

## Best Practices against Work Exploitation in Agriculture. Executive summary

### The scale of the problem

For the purpose of this study agriculture shall mean: “*sum total of work done to produce crops and animals on land, islands, in fresh water and of shore continental shelf areas. Basically, the definition covers agriculture, forestry, horticulture, fish-farming and aquacultures*”<sup>1</sup>.

It is a system where different activities and sectors, which in turn are influenced by several interests, requirements and perspectives, combine at different levels and in various fields. In this context, there is still the presence of different forms of illegal and undeclared work, a phenomenon that characterises a significant part of the total number of workers involved in this sector. In Portugal and Romania, irregularities arise, although these countries are among those with lowest hourly labour cost<sup>2</sup>. In the first case, the rate of illegal workers in the agricultural sector is 60 per cent and in the second one is 40 per cent. Even if in countries like Germany and Austria the rate is very low in particular 5 per cent and 10 per cent, around 25 per cent of agricultural workers in Europe is classified as illegal<sup>3</sup>.

In Europe, agriculture is one of the main sectors that face the scourge of informal or undeclared work and serious forms of work exploitation<sup>4</sup>. Between the main factors that determine this phenomenon, there is the lack of attention for the primary sector, caused by, among others, the assumed inadequate economic return of this sector and by the inherent availability of an abundant manpower at a low-cost regime. This situation started in the '60 with the creation of the Common Agricultural Policy (CAP) that fixed the transition from a small-scale farming to an industrialised one. This passage resulted in a prolonged decrease of the agricultural products' cost, a trend exacerbated by the recent economic crisis started in 2008.

The phenomena of informal, undeclared and exploited work characterise all the European countries, not to say the international context. By looking at the situation in Italy, undeclared work is spread mostly in the Mediterranean area<sup>5</sup>. According to Eurispes, the incidence rate in the agricultural sector was estimated at the 27 per cent during the first semester of 2014. An

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<sup>1</sup> EFFAT, *Undeclared work in European Agriculture*, European Federation of Food, Agriculture and Tourism Trade Unions, Bruxelles 2010, p. 6.

<sup>2</sup> Eurostat, *Hourly labour costs ranged from €3.8 to €40.3 across the EU Member States in 2014. Lowest in Bulgaria, highest in Denmark*, Eurostat-newsrelease, n. 56, March 2015 (<http://ec.europa.eu/eurostat/documents/2995521/6761066/3-30032015-AP-EN.pdf/7462a05e-7118-480e-a3f5-34e690c11545>).

<sup>3</sup> Committee on the Environment, Agriculture and Local Regional Affairs, Doc I 1114-20 December 2006.

<sup>4</sup> Eurispes-UILA, *#sottoterra - indagine sul lavoro sommerso in agricoltura*, Eurispes-Unione Italiana dei Lavori Agroalimentari, Roma 2014.

<sup>5</sup> #FilieraSporca, *Il rapporto. Gli invisibili dell'arancia e lo sfruttamento in agricoltura nell'anno di Expo*, 2015, p. 8.

increased rate if compared with the previous years' rate: 27,5 per cent in 2011, 29,5 per cent in 2012 and 31,7 per cent in 2013<sup>6</sup>.

The progressive growth of this phenomenon, with risks of further rise, it's given by the persistence of the crisis of the fruit and vegetable sector. In this framework, situations are deeply different from region to region. In Bulgaria, for example, weak controls, the emigration of specialised workers and the persistent economic crisis are at the basis of the consolidation of emergency situations. For the year 2010, the rate of undeclared work was 50 per cent of the total number of workers, with no possibilities for the labour unions and the govern to communicate to each other's to find solutions for the problem at stake<sup>7</sup>.

In the Netherlands, however, the rate of illegal work is 13,7 per cent, more than ten points under the European average. Nevertheless, in areas affected by seasonal cultivation (as the well-known tulips cultivation), these percentages reach the rate of 40 per cent<sup>8</sup>. In particular, migrants from Poland move to the Netherlands to find occasional employment, and they represent a large portion of the undeclared workers<sup>9</sup>.

Another relevant factor lies in the presence and role of organised crime. According to the first and second report entitled *Rapporto sui crimini agroalimentari in Italia*<sup>10</sup>, the food sector is largely controlled and influenced by criminal and mafia organisations, with detrimental effects not only towards workers but also towards consumers, by incrementing the final price of food stuffs in supermarkets. For the year 2013, Coldiretti and Eurispes have estimated that, in relation to the country, the agri-food business controlled by these organizations amounted to euros 14 billion, considering 7 billion coming from agricultural production<sup>11</sup>.

