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IS ITALIAN AGRICULTURE A 'PULL FACTOR' FOR IRREGULAR MIGRATION – AND, IF SO, WHY?

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In September 2017, the European Commission Communication on the Mid-Term Review of the EU Agenda for Migration acknowledged ‘undeclared work’ in specific sectors of the economy of various member states as a ‘pull factor’ for irregular migration to the EU.

By analysing the case of Italian agriculture, this policy brief – based on the findings of a comprehensive report commissioned by the Open Society European Policy Institute and drafted by a team of researchers coordinated by the European University Institute - turns the argument on its head, demonstrating that the supply of (irregular) migrant labour is only one of the factors that impact the wider process of restructuring of agricultural production, which began in the 1990s.

In fact, a plentiful and exploitable migrant labour force (which includes mobile EU citizens, temporary migrants, asylum seekers and irregular migrants) only complements the restructuring of agri-food chains as well as the absence of appropriate agricultural and trade policies that would shield producers from the multiple pressures of a variety of factors, including large agri-food corporations, high price volatility and the absorption of smaller farms into larger conglomerates. Through an increasingly unfair distribution of risks, costs and profits along the chain, food industries and retailers use their oligopolistic negotiating market power to impose prices and conditions on farmers, who have faced a dramatic economic squeeze since the 1970s. These changes have taken place in the context of the Common Agriculture Policy (CAP), which has been regularly reformed to promote productivism through a modern and market-oriented agriculture. This process has contributed to widening pre-existing inequalities and polarizations within the European Union, triggering a shift in agricultural labour from family labour to externally-sourced salaried work and, eventually, from a local to a foreign workforce, with a growing presence of migrants in farming activities.

In light of the current political scenario, the authors of this policy brief present a series of recommendations to policy makers at the EU and at the national level, with a view to guaranteeing migrant workers’ rights in agriculture in a way which benefits producers, workers and consumers.

THE CASE OF ITALIAN AGRICULTURE

In 2015, nearly half of all agricultural workers in Italy (approximately 48% or some 405,000 out of a total of 843,000) were foreigners (both EU citizens and non). In addition, over 50% of all workers (whether Italians or foreigners) employed in the agricultural sector in the country were employed without a formal contract. The vast majority (80%) of the latter, however, were foreigners. The phenomenon is not restricted to Italy, as agriculture is the main sector plagued by the scourge of informal or undeclared work and serious forms of worker exploitation across Europe.

Mediterranean countries are characterised by a particularly high demand for cheap labour due to the temporary and precarious nature of agricultural labour, which requires workers to move from one region to another according to seasonal production needs. The fruit and vegetables produced in this region then make their way onto supermarket shelves throughout Europe, from Germany to Austria, Switzerland, France, Sweden and the UK.

The case of southern Italy is emblematic because of its historically seasonal and progressively specialised agriculture, as well as because of socio-economic features specific to the area. In Calabria, Sicily, Campania, Apulia and Basilicata open-air or greenhouse seasonal productions of fruit and vegetables rely mainly on small and medium-sized farms; products are geared at fresh consumption or processing and serve distance distribution and large retailers. Furthermore, in agriculture as much as in the general economy, the labour market in southern Italy is characterised by informality in contractual relationships.

An illegal gang master system known as *caporalato* exacerbates the informality and contributes to the exploitation of workers, female and male alike. The conditions in which the *caporalato* system flourishes include: a high demand for short-term and very flexible labour; indirect farming, with labour outsourcing, contract operations and leased land and machineries; workplaces that are very isolated or present extremely harsh working conditions; the inability of producer organisations to effectively represent local producers' interests; the presence of criminal organisations and a lack of official recruitment services. In the sections below, we briefly analyse the role of each of these factors in shaping the highly exploitative Italian agricultural system, where migrant workers are trapped but also try shape and subvert the system.

Value chain dynamics favouring large-scale distribution actors

In line with the dynamics of change in production processes at the global level, the agri-food supply chains in Italy are buyer-driven. Buyer companies play a central role in selecting suppliers and setting up distribution systems. The increasing complexity of supply networks management has concentrated the control of value chains in the hands of a limited number of large retail groups.

The expansion of large-scale retailing has contributed to drastically reshaping the food sector. On the one hand, it has fostered the modernisation of the distribution chain, but on the other it has severely weakened the power and profit margins of the agricultural-industrial sector in favour of the supermarket and discount chains that have a dominant position. In fact, since the adoption of the EC Regulation 1/2003 'on the Implementation of the Rules on Competition', EU policies of market liberalisation and competition have allowed the expansion on a continental scale of the largest European supermarket chains.

