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Public Administration and Agromafia: Administrative Law Profiles between Coordination, Prevention, and Control in the Agri-food Sector

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Il fenomeno delle agromafie, ovvero l'infiltrazione delle organizzazioni mafiose nella filiera agroalimentare, rappresenta una delle sfide più insidiose per la legalità economica e la tutela dell'ambiente. In questo contesto, il diritto amministrativo emerge come un presidio fondamentale non solo nella repressione, ma soprattutto nella prevenzione dell'illegalità. L'analisi evidenzia come l'apparato amministrativo italiano – articolato tra livello centrale e locale – si trovi oggi ad affrontare una duplice sfida: coordinare efficacemente gli attori coinvolti nella gestione, controllo e pianificazione del settore agroalimentare, e al contempo garantire trasparenza, legalità e sostenibilità nelle politiche pubbliche. Strumenti quali l'interdittiva antimafia, la prevenzione collaborativa, le whitelist, i protocolli di legalità e i criteri ambientali minimi (CAM) applicati agli appalti pubblici alimentari, dimostrano come il diritto amministrativo abbia assunto un ruolo anticipatorio e strategico nel contrasto alle agromafie. L'azione preventiva non si limita alla semplice esclusione degli operatori economici collusi, ma si estende alla promozione di pratiche sostenibili, alla vigilanza sui fondi europei (PAC), e all'integrazione tra normativa ambientale, sicurezza alimentare e tutela del lavoro. La lotta alle agromafie impone una governance multilivello e integrata, fondata sui principi di sussidiarietà, coordinamento e precauzione, con un ruolo cruciale per la pubblica amministrazione nel definire politiche efficaci e resilienti. In definitiva, il diritto amministrativo, lungi dall'essere un semplice apparato regolatorio, si configura come strumento dinamico di costruzione della legalità e di difesa dell'interesse pubblico in un settore chiave per lo sviluppo sostenibile del Paese.

The phenomenon of "agromafias" – the infiltration of organized crime into the agri-food supply chain – represents one of the most insidious threats to economic legality and environmental protection. In this context, administrative law emerges as a key instrument not only in repressing illegality but, above all, in preventing it. This analysis highlights how the Italian administrative apparatus – spanning both central and local levels – is currently facing a dual challenge: effectively coordinating the actors involved in managing, monitoring, and planning the agri-food sector, while simultaneously ensuring transparency, legality, and sustainability in public policy. Tools such as anti-mafia interdiction orders, collaborative prevention measures, whitelists, legality protocols, and Minimum Environmental Criteria (MEC) applied to public food procurement demonstrate the anticipatory and strategic role that administrative law plays in combating agromafias. Preventive action is not limited to excluding colluding economic operators but extends to promoting sustainable practices, overseeing the use of EU funds (CAP), and integrating environmental regulations, food safety, and labor protection. The fight against agromafias requires multi-level, integrated governance based on the principles of subsidiarity, coordination, and precaution, with public administration playing a crucial role in shaping effective and resilient policies. Ultimately, administrative law – far from being a mere regulatory framework – acts as a dynamic tool for building legality and safeguarding the public interest in a sector vital to the country's sustainable development.

and Management of Public Funds in The Agricultural Sector: Instruments of Protection and Risks of Infiltration.- 4.1 An overview of the protection needs of the agricultural sector: the role of the CAP.- 4.2 Monitoring and Control of CAP Funds: The Complex European System.- 4.3 Management, Monitoring and Control of CAP Funds in Italy.- 5. State Countermeasures against Undue Assets Accumulated by Agromafias.- 5.1 Some Brief Considerations on the Coordinates of a System at the Crossroads of Criminal and Administrative Law.- 5.2. The Administrative Procedure for the Social Reuse of Assets Confiscated from Organised Crime.- 6. Conclusion.

1. Introduction

An investigation into administrative law institutions and the role of public administrations in combating agromafias (i.e. the infiltration of the agri-food sector by the mafia) transcends the boundaries of a sectoral issue[1]1. In fact, it can take on paradigmatic significance in terms of both the evolution of the mafia phenomenon and the importance of administrative law and its tools for preventing and combating its various manifestations.

There are various reasons for the genetic link between the mafia and agricultural land. First, agricultural land was the primary economic resource in an agricultural society before the Industrial Revolution, i.e. until at least the 18^(th) century. This explains the initial interest shown in it by mafia organisations, which were always on the lookout for sources of enrichment. This correlation initially led to close identification between ownership of agricultural land and the exercise of mafia power. Furthermore, in many regions of the country, agricultural production chains remain a significant driver of local economic development.

The agricultural-pastoral context has also provided the backdrop for the evolution of agromafia organisations, which have progressed from a parasitic mafia strategy based essentially on extortion to establishing real commercial enterprises active in different sectors, in open violation of competitive dynamics and the legal economy. These businesses are often the most effective means of laundering illicit funds obtained from crimes such as drug trafficking and prostitution.

While the role of public administration and its laws is certainly not the only means of preventing and combating agromafias, they do form part of a more complex, integrated, multi-level system. In this context, criminal measures, both preventive and repressive, are accompanied and preceded not only by the administrative legal institutions described below, but also by active citizen mobilisation in the form of information and awareness campaigns, as well as campaigns to promote transparency.

Public initiatives in schools and various social groups that actively promote a culture of legality are also essential.

Furthermore, the difficult coexistence between companies operating within the legal economy and in compliance with competition rules, and private businesses infiltrated and controlled by criminal organisations, must not be forgotten. Therefore, the proper functioning of market dynamics within a legal economy appears to be one of the main casualties of criminal organisations' activities.

The introduction to the investigation reconstructs the legal asset and the context in which the phenomenon under investigation occurs. If the minimum value of the legal asset is identified as <<*perpetrating sophisticated, organised, premeditated conduct which generates profit by plundering the environment and undermining the proper functioning of the market*>>, then the relevant context is recognised as an emergency exploited by criminal organisations to strengthen and consolidate their power.

The first part of the analysis (§ 2) begins with a thorough examination of the structure of administrations with competences in this area at all levels, and the necessity for more effective coordination, particularly between central and local administrations.

It is noted that organisational design must constantly adapt to changes in public functions carried out in the sector, the ownership of which is gradually shifting towards European and global authorities due to the acquired transnational dimension of the public interests involved.

As in the long-established field of environmental law, the principle of vertical subsidiarity referred to in Article 118 of the Constitution, tempered by the principle of adequacy, tends to result in an upward shift in administrative functions[2].

The investigation proceeds by identifying the public and private actors active in

the sector, the criteria and principles by which their functions are assigned, and the nature and scope of the interests to be pursued.

The design appears to be characterised by an extension of public functions in the sector, which are increasingly prevention-oriented, and an expansion of the range of public interests served. This expansion is the result of ever-greater contiguity between the agricultural sector and the environment, causing the former to expand beyond mere agricultural production towards protecting biodiversity and using resources more effectively in a circular manner.

However, the relationship between the agri-food sector and the environment is fraught with unresolved tensions, as agricultural production itself often poses risks and emissions that contribute to climate change, while also being dramatically affected by its consequences[3]. Climate change has significantly weakened rural areas, increasing malnutrition and diseases related to poor nutrition, which also affect our country. The increased frequency of droughts, floods, forest fires and new harmful organisms constantly highlights the threat to our agri-food systems and the need for them to become more sustainable and resilient.

However, as has been noted, public intervention aimed at combating these phenomena follows the same line and responds to the same logic as intervention aimed at fighting Mafia infiltration in the agri-food system[4]. In this regard, it is hoped that studies and research will be conducted to investigate the risk profiles of agro-mafias in relation to the circular economy and environmental sustainability policies and objectives. Such studies could inform the development of more precise strategic, economic and regulatory interventions to achieve greater sustainability of the agri-food system and prevent the infiltration of criminal organisations into it.

In line with the 2019 Green New Deal[5], the need to achieve climate neutrality by 2050 therefore requires public policies on agri-food systems to be redesigned at European and national levels. This will transform these systems from factors that aggravate climate change into vehicles for tackling and containing it.

Rebalancing the relationship between the environment, health and food is essential for addressing the global challenges that the international community will face soon[6].

In this regard, the European “Farm to Fork” strategy[7], as outlined in the survey

(4.1), sets out a new approach to ensure that agriculture, fisheries, aquaculture and the food value chain all contribute adequately to achieving climate neutrality in the Union by 2050, as set out in the 2021 European Climate Law.
This strategy links the European initiative to reduce the environmental and climate impact of agri-food systems in the face of climate change and biodiversity loss closely to the initiative to ensure food security. This establishes the European model of sustainable and resilient food systems as a global benchmark.
The analysis correctly identifies the new Common Agricultural Policy (CAP) for the period 2023–2027 as a key instrument for guiding the agri-food system towards the objectives of the Green Deal, through measures such as income support for farmers, subsidies and incentives to offset market volatility, and rural development initiatives.
The CAP's support for the European agri-food system is recognised in the survey as an example of the renewed importance of public intervention in the current market scenario.
From this perspective, we are witnessing a strengthening of public initiatives that steer agri-food systems towards environmental sustainability objectives, albeit mainly through market-based instruments.
Another key milestone was recently reached with the Commission's communication, "A Vision for Agriculture and Food: Creating an Attractive Agricultural and Agri-Food System for Future Generations", published in February 2025. This document outlines the path towards achieving a resilient, competitive and sustainable agri-food system by 2020, while also establishing the priorities for the future CAP (2028–2034). The new communication presents a vision in which the environment is seen as an opportunity, not a constraint, for the future of the European Union. The aim is to ensure that agri-food systems operate within planetary boundaries by integrating the commitment to combatting climate change with the efficient use of natural resources. This challenge will require the adoption of innovative practices that combine competitiveness and environmental responsibility.
A significant innovation to be introduced in the future CAP is the flexibility of cross-compliance, giving Member States greater autonomy and responsibility for the use of funds within a common European framework. Specific attention will also be paid to fundamental issues for the survival of the planet, such as the

bioeconomy and increased use of renewable sources, including through the establishment of energy communities.

Finally, monitoring and surveillance of European funding allocated to these public policies will be crucial to prevent criminal organizations from intercepting and obtaining it.

The investigation is conducted using an interdisciplinary methodology, as Karl Popper pointed out, where cognitive problems, rather than disciplinary fields, determine the priority issues to be addressed. In the same vein, Sabino Cassese wrote: «*The problem will dictate the method. The questions will guide the method*»[8].

At the same time, this approach does not result in a loss of the specificity or autonomy of legal science, or of administrative law science, during the investigation[9]. This specificity lies in the perspective from which historical, social, and political phenomena are considered within the discipline, and is linked to its specific function. This function involves identifying the legal values that apply to and emerge from concrete administrative matters, their qualifications, and finally setting out and resolving legal problems through this recognition. Interpretation of law is therefore legitimized by legal argumentation rather than scientific, religious or historical argumentation.

At the same time, the legal analysis is not limited to an accurate description of positive law; it also addresses issues using a problematic and reconstructive approach. It is precisely through this method that legal experience creates the specific legal system under investigation, thanks to the application of the law to social, economic and political factors. Thus, legal science becomes a driving force in defining its own subject matter – in this case, agromafias – rather than merely a passive and receptive factor.

The investigation highlights the valuable role of certain administrative law principles, such as coordination, in compensating for the complexity and organisational fragmentation present in the sector. In terms of governance, the principles of loyal cooperation and subsidiarity are also emphasised to guide the disciplines that regulate the sector and their implementation by public administrations.

First and foremost, in the introductory phase, the considerable importance of the precautionary principle in the environmental and food sectors should be

highlighted, as this principle should necessarily guide certain public functions also carried out in the agromafia sector.

In the field of environmental protection, the most advanced legal systems are based on the well-established assumption that public action and the scientific approach are inseparable and inextricably linked[10].

The precautionary principle requires a close connection between public intervention and the data and knowledge on uncertain risks provided by technical and scientific expertise. This correlation is usually covered by environmental and health regulations[11]. This forms the basis for relevant public authority assessments of the acceptability of potential risks to the community and the necessity and choice of appropriate measures to address them. This correlation must also be anchored in the now well-established belief that all sciences, even the so-called exact sciences, are necessarily characterised by uncertainty, and that it is precisely in this context that the precautionary principle is applied to the actions of public authorities.

The idea of precaution is based on two assumptions: firstly, that there is a scientifically based possibility that serious environmental or health damage will occur; and secondly, that there is scientific uncertainty about the characteristics and/or causes of such damage. This uncertainty cannot be proven in absolute terms, but it cannot be ruled out either, even though the activity in question is profitable in other respects.

More specifically, the main distinction between the precautionary principle and the prevention principle is based on uncertainty regarding the causes and effects of the risk, at least considering current scientific knowledge. The latter, on the other hand, is based on scientifically proven and demonstrable risks[12].

The concept of precautionary action necessarily involves anticipating preventive action by adopting decisions on possible measures to be taken in uncertain conditions, based on recent and increasingly available scientific knowledge[13].

As highlighted by the Council of State in Section III, (Ruling No. 6655 of 2019), «*the implementation of the precautionary principle means that whenever the risks induced by a potentially dangerous activity are not fully understood, public authorities must take preventive action before scientific knowledge is consolidated*».

In its "active" sense, the idea of precaution is the only one capable of assuming the characteristics of a true legal principle applicable in contemporary legal

systems. It requires public authorities to introduce administrative measures to address identified risks characterised by uncertainty, through reasonable and proportionate restrictions on activities that would otherwise be considered legitimate and beneficial.

The gradual establishment of the principle in legal systems has been met with contrasting cultural attitudes. Initially, it was strongly opposed by its detractors as a principle that placed excessive restrictions on the spread of new technologies and scientific progress. However, it has been welcomed by others as an appropriate political tool for risk management if preceded by a proper cost-benefit analysis to avoid probable, albeit only ex ante, damage to health, safety and the environment.

Furthermore, the administrative court has recently taken steps to define the scope of this principle more restrictively. According to the judges at Palazzo Spada, when applied correctly, this principle <<*does not automatically lead to the prohibition of any activity that could potentially pose a risk to human health and the environment in the absence of objective and verifiable evidence*>>[14].In the present case, the Council of State goes so far as to state that prohibiting a specific activity <<*in the name of a purely formalistic interpretation of the precautionary principle means inhibiting, a priori and without the possibility of choosing a different option, any activity that could theoretically pose a risk to human health*>>. Compared to recent rulings by the Italian Council of State[15], this approach narrows the scope of the precautionary principle. According to these rulings, even in cases where it is not possible to achieve an adequate level of scientific certainty due to a lack of knowledge in the specific field, the precautionary approach remains valid. In the context of health and safety, this approach is particularly important for balancing economic interests given the fundamental nature of the right at stake[16].

The recent ruling of the ECHR is undoubtedly that which effectively anchors the precautionary principle to objective and verifiable evidence. The ECHR was faced with the dumping, burning and burial of toxic waste by the Camorra. Based on information available up to 1988, the ECHR[17] applied the precautionary principle with regard to a risk to life that was "sufficiently serious, real and verifiable", which could be described as "imminent". The State could not hide behind the fact that the precise effects that the pollution might have on

the health of citizens could not be ascertained to avoid its duty to protect its inhabitants.

2. The Role of Public Administration in the Fight against Agromafia

2.1. Framing Premise

In the words of M.S. Giannini (1973), these are well suited to the transformative historical period in which we live, in which ‹‹*it is not a paradox to say that if law constantly marks the transformation of the life to which it belongs, it must always be said to be in crisis*››[18].

According to the teaching of Santi Romano, the acquisition of an awareness of a permanent state of crisis seems to be the premise of any legal reconstruction[19]. If this is true, then the factual reality, from which the interpreter must not dissociate himself, reflects a much broader and more systematic crisis that affects the whole of life on the planet. In fact, the most important scientific studies and international reports[20] refer to this crisis in the plural, from the climate crisis to the loss of biodiversity, to the pollution of the planet[21], and at the same time outline the necessary paths for the survival of the planet: paths of energy, productive, that is, ecological, transition[22].

From the heterogeneity of the wide field of "crises", we would like to specify here a specific declination, which primarily concerns the role of the law (and of the P.A.). In other words, a different concomitant or co-causal cause, which translates into the ‹‹*progressive and continuous deterioration of the principles of legality, supported by the emergence of emergency situations and environmental crises*››[23]. The progressive erosion of the central and legitimising principle of administrative action has been, and continues to be, the most fertile field for the development of the now well-known phenomenon of ecomafia[24] and agromafia[25]. The lowest common denominator is the practice of highly organised and predetermined behaviour that plunders the environment, generates profit and undermines the proper functioning of the market. A multiple and contextual aggression on legal assets and interests, which is also fed by another contemporary element: the state of emergency[26]. Criminally organised infiltration, in fact, feeds

on a consolidated scheme ‹‹*when an emergency situation arises, the state, unable to deal with it, voluntarily or otherwise, leaves criminal organisations free to act*››[27].

The doctrine has long shown how the infiltration of the mafia has transformed the regime, moving from a parasitic logic to one that is predominantly entrepreneurial[28]; it has essentially changed its "wardrobe" to take advantage of a significant, and historically unprecedented, amount of national and EU public funds[29], as well as presiding over entire supply chains, from production to transformation and large-scale distribution.

This modus operandi is perfectly reproduced in the agri-food chain - food adulteration, interest in large-scale organised distribution (GDO), exploitation of labour, fraud of public funds, falsification of documents, etc. - in other words, where the so-called agromafias operate[30].

The system described is certainly not isolated; on the contrary, it permeates the administrative machine and requires the involvement of external subjects, such as the public administration apparatus or figures such as entrepreneurs, freelancers, who complete the circle[31]. This is what can be defined as the "grey zone" or even the "permeable economy", i.e. the recourse to ‹‹*skills and resources held by actors outside the criminal organisation*›› in order to carry out legal or formally legal activities[32].

This degree of sophistication and organicity of the agromafias phenomenon is also reflected at a legal level, so that ‹‹*if business is an organisation, so is crime in its most disturbing forms*››[33], which testifies to the consolidation of the ‹‹*camouflaging of agromafias within the social fabric and economic dynamics*››[34].

Translating this premise into figures, we can see that in 2023 the total activity of the "ecomafiosi" will be worth more than 8 billion euros[35], with more than 45 thousand administrative offences detected in the only agri-food chain, ranging from traditional activities in agriculture and livestock farming, such as fraud to obtain public funds, false certifications, falsified quality marks, the transport of goods, the management of wholesale markets, to the social scourge of caporalato (forced labour)[36].

