it supports the adoption of due diligence models and systems of CSR for the respect of accountability, society, environment and health and safety. Interestingly, the protocol provides guidelines and instruments to sustain best practices and the evaluation of fair commercial partners, such as subcontractors, within the value chain.

We believe that the adoption of social and fair work conditional clauses is necessary for accessing funding is particularly important for the regulation of value chains, and should be extended as a general standard both at national and European level. The innovative aspects of the Toscana and Emilia Romagna protocols lie in the recognition of the importance of regulating the supply chain, creating incentives for businesses to operate legally. This is certainly a best practice which is able to influence businesses’ action also at European level, especially when concerning new CAP instruments and access to funding.

⁽⁸³⁾ See “Protocollo sperimentale contro il caporalato e lo sfruttamento lavorativo in agricoltura: Cura – Legalità – Uscita dal ghetto” of 2016, Dgr n.1585, 3 October 2017.

4.4. Best practices and case studies

This section explores some best practices that, in different territories, have been voluntarily established to overcome local agricultural labour market issues.

The first example concerns a southern Italy cooperative group that has been effectively fighting organized criminal associations to protect agri-businesses from exploitative and coercive practices, creating a virtuous network able to negotiate product prices, to monitor employment law and social security compliance and to organize internal labour market; the second and third cases explore the positive effect in terms of matching of labour demand and offer of two different bodies: an innovative start-up and a bilateral body operating in northern regions.

Goel Bio is a cooperative group founded in the Calabria region, in Southern Italy. Calabria is a region with a high presence of *agromafie* within its territory, a pervasive and violent environment which makes it very difficult for farmers to be independent and out of the criminal networks, coupled with a weak institutional support structure for businesses and workers. Goel Bio has the political and cultural mission to initiate change and to “free” firms from criminal control, within the regional territory. In order to do so, it has created a structured and functional system of support and control for firms adhering to the cooperative. Importantly, Goel Bio's strategy is to demonstrate that producing ethically is not only ‘right’ *per se*, but also convenient for producers. The cooperative group engages with a plurality of activities, such as social housing for children with special needs and migrants; the management of psychiatric residences; business in tourism, organic agriculture and artisan production (three fundamental sectors for the economic development of the region).

For what concerns fair agri-food production, Goel Bio has created a commercial structure that is able to avoid intermediaries and wholesale dealers. By doing so, they can self-determine the price for their products, without the interference of retailers and lead distribution firms. The fixed selling price entails a benefit for producers, who can enjoy a guaranteed buying price and can manage costs and rely on continuous commercial relationships. Goel Bio operates directly with two large retail distribution companies: NaturaSi and Coop Swiss (both sensible to social fairness and ethical production).

To ensure the compliance with labour standards and to assure legal and ethical operations, Goel elaborated a rigid and structured system of control on their members. For a company to be admitted as a member is necessary to obtain 5 ‘green light’ opinions by other qualified firms and local authorities, who need to express themselves on the ‘reputation’ of the company (if they suspect they have a link with a criminal organization the admission demand is rejected). Furthermore, Goel Bio checks that all the suppliers of the company have a ‘clean record’. This is a value chain operational control that is

deemed fundamental to guarantee the independence and reliability of the company. When companies are admitted as members, they are subject to periodical ‘surprise’ inspections, at least once a year, to check labour conditions and compliance with labour laws (working time compliance, health and safety at work, transport and housing conditions, the adherence between business expenditure and labour cost, the respect of the organic standards and procedures, the list of business suppliers). If Goel Bio registers violations, companies are sanctioned with the immediate expulsion, plus a monetary fine in case of irregular work detected. For what concerns the activities linked with the improvement of work in the agri-food sector, Goel Bio operates to facilitate access to work to disadvantaged groups, such as long-term unemployed people, migrants, and vulnerable workers. The recruitment is facilitated by the collaboration with social services and local charities.

Based in the northern Italian region of Piedmont, Humus Job is a social innovative startup that promotes professional training and job placement under fair working conditions in the agricultural sector⁽⁸⁴⁾. Through a national network contract, this startup has created a business network of “ethical” farms entitled to pool their resources (i.e. means of production, means of processing, tools, assets, real estate and transportation) and even labour force. As a result, farms increase market competitiveness and social sustainability⁽⁸⁵⁾.

By joining this network, they can also take advantage of a range of services for a fee, including the job & sharing service. From job sharing, farms benefit in terms of reducing labour costs, while agricultural workers in terms of new job opportunities. Instead of working only during certain seasons, they are hired by a group of employers throughout the year, enjoying decent working and living conditions in the long-term. The job & sharing service also gives free access to the matching of job supply and demand platform for regular work in agriculture. The mechanism is as follows: farms select the most suitable worker by searching based on skills and experience and geographic proximity. In return, they are required to hire under regular conditions and upload the employment contract to the platform.

Moving beyond theory to practice, the research conducted within the FARM Project has shown that bilateral bodies can be able to provide quick and effective answers to the needs of both workers and employers, offering services not only in terms of promoting decent working conditions through housing, transportation and training

⁽⁸⁴⁾ For further information about Humus Job, see <https://humusjob.it/chi-siamo/> and https://ec.europa.eu/migrant-integration/integration-practice/humus-innovative-model-ethical-employment-asylum-seekers_en.