*Tabella 1 Numero lavoratori irregolari e in nero, nel settore agricolo - Rapporto annuale dell'attività di vigilanza in materia di lavoro e legislazione sociale - anni 2014-2016*

Anno	Lavoratori irregolari	Lavoratori in nero	Incidenza lavoro nero
2014	3.720	2.478	67%
2015	6.153	3.629	59%
2016	5.512	3.997	73%
2014-2016	15.385	10.104	66%

<sup>6</sup> Data presented the 30<sup>th</sup> October 2014 by Eurispes during the Fifth UILA-UIL labour union Conference.

<sup>7</sup> See note n. 1, at p. 13.

<sup>8</sup> *Ivi*, p. 19.

<sup>9</sup> *Ivi*, p. 18.

<sup>10</sup> Eurispes, *Agromafie. 1° Rapporto sui crimini agroalimentari in Italia*, Coldiretti-Eurispes, Rome 2011; Eurispes, *Agromafie. 1° Rapporto sui crimini agroalimentari in Italia*, Coldiretti-Eurispes, Rome 2015.

<sup>11</sup> Eurispes, *Agromafie. 2° Rapporto sui crimini agroalimentari in Italia 2013*, Eurispes, 2013.

## Irregular work in the European Union

Considering all 28 States of the European Union, there are 10.838.290 operating farms and agricultural companies, 71 per cent of whom is concentrated in five countries: Romania, Poland, Italy, Spain and Greece<sup>12</sup>. It has to be notice how Romania is at the top with three million of farms, even if in this case it is a country with an own consumption-based agricultural system. The total number of workers involved in these company is 22.205.300, 20.199.380 of them as to be considered as family workers, while the remaining part, 2.005.920 workers, are extra family workers. The contribution from family workers in the EU is 91 per cent of the total amount, twenty per cent more than the Italian case.

Tabella 2 Tasso di lavoro irregolare in alcuni stati europei – EFFAT 2010.

Stato	Tasso di lavoro irregolare	Valore dell'agricoltura (Miliardi €)
Germania	5%	14,3
Austria	10%	2,9
Bulgaria	50%	1,7
Spagna*	20-30%	21,3
Francia*	5-10%	27,1
Paesi Bassi	14%	0,8
Italia	30-50	26,1
Polonia*	>25%	7,9
Portogallo	60%	2
Romania	40%	8

From these data we can observe that Romania, Portugal and Bulgaria have a rate of illegal work higher than 40 per cent. After that, Italy, Poland, Spain and Greece have rates higher than 20 per cent. Austria, France and Germany have the lowest rates<sup>13</sup>.

As a European University Institute report has recently shown, “today the majority of exploited migrant workers are not undocumented foreign workers but migrants with a residence permit, refugees, asylum-seekers, and poor EU migrants<sup>14</sup>”. The European Union Agency for Fundamental Rights has recently emphasized how migrants from inside the EU have been exploited in other countries of the Union<sup>15</sup>. Although the FRA’s presented cases involved a

<sup>12</sup> Eurostat, *Farm structure survey 2013*, Eurostat, november 2015, ([http://ec.europa.eu/eurostat/statistics-explained/index.php/Farm\\_structure\\_survey\\_2013\\_-\\_main\\_results](http://ec.europa.eu/eurostat/statistics-explained/index.php/Farm_structure_survey_2013_-_main_results)).

<sup>13</sup> EFFAT, *Undeclared work in European Agriculture*, European Federation of Food, Agriculture and Tourism Trade Unions, Bruxelles 2010.

<sup>14</sup> Letizia Palumbo, *Trafficking and labour exploitation in domestic work and the agricultural sector in Italy*, European University Institute - Robert Schuman Centre for Advanced Studies, Fiesole 2016

<sup>15</sup> FRA, *Severe labour exploitation: workers moving within or into the European Union States’ obligations and victims’ rights*, European Union Agency for Fundamental Rights, Luxembourg 2015.

relatively limited number of people, what is revealed is a scenario where multiple path cross Europe, from Eastern and South Europe to Western Europe, ending to often in situation of exploitation, quasi-slavery and lack of human rights: Lithuanian workers in United Kingdom, Bulgarian in France, Rumanian in Greece, etc. Illegal gangmasters operate in both countries (at the origin and at the end of the migratory path), deliberately enrolling people through contracts that end up being fraud and tools to keep workers in the fields without minimum wages and social guaranties. According to this situation, what characterize the fields of northern, central and southern Europe is the scale of the phenomenon, since undeclared work – in various forms and conditions – is significantly spread and – in many ways – not efficiently countered.