The same multi-layered structure of the market in relation to the agri-food chain requires the above-mentioned interpenetration and complicity between the illegal economy and the legal economy, reinforced by the infiltration of the

public and decision-making apparatuses.
The activity of agromafias is based on two objectives. The first can be defined as "predatory", aimed at profit, to the detriment of the environment itself, and combined with the aim of monopoly, paralysis of the market and elimination of competition. The second, on the other hand, at the operational level, is to act as a ‹‹*collective entity responsible for disbursing funds granted in accordance with European regulations in the sector*››[37].
If this is the overall picture, the main interest here is the role of the public administration in the fight against agromafias. To analyse if and how its various articulations - central and local - are coordinated, the principles on which the administrative corpus is based[38] and, in more detail, to provide an operational overview of the main supervisory and control bodies in the sector.
Of course, the intention is not merely descriptive but is part of the process of advancement of public powers in the agri-food sector, in an evolution, well-argued by the doctrine[39], that has marked ‹‹*moving beyond the traditional production function to achieve environmental protection objectives, preserve biodiversity and ensure rational resource management*››[40].

2.2. The body of the administrative machinery: the need for coordination between central and local administrations

The progressive development of administrative intervention in the agri-food sector[41] has followed an upward trajectory, which immediately leads to two observations. The first, of course, is that this trajectory has profound similarities with the emergence of the environmental value in public policy[42]. The second is that it is the outcome - of this process - that has given rise to multi-level governance in the agri-food sector, characterised by a significant role for Community action[43], but without marginalising the regulatory activity of State and local actors[44].
It is precisely on this last point that it is worth recalling that, at the regulatory level, the Italian system for managing the agri-food chain has developed through ‹‹*substantial European legislation that operates mainly at a preventive and anticipatory level, in line with the principles of prevention and precaution*››[45]. This passage is fundamental because, as the doctrine points out, previously ‹‹*there was*

a complete lack of administrative prevention (...), while the interrelationships between the administrative phase of supervision and the criminal prosecution phase were evident»[46]. The contiguity of the agri-food discipline with that of the environment can also be measured in the field of normative and regulatory stratification[47]. In addition to the proliferation of EU standards, there are also international conventions, private quality standards and the internal regulations of national and regional laws[48]. It is the characteristic of complexity that describes the discipline well. A complexity which, on closer inspection, is dismissed as regulatory complexity, but which has direct implications at the level of governance.

As we have seen[49], it is therefore not easy to define a division of competences or to identify who has the regulatory and management power between the nation states, the regions, the EU Commission, the European Food Safety Authority (EFSA)[50], the World Trade Organisation and the Codex Alimentarius Commission[51].

As a physiological effect of this complexity, the role of public law itself is changing, flanking the traditional power of inspection with the whole range of public measures such as programming and planning[52], enabling acts (general and otherwise), controls, sanctions and regulation by information[53].

In other words, a system with "plural complexity", since it is reflected at the level of regulation and governance, but also with "stratified regulation", given the centrifugal action at the European, national and international levels.

On a more detailed level, one wonders how this sum of factors is reflected in the system of principles governing public administration in the fight against agromafias. What are the principles that flank the matrix, European in origin and now consolidated, preventive and precautionary.

The method we have chosen is to "expunge" them from the study of the main state actors in the Italian agri-food chain, which are to be identified in the Ministry of Agriculture, Food Sovereignty and Forestry (Masaf), in the Regions and in the Prefectural activity, in addition to the main subjects entrusted with supervisory and control activities, which will be discussed in more detail in the following section.

Starting from the top, Masaf and its recent name[54] represent the path that has led to the greatest attention being paid to guaranteeing food security. At present, the

Ministry is made up of three departments: the DIPACSR - PAC and rural development; the DISAI - food sovereignty and horse racing; and the ICQRF, which is responsible for combating fraud in agri-food products[55].

Masaf's activities can be seen in the light of the principle of coordination, on two levels.

Transnationally, since the Ministry is the liaison body responsible for exchanging communications with the competent authorities of other EU states in the context of the so-called official controls governed by Regulation 2017/625/EU[56].

At national level, on the other hand, the need for coordination - a kind of "commons" in the fight against agri-food fraud - led to the creation of the Masaf Control Room for administrative controls in the agri-food sector in 2023[57].

This was a partial response to the numerous requests made by operators in the sector and by law enforcement authorities[58], who, given the transversal, fluid and "ultra-local" nature of agromafias, called for the institutional effort to be stepped up towards an integrated and coordinated system of activities and controls. The main result of the Masaf Control Room is the annual preparation of the Operational Plan of Agri-Food Controls (POC)[59], which identifies the priority coordinated control actions.

The main ratio of the POC is to avoid unnecessary duplication and overlapping of inspection activities and to facilitate the exchange of data and information and cooperation between inspection bodies[60]. Linked to this is the objective of effectively protecting Italian products and their quality from illegal phenomena such as Italian sounding[61], improper access to national and EU agricultural funds[62] and unfair trade practices.

The position entrusted to the Ministry highlights the centrality and strength of the coordination principle. A centrality that is reflected not only in the planning functions and tasks for which it is responsible in various capacities[63], but also at the operational and institutional level, expressed in the desired union with the Control Room. On the other hand, there is coherence, both at the macro level of management and coordination, and at the operational and control level, as evidenced by the conspicuous activity of the competent authorities and the reports of the law enforcement agencies, as well as the memoranda of understanding[64].

Here, in the author's opinion, the principle of coordination emerges as the

second soul of the administrative machine, alongside the preventive-precautionary system. The principle of coordinating administrative action in the fight against agromafias thus seems to express a holistic, systemic, i.e. integrated approach[65].

However, this soul of governance does not recall constitutional and legal principles such as those of loyal cooperation and subsidiarity[66]. It is in this perspective that we can read the contribution of the regions, which can be described on three levels. The first is the normative and regulatory power of the regions to intervene to protect the agri-food chain from mafia infiltration phenomena, through specific regional laws or other delegated acts[67].

At a second level, and in accordance with the principle of proximity, the regions support and coordinate with law enforcement agencies in the implementation of control, surveillance and repression operations against agro-criminal activities[68].

Equally important, at a later level, are the various regional bodies that have been set up over time to combat organised crime. In some cases, these are commissions of enquiry or investigation set up directly within the regional council, or, more often, councils and observatories with a more pronounced political connotation[69]. In other cases, we can refer to more informal declinations, relating to the various forms of dialogue and cooperation with local associations involved in the fight against organised crime[70]. Again, in this scenario, the series of regional measures adopted on the subject of caporalato and the reuse of confiscated property cannot be overlooked[71].

Another pole of action to combat agromafias is the prefectural activity[72]. This is central to the assessment of the issuance of anti-mafia administrative measures - Chapter IV of Book II of Legislative Decree no. 159/2011 (Anti-Mafia Code) - the main preventive tool to prevent mafia infiltration in access to public contracts[73].

We will only touch upon the discipline of anti-mafia documentation in passing, as it will be dealt with in greater depth in another part of the work[74], but we are interested here in the various and different instruments in the hands of the Prefectures to combat the epidemic phenomena of mafia infiltration, and particularly agromafias. Firstly, a control instrument with a preventive vocation is undoubtedly the so-called whitelist, provided for in Art. 1, parr. 52-57 of Law no. 190/2012. Interpreted as a safeguard aimed at streamlining anti-mafia

controls in sectors particularly exposed to mafia infiltration[75], the contracting bodies must, under certain conditions, before signing a contract, compulsorily acquire the anti-mafia communications and information by consulting the whitelist[76].

Finally, in the context of the fight against and prevention of mafia infiltration, the powers conferred on the Prefect by the law on the consolidation of local authorities must also be considered[77].

In addition to the powers of control over local bodies, which have been reduced in the dissolution of municipal and provincial councils because of mafia infiltration and conditioning phenomena[78], there is also the power of control provided for in Art. 135 Local Authorities' Unified Text (TUEL). The so-called external control is carried out when <<*there are attempts of mafia infiltration in the activities concerning contracts, concessions, subcontracts (...) or when it is necessary to ensure the proper conduct of the activities of public administrations*>>[79].

The Council of State, in judgment no. 1006/2003, emphasised that <<*the intervention of the Prefect constitutes an external control, the expression of a power aimed at safeguarding the fundamental interests inherent in public order and security, reserved to the State by virtue of article 117, paragraph 2, letter h) of the Constitution*>>[80].

In view of the invasive nature of such measures - on acts and bodies - Legislative Decree no. 152/2021, in Art. 94-bis of the Anti-Mafia Code, introduced a new institution, providing for new powers in the hands of the Prefect.

These are based on a model of <<*collaborative prevention of institutions with the same subjects affected by a possible mafia contamination, if the same is only occasional*>>[81]. In such cases, the Prefect can impose one or more <<*administrative measures of joint prevention*>>[82] on the company in question, with the prospect of their being lifted once the occasional facilitation has ceased.

The last profile to be analysed concerns the role of the National Anticorruption Agency (Anac) in the agri-food chain. This should be read in the context of the Authority's main activity, i.e. the prevention of corruption, in order to prevent the infiltration of the mafia in public tenders[83]. These, as a careful doctrine has pointed out, <<*constitute the core business of the mafias, which have had the admirable ability to bend to their interests even the rules designed to promote competition and healthy competition between companies*>>[84].

Here, too, the measures are varied, ranging from the strengthening of the functions entrusted to Anac[85], to the management of assets confiscated from the mafias, the regulation of whistleblowing[86] and the legality protocols. It is interesting to focus on the latter instrument, which was introduced into the Anti-Mafia Code in article 83-bis by Legislative Decree no. 76/2020[87]. To make it more effective, the legislator specified in paragraph 3 that <<*the contracting entities shall indicate in the notices, tender notices or letters of invitation that failure to comply with the legality protocols constitutes grounds for exclusion from the tender or termination of the contract*>>[88].

The measure in question is part of the so-called pact system of anti-mafia measures and is presented as an agreement concluded between the parties involved in the management of public works - the contracting authority, the prefecture, the economic operators - to <<*combat mafia infiltration that directly or indirectly affects economic and financial activities in the public sector*>>[89].

Inspired by the principle of transparency in the activities of public authorities and based on a relational and contractual model of economic operators, the pact or protocol of legality[90] is therefore an immediately applicable document that the institution or local authority requires from the participants in the call for tenders[91]. Finally, since the economic operator is required not only to read it but also to comply with its contents, the legality protocol is a strategic element designed by the law to "close the system" in order to prevent corruption and mafia infiltration in public procurement[92].

To sum up, the analysis of the relationship between the principles of the law and the governance of the agri-food chain gives us firm confirmation of the need for coordination mentioned above, which seems to be the real figure of the current governance of the fight against agromafias. Indeed, it could not be otherwise, given the administrative superstructure and the attributions and powers granted at both central and regional level.

However, there is a missing piece, or rather another principle, that would bind the entire structure just described: the principle of integration[93]. If, with regard to administrative governance in this sector, it is possible to say that "the spirit" is preventive-anticipatory and that "the action" is coordinating, one could go so far as to say that the interrelationships and respective competences of the authorities mentioned should be read through the principle of integration[94]. Here we want

to support an authoritative doctrine which, at the level of administrative action, has grasped the strategic relevance of the principle of integration, even in this chain, ‹‹*which departs from the rigid predetermination of the spheres of action of individual public subjects, that is, from the mechanical application of the principle of competence, favouring instead a holistic and shared approach*››[95].

2.3. The complementary nature of the system: the contribution of supervisory and control bodies

The agri-food system is a fundamental sector of the national economy. According to data available from the POC 2025, it has an estimated turnover of €621 billion, representing approximately 15% of the value of the Italian economy[96]. Due to its global wealth, the agri-food chain requires an adequate level of control.

This is where the other part of the system comes into play, consisting of a dense network of collaborations between the central ministerial level and, downstream, the other state actors involved in control activities, including the Central Inspectorate for Quality Protection and Fraud Prevention of Agri-Food Products (ICQRF), the Carabinieri Command for Agri-Food Protection, the Health Anti-Adulteration Unit (NAS), as well as the operational support of the Guardia di Finanza (Italian Financial Police).

Starting with the Inspectorate[97], this operates within the MASAF and is structured into three central directorates, thirty offices located throughout the country and six accredited laboratories. The main responsibilities assigned to the ICQRF concern the so-called official controls, pursuant to Regulation 2017/625/EU, carried out by the Inspectorate as a technical body of the judicial police through inspections, audits and controls. The ministerial department is also responsible for the prevention and suppression of fraud in the trade of agri-food products, the supervision of control and certification bodies in the field of regulated quality production schemes and the fight against the irregular marketing of agri-food products introduced by member states or third countries[98]. The ICQRF is therefore the main control body for Italian agri-food heritage[99].

The strategic presence of the ICQRF within the MASAF Control Room is

immediately apparent, with the aim of strengthening synergies with other control bodies. Specifically, coordination between the various control bodies has been increased, both in terms of quantity, by rationalising controls, and in terms of quality, by increasing the exchange of information, integrating information services and, in general, enabling joint action against fraud[100].

In addition to this already substantial set of powers[101], the Inspectorate is also responsible, as the national authority, for investigating unfair commercial practices in relations between businesses in the agricultural and food supply chain[102]. The role of the ICQRF is extremely delicate, given the relationship between the vulnerability of small and medium-sized enterprises in contractual relationships and the pervasiveness of organised crime[103]. Even before EU Directive 633/2019/EU, the Inspectorate had seen its role in investigating unfair practices gradually increase, but it was only with the implementation of the single EU directive that it became the new national enforcement authority[104]. According to Legislative Decree no. 198/2021, for the purposes of investigation, the Inspectorate must make use of and integrate into its own competences the work of the Carabinieri, in particular the Command for the Protection of Agri-Food, and the Guardia di Finanza[105].

However, within this framework, which has certainly provided legitimacy for the ICQRF's actions, there is a possible conflict or, rather, "interference" between the latter and the Competition and Market Authority (AGCM).

The ambiguity arises because <<*the functions and powers of the Competition and Market Authority shall in any case remain unaffected*>>[106], i.e. the investigation of infringements in the field of unfair commercial practices, outside the scope of the 2019 Directive[107].

In the case in question, authoritative doctrine, based on the principles of administrative case law on the division of powers between independent authorities[108], has held that it would be more correct to speak of <<*not incompatibility between disciplines or an antagonistic relationship, but a necessary functional complementarity for the defence of the interests to be protected*>>[109]. In other words, in the field of unfair commercial practices in the agricultural supply chain, jurisdiction would lie with the Inspectorate if the subject matter of protection is relations between undertakings, while the AGCM would continue to intervene in the event of any unfair practice detected in the sector that is

detrimental to consumers.

Of course, regardless of the merits of the choice made[110], the example described offers a vivid illustration of the "temptation" of the legislator and the public administration to opt for organisational choices that seem to be guided more by the need to provide a contingent response to different forms of interest than by an organic plan and a systematic and coherent vision of the action of the various competent authorities[111].

Closely integrated with the ICQRF's activities is the work of the Carabinieri Command for Agri-Food Protection, which reports to the Carabinieri Forestry, Environmental and Agri-Food Unit Command[112]. Integration is "strong" in one of the two areas of intervention specific to the Command, namely specific controls aimed at the regular application of Community legislation on food safety and the prevention and combating of fraud in the agri-food sector[113]. In this operational area, cooperation with the Inspectorate is particularly strong, making the Command a modern <<*supply chain police force*>> capable of looking at vertical integration with a view to combating the inefficient results of conduct that deviates from competitive paradigms[114]. The second area of intervention, on the other hand, concerns extraordinary checks on the disbursement and receipt of public aid in the agri-food sector, which translates into combating fraud involving the undue receipt of EU and national funds[115].

The high degree of technicality and specialisation – a common feature of both the Command and the ICQRF – is also the result of the absorption of the State Forestry Corps into the Carabinieri by Legislative Decree no. 177/2016, which expressed, in doctrine, <<*a rebalancing value with a strong social content, with a function of attention and political revaluation of local communities that express their identity and cultural presence through the production of typical agri-food products*>>[116].

Completing the ecosystem of state actors in the agri-food sector is the activity of the Health Anti-Adulteration Unit (NAS)[117], institutionally responsible for the safety of the food, health and workplace sectors. The Unit stands out for its health and hygiene control and surveillance functions, aimed at detecting system anomalies, monitoring illegal phenomena and prosecuting various forms of crime in administrative matters falling within the competence of the State[118].

Finally, the Guardia di Finanza (GdF)[119] plays a leading role in preventing and

combating agri-crime, given the potential profits to be made in the agri-food sector and the high level of interest from criminal organisations. The main areas of action concern interventions in the field of illegal hiring and the prevention of electronic food fraud[120]. Confirming the central role of the GdF and the necessary coordination with other supervisory and control bodies is the active presence of the department in the Masaf Control Room[121].

2.4. Caporalato: regional tools and civil society engagement

Another extremely important aspect of the fight against agromafias activities concerns caporalato[122]. The phenomenon of labour exploitation[123] of local and migrant workers in the agri-food sector has historical roots[124] and is often characterised by an approximate approach and policy-making, combined with the frequent use of misleading terms, such as undeclared work, underground or irregular work, as well as so-called grey work[125].

To give an idea, in 2023, there were 230,000 irregular workers, representing over 34% of employees in the agricultural sector[126]. In economic terms, the so-called underground economy accounts for almost 10% of the country's GDP[127].

The first regulatory measures to curb the spread of caporalato are as old as the phenomenon itself[128]. Initially focused on criminal prosecution, the current legislation is Law no. 199/2016[129], which intervened on the criminal level, extending the relevant liability to both the employer and the caporale[130], and was also supplemented on the administrative front by the implementation of regulations on the seizure and confiscation of agricultural businesses and assets[131].

Considering the above, the aim of this section is certainly not to deal with the phenomenon of labour exploitation in its entirety, given its complexity and the risk of going off track, but rather to reflect on the role and measures promoted at regional level to prevent and combat labour exploitation.

At the institutional level, the governance models adopted by regional legislation are affected by the division of powers outlined in the reform of Title V of the Constitution in 2001, which entrusted the regions with concurrent legislative powers in the field of ‹‹labour protection and safety›› (Article 117, paragraph 3, Constitution)[132]. However, despite an initial push that generated strong regional activism[133], it should be noted that ‹‹*the role that the Union reserves for the regions*

in combating undeclared work still seems to be a blank page in a chapter yet to be written»[134].

Precisely because of its proximity to the local labour market, the legislative approach has been characterised by discontinuity in content due to the peculiarities of regional contexts. It therefore seems useful to make use of classification works that facilitate the identification of common features[135]. Starting from the premise that "informal work" is a problem that requires a deep understanding of the factors that determine its origin and structural features[136], an initial classification divides regional interventions into three distinct groups.