SUPERMARKETS' UNFAIR TRADING PRACTICES

One of the practices implemented by large distribution groups for matching supply and demand is the reverse auction. In the reverse auction, the auctioneer proposes a high selling price that gradually decreases until it meets the interests of a buyer.

In the fruit and vegetable sector, reverse auctions have become widespread.

Some chains of the large-scale retail trade use this method through specific online platforms for managing supplies, but also activate a second level of bargaining based on the price identified after the first round of negotiations. This practice of two-stage electronic auctions effectively functions as an instrument to pressure suppliers that increases the risk of cost-cutting being dumped on workers.

Discount chains use this practice for about 50% of supplies, while a somewhat lower percentage concerns traditional supermarkets. On 25 October 2018, the European Parliament approved its position on the proposal for a Directive on unfair trading practices (UTPs) in business-to-business relationships in the food supply chain (COM/2018/173 final - 2018/0082 (COD)), which will now be negotiated with the European Commission and Council.

The unequal power relationships along the agri-food chain are further exacerbated by the mono-cultural intensive model of agriculture and by the high concentration in the industrial sector, which results in a growing dependency on large retailers that can afford to further squeeze the price paid to producers.

Organised crime and corruption

Today criminal interests driven by forms of entrepreneurial organised crime linked to the agricultural world have become increasingly relevant and are generally inserted within so-called *agromafia* systems. The latter's structure plays out in various ways. First, there is the management of labour and international trafficking in human beings, in cooperation with foreign criminal organisations.

Secondly, criminal organisations have been found to influence and control the flow and type of products as well as to determine their prices and marketing methods. Italian prosecutors have also published details about investigations into mafia groups controlling fruit and vegetable markets, including via alleged criminal activities involving the transport sector and wholesale markets. Fourthly, criminal networks' involvement can be found also in counterfeiting Protected Designation of Origin (PDO) and Geographical Protected Indication (GPI) products or other certifications.

Finally, the growing involvement of organised crime in the management of EU Common Agricultural Policy funds is fairly visible. For Italy this illegal turnover amounts to around six billion euros per year for the CAP alone, not to mention other public subsidies.

Recruitment practices – the role of caporalato

In the context of the overall liberalisation of the Italian labour market, responsibility for persistent labour exploitation in agriculture has been identified with the *caporalato*, the traditional Italian gang master system. The term *caporalato* covers a variety of mechanisms, including low-level team leaders who select workers and recommend them to employers, organise shifts and check the quantities picked by each worker in the case of piece payment. The *caporali* plan and agree on the costs and timing of the harvest, keeping a share of the profits for themselves for this logistical work of intermediation or coordination. Indeed, the *caporale* tightly controls and manages workers' daily lives – their recruitment, transport, housing, meals and social contacts as well as work time and wages. Serious exploitation is often reported, alongside violence, threats and blackmail. The majority of victims of the *caporalato* system are non-Europeans, but EU workers are also increasingly recruited directly in their countries of origin (including via posted work schemes) during specific seasonal agricultural harvesting times. However, cooperatives and temporary work agencies are additional mechanisms for recruiting and organising farmworkers in order to reduce costs and ensure flexibility via legalised forms of unscrupulous intermediation.

EU AND ITALIAN POLICIES

The 2015 European Agenda on migration does not set out any concrete proposals on safe legal migration channels, with the exception of highly-skilled third-country nationals - overlooking the fact that the vast majority of migrants find jobs mainly in low-skilled and low-paid economic sectors. Albeit in a rather limited manner, the Agenda does refer to the issue of 'potential sources of exploitation' practised by 'employers inside the EU'. However, the response mainly features repressive solutions, with the main one being full implementation of the Employer Sanctions Directive.

Directive 2014/36/EU 'on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers' was adopted in order to meet the need for seasonal work in EU member states' economies while addressing irregular migration and the exploitation of migrant workers. The Directive allows workers to change employers and contains important provisions concerning accommodation, compensation and the facilitation of complaints. It also provides for equal treatment of non-EU seasonal workers with EU nationals in core areas including employment conditions, the right to strike, back payments, social security, education and tax benefits. However, member states are allowed to restrict equal treatment for many of these issues. The Seasonal Workers Directive also requires member states to adopt measures to facilitate the re-entry of seasonal workers in the country. However, it does not include any provisions concerning access to long-term residency status after a number of years of consecutive seasonal work.