### Causes of the irregular work in agriculture

There are multiple reasons fostering a such widespread phenomena. In general, it is possible to summarise them as described below:

- Endogenous causes:

- *Indefinite seasonality*. The agricultural work is characterized by a labour demand closely linked to seasonality; wheather conditions and the production cycle are two key factors: so, the tenant needs a high number of workers only for limited period.
- *Working environment and fragmented activity*. An open-air place of work favours irregular work because it is easier to hide irregular workers in a farm, rather than in a building;
- *Cultural and educational context*. In the agricultural sector managers are quite old and their education level is pretty low. These factors have a considerable influence on undeclared work.
- *Management fragmentation*. Italian farms and agricultural companies are usually small sized family farms. In such a context, it is easier to find informal working relations;
- *High incidence of labour costs*. The incidence of the labour costs related to cultivations of fruit and vegetables are quite high: between the 40 and 60% of the total manufacturing cost.

- Exogenous causes:

- *Economic crisis*. The agricultural sector has been through frequent market crisis, during the last years. As a consequence, the prices have become uncertain and several producers have been forced to lower the costs of production;
- *Globalisation and international competition*. Globalization had a double effect: it has

created new opportunities for the producers, but it also has established competitions between countries, in relation to their costs of labour, that can be very different. It may happen that producers, in order to remain competitive in the market, will opt for irregular work.

- *Privatization of employment center.* Thanks to the privatization of public employment centers, illegal intermediation has been favoured.

## Law and work exploitation in the agriculture

### International dimension

From the past centuries, different members of the international community (States, multilateral organizations etc..) have promoted collaborative initiatives with the aim of strengthening worker's rights' through the conclusion of international agreements. In this context, a vital role has been exercised by the International Labour Organisation (ILO), created in 1919.

Given the complexity of this phenomenon, however, even if agreements concluded within this framework represent the most significant contribution, several sources of law (with different *rationae materiae*) have to be considered to study the phenomenon of work exploitation.

### European Union sources:

Within the European Union, from the perspective of the employees' protection, in parallel with the international level, we witness the progressive evolution in rights protection. At the heart of the protection there is the human being as such, with his dignity and his freedom. As for the EU level, the relevant sources are not only those which directly apply to work exploitation, but also those of related disciplines, in particular in the area of migration.

### National dimension:

From the Italian perspective, a particular focus has to be paid to the redefined crime as introduced by law 199/2016, *Disposizioni in materia di contrasto ai fenomeni del lavoro nero, dello sfruttamento del lavoro in agricoltura e di riallineamento retributivo nel settore agricolo* ("Provisions on countering the phenomenon of black labor, the exploitation of labor in agriculture and the reallocation of remuneration in the agricultural sector"), relating to illegal

intermediation and work exploitation. It provides two different hypotheses where the crime of “capolarato” (illegal gangmasters system) can be punished. It has to be said that the previous text was introduced only six years ago, that means how it is a relevant and widespread phenomenon in the Italian context.

### Critical issues that emerge facing this phenomenon

The many forms of illegality existing among workers' employment condition (informal, undeclared and exploited work) in the agricultural sector show us critical issues that reveal how hard and complex is to approach and tackle these phenomena within all the European Union countries. They are characterised by an heterogeneous nature, caused mainly by different work (and cultural, social and economic) environments and different kind of employees (men, women, children and migrants). This complexity makes hard to understand, to control and to counter these problems.

The legislation quality is one of the relevant factors which deeply impacts not only to the police activity but also to labour inspectorates which represent the public actors that are in the best position to approach work exploitation.

The lack of awareness by the irregular worker of their condition, with the combined presence of impunity, give rise to a tacit recognition of undeclared work by citizenship.

Recognition that often implies limited trust towards the public authorities, with the State incapable to enforce its rules. Lastly, the role of criminal and mafia organisations is particular important to understand the critical issue found by studying informal work, illegal work and work exploitation.

There is a need for common rules to eradicate all forms of work exploitation. The States of the European Union have to formulate and implement them, to assure adequate protection for the victims of violence and to guaranty access to legal remedies.

All of this shall be enclosed in a framework with an adequate strategy at the international level, with the fundamental collaboration of NGOs, labour union and employers. The result should be a coherent legal framework made by criminal, civil, administrative and labour rules that give all public authorities instruments to be applied. Citizenship should represent part of this change of attitude and perspective.