The first class of measures identifies the phenomenon of labour exploitation as mere individual behaviour, acting on the individual convenience of the entrepreneur and, therefore, is rather limited in content. This refers to all actions aimed at fostering a culture of legality in the workplace and creating a social climate of disapproval towards labour exploitation[137]. It is no coincidence that the doctrine gives the impression «*that the vision underlying the various regional measures oversimplifies the phenomenon of undeclared work*»[138]. This first category also includes all incentive and reward measures that link regional benefits to employers who apply the national collective agreements for their sector[139].

A second group of measures includes all regional support and assistance policies aimed at bringing undeclared work into the open. These are actions aimed both at regularising previous situations and at preventing re-immersion[140]. However, this class of measures is heavily dependent on and complementary to state measures, given that in this area, the most "attractive" instrument is tax amnesty, which, however, exceeds regional competences[141].

A final category of measures contrasts with the first in that they are systemic policies. These regional interventions are based on the awareness that informal work is becoming widespread[142]. The ultimate aim is to allocate any form of public aid solely to virtuous enterprises, while marginalising those which, by reducing labour costs, have gained economic and competitive advantages[143]. While the approach to the phenomenon itself is central to this classification, the heterogeneity of regional legislative models can be transferred to the level of intervention techniques.

According to this other approach, it is possible to discuss measures to implement

inspection and sanctioning activities, as opposed to promotional measures, which facilitate the regularisation of undeclared activities by requiring compliance with national collective agreements as a condition[144].

However, between these two options, it is possible to discern a third, identified by recent doctrine, which observes that ‹‹*the varied range of instruments can be reduced to two macro-types, namely enforcement measures and context measures*››[145]. In the latter, the focus shifts to the organisational models adopted. Thus, on the one hand, it is possible to see complex and structured arrangements based on integrated governance involving administrations, social partners and inspection services and, on the other, ‹‹*simplified organisational arrangements in which the functions related to the issues at stake are assigned to a few bodies and there is a lack of links between structures*››[146].

At the same time, extensive use has been made of countermeasures which, by intervening at a pathological stage, link the wide range of regional benefits to employers who meet certain requirements. This fully includes the models of the Puglia, Campania and Lazio regions, each with their own specific characteristics but united by the underlying “conditionality mechanism”[147]. Due to their intrinsic nature, these mechanisms require, first and foremost, adequate financial resources and a high degree of voluntary participation by employers when accessing the emergence mechanism. Furthermore, as seen at the central level[148], these instruments require highly integrated levels of administrative governance, characterised by a marked recourse to coordination and networking.

For the sake of completeness, this mix of regional models also includes individual initiatives aimed at defining best practices[149] and the not insignificant role of regional observatories[150]. Finally, although not established as regional bodies, mention should be made of the fundamental reporting and research activities carried out by the Observatory on Crime in Agriculture and the Agri-Food System, established and promoted in 2014 by Coldiretti[151] and the Placido Rizzotto Observatory, which aims to study the issues that undermine the value of work in the agri-food chain, paying particular attention to illegal hiring and the exploitation of workers[152].

3. From Advanced Frontier Administrative Tools to Public Procurement: A Brief Examination

3.1 A necessary premise regarding the importance of emphasising the role of legality in food systems

It would be a limitation to attribute the responsibility for countering the evolution of organised crime[153] to the criminal justice system alone (the repressive matrix of the Italian criminal justice system, in this case, revolves around the provision of Article 416 bis of the Italian Criminal Code)[154].

Indeed, the preservation of the integrity of neuralgic sectors for the Italian and European economy is directly proportional to the evolution and implementation of instruments attributable to the field of administrative law.

In addition, within the context of the recently promulgated Public Contracts Code (Legislative Decree No. 36/2023), these provisions constitute an integral component of a comprehensive regulatory framework designed to fortify the system of administrative prevention. This initiative serves to complement the repressive instruments of the criminal matrix by introducing *ex ante* exclusion mechanisms, predicated on prefectural assessments of a prognostic nature. This establishes the principle that the integrity of economic operators is a prerequisite for accessing the public procurement market and for safeguarding economic public order, which is directly linked to the achievement of the new principle of results[155] (which, as recently emphasised by the Council of State, is not in conflict with the principle of legality) [156].

In this context, the Italian "advanced frontier" administrative model is unique within the European context. Whilst the prevailing post-crime intervention logic in Europe is predicated on the notion of reacting to events after they have occurred, the Italian system is predicated on the notion that anticipating risk is fundamental to the fight against organised crime groups[157].

Therefore, the purpose of this contribution is to map administrative law instruments suitable for supporting the prevention and counteraction of the specific phenomenon of agromafias.

It is considered opportune to briefly examine anti-mafia administrative measures,

with a particular focus on interdiction notices and the recently introduced institution of collaborative prevention[158].

As is well known, these instruments directly impact the public procurement system, which, in its specific form of Public Food Procurement (see §3.4 below), is currently a key element in the fight against mafia infiltration in the agro-food sector.

Significant data supports the need to focus on these issues in advance. For example, the report "Le interdittive antimafia 2021-2022"[159] by the Criminal Analysis Service aimed to statistically monitor the number of interdicted companies between 2021 and 2022. This purely quantitative activity focused on cross-processing data recorded in the National Anti-Mafia Database[160], taking into consideration the Ateco codes[161] of banned companies, as well as their territorial distribution.

The overall picture revealed that, after the construction sector, the agri-food sector had the highest number of banned companies: almost 200 in 2021 and over 130 in 2022. The affected economic sectors were agricultural crops, the production of animal products, hunting and related services, animal breeding, and catering services.

In this regard, it should be emphasised that the need for prevention to ward off the incursion of organised crime into the food sector – meaning the term broadly, from agricultural cultivation to food production and consumption – is a wide-ranging and cross-cutting objective that cannot be limited to the need to protect the principles of freedom of economic initiative and fair competition enshrined in European and national legislation.

Prevention plays a fundamental role in this sense as part of an integrated approach to protecting the right to life and human health and responding to the intergenerational responsibility to protect the environment and ecosystems, as established doctrine now dictates[162].

In other words, anticipating the threshold at which the public authority intervenes, even before damage occurs, has the enormous potential to avoid subjecting consumers to risks linked to non-compliance with food safety regulations, workers to conditions of modern slavery and the ecosystem to stress resulting from the immoderate and irresponsible exploitation of environmental resources.

However, the anticipation of the intervention threshold must, in its intrinsic securitarian nature, guarantee the protection of constitutionally recognised rights (e.g. the right to defence and to be heard) for those affected by the measures under consideration[163].

3.2 Anti-mafia interdictions between doctrine and jurisprudence: substantive legality in deficit or in evolution?

"Anti-mafia interdictory information", also known as "anti-mafia interdictions"[164], is currently governed by Articles 84, paragraph 4, and 91, paragraph 6, of the anti-mafia code (Legislative Decree No. 159 of 2011). The purpose of these interdictions is to prevent companies at risk of mafia influence from obtaining public contracts, orders, and financing, thereby preventing the mafia from penetrating the economic fabric. Alongside the institution of Communication, they constitute the macrocategory of Anti-Mafia Documentation[165].

A peculiarity of this institution is that it is the Prefect[166] – an authority responsible for public order in the Italian legal system – who is responsible for its practical use, rather than the administrative judge, who only intervenes in the event of an appeal.

Article 84 of the anti-mafia code states that anti-mafia interdictions are based on «*possible attempts of mafia infiltration tending to influence the decisions and operations of companies or enterprises*».

In this regard, we are witnessing the discipline being progressively refined to strike a balance between doctrine and jurisprudence in this area of particular tension[167].

While doctrine has highlighted numerous critical issues and raised doubts[168], above all regarding the compatibility of these rules with constitutional principles and European law[169], asserting that the quasi-penal nature of prohibitory measures implies obligatory taxation of the cases involved, case law[170] has tended to uphold the legitimacy of these instruments due to the anticipatory nature of public order protection.

The adoption of the interdiction order depends on the presence of symptomatic

elements, which may be either typical or atypical. The "typical" category includes elements identified by law, while the "atypical" category contains elements resulting from a taxative interpretation by case law.

The classification and predetermined jurisprudence of symptomatic elements would prevent the illegitimacy of legislative provisions, as confirmed by the Italian Constitutional Court[171] and the European Court of Human Rights[172].

This is evident in the well-known ECHR judgment, "De Tommaso v. Italy"[173]. However, in this judgment, the Strasbourg court emphasised the importance of integrating cases subject to the aforementioned measures into jurisprudence, paying particular attention to the need to stabilise this hermeneutical approach without abusing it[174].

Such balancing could solve the problem of the lack of taxability of conduct connected to the symptomatic indices of mafia infiltration, which has been criticised by criminal law scholars. However, the risk cannot be excluded that the flexibility required to adapt these indices to specific cases could translate into a breach of the principles of legality and determinacy. Therefore, rigorous scrutiny of proportionality and reasonableness is required in the application of jurisprudence.

Currently, even when the prognosis of infiltration is based on "free conduct" elements, the jurisprudence holds that the interpretative activity of the administrative judge is sufficient to develop and complete the legislative indications through a system of "substantial taxativity"[175].

Through a series of significant judgements, the Council of State has clarified certain elements indicative of Mafia influence, fulfilling the integration function that the Constitutional Court has deemed essential for upholding the principle of substantial legality. These legal outcomes have been adopted by the Prefectures, whose actions demonstrate a high level of resistance, as evidenced by the low percentage of annulments[176]. However, some in the legal community argue that these judgements have distorted the system by allowing for overly broad interpretation[177].

Indeed, an extensive catalogue of situations and events can be deduced from the case law in question. For illustrative purposes only, a few are cited below. The elements that can be considered symptomatic of the danger of Mafia influence include judicial measures for offences that are instrumental to the activities of

criminal organisations (not just "spy crimes") [178], unlawful conduct (even if not criminally relevant)[179], particular family relationships between company owners, partners, directors and general managers and family members affiliated with Mafia associations[180], and corporate operations (mergers, transfers of business, etc.) that are potentially elusive and repeated attempts to circumvent the Mafia. Potentially elusive corporate operations (mergers, transfers of business, etc.)[181]; repeated and non-occasional contacts or frequent interactions with individuals involved in criminal associations[182]. Each of these indices can manifest itself in a specific way in the agri-food sector, which, due to its fragmented economic structure, high circulation of public resources, and logistical and territorial strategic nature, requires particular attention. Considering this, the evaluative elements are fully applicable – and often even more relevant – in this sector.

With regard to judicial measures relating to crimes that facilitate mafia activity (even if they do not constitute crimes of association or "spy crimes"), there are several indicators that entrepreneurial activity is being exploited by criminal groups, such as fraud against the European Union, food fraud, environmental violations and the illegal management of agricultural waste.

Conduct that is not criminal but nevertheless indicative of management opacity includes the absence of traceability in the production chain, irregularities in labour relations, and the use of informal intermediaries, which are particularly widespread in the logistics and distribution sectors.

Other indicators include family or personal relationships between the company's top management (owners, partners, directors and general managers) and individuals associated with mafia contexts, even if they do not hold formal positions within the company. Such links, if considered alongside other converging factors, may pose a significant risk, particularly in rural areas characterised by family-run businesses (as is often the case in agriculture).

Habitual or non-episodic acquaintances with individuals known to be involved in criminal activities are also a risk factor, even in the absence of formalised contractual relations. In the agri-food sector, this risk is particularly evident in the network of relationships with spurious cooperatives, porterage or transport companies controlled by mafia syndicates, or in the use of de facto intermediaries for labour management, purchasing and supply chain management.

Regardless of the economic sector, it is worth noting that the assessment of the

circumstantial framework required for anti-Mafia interdictions is based on the parameter of "more likely than not"[183] rather than the criterion of "beyond reasonable doubt".

Moreover, the administrative judge's review of anti-Mafia interdictions is thorough and comprehensive, involving a detailed examination of the evidence gathered by the Prefect. Particular attention is given to identifying the symptoms of Mafia infiltration, evaluating the Prefect's prognosis of Mafia influence, and ensuring that the measure is proportionate and reasonable considering the circumstances that have emerged.

Prior to the legislature's intervention in 2021, a controversial issue related to anti-mafia interdictions was the contradictory procedure whereby the private company could present its reasons before the interdictory measure was adopted. In the field of anti-Mafia interdictions, the contradictory procedure was only possible if the Prefect considered it useful[184].

Following the impetus of European[185] and national jurisprudence, which has repeatedly expressed support for the recovery of procedural guarantees in this context, the legislature has chosen to redefine the institution in question to provide greater guarantees[186].

In addition to its traditional defensive function, cross-examination can also have a proactive value, as becoming aware of the risk of an interdictory measure can encourage the company to use the less invasive alternative tools provided by law, such as adopting self-cleaning measures or requesting the application of collaborative prevention measures.

The reform of Article 92, paragraph 2-bis of the Anti-Mafia Code now obliges the Prefect to initiate an adversarial debate with the interested party before adopting an anti-mafia interdiction order and promptly indicating the circumstantial elements. This cross-examination is now the norm, except in exceptional cases of emergency. However, no information that could endanger ongoing proceedings or anti-mafia investigations may be disclosed.

The addressee has 20 days to submit written observations and request a hearing. This suspends the deadline for issuing the interdiction order, which must be issued within sixty days of notification in any case.

According to the new paragraph 2-ter, at the end of the hearing, the Prefect may issue a liberating anti-mafia declaration, apply collaborative prevention measures

(Article 94-bis) or issue the interdiction order.
Finally, paragraph 2-quater clarifies that facts occurring during the proceedings may also be relevant for the adoption of the interdiction order[187].
In summary, the new balance stipulates that adversarial proceedings must be established in anti-Mafia proceedings, unless there are reasons for urgency or confidentiality. The absence of cross-examination may appear illogical unless justified, particularly if the risk of mafia infiltration is unclear[188].
Recent case law emphasises that, although they are formal, procedural rules are essential to ensure the protection of values such as entrepreneurial freedom and the effectiveness of preventive actions. The involvement of those subjects in the measures is crucial for their effectiveness, as they can provide information that clarifies relations with organised crime, particularly in cases of doubtful mafia permeability.
However, the changes made by the legislator are not without criticism. It has been argued that cross-examination is permitted too late in the proceedings to prevent the interdictory measure from being issued: communication to the interested party would occur after the Prefect has formed his opinion on the existence of the prerequisites for the interdictory measure. Furthermore, the twenty days granted to the addressee to prove the inapplicability of the prohibitory measure appears insufficient[189].

3.3 Collaborative Prevention: A Balanced Approach to Tackling Mafia Infiltration in Businesses

With the intention of limiting the anti-mafia interdiction to situations of last resort, Art. 49 of Law Decree 152/2021 was introduced to the anti-mafia code. 94-bis, entitled "Administrative measures of collaborative prevention applicable in cases of occasional facilitation"[190].
The Prefect may use this instrument in the event of mafia infiltration attempts attributable to situations of occasional facilitation, provided that a prognostic judgement regarding the possibility of recovery of a legal dimension has been made[191].
In such cases, the Prefect may order the company to comply with certain preventive measures[192] for a period of between six and twelve months, if this is

justified. Additionally, the Prefect may appoint up to three experts from the business management section of the national register of judicial administrators to support the implementation of these measures.
As with the anti-mafia interdiction order, this institution requires a procedural cross-examination to be carried out with the person concerned, in the same way as set out in Article 92, paragraph 2-bis, of the anti-mafia code. After the term of such measures has expired, the Prefect provides an evaluation of the analyses formulated by the inter-force group. If it is ascertained that «*the occasional facilitation has disappeared and there have been no other attempts at mafia infiltration*», an anti-mafia clearance is issued. Collaborative prevention is comparable to the judicial control of companies under Article 34-bis of the anti-mafia code, which can be ordered by a judicial authority[193].
Based on this consideration, it was immediately recognised in legal theory that collaborative prevention and judicial control share the same function: «*not to overwhelm companies only marginally affected by the mafia, which is often inevitable in certain territories*»[194]. In this sense, the legislator has defined a new form of cooperation between enterprises and administrative authorities (unlike judicial control, where the subjects involved are enterprises and courts). Thanks to the institution of collaborative prevention, the administrative authority can enter the company and verify the presence of mafia infiltration dangers without paralysing economic activity.

3.4 Public Food Procurement: A Strategic Tool for Sustainability and Anti-Mafia Efforts

3.4.1 The Food Procurement Sector: Challenges and Potential

The relationship between the advanced border tools of administrative law - in particular the anti-mafia prohibitions and collaborative prevention - and the public procurement system is now configured as strategic and unavoidable in the fight against mafia infiltration tout court[195].
In a reality in which public procurement has indeed assumed the unquestionable role of driving force[196] in the context of the ecological transition, the need to

eliminate from the economic system operators whose activities, often in the furrow of illegality, prove to be totally unsustainable, is even more accentuated.
The specific analysis aims to focus on the institution of Public Food Procurement[197], i.e. that specific public procurement process through which public entities (such as schools, hospitals, prisons, local or central governments) purchase food and catering services to meet the food needs of the people under their responsibility.
The specificity of this type of procurement lies in its potential to combine, with different combinations in different jurisdictions, typical features of socially responsible procurement, green public procurement and ethical public procurement[198].
These aspects can be easily deduced from the analysis of the various studies that FAO[199] has devoted to this subject for years: in fact, public food procurement is considered a lever of sustainability in terms of food safety and food security, a tool for the inclusion of small producers in the supply chain of public administrations, as well as an important lever for stimulating market dynamics towards more resilient and sustainable food systems.
To date, therefore, public food procurement could well find a place among the tools of governance and regulation of the agrifood sector compatible with the One Health[200] paradigm, i.e. that collaborative, multisectoral and transdisciplinary approach - operating at local, national and global levels - aimed at the pursuit of optimal health outcomes, recognizing the interdependence between humans, animals, plants and their common environment.
Far from wishing to systematically review the discipline of public procurement, this contribution considers it appropriate to focus on three nodal aspects that, in the field of public food procurement, can constitute administrative law tools functional to the systemic fight against agromafias.
Apart from the advanced tools of the border (which deserve a specific analysis due to their inherent complexity), the discussion will continue by paying attention to whitelists, legality protocols and minimum environmental criteria related to the agribusiness sector, also in the light of the new Public Procurement Code (Legislative Decree 36/2023).