Although it marks an advancement for the rights of seasonal workers, the Seasonal Workers Directive contemplates an employer-driven system, providing member states with wide discretionary power in the implementation of provisions concerning the rights and protection of these workers.

Labour mobility in the EU

Posted workers employment conditions within the EU are regulated by the 1996 Posted Workers Directive (96/71/EC). However, this Directive has

failed to ensure a balance between the freedom to provide services and the need to ensure fair competition as well as respect for workers. Rather, it has fostered social dumping dynamics, in the sense of lowering wages and social protection provisions. Moreover, in recent years there has been an increase in businesses relying on illegal posting, based on workers' exploitation, including in agriculture. In 2018, EU Directive 2018/957 concerning the posting of workers in the framework of the provision of services amended the original Posted Workers one to bolster the rights of posted workers and also ensure fair competitive conditions for companies by introducing important provisions on remuneration, temporary agency workers and long-term posting. The Directive has not, however, dealt with key issues such as subcontracting.

Policies on trafficking and exploitation

As it only concerns undocumented non-European migrants, Directive 2009/52/EC 'on sanctions and measures against employers of illegally staying third-country nationals' has limited impact in addressing exploitation in sectors such as agriculture, where many migrant victims are EU nationals or migrants holding one of several types of legal residence permit. Directive 2011/36/EU on 'preventing and combating trafficking in human beings and protecting its victims' has, on the other hand, marked a significant change in EU legislation in the field by adopting an integrated, human-rights-based and gender-sensitive approach to trafficking. This Directive defines the position of vulnerability—which constitutes one of the means by which trafficking can occur—as "a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved", thus highlighting the need to consider the structural factors that lead people to enter into exploitative working conditions. The Directive also includes important provisions such as unconditional assistance for victims and non-prosecution or non-application of penalties to victims. Such unconditional assistance is of crucial importance for addressing severe labour exploitation in agriculture.

The Common Agricultural Policy (CAP)

A comprehensively critical assessment of the CAP today would recognise its contribution in consolidating — and to an extent even widening — sectorial, social and territorial inequalities, often to the advantage of larger farms and companies, higher-potential areas and specialised agricultural enclaves. Conversely, and as a consequence, family farming and agro-ecologically marginal areas have undergone dramatic processes of abandonment and depopulation. These dynamics have been partially 'fixed' with the arrival of migrants, who have matched the demand for low-cost, flexible and just-in-time labour, but have also countered the rural exodus and demographic decline.

Addressing the next CAP reform, the European Commission communication on 'The Future of Food and Farming' (2017) emphasised that "the future CAP could play a larger role in addressing the root causes of migration". It also stated that agriculture offers opportunities for seasonal workers and that "the CAP can play a role in helping to settle and integrate legal migrants, refugees in particular, into rural communities". In Italy, the Regional Rural Development Programmes (2014-2020) also reflect a new but still rather low level of attention to rural migrants.

Establishing a form of conditionality for EU payments to farmers to ensure the respect of workers' rights is a longstanding request by the European Coordination of Via Campesina (ECVC), which has recently been endorsed by Italian trade unions such as CGIL and USB. A system of positive conditionality is mentioned in a recent European Commission Communication (2018) concerning the rules on support for strategic plans by member states under the CAP. In the chapter on direct payments, there is a reference to advantages for employers being foreseen taking into account the standard costs of agricultural labour and compliance with labourers' rights and working conditions. However, this provision is too abstract and, in any case, has not yet been implemented.

Italian migration and asylum policies

In Italy, the lack of an effective entry system for foreign workers capable of meeting labour demand in sectors such as agriculture has mainly been offset by the arrival of growing numbers of migrants from Eastern EU countries as well as by non-EU asylum seekers and refugees. In the case of asylum seekers, the interplay between lengthy asylum procedures — which to date take an average of 13-14 months — and a lack of adequate hosting and protection mechanisms in the country increases their vulnerability, thereby heightening the risks of exploitation.

Asylum seekers and migrants' vulnerability will most likely be significantly exacerbated by the provisions of the new Law-Decree on immigration and security ("*Decreto Salvini*"), adopted in October 2018. The Decree abolishes residence permits for humanitarian reasons, which were rolled out twenty years ago by Legislative Decree No. 286/98 ('Consolidated Act of provisions concerning immigration and the condition of the third country national's) to protect people in situations of humanitarian need, including vulnerable migrant women and minors as well as victims of torture. Given that residence permits have been issued mainly where international protection has been rejected, the new legislation will entail an increase in the number of rejected asylum requests as well as of migrants losing their current legal status, which, in turn, will boost the number of irregular migrants, who are even more vulnerable to exploitation.