⁽⁸⁵⁾ The business network contract is regulated by Decree Law No. 5 of February 10, 2009, converted with amendments into Law No. 33 of April 9, 2009, (Art. 3, par. 4b, 4c and 4d). With the network contract, several entrepreneurs pursue the aim of increasing, individually and collectively, their innovative capacity and competitiveness on the market on the basis of a common network program. For some examples of network in agriculture, see C. Borzaga - M. Borzaga - S. Depedri - C. Ferrari - E. Gubert - P. Iamiceli - M. Mazzetti, *Reti tra imprese per l’inserimento lavorativo. Applicabilità e potenzialità del contratto di rete*, Euricse Research Reports, 2021, 21.

for seasonal workers at both occupational health and safety and professional level but also in terms of recruitment⁽⁸⁶⁾. Well-documented evidence of this is represented by “Agribi”, an EB active in the county of Verona. To deal with the severe shortage of migrant seasonal workers experienced during the Covid-19 pandemic in the sector, Agribi launched, in April 2020, a “temporary” employment service as part of a Pilot Project. Through a special Regional Directorial Decree, Agribi was subsequently accredited to provide employment services in the regional territory permanently⁸⁷. Through these activities, Agribi has strengthened the relationship with the public operators, by participating in the recruitment campaigns, by creating lists of qualified workers available for short timeframes and by developing community-based networks. Furthermore, Agribi has provided workers with collateral services such as transports and training, becoming the first EB to assume labour market duties, in collaboration with public institutions and public job placement services.

5. Conclusions: which way forward? Tackling current regulatory issues

The study of the current framework for the regulation of work in agriculture has given us the chance to focus on a variety of themes and regulatory arenas. As pointed out earlier, for a governance action to be effective, it is essential to focus on regulation in its broader meaning: integrating repressive laws and labour standards with social dialogue support, creating regulatory *fora* and incentivizing upstanding self-regulatory instruments and best practices. The critique of the current regulatory framework, alongside with the qualitative study of social actors’ needs and preferences, gave us the opportunity to reflect upon possible regulatory solutions and intervention, to develop guidelines for policy makers and labour scholars interested on the topic.

As argued by scholars⁽⁸⁸⁾, focusing on the mere regulation of local employers and small firms can be ineffective (or even counterproductive) to prevent labour exploitation, as local farmers’ margins of profit are often too narrow, and strongly dependent on leading retail and distribution firms. As pointed out within our study, the regulation of the value chain is fundamental to eradicate some of the embedded causes of informal work and labour exploitation: fair commercial practices and the re-balancing of power relations within the value chain, alongside with a fair price-setting system for producers, are pivotal elements. As testified by the experience of Goel Bio, it is fundamental to render regular work ‘convenient’ to construct a business culture that can

⁽⁸⁶⁾ For further information, see <https://www.project-farm.eu/>.

⁽⁸⁷⁾ See <https://agribi.verona.it/2021/11/18/agribi-accreditato-come-servizio-al-lavoro-della-regione-veneto/>, Regional Directorial Decree, 14th of June 2021.

⁽⁸⁸⁾ B. Appay, *Economic concentration and the externalization of labour*, *Economic and Industrial Democracy*, 1998, 19, 1, 161.

produce fair working conditions and operate in fair value chains. To this end, we praise the attempts conceived by some regional regulations such those of Puglia, Lazio, Toscana and Emilia Romagna, which have conditioned the attainment of public funding to the respect of working and environmental standards, creating business ratings and guidance for sustainable subcontracting. It would be interesting to replicate social conditionality clauses also at national and European levels, to direct funding and financialization to businesses operating legally and to exclude unfair businesses, in line with the requests of interest groups for a CAP better oriented on sustainability and environmental goals ⁽⁸⁹⁾. The current regulatory instruments adopted, such as Directive n. 2019/633 on unfair commercial practices are deemed insufficient if the social aspects and the respect of work and working conditions are not enhanced by effective measures.

To what concerns existing national institutional instruments, it is important to highlight that the Retelaq still has some important limits: scholars have argued that it is a contradiction the idea to preserve undertakings from labour inspections to ensure fair working conditions, as in fact the certification systems rely on the monitoring of the applicants and not on their exclusion from any control ⁽⁹⁰⁾. Moreover, our research identified another important weakness: the 2016 reform was passed without any cost for the public institution, which had to comply with the new functions with their own available resources. This issue is crucial: only adequate resources can ensure the establishment of a long-lasting network operating with different means in order to fight workers exploitation. Indeed, the funding element is essential to sustain regulatory solutions: the delegation of regulatory tasks (such as standard setting, monitoring compliance and enforcement) cannot be done without appropriate funding. The experience of the Retelaq reflects this assumption: the lack of funding for the creation of territorial boards has in fact impeded their development. We believe that, if properly funded, territorial boards could potentially represent an interesting regulatory *forum*, guaranteeing the cooperation and coordination between social actors and businesses interested in fighting poor work and degrading conditions in agriculture.

In this context, we cannot but consider the inefficiencies of public-sector employment agencies and the lack of private agencies as labour-market intermediaries in agriculture. If, at the local level, technological recruitment apps have been of limited use in responding to the increasing challenges in matching labour supply and demand, it is undeniable that they do not represent a comprehensive solution. As a macro level solution, social actors have tried to address these issues through collective regulation, such as the establishment of bilateral bodies, by enhancing their potential not only in

⁽⁸⁹⁾ See for instance the action of ‘Cambiamo Agricoltura’ (www.cambiamoagricoltura.it/) part of the European campaign ‘Living Land’ (www.living-land.org/) created to support active lobbying on EU agricultural policies to promote environmental and social interests.

⁽⁹⁰⁾ M. D’Onghia - C. De Martino, *Gli strumenti giuslavoristici di contrasto allo sfruttamento del lavoro in agricoltura nella legge n. 199 del 2016: ancora timide risposte ad un fenomeno molto più complesso*, WP CSDLE “Massimo D’Antona”.IT, 2018, 352.

terms of building services in line with the peculiarities of the agricultural sector but also in terms of promoting a better coordination between public and private bodies in the labour market.

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