3.4.2 The Role of The White List

The White list is a list of companies that, after a series of checks and controls carried out by the Prefecture, have been found to be free of mafia infiltration. Companies included in this list are authorized, either directly or through subcontractors, to enter into contracts with the public administration, thus guaranteeing the legality and transparency of economic relations.
The white lists are established and managed by the individual Prefectures, in accordance with a special Prefectural Decree, as provided for by the D.P.C.M. of April 18, 2013, which establishes the modalities for the establishment and updating of lists of suppliers, service providers and executors of works that are exempt from mafia infiltration attempts, pursuant to Article 1, paragraph 52, of Law no. 190 of November 6, 2012.
The refusal to register on the list of companies exempt from mafia infiltration attempts is governed by the same principles that govern anti-mafia prohibitions, as set forth in Articles 82 et seq. of Legislative Decree no. 159/2011. Both measures are aimed at maintaining public economic order, guaranteeing free competition among companies and ensuring the good functioning of the public administration[201].
The white list system includes a list of authorized business activities, the content of which was recently modified by Decree Law 23/2020, converted into Law 40/2020. In this context, the catering sector, with reference to the management of canteens and catering services, has been included among the business activities subject to registration (since it is considered one of the main sectors at risk of mafia infiltration).
This extension responds to the need to strengthen the garrisons of legality in the sectors most exposed to corrupt and mafia phenomena, also due to the growing outsourcing of services by public administrations[202].
In this scenario, the inclusion of mass catering among the activities subject to anti-mafia control is configured as a preventive measure of an administrative nature, aimed at promptly intercepting any attempts of infiltration in the management of services with high financial rotation and low margin of operational transparency[203].
It is important to emphasize that inclusion in the whitelist is not merely a formal

requirement, but a substantive condition of legitimacy for participation in public tenders in high-risk sectors. Failure to register, or cancellation because of an anti-mafia interdiction, entails automatic exclusion from public tenders and the impossibility of being the recipient of contracts or subcontracts awarded by contracting authorities or private entities that are concessionaires of public resources.

The application of the whitelist system to the food and catering sector raises several relevant legal issues, both in terms of compatibility with constitutional and European Union principles, and in terms of the concrete effectiveness of anti-mafia prevention measures. First, the requirement to be on the whitelist to participate in public tenders in certain production areas (such as canteen and catering management) entails a restriction of market access, which requires a strict balancing with the principles of freedom of economic initiative and free competition.

Moreover, in the food sector, the frequent subcontracting of supply chains and the reticular structure of companies - often articulated in consortia or business networks - complicate the verification of the effective cleanliness of the supply chain, which risks undermining the preventive effect that the whitelist is supposed to guarantee. There is also the risk of possible inhomogeneity in the criteria applied by the different prefectures, which could lead to a compression of the uniformity of the system.

Finally, the lack of an effective system of rapid legal protection for companies excluded or removed from the whitelist is another critical element, especially in sectors such as the food sector, where public contracts are often awarded under tight time constraints, and the loss of operations can cause irreparable economic damage.

Considering the existence of possible criticalities in relation to which a continuous activity of comparison and refinement is necessary, whitelists represent an effective tool to protect the integrity of the award procedures with a view to constantly strengthening economic legality.

In fact, they make it possible to promote transparency in relations between public administrations and economic operators, to increase the confidence of citizens and other economic operators, to stimulate the development of an environment of fair competition and to contribute to a better management of

the risks involved in public tenders and contracts with the public administration. In the agribusiness sector, the introduction of whitelists also has a positive impact on the quality of the production chain. In a context where the risk of mafia infiltration is high, especially in areas such as food distribution, whitelists act as a form of self-control for companies, stimulating their social responsibility. In this way, inclusion in whitelists becomes a certificate of ethical quality that attests to the reliability and integrity of companies, placing them in a favorable position vis-à-vis competitors and strengthening the credibility of the national economic system, both domestically and internationally.

3.4.3 The Protocols of Legality

The Protocols of Legality represent pactual instruments aimed at preventing mafia infiltration phenomena and strengthening the safeguards of legality and transparency in the execution of public contracts[204].
Originally introduced through administrative practices and then governed by framework agreements between the Ministry of the Interior and the main public contracting stations (in particular ANAS, RFI, CONSIP and other entities in the infrastructure sector), these protocols establish reinforced obligations for economic operators, including compliance with anti-mafia regulations, the obligation to promptly report attempts at external influence, and adherence to financial traceability and control measures on subcontracts. Law 190/2012 - containing «*provisions for the prevention and repression of corruption and illegality in the public administration*» - in Article 1, paragraph 17, expressly allowed that «*contracting stations may provide in notices, tender notices or letters of invitation that failure to comply with the clauses contained in the protocols of legality or integrity pacts constitute grounds for exclusion from the tender*»[205].
With the entry into force of the new Public Contracts Code, the Legality Protocols have found strengthened legitimacy within the procurement regulatory system, in line with the principle of "result-oriented procurement" and the protection of the integrity of the economic operator.
Although the Code does not explicitly regulate the Legality Protocols, they are referred to and reinforced in various application contexts, particularly in relation to strategic contracts or in sectors with a high risk of criminal influence.

The integration of the Protocols into the life cycle of public contracts is also manifested in the possibility for the contracting authorities to require additional obligations, in particular in the field of antimafia compliance, over and above those laid down by law, thus making these Protocols an integral part of the contractual acts, always in compliance with the principle of proportionality.
Moreover, compliance with such instruments can be a rewarding element in the qualification and evaluation systems of economic operators, strengthening the link between business ethics and professional merit.
In the agri-food context, the practice of legality protocols is configured as another tool to ensure that companies operating in the agri-food chain interface with the public procurement system in a more transparent way. Several examples can be cited. One example is the practice of including legality protocols in public tenders for public catering and for the prevention of criminal infiltration in the agri-food chain.
One of the main innovative ways in which these practices could be integrated into practice could be the introduction of a monitoring system along the entire agro-food chain, capable of monitoring each stage from production to distribution. This system could be integrated with legality protocols, ensuring that each step in the production process is controlled and that food supplies are guaranteed from safe and transparent sources. The use of blockchain technology[206], for example, could play a key role in this regard, making it possible to immutably record every transaction along the supply chain, benefiting from greater transparency and traceability and reducing the risk of mafia infiltration.
A further step could be to move the practice of such legality protocols towards systemic coordination, with periodic audit systems and spot checks entrusted to independent bodies to ensure that companies honour their commitments, thereby promoting responsible and sound supply chain management.

3.4.4 Minimum Environmental Criteria: Focus on the Catering Sector

In view of the complete convergence between green public procurement and socially responsible public procurement, art. 57 of Book II of the new Public

Procurement Code - under the heading “Social clauses of tenders and notices and energy and environmental sustainability criteria” - reaffirms the validity of the Minimum Environmental Criteria (MEC) and establishes the obligation for contracting entities to include in the design and tender documents at least the technical specifications and contractual clauses contained in the minimum environmental criteria defined for specific product categories[207].

Specifically, these are a set of standards and requirements established by Italian and European legislation to promote environmental sustainability in public procurement procedures. These criteria are adopted by contracting authorities in order to direct public purchasing towards reducing the environmental impact of the resources purchased.

In the food sector, the Minimum Environmental Criteria (MEC) are specifically designed to guide public authorities towards more sustainable food purchases. These criteria are designed to reduce the environmental impact of food production, distribution and consumption by promoting environmentally friendly agricultural practices, reducing waste and encouraging the use of local, organic and low environmental impact products.

MEC in the food sector has been defined by the Ministry of the Environment and Protection of Land and Sea and applies, among other things, to public procurement related to collective catering, such as school canteens, hospitals, old people’s homes and other public services[208].

One of the key aspects of MEC is the purchase of local and zero-kilometre products. This approach not only reduces emissions from food transport but also supports the local economy by encouraging a short supply chain that reduces environmental costs. It also favours the purchase of organic produce, which does not use chemical pesticides or synthetic fertilisers, benefiting consumer health and biodiversity.

MEC also attaches great importance to reducing food waste. In this sense, contracting authorities are encouraged to implement solutions that limit the excessive consumption of food in canteens and other collective catering services, while ensuring optimal resource management. Sustainability is not limited to the choice of food, but also includes the use of environmentally friendly packaging, such as recyclable, compostable, or reusable materials, which helps to reduce plastic waste.

Another key aspect of MEC in the food sector is the sustainability of the agri-food chain. Purchases are promoted that favour agricultural practices that respect the environment, the responsible use of natural resources and the protection of workers' rights. Products from ethical supply chains that meet recognised social and environmental standards, such as Fair Trade and Sustainable Fisheries certifications, are supported.

Although it may not be immediately obvious, MEC can be a useful tool in the fight against agricultural fraud in several ways. Minimum environmental criteria are essential to ensure the selection of reliable and transparent suppliers, encouraging purchasers to favour companies that operate ethically, with an increased focus on compliance. This approach reduces the risk of dealing with companies linked to mafias or fraudulent practices. They also encourage the adoption of short and zero-kilometre supply chains, which are easier to monitor and allow authorities to keep an eye on companies and their operators. Another important aim of MEC is to promote sustainable farming practices, such as organic farming, which protects the environment and reduces the risk of food fraud, a sector where agro-fraudsters are very active.

However, despite the benefits of MEC, there are still critical issues that limit its effectiveness. One of the main difficulties is the uneven implementation, which depends on the resources available and the capacity of public administration[209].

In some areas, implementation is uneven and can be interpreted in a more flexible way, reducing overall effectiveness. In addition, many small and medium-sized enterprises are reluctant to make these changes, mainly because of the initial costs of reorganising their activities to comply with environmental and legal criteria. Adopting sustainable practices and improving traceability systems often requires large investments that small businesses may not be able to afford.

Another critical aspect is the lack of specific training for public and private sector professionals. Often, both contracting agencies and agri-food companies do not have sufficiently trained staff to apply to MEC correctly and to monitor legality requirements. Without proper training, controls may not be carried out correctly, creating potential gaps in controls and encouraging non-compliance.

Complex bureaucracy and delays in procurement procedures are another major obstacle. This can undermine the effectiveness of tenders and increase the risk of fraud and mafia infiltration. In addition, contracting authorities do not always

have sufficient resources to carry out comprehensive checks, especially when suppliers are international.

4. Control, Monitoring and Management of Public Funds in The Agricultural Sector: Instruments of Protection and Risks of Infiltration

4.1 An overview of the protection needs of the agricultural sector: the role of the CAP

Undoubtedly, one of the most pressing challenges in the current context of ecological transition concerns the sustainable evolution of the agricultural sector.
This economic sector, in fact, is the protagonist of a series of multilevel and transversal challenges: the issue of land use linked to projected demographic growth, the need to protect soil health in order to preserve biodiversity and the ecosystem balance, the need to promote and regulate the pressing technological evolutions linked to new agricultural techniques (i.e. agriculture 4.0[210], vertical farming[211], etc.).
In other words, the agricultural sector stands in the dual role of victim and perpetrator of climate change because if, on the one hand, it suffers the alteration of natural cycles, drought and soil erosion, on the other hand, it also contributes to greenhouse gas emissions and the intensive use of potentially harmful substances.
The promotion of sustainable agriculture is therefore an area of interest that transcends national borders and constantly challenges and stimulates European institutions.
With the aim of making Europe the first climate-neutral continent by 2050, the Green Deal[212] policy programme makes agriculture a pillar.
This backbone is linked to an autonomous policy area aimed at promoting an increasingly competitive and resilient agriculture, open to innovation and able to guarantee real opportunities for new generations.
Within this roadmap outlined by the Green Deal, two key strategies stand out: the Farm to Fork Strategy[213] and the EU Biodiversity Strategy to 2030[214].
While the former aims to rethink the entire agri-food chain in a more sustainable,

fairer and transparent way - through an integrated agri-food policy that goes beyond the traditional sectors of agriculture, environment, health, trade and energy - the latter focuses more on protecting ecosystems, restoring biodiversity on farmland, protecting pollinators and reducing pollution linked to intensive land use.

A key instrument for achieving the above objectives is the new Common Agricultural Policy (CAP) for the period 2023-2027[215], which aims to steer European agriculture towards the principles of the Green Deal through a system of direct payments, sectoral interventions and rural development measures coordinated in National Strategic Plans (with a view to a system of shared competence between Member States and the EU) [216].

The support provided by the CAP to European agriculture is an example of the renewed importance of public intervention in the current economic scenario. The main CAP-related interventions include income support measures for farmers, market measures to deal with sudden fluctuations in the sector, and rural development measures.

The CAP is financed by two funds within the EU budget: the European Agricultural Guarantee Fund (EAGF) [217] - which provides direct support and finances market measures - and the European Agricultural Fund for Rural Development (EAFRD) [218].

The high economic sums at stake make these funds very attractive to agri-criminals who, taking advantage of the bureaucratic complexity of the system, do not miss the opportunity to try to fraudulently obtain these public funds, thereby distorting their correct allocation[219].

The methods used by organised crime are varied. One of the most common methods of fraud is the creation of fictitious companies. These companies, although formally registered as agricultural holdings, have no real production activity. The data provided, such as the size of the area cultivated or the type of crops grown, are often falsified to obtain public funds. Another fraudulent practice is the manipulation of cadastral data by declaring land that is not actually cultivated or, in some cases, does not exist. There are also cases of illegal intermediation through corrupt practices[220].

4.2 Monitoring and Control of CAP Funds: The Complex European System

To curb the general risk of fraud in these funds, the European Commission has implemented a system of controls and audits to detect and recover irregular payments. The management and control system are structured on four levels: internal controls in the Member States, preventive controls on payments, audits by independent certification bodies, and final audits by the Commission. This system, with a single audit approach, makes it easier to identify errors and ensure healthier financial management.

Controls include administrative and on-the-spot checks, while the certifying bodies ensure the correctness of expenditure through annual audits. Since these audits, the Commission carries out further checks, clears the accounts annually and takes corrective action where necessary. Financial corrections are applied in the case of irregularities[221].

To protect the CAP budget against fraud, the Commission has implemented a targeted anti-fraud policy, including awareness-raising, risk assessment and cooperation with the European Anti-Fraud Office (OLAF). OLAF has the power to investigate cases of fraud or corruption, both within the EU institutions and among beneficiaries of funds.

However, investigations carried out by OLAF officials are purely administrative in nature and have no coercive powers. Consequently, the support and cooperation of the national authorities is essential not only to ensure the effectiveness of the investigations but also, and more importantly, to adopt any disciplinary, administrative or financial measures that may be appropriate where irregularities are detected[222].

OLAF conducts investigations into suspected irregularities in expenditure, whether involving fraud, and forwards the relevant investigation reports to the EU institutions or to the competent authorities of the Member States concerned. Based on its findings, the Office may recommend disciplinary, administrative, financial, or legal measures. OLAF's recommendations of a financial nature ask the competent national authority or EU institution to recover EU funds that have been misspent, whether fraud has been involved.

OLAF's typical investigative function is complemented by the investigative

function of the European Public Prosecutor's Office (EPPO) [223], which has jurisdiction in cases of fraud against the EU budget, including financial transactions such as borrowing and lending, and offences - committed or attempted - involving the embezzlement or misappropriation of funds or assets belonging to the EU budget or to budgets managed by or on behalf of the EU.

4.3 Management, Monitoring and Control of CAP Funds in Italy

Because of the perimeter traced at European level, it is possible to affirm that the stage of management, monitoring and control of CAP funds at national level plays an essential role.

With reference to the Italian experience, the involvement of the various institutional actors mentioned above is a concrete and specific example of the need for coordination in the development of the administrative machinery[224], also with a view to combating agricultural fraud.

The actors involved are numerous. AGEA (Agenzia per le Erogazioni in Agricoltura) [225] is the main national paying agency responsible for the management, authorisation, payment and reporting of CAP payments, both for the first pillar (direct payments) and for the second pillar (rural development) and also acts as the coordinating body for the other paying agencies accredited at regional level. The Regions and Autonomous Provinces actively participate in the implementation of the Rural Development Programmes (RDPs), independently managing the funds where they have their own accredited paying agencies and collaborating with AGEA to ensure uniformity of administrative action and compliance with European rules.

In addition to the ICQRF (Central Inspectorate for the Protection of Quality and the Fight against Fraud in the Agrifood Sector), which carries out official inspections and controls on the spot and at the beneficiary's premises, there are other State bodies such as the Carabinieri for the Protection of the Agrifood Sector, the Forestry Corps (now integrated into the Carabinieri) and the Guardia di Finanza (Financial Police) [226].

It is interesting to note how the introduction of new technologies has made it possible to intensify these activities; in fact, since 2023, the Area Monitoring

System (AMS) has become an integral part of the Integrated Management and Control System for the CAP. This system uses satellite data from the *Sentinel, Copernicus* and *Egnos/Galileo* programs, integrated and automatically analysed, to verify the actual agricultural activity on the areas declared by farmers. Satellite images and GIS data are used to monitor the situation of agricultural parcels, which are assigned indicators (markers) that signal specific characteristics. The result of the control is represented by flags of different colours, including the yellow flag, which indicates the need for further verification.

Finally, the European Court of Auditors verifies the regularity and legality of the expenditure of European funds, drawing up annual and special reports, while the Italian Court of Auditors controls the financial management of CAP funds at national level, detecting any irregularities and inefficiencies[227].

Given that this integrated system is designed to ensure the effective use of Community funds, it cannot be denied that some weaknesses exist. The overlapping of different administrative structures, bureaucratic complexity, and the constant renewal of mafia infiltration techniques make these economic resources vulnerable to fraud and abuse.

The specific case of the management of CAP funds at national level provides ample scope for reflection on the need for a broader rethink of the development model for rural areas.

The use of satellite technologies, GIS and big data can be interpreted not only as technical support for control, but also as a strategic lever for transparency and prevention. However, for digitalisation to be truly effective, investment must also be made in staff training, interoperability between information systems and ethical data management.

In any case, the objective of protecting funds alone is not enough to combat the mafia macro-phenomenon, which has only one economic facet. There is a constant need to direct the various public policies towards promoting a socio-economic context that makes areas less permeable to the mafia, through inclusion, cooperation between farmers, the promotion of youth and women's work, and support for sustainable and legal agricultural practices.

5. State Countermeasures against Undue Assets Accumulated by Agromafias

5.1 Some Brief Considerations on the Coordinates of a System at the Crossroads of Criminal and Administrative Law

The hypothesis underlying the reflections in this section is that the State's responses to organised crime over the years should be integrated and diversified. As previously mentioned, these responses originate from the traditional criminal justice system, which has a repressive focus, and are supplemented by administrative law through instruments aimed at preventing the accumulation of assets through criminal activity[228].