## Relevant initiatives at private, public and civil society level in Italy

Within the Italian picture there are interesting examples of initiatives that try to solve the phenomenon of informal work, undeclared work and work exploitation. Here it is the list:

### Campagna “Buoni e giusti”;

On the lines of the initiative for the adoption of the SA8000 standard in 1998, in order to achieve big results in terms of corporate social responsibility, recently Coop has decided not only to strengthen the tests on its products, but also to shed light on the dramatic working conditions of several farm workers. The intervention will be organized on three levels: production, controls in the farms and developing social initiatives.

### Progetto Presidio Caritas.

This project is different from all the others listed above. The purpose is the same, but it is achieved in a different way: with this project, Caritas intend to constantly support the working exploitation victims, through controls in the areas where the phenomenon is firmly rooted.

### The seasonal agricultural work within the autonomous Province of Trento

The organisation of the agricultural work within this province is with no doubts one of the most virtuous cases not only at the national level but also at the European level, with a detailed regulatory framework and with the efficient role of the local public authorities.

### The harvest of grapes in France

France is the first country in Europe for the raw agricultural production, with the value amounting to nearly 57 billion euros in 2013, with 472.210 farms<sup>16</sup>. The French models of great relevance not only for the importance of the primary sector and in particular for how it is managed the agricultural work. An important case regards the harvest in the main areas of French production, dimension where the illegal and semi-illegal work is almost disappeared or greatly limited.

### Francescon Farm

The Francescon farm, with registered office in Rodigo (Mantua, Italy) is between the main producers of melons and watermelons in Italy. The main sources of imported labour are India, the national collective labour agreement is at the basis, with the collateral action of a trade union, of the employment relationship. Also at social level, interesting results can be

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<sup>16</sup> Eurostat, *Farm structure survey 2013*, Eurostat, november 2015, ([http://ec.europa.eu/eurostat/statistics-explained/index.php/Farm\\_structure\\_survey\\_2013\\_-\\_main\\_results](http://ec.europa.eu/eurostat/statistics-explained/index.php/Farm_structure_survey_2013_-_main_results)).

found.

#### Hortosabor Mediterraneo

*Hortosabor Mediterraneo* is a Spanish fruit and vegetable company, operating in a context where there is a strong presence of foreign workers (50%). Despite an agricultural area of 60 hectares, thanks to the mechanization of various cultivation operations, the company requires only 35 operators, who work throughout the year with an unlimited labour contract. Most of them are African workers – in particular Moroccan and Senegalese citizens – who live in a stable position in Almeria and are supported by the company for travels.

#### Conclusion

After having identified the joint efforts of the agri-food chain, and of the State in tackling informal and undeclared work and work exploitation, it is necessary to outline and raise the best practices in this sector. The initiatives as already described can be considered as positive examples from four different perspectives: legal, economic, social and cultural.

#### Cultural

The analysed projects can be considered effective only if they catalyse a cultural change, both in the territories with a widespread diffusion of the phenomenon of work exploitation and in circumstances not affected by serious experiences of this phenomenon but where consumers and suppliers can in any case promote positive actions in the agri-food chain.

#### Economic

The activities exposed in the survey show us how it is possible to establish alternative experiences of entrepreneurship in a clear and fair way, with no space for unfair subordination relationships and characterised by biodiversity, and by agroecological and organic methods.

#### Legal

From the one side, States promoted law and national strategies that could provide to workers fair conditions, assistance and respect of their rights. From the other side, civil society has tried to settle effective and programmatic actions from areas subject to particular diffusion of work exploitation, trying to provide decent incomes and minimum welfare conditions.

#### Social

Participation, inclusion and sharing are the three key words that outline a further dimension where States and different actors of the agri-food chain obtained their success. Local

institutions, NGO's, labour union distributors and employers' associations demonstrate how restoring the value of work and human dignity. All together is possible to build projects that can be nurture with human relations and local natural resources.

#### Conclusion

The aim of this work was to identify the problem and to point out several solutions that, in particular in the Italian context, have been used to face the issue of illegal intermediation and work exploitation in agriculture. It emerged that, notwithstanding the efforts of various stakeholders, much remains to be done. There is the lack of a European definition of this phenomenon, there is a lack of coordination between all 28 European States, to face the problem. At a deeper level, there is no common legal approach which could permit to settle rules to protect workers' interests, choosing the strategy of repression or promotion.

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