Combating the caporalato system through labour organising

The Italian authorities' response to the exploitation of migrant workers in agriculture has mainly been characterised by a repressive approach, focusing in particular on prosecuting the *caporali*, who are seen as bearing the main responsibility for exploitation in agriculture. Notably, in 2011, Article 603bis of the penal code introduced the crime of 'unlawful gang-mastering and labour exploitation'. However, this provision has proven difficult to implement and has led to a limited number of convictions.

Law No. 199/2016 on combating undeclared work and labour exploitation in agriculture is an important step forward. The law amended Article 603bis of the penal code, targeting both abusive gang masters and employers who take advantage of workers' neediness and insecurity. The amendment also provided for mandatory arrest *in flagrante delicto* and mandatory confiscation of proceeds and property, and introduced corporate criminal liability. It also law established that victims of labour exploitation may have access to Article 18 of the Consolidated Act on immigration (Legislative-Decree No. 286/98), which provides victims of violence or severe exploitation with a long-term assistance and social integration programme, as well as - in the case of non-EU migrants - a residence permit for social protection, regardless of their cooperation with law enforcement (the so-called 'social route' to protection). However, Article 18 has often been implemented inadequately without actually giving access to this protection to victims who do not cooperate with investigators.

Despite the recent bout of attention paid to labour exploitation, in recent years the number of inspections in the agricultural sector has dropped from 14,397 in 2006 to 7,265 in 2017. The rhetoric highlighting better-targeted controls is therefore statistically unfounded, as the percentage ratio between the number of inspections and employment irregularities has essentially remained the same, at around 70%.

In addition, Law 199/2016 amended the regulation concerning the Network of Quality Agricultural Work (*'Rete del Lavoro agricolo di Qualità'*), which includes companies that respect fair labour and employment conditions in the agricultural sector. Although the law provides for structuring the Network into 'territorial sections' (local branches) to develop active labour market policies and promote actions to address labour intermediation, cooperation among the state bodies involved and from companies has been very low, with only a handful of them registering to join.

ADDRESSING LABOUR EXPLOITATION THROUGH QUALITY CERTIFICATION SCHEMES

In recent years, quality certification schemes have been developed in different regions of Italy as a result of increased attention by consumers as well as of increasing unionisation among farmworkers. Quality certification schemes are promoted according to three models: corporate responsibility strategies, alternative agri-food networks and fair trade.

CORPORATE RESPONSIBILITY: THE COOP ITALIA EXAMPLE

The large-scale cooperative supermarket chain Coop Italia launched the Buoni e Giusti (Good and Right) campaign in 2016 for an ethical production and supply chain within Italy. The Buoni e Giusti programme seeks to strengthen Coop Italia's pre-existing strategy to audit its supply chain and ensure the respect of fair working conditions via vertical control over the supply chain. The scheme initially addressed 13 fruit and vegetable supply chains identified as being at risk and was then expanded to include additional supply chains. In the last campaign, Coop claims to have included over 800 suppliers of fresh fruit and vegetables (national and local private labels and non) covering 70,000 farms involved in the supply chains with a control plan based on risk analysis. Coop has striven to link this approach with government initiatives by asking all companies that respect the standards of the campaign to join the Network of Quality Agricultural Work. Consumer feedback is positive and the initiative, which also featured a strong communications campaign, seems to have increased awareness among Coop members.

FAIR TRADE: ALTROMERCATO

The *Tomato Revolution* campaign was launched by *Altromercato*, Italy's most prominent fair-trade group, distributed through specialised shops. The project produces organic tomatoes, regularly hiring workers and supporting farmers and social projects in Apulia. *Altromercato* promotes a transparent chain by using a 'narrative label' that provides information about the production process and the farmers involved.

ALTERNATIVE AGRI-FOOD NETWORKS: SOS ROSARNO

The *SOS Rosarno* campaign was launched in 2011—one year after African labourers rebelled against exploitative conditions—by two activist associations, *Africalabria* and *Equosud*, in Calabria's Gioia Tauro-Rosarno plain. Its aim is to address the exploitation of farmworkers and small producers in the citrus supply chain. *SOS Rosarno* promoted an alternative supply chain of oranges produced by small farmers, collected by regular migrant workers, and marketed through more than 500 GAS (community-driven Solidarity Purchase Groups). The *SOS Rosarno* association now involves several producers who provide regular seasonal employment contracts for picking work. This has enabled African workers to stay in one place, avoiding forced and circular movements from one ghetto to another.