The infiltration of organised crime into the fabric of society's economy has prompted the legal system to implement measures that directly impact the substantial economic capital on which organised crime is based[229]. It is sufficient to recall that the volume of business linked to illegal activities was estimated at over 2% of Italy's GDP in 2019[230]. To this figure, we must also add the proceeds obtained through infiltration into the legal economy. Indeed, the nature of ecomafie and agromafie can be understood in economic terms, as evidenced by the growing body of literature specialising in this new field of research[231].

It is widely acknowledged that a significant proportion of these illicit profits originate from organised crime infiltration of the agri-food sector. This sector is particularly vulnerable due to its high profit margins and fragmented regulatory oversight. In this context, administrative inspections and food safety monitoring systems play a crucial preventive role against agro-fraud[232]. Activities such as food safety and product traceability inspections are essential for monitoring and countering organised crime infiltration in the agri-food supply chain. These controls ensure compliance with hygiene and health standards, while also helping to identify management irregularities, fraud and labour exploitation patterns that are typical of illegal networks. Therefore, food safety[233] is closely linked to economic legality and represents one of the most effective forms of civil protection in the fight against agro-fraud.

Administrative inspections, particularly in areas such as food safety and supply chain monitoring, serve a dual purpose: they have a preventive function and help uncover irregularities that may indicate links with organised crime. These inspections often provide the initial evidence that can lead to judicial investigations and, ultimately, the seizure and confiscation of assets illegally accumulated by criminal networks.

Thus, inspections are a primary mechanism that supplements the broader legal tools available to the state, creating a link between law enforcement and repressive asset forfeiture measures.

Although the investigation primarily concerns administrative law, it is necessary, for the sake of systematic completeness, to correctly identify the criminal law measures aimed at tracing the illicit assets of organised crime.

We will discuss ablative measures[234], such as criminal seizure and confiscation, which refer to judicial measures that remove assets or rights from an individual. Seizure can be divided into five categories: evidentiary seizure (Article 253 of the Code of Criminal Procedure); precautionary seizure (Article 316 of the Code of Criminal Procedure); seizure for the purpose of confiscation (Article 321 of the Code of Criminal Procedure); and the specific seizure for the purpose of confiscation, as set out in Article 12-sexies of Decree-Law 306/1992[235] (a provision now incorporated into Article 240-bis of the Italian Criminal Code in 2018). Confiscation, on the other hand, consists of ‹‹*the expropriation by the state of assets variously linked to the commission of a crime*››[236].

The regulatory reference is to Article 240 of the Criminal Code, which distinguishes between optional and mandatory confiscation. The former can be ordered for things that served or were intended to commit the offence, or that are the product or profit thereof. The latter is ordered for things that constitute the price of the offence[237].

Another type of criminal confiscation is that for equivalent, which is based on the impossibility of proving a connection with criminal conduct. This extends the power of intervention to the monetary equivalent of the crime[238].

A further hypothesis of confiscation is based on a relative presumption. According to Article 12-sexies of Legislative Decree 306/1992, assets deemed to be the fruit of previous illegal activities in the offender's possession can also be confiscated[239].

In the context of the integration of the study of the state's responses to organised crime, the legal system, since 1982 and the Rognoni-La Torre Law[240], has supplemented the range of criminal measures with a system that combines the factors of prevention and patrimonial contrast[241]. These special preventive measures are taken before the crime is committed and differ from security measures, which are only applicable to dangerous persons who have committed a crime. This fully expresses the principles of prevention and social security[242].
Measures such as seizure and confiscation, which are now governed by articles 20 and 24 of the anti-mafia code, are discussed and defined as <<*interim judicial measures, or in any event measures that run in parallel with criminal proceedings, the effects of which may be irreconcilable with the final judgement*>>[243].
Furthermore, these preventive measures are based on the provisions of Article 16 of the Anti-Mafia Code and indications of mere affiliation with a Mafia association. Therefore, they are applied independently of the ascertainment of the social dangerousness of the person in charge[244].
Article 20 establishes that seizure is ordered by the court by reasoned decree and concerns assets of disproportionate value in relation to declared income or activity[245]. Confiscation, on the other hand, applies to assets that have already been seized and for which the owner or holder cannot provide legitimate proof of origin[246]. The presumption of responsibility for the preventive seizure and confiscation on circumstantial grounds differs from the twin measures in the criminal sphere, which are founded on respect for the principle of guilt beyond reasonable doubt[247].
Over the years, numerous investigative operations have resulted in the final confiscation of assets directly linked to criminal activities in the agri-food sector. These include agricultural land exploited through illegal employment or fictitiously registered in the name of nominees to evade patrimonial controls, as well as wineries, dairies, oil mills and food processing plants. These are often located in strategic areas and financed with unduly received public funds. They are also used to trade counterfeit or untraceable products and to distribute goods nationally and Europe-wide, often for the purpose of laundering capital. This approach, which involves removing economic resources from criminal organisations, has been crucial in disrupting illegal supply chains and reducing their ability to penetrate the legal market. Within this framework, confiscation in

its various forms integrates with other prevention and repression tools to help protect not only legality, but also food safety and free competition. Having established this general framework, this section aims to emphasise the significant role of public administrations in managing assets seized from organised crime.

5.2. The Administrative Procedure for the Social Reuse of Assets Confiscated from Organised Crime

Closing the circle of the complex web of measures to combat organised crime are those measures that combine prevention with the seizure of assets[248]. As detailed in the previous pages, the strength of agromafias is fuelled by a powerful flow of money and assets, which, when effectively targeted, allows for the <<*conversion of mafia social capital into pure social capital*>>[249]. These measures, ranging from seizure to confiscation[250], are part of the process of managing and allocating assets confiscated from organised crime, which is governed by Articles 35-51-bis of the Anti-Mafia Code[251].

The unifying achievement of 2011 is the result of almost thirty years of legislative stratification, initiated by Law no. 646 of 1982 (the Rognoni-La Torre Law), which had the intuition to target the heart of organised crime's wealth: its illegally accumulated assets[252].

Over time, the sic et simpliciter instruments of aggression have been combined with administrative procedures and institutions that guarantee <<*the conversion of assets confiscated from mafia organisations to social purposes*>>[253]. Law no. 109 of 1996 defined the procedures for managing seized assets and, at the same time, established a complex procedure aimed at assigning a public purpose to confiscated assets[254].

From an organisational point of view, however, in the initial construction of the framework, the role of the financial administration was enhanced, with the State Property Agency being given responsibility for the management of confiscated assets[255]. However, the regulatory developments and structural upgrade brought about by the 1996 law favoured the establishment of a new specialised agency. In fact, in 2010, the National Agency for the Administration and Destination of Assets Seized and Confiscated from Organised Crime (ANBSC)[256] was established, which, with its lights and shadows, can represent <<*the coherent and*

mature outcome of a process of experimentation that has made it possible to test and verify in the field all the operational problems associated with the use of other organisational formulas››[257]. Despite what was then a positive intuition, the legislator intervened on several occasions to resolve several management issues faced by the Agency. An important regulatory step, which coincided with a general reform of the anti-mafia code, is Law no. 161 of 2017, which – not least – redefined the complex permeability between the actions of the prevention judge and the Agency[258]. The 2017 reform was followed by a further profound restructuring of the regulations with Decree Law no. 113 of 2018, which had the merit of addressing several intricate aspects of the legislation in question[259], and, most recently, under the reformist impetus of the PNRR, other important amendments entrusted to Decree Laws no. 77 and 152 of 2021[260].

In the process described above, what is of interest here is to examine in greater depth the path taken by the 1996 law. The system of social reuse, which involves returning to the community what has been unduly accumulated by a few, generates substantial and organisational changes in administrative action[261]. The social destination does not only influence the conclusion of the destination procedure – with a relative broadening of the subjective pool involved, both institutional and non-institutional – but also has direct effects on the content of the public interests pursued.

Already in the original structure, the legislator modulated the regulations, aiming to restore the violated legality as a pre-eminent public interest[262]. The content of the public purposes underlying the administrative phase of management and allocation of assets, according to some scholars, should be interpreted in a minimalist sense[263], applying the principle of legality to two specific coordinates: affliction and restoration of public order[264]. Starting with the 1996 law, the content of legality has been enhanced by the social character of the administrative destination of the asset. This gives rise to a so-called symbolic function of the destination, through which the administration not only represses but, by returning confiscated assets to the community and enhancing their value, counteracts the social roots that are the real driving force behind organised crime in the area[265]. Local communities, in their various formal and informal forms, go from being strangers to this procedure to becoming, at the same time, recipients of the symbolic return of the property, but also active subjects aimed at

regenerating it[266].

The transformation also concerns the organisational profile and involves the very role of the National Agency, which is changing ‹‹*from an authority exclusively assisting the judicial system (...) to a genuine administrative authority with its own powers aimed at ensuring the successful allocation of assets*››[267].

According to the latest data available from the ANBSC (relating to real estate), in 2023, social reuse remains the ‹‹*absolute priority pursued by the Agency*››[268], with an absolute prevalence of assets allocated to local authorities, which in one in three cases give priority to projects with the third sector (34% of cases)[269].

Of course, the numbers should not be misleading. While the social extension of the content of legality and the greater use of civic planning seem to be the right path to follow, the objective difficulties encountered in these decades of application of the regulations cannot be ignored[270]. These range from the length and complexity of administrative procedures to the concrete risks of non-use and simultaneous deterioration of the property before allocation, as well as the not always effective management of the property by local authorities, even after the procedure has been completed[271].

It is therefore clear that the main challenge lies in finding ways to ensure the effective reuse and enhancement of confiscated assets[272]. In this context, project collaboration with civic organisations appears to be too valuable a resource to be relegated to a marginal or occasional role. For example, the use of temporary entrustment[273], even before final confiscation, of award criteria that give preference to local authorities that already have project agreements with civic organisations in the area and ‹‹*making use of the availability of even less structured organisations*›› are concrete corrective measures to the current allocation system[274]. A system that would progress towards social co-responsibility, supported by forms of inter-institutional collaboration[275] that pave the way, as already suggested by authoritative doctrine, for the full implementation of the dictates of shared administration of confiscated assets[276].

In this perspective, these can be considered commons in the fullest sense of the term, ‹‹*because they are private goods, the fruit of criminal activity, confiscated by the State and then returned to civil society, which, through its various structures (associations, cooperatives, etc.), manages them in the general interest*››[277].

An alternative, not substitute[278], channel that passes through instruments and

procedures that define the content of legality as a function shared with citizens, through the use of collaboration agreements: that is, virtual places where citizens and the administration together define what is in the general interest of the community[279].

The last issue that deserves further consideration concerns confiscated agricultural land and its management and use. There are at least two aspects of interest here. The first is quantitative, given that the share of agricultural land currently managed by the Agency is significant, accounting for almost 40% of the total assets under management[280]. The second is qualitative and concerns the symbolic and social value of reusing this type of asset, particularly in connection with the role assigned to agriculture[281]. Remaining on the latter point, it is necessary to once again focus on the public interest underlying the management of such assets. Under Art 48, par. 3, lett. c) of the Anti-Mafia Code, agricultural land may be used <<*solely for institutional or social or economic purposes, with the proceeds being reused for social purposes*>>, with the involvement of local authorities, which mostly decide to entrust the management to third parties[282]. However, by confirming the social function of the use of confiscated land, this provision could run the risk of limiting the potential offered by agriculture, in the perspective, clearly indicated by doctrine, of so-called social agriculture[283]. There is debate about the particular link that exists between agricultural production and the protection of the soil and the environment. In particular, in the case of agricultural land, even before it is allocated, a whole series of actions are required in the initial phase of management of the property, ranging from the restoration of the soil to the necessary reclamation work and waste disposal[284]. In this scenario, there is the possibility of promoting the establishment of ethical cooperatives formed by agricultural entrepreneurs who collectively take responsibility for these interventions[285]. If, in fact, the public interest is to be established in the return of confiscated land to the community, the implementation of network relationships and synergies can lead to further enhancement, including economic and productive, of the asset.

Finally, what we want to highlight is that, in this perspective, <<*confiscated land would take on a particularly significant symbolic value, becoming the symbol of an economy that is reborn with respect for rights*>>[286]. We cannot forget how closely economic activity on the land is also linked to working conditions and the

scourge of labour exploitation. The construction of ethical production chains would make it possible to embark on a highly symbolic path of respect for the values of the products made and for workers' rights, establishing itself as an effective tool for preventing the infiltration of agromafias into the economic and legal fabric, as discussed at length in the previous pages[287].

Within this framework, the State would have the task, as part of the administrative procedure for the management and allocation of confiscated land, of promoting the creation and growth of ethical production chains that respect both the value of the products and regular employment[288].

6. Conclusion

One of the most compelling aspects of the investigation - worth highlighting again in the conclusions - is the correlation, repeatedly emphasized throughout the analysis, between the policies and strategies aimed at promoting environmental sustainability in the agri-food sector and addressing the impacts of climate change, and the administrative law tools, institutions, and functions designed to prevent and combat organized crime infiltration in the same sector.

As noted, a necessary and virtuous cycle emerges between these public policies and their corresponding administrative functions: progress in the ecological transition, particularly as it affects the agri-food system, should go hand in hand with a gradual reduction in organized crime infiltration.

At the same time, environmental crime not only causes serious harm to both the environment and the legitimate economy but also poses a significant threat to the achievement of circular economy goals - especially in the waste sector. Consider, for example, supply chains that mimic circular economy practices (such as the fraudulent recycling of materials, where waste is falsely labeled as "end-of-waste" without ever undergoing the necessary treatment processes). Another critical risk involves mafia infiltration into the funds allocated under the National Recovery and Resilience Plan (PNRR).

In other words, the introduction and implementation of public strategies, policies, and measures aimed at achieving sustainability goals through government intervention should also lead to a decline in the influence of organized crime within the agri-food sector. This correlation is expected to grow

stronger as the agri-food system evolves further toward environmental sustainability, biodiversity, and carbon neutrality. At the same time, businesses in the sector will increasingly be required - under European law - to meet Due Diligence[289] obligations, comply with ESG (Environmental, Social, and Governance) standards, and align with sustainable finance criteria.

These ESG criteria form a comprehensive framework for evaluating business and investment sustainability. They are divided into three main areas: environmental (impact on the environment, resource use, greenhouse gas emissions), social (working conditions, human rights, community impact), and governance (transparency, corporate ethics, management structures). As will be explored later, the synergy among sustainable finance, ESG standards, and environmental law will further reinforce this correlation.

The interconnectedness of these approaches reflects the integrated vision of the 2015 UN 2030 Agenda, where environmental protection and social and ethical responsibility are tightly interwoven. This is evident in the coexistence of Goal 2: "Zero Hunger – end hunger, achieve food security, improve nutrition and promote sustainable agriculture", with objectives that are inherently linked to ecological transition and circular economy models. It also ties in with Goal 12: "Responsible consumption and production" and Goal 13: "Climate action – take urgent action to combat climate change and its impacts". Together, these goals are closely connected to Goal 8, which aims for "sustained, inclusive, and sustainable economic growth".

This interrelationship is further highlighted in the growing legitimacy - first at the international level, and later at the European and national levels - of public procurement policies that guide markets toward circular and sustainable purchasing. These policies encourage European industries to shift toward more sustainable production methods.

The increasing recognition of Green Public Procurement (GPP) as an industrial policy tool for internalizing environmental and social priorities in market dynamics should go hand in hand with a decline in organized crime involvement in these sectors.

Accordingly, under the revised Article 41(3) of the Italian Constitution, public demand can help shape the environment as a driver of economic freedom – one that respects both legality and environmental protection.

In the same spirit, the revitalization of the Do No Significant Harm (DNSH)[290] principle in public interventions aimed at subsidizing economic activities is crucial. The DNSH principle stipulates that an economic activity, to be considered sustainable, must not cause significant harm to any of the EU's six environmental objectives: climate change mitigation, climate change adaptation, sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems (Articles 9 and 17 of the Taxonomy Regulation).

The DNSH principle is designed to be complementary and consistent with ESG criteria. Though these frameworks originated in different contexts and timeframes, they are increasingly converging - both technically and legally - within the European sustainable finance regulatory framework.

It's also worth noting the strong connection between DNSH, sustainable finance, and the transition to a circular economy - one of the core objectives of the Taxonomy Regulation[291]. This points to the need for a more integrated approach, replacing the current fragmentation of public funding mechanisms for private economic activities. Sustainable finance, ESG compliance, and circular economy goals must become interconnected pillars in the broader ecological transition and the transformation of European industry toward resilient and regenerative production models[292].

The expansion of the DNSH principle from the Taxonomy Regulation into the conditional funding of economic activities represents a quiet but profound shift[293]. Although initially introduced through the Taxonomy Regulation, its first major application outside the sustainable finance context came with Regulation (EU) 2021/241 on the Recovery and Resilience Facility (RRF)- Italy's National Recovery and Resilience Plan (PNRR) being a notable example. This regulation established how the DNSH principle should be applied, and it was later updated on October 11, 2023.

In Italy, the application of DNSH was supposed to begin with the PNRR[294]. However, it was initially overlooked, as the plan lacked the required DNSH self-assessment- that is, the explanation of how no measure for implementing the reforms and investments included would cause significant harm to environmental objectives (Article 18(4)(d) of the RRF Regulation).

Eventually, and without any preparatory training for public administration officials tasked with enforcing DNSH, the Ministry of Economy and Finance issued Circular No. 32 on December 30, 2021. This included an "Operational Guide for Complying with the Do No Significant Harm (DNSH) Principle".
The relationship between sustainable finance and environmental law is shaping up to be one of the most important innovations within the EU's legal and institutional landscape. As emphasized, the DNSH principle requires that every environmentally sustainable activity or investment, and every initiative financed with European public funds, must not cause significant harm to any of the EU's six environmental goals[295]. In this context, compliance with national and EU environmental laws is not just a formality- it is a substantive condition for DNSH alignment.
DNSH thus goes beyond mere technical compliance with environmental criteria: it incorporates the entire body of environmental law as the legal foundation of sustainable finance.
Today, DNSH is a fundamental tool for sustainable finance, the circular economy, and the green transition, and it marks a major legal innovation in European environmental policy. It represents the convergence of environmental law and sustainable public finance, offering a cross-cutting standard that guides public policy toward ecological transformation and intergenerational responsibility.
At the same time, this convergence could become a powerful means of monitoring how subsidies are allocated to businesses – not only to assess alignment with Taxonomy Regulation objectives, but also as a mechanism to ensure compliance with the rule of law. This is especially critical, given that the flow of funds tied to the implementation of the PNRR presents both the greatest risks and the most significant opportunities for organized crime to infiltrate and profit.
In this light, the path of ecological transition – especially through its administrative law instruments – should also be seen as a strategic avenue for combating the phenomenon of agromafias.

1. This contribution is the result of a joint reflection by the Authors, developed within the framework of the research activities carried out under the Permanent Observatory on

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2. Please refer to M. Renna, *L'allocazione delle funzioni normative e amministrative*, in G. Rossi, *Diritto dell'ambiente*, Giappichelli, Torino, 2024, p. 151. According to the Author: «*The principle of vertical subsidiarity has an intrinsically and physiologically ambivalent value, since, depending on the scope and consistency of the public functions to be conferred, its application can push these functions either "downwards" or "upwards"*» (free translation).
3. See M. Cocconi*, Sostenibilità dell'accesso al cibo e neutralità climatica: un equilibrio da ricomporre?*, in *Federalismi,* 27, 2023, pp. 1 ff.
4. On this aspect, see A. Nicoli, *Economia circolare e contrasto alla criminalità ambientale nel ciclo dei rifiuti*, in *Federalismi*, 7, 2023, pp. 129 ff.
5. For an in-depth analysis see, D. Bevilacqua, *Il Green New Deal*, Giuffré, Milano, 2024.
6. See M. Monteduro, *Alimentazione e ambiente*, in G. Rossi (a cura di), *Diritto dell'Ambiente*, Giuffrè, Milano, 2021, pp. 352 ff.; Id., *Diritto dell'ambiente e diversità alimentare*, in *RQDA*, 1, 2015, pp. 88 ff.
7. European Commission, *COM(2020) 381 final*, Brussels, 1 July 2020.
8. S. Cassese*, Il sorriso del gatto*, in L. Torchia, E. Chiti, R. Perez, A. Sandulli, *La scienza del diritto amministrativo nella seconda metà del XX sec.*, Editoriale Scientifica, Napoli, 2008, pp. 314 ff.
9. On the specificity of legal investigation processes compared to those of other social sciences, see M. S. Giannini, *Profili storici della scienza del diritto amministrativo*, in *Studi Sassaresi*, 1940, p. 204: «*Legal investigation processes are not the procedures that have recently been referred to as data collection, nor are they the logical procedures that lead to the determination or redetermination of legal concepts and their definition, but rather procedures of a different nature, which are aimed at the critical approach to all the other procedures mentioned above, i.e. the procedures that pose and set legal problems*» (free translation). Allow me also to refer to M. Cocconi, *La scienza del diritto amministrativo e l'utilizzo delle altre scienze sociali*, in *La scienza del diritto amministrativo nella seconda metà del XX sec*., cit., pp. 269 ff.
10. On these aspects, see M. Talacchini, *Ambiente e diritto della scienza incerta*, in S. Grassi, M. Cecchetti, A. Andronio, *Ambiente e diritto*, I, Olschki, Firenze, 1999, pp. 74 ff.
11. See, in this regard, Article 191(3) of the TFEU, which explicitly provides that the Union's environmental policy must be based on consideration of the "available scientific and technical data" and the "environmental conditions in the various regions of the Union," as well as on a prior cost-benefit analysis, that is, "the potential benefits and costs of action or lack of action."
12. In this regard, see for example the opinion of the Economic and Social Committee of the

European Community on the topic "The Use of the Precautionary Principle," published in the OJEC of 19 September 2000, No. C 268, pp. 6–11, which states that «*precaution is different from prevention. In order to choose prevention in the face of a risk, it must be measurable; prevention is only possible when the risk is measurable and controllable*» (point 2.7).

13. See G. Manfredi, *Note sull'attuazione del principio di precauzione nel diritto pubblico,* in *Dir. pubbl.*, 3, 2004, p. 1088.
14. See Cons. St., 31 August 2023, n. 8098.
15. Italian Cons. St., 26 October 2023, n. 9265.
16. See M. Cocconi, *Il perimetro del principio di precazione e la tutela della salute*, in *Gior. dir. amm.*, 2, 2024, pp. 243 ff.
17. ECHR, Grand Chamber, *Cannavacciuolo and Others v. Italy*, judgment of 30 January 2025, appl. no. 75321/20. In this pilot judgment, the Court found a violation of Article 2 of the ECHR (right to life) by the Italian State due to the inadequacy of the measures taken to protect public health in the area known as the "Terra dei Fuochi" ("Land of Fires"), which has been severely contaminated by hazardous waste and illegal burning. The Court ordered structural measures to address the systemic failure identified.
18. M.S. Giannini, *Profili storici della scienza del diritto amministrativo*, in *Quaderni fiorentini per la storia del pensiero giuridico moderno*, 2, 1973, pp. 179-180.
19. S. Romano, *Lo Stato moderno e la sua crisi*, Tipografia Vannucchi, Pisa, 1909; Id., *L'ordinamento giuridico*, I ed., Spoerri ed., Pisa, 1918.
20. Among others Unep, *Keeping the promise. Annual Report*, 2023, pp. 13 ff.; Id., *We are all in this together. Annual Report*, 2024; International Resource Panel (IRP), *Global Resources Outlook. Natural Resources for the Future We Want*, 2019.
21. Already in 2019, in Resolution 2019/2930(RSP) of 28 November 2019 on the climate and environmental emergency, the European Parliament declared that ‹‹*a climate and environmental emergency*›› inviting ‹‹*the Commission, Member States and all global actors*›› and declaring ‹‹*its commitment to urgently take the concrete actions necessary to combat and contain this threat before it is too late*››.
22. F. de Leonardis, *Lo Stato Ecologico. Approccio sistemico, economia, poteri pubblici e mercato*, Giappichelli, Torino, 2023 provides an in-depth analysis of the term "energy transition", which summarises both energy and production transitions. The book also contains an extensive national and international bibliography on the subject. On the need for transition paths, suffice it to say that in the last fifty years, global material extraction has tripled and continues to grow, and about half of greenhouse gas emissions (and more than 90% of biodiversity loss and water stress) are due to extraction and transformation processes. On the concept of ecological transition ‹‹*destined to commit agriculture to a process of reducing emissions and developing renewable energy*››, see S. Masini, *‹‹Transizione ecologica›› dell'agricoltura*, in *Diritto agroalimentare*, 1, 2022, pp. 45 ff.
23. G. Manuguerra, *L'influenza della criminalità organizzata sul settore ambientale: il*

fenomeno delle ecomafie, in S. Sparacia, F.A. Cimino, *Nuovi orientamenti di economia e diritto in tema di tutela ambientale*, Ipsoa, Milano, 2019, p. 136. For an in-depth analysis on the topic, see also P. Pinotti, *The economic costs of organized crime: evidence from southern Italy, Temi di discussione*, Banca d'Italia, 868, 2012.

24. Legambiente, *Ecomafia 2024. Le storie e i numeri della criminalità ambientale in Italia*, 2024; G. Manuguerra, *L'influenza della criminalità organizzata sul settore ambientale*, cit., p. 136, where the author, following a multidisciplinary approach, outlines the phenomenon with different connotations, depending on whether it is viewed from a sociological, clinical-health or economic perspective; A.C. Nicoli, *Economia circolare e contrasto alla criminalità ambientale nel ciclo dei rifiuti. Alla ricerca di un approccio integrato*, in M. Cocconi, *Il mosaico dell'economia circolare. Regole, principi, modelli*, FrancoAngeli, Milano, 2023, pp. 133 ff.
25. C. Camarca, *Dizionario enciclopedico delle mafie in Italia*, Castelvecchi, Roma, 2013, p. 33, ‹‹*Term used to indicate the influence of organised crime of a mafia type in the agricultural and pastoral sector and in the food and wine industry in general. Control is exercised both in the production phases and in those intended for intermediation and transport, up to marketing (...)*››; M. Rizzo, *voce Agromafie*, in M. Mareso, L. Pepino, *Dizionario enciclopedico di mafie e antimafia*, Ed. Gruppo Abele, Torino, 2013, p. 9.
26. The words of Don Ciotti are evocative, who spokes of a situation of "endless emergency", E. Calabria, A. D'Ambrosio, P. Ruggiero, *Beautiful Cauntry*, Rizzoli, Milano, 2008.
27. G. Manuguerra, *L'influenza della criminalità organizzata sul settore ambientale*, cit., p. 141.
28. G. Gatti, *Le strategie di contrasto alle agromafie e alle condotte di riciclaggio*, in *Diritto agroalimentare*, 1, 2022, pp. 159 ff., where A. notes that ‹‹*The mafia criminal system's approach to agriculture and pastoralism was initially parasitic in nature*››, however, this model has been superseded and replaced by an entrepreneurial scenario that is ‹‹*extremely complex and varied, constantly evolving*››. See S. Masini, *‹‹Agromafie››: tipologia criminale e connotazione normativa dell'associazione per delinquere*, in *Diritto agroalimentare*, 3, 2018, pp. 593 ff.
29. On this point, it seems more useful to refer to §4.
30. VV. AA., *Agromafie. 6° Rapporto sui crimini agroalimentari in Italia 2019*, Minerva, Bologna, 2019, p. 17, ‹‹*there are no areas free from the presence of large and small criminal organisations: production, processing, transport, marketing and sale to the public*››. For further information on the phenomenon of agromafias and their vast scope of action, please consult the atlas provided by Legambiente and available at: https://noecomafia.legambiente.it/agromafia/.
31. Ivi, p. 20. It is a system characterised by coordinated and interdependent relationships between a multitude of actors and decision-making levels, confirming ‹‹*the transition of the mafia from the streets to the hushed rooms of boardrooms and major financial centres*››.

32. G. Manuguerra, *L'influenza della criminalità organizzata sul settore ambientale*, cit., p. 142. The evocative term "grey area" refers to collusion and complicity with the mafia, ‹‹*i.e. the spaces that give rise to relationships and business dealings with individuals who are not strictly mafia members*››. See G. Gatti, *Le strategie di contrasto alle agromafie*, cit., p. 167, ‹‹*through the involvement of an increasingly widespread network of professionals and officials belonging to the so-called grey area*››.
33. Reference is made to C. Pedrazzi, *L'involuzione del diritto penale economico*, in M.C. Bassiouni, A.R. Latagliata, A.M. Stile (eds), *Studi in onore di Giuliano Vassalli. Evoluzione e riforma del diritto e della procedura penale 1945-1990*, vol. I - Diritto penale, Giuffrè, Milano, 1991, p. 623.
34. S. Masini, ‹‹*Agromafie*››, cit., p. 608.
35. Legambiente, *Ecomafia 2024*, cit.
36. VV. AA., *Agromafie. 6° Rapporto*, cit., p. 70, where reference is made to a "liquid mafia" to indicate ‹‹*the widespread infiltration of the criminal economy into contexts that were originally oriented towards legality but are increasingly being bent to the logic of malfeasance through the use of illicit means that destabilise the market*››.
37. S. Masini, ‹‹*Agromafie*››, cit., p. 606.
38. G.A. Primerano, *Ambiente e diritto agroalimentare. Organizzazione, regolazione e controlli*, in *Diritto agroalimentare*, 3, 2019, pp. 617 ff., where the author highlights the complex organisational structure of public authorities, which is multi-layered and in line with the principles of subsidiarity, differentiation and adequacy, confirming that food legislation is steeped in public law principles and rules, especially administrative law.
39. The literature on this subject is vast, so we prefer to focus on contributions that have highlighted, on the one hand, the process of juridification of food law M. Ramajoli, *La giuridificazione del settore alimentare*, in *Diritto Amministrativo*, 4, 2015, p. 657, summarised in the two conditions of the expansion of institutional purposes and the broadening of the scope of regulatory intervention to be extended to the entire food chain; Id., *Quale futuro per la regolazione alimentare*, in *Milan Law Review*, 2, 2021, pp. 59 ff.; S. Gardini, *Il controllo amministrativo della filiera agroalimentare*, in *Il diritto dell'economia*, 3, 2024, pp. 91 ff..
40. M.C. Rizzuto, *La sostenibilità come chiave di sintesi dell'economia circolare: prospettive e criticità nella filiera agroalimentare*, in S. Gardini, *Percorsi di circolarità, tra diritto ed economia*, in *Il diritto dell'economia*, special number, 2023, p. 127. In this process, due consideration must also be given to the transition from a ‹‹*purely food safety perspective, focused on the hygiene and health safety of food, to a perspective that also embraces food security, understood as ensuring that all human beings have access to sufficient food at reasonable prices to enable them to survive*››. M. Ramajoli, *Quale futuro per la regolazione alimentare*, cit., p. 70.
41. S. Gardini, *Il controllo amministrativo*, cit., p. 94. This evolution can be summarised in three historical phases: in the first, the task of the public administration was exclusively aimed at intervening in situations of poor hygiene (so-called health and hygiene policing);

in the second, with the emergence of the issue of food security, there was room for more direct and proactive intervention by the state; in the third and final phase, however, there was a shift towards food as a strategic productive factor and a tool for economic and market development.

42. There is a wide range of literature focusing on the links between food regulations and environmental protection, see G. Rossi, *Diritto dell'ambiente e diritto dell'alimentazione*, in *RQDA*, 1, 2015, pp. 1 ff.; M. Monteduro, *Diritto dell'ambiente e diversità alimentare*, cit., pp. 88 ff. Even earlier M. Gnes, *Alimenti*, in MP. Chiti, G. Greco, *Trattato di diritto amministrativo europeo*, Parte speciale, vol. I, Giuffrè, Milano, 2007, pp. 119 ff. and see S. Carmignani, *Agricoltura e ambiente. Le reciproche implicazioni*, Giappichelli, Torino, 2012.
43. S. Gardini, *Il controllo amministrativo*, cit., p. 110.
44. In accordance with Article 117 of the Italian Constitution, food matters are subject to concurrent legislative power but are intertwined with other matters falling under the exclusive legislative power of the State, including competition and the environment.
45. Ivi, p. 96. The principle of prevention is solemnly affirmed in the field of foodstuffs in Regulation 2002/178/EC, which lays down the general principles and requirements of food law. See L. Costato, *Dal diritto dell'agricoltura al diritto agroalimentare*, Editoriale, in *Diritto alimentare*, 3, 2023, pp. 1 ff.; F. Albisinni, *La dimensione transazionale del diritto alimentare*, Editoriale, in *Diritto alimentare*, 4, 2023, pp. 1 ff.; F. de Leonardis, *Il principio di precauzione nell'amministrazione di rischio*, Milano, Giuffrè, 2005; P. Borghi, *Il rischio alimentare e il principio di precauzione*, in A. Germanò, L. Costato, *Trattato di diritto agrario*, Rook Basile, Torino, 2011.
46. M. Ramajoli, *La giuridificazione del settore alimentare*, cit., p. 663.; G.A. Primerano, *Ambiente e diritto agroalimentare*, cit., p. 627.
47. Ivi, p. 624, ‹‹*The layered regulatory framework developed over the years has given rise to agri-food legislation with undeniable public policy overtones, whose international dimension is primarily aimed at promoting trade*›› and the values of competition ‹‹*economic freedom of movement in the market and consumer protection, both in terms of health protection and the guarantee of informed choices*››. See M. Monteduro, *Alimentazione e ambiente*, in G. Rossi, *Diritto dell'ambiente*, cit., p. 352.
48. For an analytical review of the wide range of international, European and national sources on food, see F. Albisinni, *Strumentario di diritto alimentare europeo*, Giappichelli, Torino, 2017.
49. M. Ramajoli, *Quale futuro per la regolazione alimentare*, cit., p. 62.
50. The European Food Safety Authority (EFSA) is an independent EU authority established by Article 22 of Regulation 2002/178/EC, which provides scientific advice and information on existing and emerging risks associated with the food chain, with the aim of protecting consumers from risks in the food chain. For an in-depth analysis see M. Cocconi, *The balance between science and policy in the public decision-making process: the EFSA case (European Food Safety Authority),* in *RQDA,* 3, 2020, pp. 233 ff.

51. For further information on this body, please refer to D. Bevilacqua, *The Codex Alimentarius Commision and its Influence on European and National Food Policy*, in *European Food and Feed Law Review*, 1, 2006, pp. 3 ff.
52. On the value of planning in the agri-food sector, see S. Masini, *‹‹Transizione ecologica››*, cit., p. 60, With regard to ecological planning within the Ecological Transition Plan (PTE), where *‹‹agriculture is now recognised as having a function that goes beyond production (...) It is clear that adjustments and shifts in the matter (...) are defined not so much around the imposition of limits or prohibitions but, to a much greater extent, around content that promises to find a sustainable way of relating to other forms of life and the environment in which they exist››*. See S. Gardini, *Il controllo amministrativo*, cit., p. 101, *‹‹In the case of food safety, only through preventive planning is it possible to consider all the elements that influence – directly or indirectly – agricultural and livestock production, integrating health and hygiene aspects with everything related to product quality and commercial regulations››* (free translation).
53. M. Ramajoli, *Quale futuro per la regolazione alimentare*, cit., p. 64 (see bibliography there).
54. The new name, which is not simply a change of name, was introduced by Legislative Decree no. 173/2022, marking the transition from the Italian Ministry of Agricultural, Food and Forestry Policies to the current Masaf.
55. Directive of the Minister of Agriculture, Food Sovereignty and Forestry, Prot. no. 38839 of 29 January 2025, defining the general guidelines on administrative and management activities for 2025. Document available at: https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/21734.
56. S. Gardini, *Il controllo amministrativo*, cit., p. 108. Regulation 2017/625/EU of the European Parliament and of the Council of 15 March 2017 on official controls on food and feed has been transposed into Italian law by Legislative Decree no. 27/2021. Recital 20 of the Regulation states that it *‹‹aims to establish a harmonised framework at Union level for the organisation of official controls and official activities other than official controls throughout the agri-food chain››*. For further information on this topic, see F. Albisinni, *Il Regolamento (UE) 2017/625: controlli ufficiali, ciclo della vita, impresa, e globalizzazione*, in *Diritto alimentare*, 1, 2018, pp. 11 ff.; F. Aversano, *Sul controllo ufficiale nella filiera agroalimentare: antiche questioni e nuovi modelli*, in *Diritto agroalimentare*, 2, 2020, pp. 249 ff.; Id., *Controlli ufficiali del Made in Italy e strumenti di tutela*, in *Diritto agroalimentare*, 3, 2021, pp. 433 ff.
57. Established at the Masaf on 13 March 2023, the Control Room is composed of the Inspectorate (ICQRF), the Carabinieri Commands for Agri-Food Protection and Forest and Park Protection, the Finance Police, the Fisheries Department, the Agency for Agricultural Subsidies (Agea) and the Customs Agency. The text of the press release is available at the following website: https://www.politicheagricole.it/lollobrigida_cabina_regia.