COMBATING THE *CAPORALATO* SYSTEM: ALTERNATIVE WORKER ORGANISATION INITIATIVES

Among the alternative initiatives pioneered by worker organisations throughout Italy, In Migrazione and USB have achieved great results in combating the exploitation system based on the *caporalato*. In Migrazione is a cooperative working in the Agro-pontino area (Latium region), where its *Bella Farnia* projects (financed by the Latium government) offers training, services and information to local Indian Sikh workers about the payroll system, contracts and intermediation. Workers have mobilised individually and collectively, occupied a greenhouse and organised a strike in April 2016 which was supported by the farm workers' labour federation FLAI-CGIL. They have since obtained higher salaries and better conditions, even though the better wages are still lower than what is legally foreseen as the minimum standard.

The trade union USB (*Unione Sindacale di Base*) has focused its efforts on unionisation and on promoting coordination between farmworkers, especially in the areas of Foggia (Apulia) and Rosarno (Calabria). USB offers legal assistance for regularisation and the renewal of residence permits and for defending labour rights against employers. It also supports farmworkers' requests for transport and other basic services such as water, electricity and waste collection in the informal encampments, as well as for structural housing solutions managed autonomously by farmworkers. USB advocates for registration at local municipal offices to secure rights as well as access to health and social services and points out the responsibilities of producers to provide for transports.

KEY MESSAGES FOR EU-LEVEL POLICY MAKERS

Good practices, economic incentives and legislative measures are part of the solution, but what is most needed is a coherent policy framework as well as consistency and complementarity between policies and the different policy levels.

At the EU level, this would imply that European Commission departments dealing with home affairs, employment and regional development contribute to CAP reform, where social inclusion is currently mainly covered by the agriculture Directorate General.

Based on this premise, the following policy recommendations would ensure a better-functioning system:

1. Coordinate the roll-out of legal and safe entry routes to Europe by establishing regular channels for migrant workers based on demand from employers, including in the agri-food sector. The European Commission's proposal for legal migration pilot schemes are a step in this direction, but EU member states must commit to taking part in the initiative so as enable them to be launched..
2. Increase the protection of seasonal workers, including by revising the Directive 2014/36/ EU on seasonal workers by making some of its provisions - such as enabling migrant workers to change employer - employer.
3. Enhance provisions on the protection of victims of exploitation and trafficking and ensure all EU member states implement existing ones such as the principle of unconditional assistance to victims independently of their cooperation with the investigating authorities and of the non-prosecution of victims, as established by Directive 36/2011/UE on trafficking.
4. Seize the opportunity offered by CAP reform under the new Multiannual Financial Framework and meet an increasing demand for ethically sourced products on the part of European consumers by making CAP funding and subsidies conditional on respect for labour rights and standards, and ensuring appropriate monitoring and reporting mechanisms are put in place.
5. Support initiatives to include labour and production standards in EU-wide labelling schemes, along the lines of those developed to certify fair trade and organic goods.

KEY MESSAGES FOR NATIONAL POLICY MAKERS IN ITALY

1. Improve the labour inspection system by increasing the number of inspectors and ensuring they are adequately trained (including on provisions in migration law and penal law establishing protection schemes for irregular migrants who are severely exploited).
2. Ensure local and regional authorities develop programmes for adequate housing and transport for migrant agricultural workers, especially in at risk production areas such as the Plain of Gioia Tauro-Rosarno, Foggia and Nardò in Apulia, Ragusa and Campobello di Mazzara in Sicily, Vulture-Alto Bradano in Basilicata, and Canelli in Piedmont.
3. Improve provision of information by local and regional authorities to workers about their rights as well as access to justice and remedies by ensuring they are able to seek and receive qualified legal counselling.
4. Encourage national and regional authorities to support the role of farmworkers' trade unions and NGOs in monitoring respect for fair working conditions and supporting workers' demands for respect for their rights.
5. Encourage national and regional authorities to inform and raise awareness among consumers on the labour practices behind food production.
6. Support business-led initiatives aimed at ensuring labour standards are fully respected at all stages of the supply chain and meet consumer demands for ethically-sourced produce by rolling out national certification and labelling schemes.
7. Ensure that 'reverse auctions' and other systems employed by retail chains which are driving prices below production costs are definitively sanctioned.
8. Encourage companies to sign up to the Network of Quality Agricultural Work, including by foreseeing incentives (e.g. preferential access to tenders for the provision of catering services in schools and hospitals).
9. Support efforts by companies to roll out labelling systems which indicate products' origin, as well as information about the supply chain.

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