58. M. Delli Santi, *Agromafie e Agropirateria. La criminalità organizzata ed economica nel comparto agro-alimentare. Analisi e azioni di contrasto*, in *Rassegna dell'Arma dei Carabinieri*, 1, 2014, pp. 5 ff.; VV.AA., *Agromafie. 6° Rapporto*, cit., 285 ff.; G. Gatti, *Le strategie di contrasto alle agromafie*, cit., p. 176.
59. Masaf, *Piano operativo dei controlli nel settore agroalimentare (POC) 2025*, text available at: https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7683.
60. Masaf, *POC 2025*, cit., p. 3. The activity planning contained in the 2025 POC considers the national strategic objectives set out in the 2023-2027 Multi-Year National Control Plan (PCNP) and the economic and risk analysis, also in accordance with Regulation 2017/625/EU on official controls carried out by the ICQRF.
61. The term "Italian sounding" refers to ‹‹*the set of practices involved in the production and marketing of products that sound Italian, a phenomenon that involves a significant loss of market share for Italian trade*››, see VV.AA., *Agromafie. 6° Rapporto*, cit., p. 33. On the central importance of combating Italian sounding, see S. Masini, *I Carabinieri e la "linea del Piave" nella difesa di salute, alimentazione e Made in Italy agroalimentare*, in *Rassegna dell'Arma dei Carabinieri*, 1, 2024, p. 122.
62. To give an idea of its attractiveness to organised crime, consider that Masaf as a whole has been and continues to be responsible for managing resources amounting to €4.88 billion, with targets to be achieved by 2026 – PNRR funds (see Masaf, *POC*, cit., p. 12).
63. Consider the Masaf Integrated Activity and Organisation Plan (PIAO), with a three-year programme for 2024-2026, and the document submitted for consultation for the following three-year period 2025-2027. These documents can be consulted at: https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/18672. From 2022, the PIAO will also include the Three-Year Plan for the Prevention of Corruption and Transparency (PTPCT). From a systematic perspective, therefore, the PIAO will also replace the PTPCT, ‹‹*providing for the definition of appropriate tools to pursue maximum transparency in the results of activities and administrative organisation and to achieve the objectives in the fight against corruption, with a view to simplifying compliance requirements in this area*››. See Masaf, *Piano Triennale di Prevenzione della Corruzione e per la Trasparenza 2022-2024*, p. 4.
64. See the entire Chapter 6 of the report by VV.AA., *Agromafie. 6° Rapporto*, cit., pp. 282 ff., which reports on the activities of the main law enforcement agencies involved in combating agromafias (GdF, Nucleo e Comandi dei Carabinieri, ICQRF); G. Gatti, *Le strategie di contrasto alle agromafie*, cit., pp. 176 ff. To support the vision of coordination described above, it is also useful to consult the "Rivista della Rassegna dell'Arma dei Carabinieri".
65. F. de Leonardis, *Lo Stato Ecologico*, cit., p. 256. The aim is to meet the need for a public administration system in the environmental field that is systemic, holistic and comprehensive.
66. Article 120 of the Italian Constitution is interpreted in accordance with the principles of

subsidiarity and loyal cooperation and applies to the integration and coordination of activities at the state and regional levels of the public administration.

67. Without forgetting the contribution of the Regions and their central role in the management of European and national funds allocated to the supply chain, through the activities of the regional agencies for payments and/or disbursements, reference is made here to the contribution through regional provisions and plans to combat organised crime. For instance, we can mention Regional Law no. 18 of 2016 of Emilia-Romagna and, in conjunction with this, the Integrated Plan of Regional Actions for the Promotion of a Culture of Legality and Responsible Citizenship and the Prevention of Organised Crime and Corruption 2022-2023 (implementing Article 3 of the aforementioned regional law).
68. S. Gardini, *Il controllo amministrativo*, cit., p. 104. Regarding official controls, in addition to the central role assigned to the multi-annual national control plan ‹‹*the regions are granted the power to plan and initiate official control activities even outside the national programme*››; G.A. Primerano, *Ambiente e diritto agroalimentare*, cit., p. 627. See C. Losavio, *L'agricoltura contadina tra interventi nazionali in favore delle piccole produzioni locali e del chilometro zero e interventi regionali a presidio e custodia del territorio*, in *RQDA*, 1, 2023, pp. 266 ff. (free translation).
69. The heterogeneity of the contributions made by the regions can also be explained by the specific objectives set in this area, such as assets confiscated from the mafia, illegal waste management, labour exploitation, etc. For a region-by-region analysis, we recommend the in-depth report by Avviso Pubblico. Local authorities and regions against the mafia and corruption, available at the following website: https://www.avvisopubblico.it/home/home/cosa-facciamo/informare/documenti-tematici/mafie/organismi-regionali-locali-materia-contrasto-della-criminalita-organizzata-la-legalita/.
70. G. Gatti, *Le strategie di contrasto alle agromafie*, cit., p. 183, where ‹‹*A third and final pillar of the network consists of promoting the role of associations active in the area (...) specifically in relation to the agro-mafia sector, with a particular focus on trade unions and associations representing the various components of the agricultural and agri-food sector*›› (free translation).
71. Among these, we can mention Regional Law no. 28 of 2006 of Puglia on combating irregular work, the organisational measures of the Basilicata and Calabria regions, and Regional Law no. 3 of 2018 of Campania on actions for the reuse of assets confiscated from organised crime and provisions for the Regional Plan for confiscated assets.
72. In this sense see G. Gatti, *Le strategie di contrasto alle agromafie*, cit., p. 182, ‹‹*The second level of the network for combating mafia infiltration is represented by stable institutional cooperation between the investigating judicial authorities and the Prefectures*›› (free translation).
73. Direzione Investigativa Antimafia (DIA), *Attività svolta e risultati conseguiti dalla Direzione Investigativa Antimafia, Luglio-Dicembre 2023*, p. 198. The anti-mafia measures system is based on the distinction between anti-mafia communication (Articles

87-89 of the Anti-Mafia Code), which consists of certifying the existence or otherwise of one of the causes for forfeiture, suspension or prohibition provided for by the Code, and anti-mafia information (Articles 90-95), which is of a liberating or prohibitive nature. See M. D'Amico, M. Granocchia, *L'infiltrazione epidemica delle holding mafiose. La documentazione antimafi*a, in *Rassegna dell'Arma dei Carabinieri*, 1, 2024, p. 9.

74. See infra §3.2.
75. Article 1, paragraphs 52-57, Law no. 190 of 6 November 2012. The business activities for which registration on the white list at the competent Prefecture is required include, among others: extraction, supply and transport of earth and inert materials, processing and transport of concrete and bitumen, cold rental of machinery, hot rental, road transport on behalf of third parties, catering, canteen management, environmental services – including waste collection, treatment and disposal, as well as national and transnational transport, etc.
76. For example, consider the recent pre-litigation opinion no. 407 of 11 September 2024 issued by ANAC, which clarifies that for waste management and social care catering companies, registration on the whitelist is mandatory, even if not expressly provided for in the tender law. The text can be consulted at the following website: https://www.anticorruzione.it/documents/91439/190202964/Parere+di+precontenzioso+n.+407+del+11+settembre+2024.pdf/5cec6af0-ec4e-a617-a26c-cf9157a3e5b8?t=1727441876520.
77. Legislative Decree no. 267 of 18 August 2000, as amended (Local Authorities' Unified Text – TUEL).
78. Articles 141-143 of the TUEL, concerning the dissolution of the entire municipal and provincial council, and Article 142, concerning the "Removal and suspension of local administrators". For further information on the issues raised by the above provisions, please refer to the in-depth investigations by Avviso Pubblico, *Le mani sulla città. Dossier sui comuni sciolti per mafia nel 2021 e focus sui 30 anni di applicazione della legge sullo scioglimento degli enti locali*, 2021; Id., *Amministratori sotto tiro. Rapporto 2023.*
79. Article 135, TUEL, reclassified as "Communication of resolutions to the Prefect". In the two situations referred to above, the Prefect, in exercising his powers or those delegated to him by the Ministry of the Interior, may request the competent state and regional bodies to take the control and replacement measures provided for by law.
80. S.M. Sisto, *Lo scioglimento dei consigli comunali per infiltrazione mafiosa*, in *I quaderni di paweb.it*, 4, 2016, p. 5.
81. M. D'Amico, M. Granocchia, *L'infiltrazione epidemica delle holding mafiose*, cit., p. 34.
82. Article 94-bis, Anti-Mafia Code, reclassified as "Administrative measures of collaborative prevention applicable in cases of occasional facilitation". According to the text of the provision, these measures refer to organisational measures aimed at removing and preventing the causes of occasional facilitation, communicating to the joint task force set up at the prefecture, within fifteen days of their completion, the acts of disposal, purchases or payments made and received, professional assignments conferred, administrative or

fiduciary management assignments received, and to use a dedicated bank account for payment and collection transactions as well as for financing. See infra § 3.4.2.

83. Corruption prevention is ANAC's main line of action, which is divided into various activities, including: preparing the National Anti-Corruption Plan (PNA); supervising the adoption of the PTPC; exercising its power to issue orders and impose sanctions in the event of failure to adopt the PTPC; and supervising whistleblowing reports. Recently, the 2024 update of the 2022 PNA was approved by ANAC with Resolution no. 31 of 30 January 2025.
84. Stati generali lotta alle mafie, *Attività di ricognizione ed analisi dei più gravi fenomeni criminosi,* in *Raccolta dei lavori dei tavoli tematici*, *Atti di Convegno Milano 23-24 novembre*, 2017, p. 112; S.M. Sisto, *I protocolli di legalità e la lotta alla mafia e alla corruzione negli appalti pubblici*, in *Amministrazione In Cammino*, 2, 2019, p. 2.
85. Specifically, in the agri-food chain, and especially in the fruit and vegetable sector, there is a proposal to appoint an ANAC representative to report all suspected cases of procurement, subcontracting and supply of goods and services, see VV.AA., *Agromafie. 6° Rapporto*, cit., p. 371.
86. Whistleblowing is a prevention system originating in the United States, introduced into Italian law by Law no. 190/2012. It focuses on the possibility for public employees to report incidents of corruption to ANAC while remaining anonymous.
87. Article 83-bis, Anti-Mafia Code, reclassified as "Legality Protocols", inserted by Article 3, paragraph 7, of Decree Law no. 76/2020.
88. G. Totino, A. Cimmino, *Patti di legalità o integrità. La corretta interpretazione della clausola risolutiva espressa e limitazione dell'effetto escludente. Note a margine della Sentenza del TAR Piemonte, Sez. II, 2 aprile 2024, n. 322*, in *MediAppalti.it*, 2024, text available at the following website: https://www.mediappalti.it/patti-di-legalita-o-integrita-la-corretta-interpretazione-della-clausola-risolutiva-espressa-e-limitazione-delleffetto-escludente-note-a-margine-della-sentenza-del-tar-piemonte-sez-ii-2/.
89. F. Schilirò, *I protocolli di legalità dalla Legge Anticorruzione al Codice dei contratti pubblici*, in *Altalex*, 2021, text available at the following website: https://www.altalex.com/documents/news/2021/04/10/protocolli-legalita; even earlier see F. Saitta, *Informativa antimafia e protocolli di legalità, tra vecchio e nuovo*, in *Riv. trim. app*., 2, 2014; F. Di Cristina, *Interdittive antimafia e protocolli di legalità: i rischi di ossificazione del sistema*, in F. Manganaro, A. Romano Tassone, F. Saitta, *Diritto amministrativo e criminalità*, Giuffrè, Milano, 2014.
90. About their legal nature, the most widely accepted interpretation classifies legality protocols as falling within the broader category of agreements between public administrations pursuant to Article 15 of Law no. 241/1990. In case law, see T.A.R. Campania, Naples (sezione I), judgment of 3 August 2006, n. 7849, and of 30 June 2006, n. 7223. In doctrine, although more dated, we recommend reading VV.AA., *La prevenzione delle infiltrazioni mafiose nell'economia. I protocolli di legalità, una*

opportunità per le stazioni appaltanti e le imprese, Atti del Convegno Lecce 9 ottobre, 2012.

91. S.M. Sisto, *I protocolli di legalità*, cit., p. 7, where this tool has allowed for the expansion of the scope of application of the provisions of sector regulations, making it possible, for example, to request anti-mafia certification even for contracts below the thresholds set and required by the Anti-Mafia Code.
92. On this point, see infra §3.4.3.
93. The principle of integration is enshrined at international level in Article 4 of the Rio Declaration and at European level in Article 11 TFEU and Article 37 of the Charter of Nice.
94. G.A. Primerano, *Ambiente e diritto agroalimentare*, cit., p. 624. A. notes that <<*The issue of administrative organisation in the agri-food sector is undoubtedly influenced by the fact that agriculture is the economic sector in which the greatest integration between European countries has been achieved*>>.(free translation). See A. Fioritto, *Agricoltura*, in M.P. Chiti, G. Greco, *Trattato di diritto amministrativo europeo*, Giuffrè, Milano, 2007, p. 25.
95. S. Gardini, *Il controllo amministrativo*, cit., p. 110. While the principle of competence legitimises, so to speak, a segmented view, the principle of integration requires constant reference to the "big picture". Re-examining the institution of competence considering the principle of integration therefore makes it possible to move beyond the traditional approach, whereby each administration pursues its own specific interests, in favour of a systemic approach based on coordination. See F. de Leonardis, *voce Economia Circolare (diritto pubblico)*, in *Dig. Disc. Pubb.*, Utet Giuridica, Torino, 2021.
96. Masaf, *POC 2025*, cit. p. 4. In this context, the primary sector, affected by a production and structural crisis lasting more than a decade, accounts for only 11.6% of the value of the agri-food chain, while the food industry is growing strongly, accounting for 15.6% (approximately 193 billion euros) of the total turnover of the national industrial sectors.
97. ICQRF was established by Article 10 of Decree Law no. 282 of 18 June 1986.
98. ICQRF, *Report attività 2023. Prospettive 2024*, p. 14.
99. Ivi, p. 42. The report shows that in 2023, the Inspectorate carried out 54,000 anti-fraud checks, reported 110 offences, issued 5,548 administrative penalties and seized assets worth €42 million. The ICQRF alone carries out over 30% of all checks in the sector carried out by national authorities, of which around 90% concern food products.
100. ICQRF, *Report attività 2023*, cit., p. 53.
101. Ivi, pp. 17 ff. The ICQRF is also responsible for protecting Italian products abroad and in the field of e-commerce. Finally, since 2025, it has also been the national competent authority under Regulation 2023/1115/EU on deforestation (EUDR).
102. The Inspectorate operates within the regulatory framework of Directive 2019/633/EU and implementing Legislative Decree no. 198/2021, carrying out enforcement activities on its own initiative or following complaints. The ICQRF has the power to ascertain violations and prohibit the perpetrator from engaging in unfair practices, as well as to initiate proceedings for the imposition of administrative fines. In literature see F. Assenza, *L'ICQRF come Autorità nazionale di contrasto alle pratiche commerciali sleali*

nelle filiere agroalimentari, in *Diritto Alimentare*, 1, 2022, pp. 36 ff.; G. Spoto, *Le interferenze di competenze tra l'Ispettorato centrale della tutela della qualità e repressione frodi dei prodotti agroalimentari e l'Autorità garante della concorrenza e del mercato*, in *Diritto agroalimentare*, 2, 2022, pp. 357 ff.; S. Masini, *Le pratiche commerciali sleali nel d.lgs. n. 198 del 2021: tra implicazioni teoriche e prime applicazioni*, in *Diritto agroalimentare*, 1, 2023, pp. 83 ff.; Id., *La resistibile ascesa dell'azione pubblica di contrasto alle pratiche commerciali sleali*, in *Diritto agroalimentare*, 3, 2024, pp. 551 ff.

103. S. Masini, *Le pratiche commerciali sleali*, cit. p. 94, where this relationship is explored in greater depth <<*Organised crime activities are expanding into the grey areas of the legal economy, where individual companies become vulnerable targets in the dynamics of unfair competition*>>. Of greater concern is the influence on the legal economy <<*when the outward offensiveness of intimidation and coercion wanes, with the spontaneous agreement of the underlying companies to provide the association's services in order to obtain better conditions in competition*>> (free translation). On the particular weakness of farmers see Id., *La resistibile ascesa dell'azione pubblica*, cit., p. 553.
104. G. Spoto, *Le interferenze di competenze*, cit., p. 365. Before the approval of Legislative Decree no. 198/2012, the Inspectorate was only responsible for reporting violations relating to the sale of agricultural and food products to the AGCM, without any power to impose sanctions.
105. Article 8, paragraph 3, Legislative Decree no. 198/2021.
106. Article 8, paragraph 5, Legislative Decree no. 198/2021.
107. On the duplication of competent authorities in this area, see the following academic references A. Jannarelli, *La <<giustizia contrattuale>> nella filiera agroalimentare: considerazioni in limine all'attuazione della direttiva n. 633 del 2019*, in *Giust. civ*., 2021, 2, p. 199 and, the doubts of the Competition and Market Authority itself, document AS 1703 of 23 October 2020, in Bulletin no. 42 of 2020, in that it <<*risks creating considerable confusion, with possible negative effects in terms of the speed and effectiveness of interventions in favour of the beneficiaries of the same*>> (free translation).
108. G. Spoto, *Le interferenze di competenze*, cit., p. 375. A., referring in this matter to the principles of loyal cooperation and speciality, observes that <<*it would be necessary to assess, first of all, whether we are dealing with a mere "conflict" between rules that can coexist because they respond to different objectives, in which case the question can be resolved on the basis of the principle of speciality, or whether we are dealing with a more complex and radical antinomy that should be overcome more effectively through an agreement between the authorities involved*>> (free translation).
109. *Ibidem*.
110. *Ivi*, p. 371. The author's preference for a more decisive, direct choice is understandable, either as an alternative to maintaining all powers with the AGCM or as a bolder and more courageous option of entrusting all supervisory powers exclusively to a highly technical and specialised authority such as the Inspectorate.
111. For a critical reflection on the measures adopted by public authorities in combating unfair

commercial practices see S. Masini, *La resistibile ascesa dell'azione pubblica*, cit., p. 565, which notes that ‹‹*the Inspectorate is required to operate within the framework of a markedly flawed administrative procedure*›› (free translation).

112. The Carabinieri Command for Agri-Food Protection, formerly the Carabinieri Command for Agricultural Policies, was established in 1982. Following the entry into force of Legislative Decree no. 177/2016, which established the absorption of the State Forestry Corps into the Carabinieri, it assigned to the Carabinieri the functions of preventing and suppressing fraud affecting the quality of agri-food production and carrying out checks under EU agri-forestry and environmental legislation. A historical overview of the Carabinieri's commitment to the agri-food sector see VV.AA., *Agromafie. 6° Rapporto*, cit. pp. 328 ff.
113. L. Cortellessa, *L'attività del Comando Carabinieri per la Tutela Agroalimentare*, in *Diritto alimentare*, 1, 2020, p. 46. In carrying out these tasks, the department may conduct administrative inspections and checks, with the dual objective of protecting Italy's agri-food heritage and safeguarding consumers from misleading choices.
114. S. Masini, *I Carabinieri e la "linea del Piave"*, cit. p. 122.
115. L. Cortellessa, *L'attività del Comando Carabinieri*, cit., p. 47. This activity ‹‹*is of particular operational interest, as the repercussions of these criminal acts are not limited to economic damage to the public administration but also extend to the social function pursued by the distribution of funds*›› (free translation).
116. On this point see C. Pattone, *La questione forestale. L'assorbimento del Corpo forestale dello Stato nell'Arma dei Carabinieri*, Historica Edizioni, Roma, 2022, pp. 53 ff.
117. The NAS, Armed Forces Health and Safety Units (Anti-Adulteration and Health Units of the Carabinieri) were established on 15 October 1962, in the wake of awareness of the phenomenon of food adulteration and the social alarm it had generated. Today, the NAS department has acquired its current name, Comando Carabinieri per la Tutela della Salute (Carabinieri Command for Health Protection), and has a central structure, three Carabinieri groups for health protection (Milan, Rome and Naples) and thirty-eight NAS units throughout the country.
118. On the operational and technical contribution provided by the NAS, in literature see VV.AA., *Agromafie. 6° Rapporto*, cit. pp. 331-332, where the latest data available in the Report show that, in the food safety sector, over 53,000 inspections were carried out, of which almost 20,000 resulted in non-compliance and administrative penalties of over €26 million were imposed. A. Rizzuti, *Organised food crime: an analysis of the involvements of organised crime groups in the food sector in England and Italy*, in *Crime, Law and Social Change*, 78, 2022, p. 465; S. Masini, *I Carabinieri e la "linea del Piave"*, cit., p. 114.
119. The growing prevalence of various forms of illegality in the supply chain is evident in food counterfeiting, false certification and packaging fraud. The latest investigations reveal an increasing infiltration of the legal economy and a gradual shift of illicit interests from southern to northern regions.
120. For an in-depth investigation of the work carried out by the GdF in the agri-food sector,

please refer to VV.AA., *Agromafie. 6° Rapporto*, cit. pp. 293 ff.

121. Masaf, *POC 2025*, cit. pp. 16-19, particularly in the wine and olive oil production chain.
122. The phenomenon of caporalato has been defined from various perspectives, all of which, however, share a central focus on the exploitation of labour, see VV.AA., *Agromafie. 6° Rapporto*, cit. p. 120, ‹‹*cases of labour exploitation of migrant and local workers and illegal intermediation.* Furthermore, in a more complex context, as ‹‹*an illegal system of intermediation and labour exploitation by illegal intermediaries (caporali) who recruit workers. A crucial feature of caporalato is the monopoly of the transport system, which forces workers to pay a sum of money for their travel to and from the workplace*››, see Ministero del Lavoro e delle Politiche Sociali, *Piano triennale di contrasto allo sfruttamento lavorativo in agricoltura e al caporalato 2020-2022*, p. 4. (free translation)
123. VV.AA., *Agromafie. 6° Rapporto*, cit. p. 122. This expression refers to working situations characterised by ‹‹*significantly lower wages than the average for a country or the applicable regulations, violations of working time regulations and safety conditions in the workplace, and the use of control or surveillance methods that restrict freedom (...)*›› (free translation). Labour exploitation therefore encompasses three areas: intermediation; working conditions; and living conditions, see Ministero del Lavoro e delle Politiche Sociali, *Piano triennale*, cit., p. 5.
124. For a reconstruction of the exploitation of foreign and Italian workers in the Italian countryside and the phenomenon of caporalato, please refer to D. Di Sanzo, *Caporalato e ingresso della manodopera straniera nell'agricoltura del Mezzogiorno. L'elaborazione politica e istituzionale della questione tra anni Settanta e Ottanta*, in *Italia contemporanea*, 306, 2024, pp. 42 ff. Allow me to make an extralegal reference of a sociological nature to E. Pugliese, *Il lavoro degli immigrati*, in P. Corti, M. Sanfilippo, *Storia d'Italia. Migrazioni*, Annali n. 24, Einaudi, Torino, 2009, p. 58, where ‹‹*agriculture is one of the employment sectors (...) that had "a certain importance at the beginning of the history of immigration" in ensuring entry, even irregular, into the labour market for "late arrivals (...) willing to accept heavy workloads, low wages and a substantial absence of rights*›› (free translation).
125. On the difficulty of defining the issue in question, as well as on the proliferation of definitions and their often "promiscuous" use, see M. Esposito, *Il contrasto al lavoro nero: discontinuità dei percorsi legislativi e cultura dei valori giuridici*, Discussion Paper, 2, CRISEI, 2012.
126. The reports produced by Osservatorio Placido Rizzotto, on behalf of Flai Cgil are a reference point for statistical surveys on the condition of irregular workers in agriculture. In 2023, agricultural workers will contribute 820 million hours of work annually, of which it is estimated that almost two-fifths are not regular, see Osservatorio Placido Rizzotto – Flai Cgil, *VI Rapporto Agromafie e Caporalato*, Futura Ed., Roma, 2023.
127. The latest data available from Istat, *L'economia non osservata nei conti nazionali – Anni 2018-2021*, Roma, 2023 show that the underground economy is growing (€174 billion), as is the value of illegal activities, which exceeds €18 billion, while its share of GDP remains unchanged (10.5%). In doctrine, see M.C. Macrì, *Il contributo dei lavoratori*

stranieri all'agricoltura italiana, CREA, Roma, 2019, where A. notes that ‹‹*The indispensable and inexhaustible raw material that allows the creation of oligopolies destined to influence the life of products and the purchasing choices of consumers is immigrant labourers*››. See F. Fanizza, *Globalizzazione e Grande Distribuzione Organizzata: produzioni agroalimentari, braccianti stranieri e agromafie in Italia*, in *Sicurezza e scienze sociali*, 1, 2020, p. 151, which focuses on the ‹‹*conditions of invisibility that allow agromafias to continue operating and thriving*›› (free translation).

128. L. Villani, *Approfittamento dello stato di bisogno e condizioni di sfruttamento lavorativo (art. 603 bis c.p.): coordinate ermeneutiche e riflessi applicativi*, in *Riv. DGA*, 3, 2022, pp. 1 ff. The phenomenon of labour exploitation, which spread mainly in southern Italy, has gradually moved to the centre and north of the country ‹‹*An analysis of the relevant legislation shows that the initial measures to combat the phenomenon were introduced by Article 2127 of the Civil Code and Article 27 of Law No 264 of 29 April 1949*››, and were then replaced by the so-called Biagi Law (Law no. 276/2003) and Law no. 148 of 14 September 2011 (free translation).
129. Law no. 199 of 29 October 2016, Combating undeclared work, labour exploitation in agriculture and wage realignment in the agricultural sector. In doctrine see C.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*, in *W.P C.S.D.L.E. "Massimo D'Antona".it*, 352, 2018; E. Santoro, C. Stoppioni, *Il contrasto allo sfruttamento lavorativo: i primi dati dell'applicazione della legge 199/2016*, in *Giornale di diritto del lavoro e di relazioni industriali*, 2, 2019, pp. 267 ff.; F. Fanizza, *Globalizzazione*, cit., p. 141; VV.AA., *Agromafie. 6° Rapporto*, cit. p. 121; F. Gianfrotta, *Caporalato e sfruttamento lavorativo: non solo (la sacrosanta) repressione*, in *Lavoro@confronto*, 64, 2024, pp. 9 ff.
130. On the figure of the caporale, the following works are of interest in literature see V. Pinto, *Rapporti lavorativi e legalità in agricoltura. Analisi e proposte*, in *Giornale di diritto del lavoro e di relazioni industriali*, 1, 2019, pp. 7 ff.; L. Salvia, *I caporali e il loro ruolo nella filiera agroalimentare del Basso Lazio: oltre la criminalizzazione*, in *Sociologia urbana e rurale*, 121, 2020, pp. 103 ff.
131. Please refer to §5.
132. V. Pinto, *Gli interventi regionali di contrasto al lavoro nero e di sostegno all'emersione*, in *Riv. giur. del lavoro e della previdenza sociale*, 2, 2012, p. 291. Even before the constitutional reform of 2001, the current governance was triggered by Legislative Decree no. 469/1997, whereby the State devolved administrative functions relating to active labour policies to the Regions. For further information on the division of legislative powers between the State and the Regions in the fight against irregular work and its emergence, reference should be made to the two main rulings of the Italian Constitutional Court, ruling no. 34 of 16 June 2005 and ruling no. 384 of 14 October 2005.
133. More recently, Article 37, paragraph 1, letter c) of Regional Law no. 18/2016 of Emilia-Romagna, concerning "Agreements for the promotion of legality and the strengthening of

inspection and control activities", as well as the adoption by the Autonomous Province of Trento of the Memorandum of Understanding for the protection of the legal economy, to combat the marketing of counterfeit and dangerous products, undeclared/irregular work and commercial abuse (Prov. no. 898 - 03.07.2020) and the Experimental Protocol against illegal hiring and labour exploitation in agriculture, of the Region of Tuscany, signed in August 2021 and extended for the year 2024 (Resolution no. 1596 of 28.12.2023).

134. M.D. Ferrara, *Le Regioni e il lavoro sommerso: tecniche di governo ed effettività delle politiche*, in M. Brollo, C. Cester, L. Menghini, *Legalità e rapporti di lavoro. Incentivi e sanzioni*, Ed. Università di Trieste, Trieste, 2016, pp. 236 ff. ‹‹*Air conditioning has seen a two-pronged trend, initially characterised by regulatory activism and, more recently, by substantial stagnation*››; C. Gesmundo, *I meccanismi di condizionalità per il contrasto al lavoro nero. Spunti dalla legge Regione Puglia n. 28 del 2006 Disciplina in materia di contrasto al lavoro non regolare*, in *Riv. DGA*, 6, 2024, p. 2, where the A. focuses on the role of proximity played by the Regions ‹‹*in the dynamics of governing pathological situations in the labour market, considering that the labour market is predominantly a local market*›› (free translation).
135. S. Battistelli, O. Bonardi, C. Inversi, *Regulating agricultural work and the labour market to prevent exploitation: the Italian perspective*, in *LaBoUR&Law Issues*, 8, 2, 2022, p. 26. It reads ‹‹*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 (...) some regions appear to be mostly focused on the repression of exploitation cases and gang-mastering, while others have integrated policies, which combine repressive mechanisms with incentives and promotional efforts*›› (free translation).
136. V. Pinto, *Gli interventi regionali*, cit., p. 293. See L. Battista, *Il lavoro sommerso e il ruolo dell'Autorità Europea del Lavoro*, Cacucci, Bari, 2022; A. Tulumello, *Introduzione*, in A. Bellavista, *Nero come il lavoro. Sommersi nell'ultima provincia d'Italia*, XL Edizioni, Roma, 2008, p. 18; Id., *Il lavoro sommerso*, Giappichelli, Torino, 2002, pp. 21 ff.
137. There are numerous references, including: Art. 44, par. 1, lett. a), Regional Law of Emilia-Romagna no. 17/2005; Art. 10, par. 1, Regional Law of Liguria no. 30/2007, no. 30; Art. 26, par. 1, lett. e), Regional Law Lombardy no. 22/2006; Art. 34, par. 2, lett. e), Regional Law Marche no. 2/2005; Regional Law Sardinia no. 20/2005; Art. 55, par. 1, lett. e), Regional Law Veneto no. 3/2009, no. 3; art. 59, par. 1, lett. c) and d), Regional Law of Piedmont no. 34/2008; art. 6, par. 1, lett. h), Regional Law of Umbria no. 11/2003.
138. V. Pinto, *Gli interventi regionali*, cit., p. 295.
139. This same category also includes corporate social responsibility certification and the establishment of ethical labels (i.e. including Lombardy Regional Law no. 1/2007, Sardinia Regional Law no. 20/2005, and Abruzzo Regional Law no. 12/2000). In this context, regional measures have been put in place to coordinate the various administrations involved in combating this phenomenon.
140. Two cases are symptomatic of this group: Regional Law no. 28/2006 of Puglia ("congruity indices") and Regional Law no. 14/2009 of Campania ("High Quality of

Work System"). In both cases ‹‹*measures aimed at bringing undeclared work to light are supplemented by quantitative indicators which, by making the organisational effects of the regularisation operations carried out by each entrepreneur measurable, enable the administration to distribute the available resources selectively*››. *Ivi*, p. 301. (free translation).

141. M.G. Garofalo, *Le iniziative regionali in materia di lavoro sommerso: gli indici di congruità*, in V. Pinto, *Le politiche pubbliche di contrasto al lavoro irregolare*, Cacucci, Bari, 2008, p. 65, where the A. observes that such instruments are, however, of limited effectiveness, as they are only useful to companies that have an interest in emerging and continuing to operate regularly.
142. V. Pinto, *Gli interventi regionali*, cit., p. 304, therefore, ‹‹*not individual deviant behaviour on the part of a small number of employers that can be effectively countered, on an individual basis, with traditional control/sanction measures, but rather mass behaviour and a structural factor of the current production system*›› (free translation).
143. Regional Law Lazio no. 16/2007, in particular Art. 4, par. 1, lett. d), Art. 7, par. 1, lett. d) and Art. 9 and Art. 9 of Regional Law Calabria no. 13/2012.
144. M. Esposito, *Il contrasto al lavoro nero*, cit., p. 6. Sometimes the two techniques can coexist, ‹‹*giving rise to a model in which repressive action against the phenomenon is combined with the recognition of corresponding benefits for concrete entrepreneurial efforts to regularise undeclared activities*›› (free translation).
145. M.D. Ferrara, *Le Regioni e il lavoro sommerso*, cit., p. 242. The former are measures that address the pathological phase of the undeclared work phenomenon, while the latter aim to reduce the attractiveness of undeclared work by promoting prevention and a culture of legality.
146. *Ibidem*, p. 243. The Puglia model, with Regional Law no. 28/2006, and the Campania model (Regional Law no. 14/2009) are symptomatic of a structured and networked approach, while other regional contexts, such as Lombardy, Sicily, Piedmont, Abruzzo, Molise and Basilicata, fall under the second model. For a more comprehensive overview of regional policies to combat undeclared and/or irregular work, see ISFOL, *Le Politiche Regionali di contrasto del Lavoro Sommerso*, 2011.
147. C. Gesmundo, *I meccanismi di condizionalità per il contrasto al lavoro nero*, cit., p. 3. In the Apulian model of Regional Law no. 28/2006, the adequacy indicators define the ratio between the turnover declared by the employer for IVA purposes and the number of hours worked. Any inadequacy of this index did not lead to the application of penalties, but rather to exclusion from the benefits and incentives financed by public funds. A similar conditionality mechanism can be found in Campania, although it is more restricted and limited than the Apulian system, which uses "AQL" certification ‹‹*summarised by an indicator, the value of which determines whether companies can benefit from and access financing from the Quality Fund*››, a specially created fund. Another example is Lazio Regional Law no. 16/2007, which makes the granting of regional benefits conditional on the regularity of employment relationships and provides for their withdrawal in the event

of irregularities. See C.M. D'Onghia, C. De Martino, *Gli strumenti giuslavoristici di contrasto allo sfruttamento del lavoro in agricoltura*, cit., pp. 22 ff.; C. Faleri, *Il lavoro agricolo. Modelli e strumenti di regolazione*, Giappichelli, Torino, 2020, p. 119.

148. See supra §2.2.
149. S. Battistelli, O. Bonardi, C. Inversi, *Regulating agricultural work*, cit., pp. 28 ff. One of these is Goel Bio, a cooperative founded in Calabria with the cultural and political aim of contributing to change and freeing farms from criminal control and agromafia. Another example comes from Piedmont, Humus Job, a start-up that promotes vocational training and job placement with fair working conditions in the agricultural sector.
150. The nature of these bodies varies, and their scope of investigation is more or less limited to the fight against agromafia, reflecting the specific characteristics of the different local contexts. They include the Campania Regional Observatory for Assets Confiscated from Organised Crime, established by Regional Law no. 7/2012 and reconstituted by Decree of the President of the Regional Council no. 54 of 4 March 2021 and the Friuli-Venezia Giulia Regional Anti-Mafia Observatory, established by Regional Law no. 21/2017.
151. The Observatory's objectives are: to promote a culture of legality; to protect Italian food products; to provide information to consumers; to study and monitor the penetration of organised crime in the food market and phenomena that distort competition along the supply chain. For further information, please visit the website: https://www.osservatorioagromafie.it/.
152. The Foundation promotes synergies and collaborations between trade unionists, the judiciary, law enforcement agencies, universities and the Third sector to combat illegality in the field. Every two years, it publishes the Agromafia and Caporalato Report – widely cited in this section – which provides a detailed overview of the living and working conditions of people employed in the agricultural sector and related activities. See: https://www.fondazionerizzotto.it/.
153. For an in-depth analysis of mafia infiltration in the economic sector and its new entrepreneurial focus, see N. dalla Chiesa, *L'impresa mafiosa tra capitalismo violento e controllo sociale*, Cavallotti University Press, Milano, 2022 and F. Siracusano, *L'impresa a partecipazione mafiosa tra repressione e prevenzione,* in *Arch. Pen*., 3, 2021, pp. 1 ff.
154. For a general examination of the topic, see G. Turone, *Il delitto di associazione mafiosa*, Giuffré, Milano, 2024.
155. For a general overview about the new setting of principles in the Italian procurement system, reference is made to G. Napolitano, *Il nuovo Codice dei contratti pubblici: i principi generali*, in *Giorn. dir. amm*., 3, 2023, pp. 287 ff. and M. Renna, *I principi, in Il nuovo corso dei contratti pubblici. Principi e regole in cerca di ordine*, in S. Fantini, H. Simonetti, *Il nuovo corso dei contratti pubblici*, in *Il Foro it. Gli speciali,* 1, 2023, pp. 1 ff.
156. See Cons. St., 26 March 2024, n. 2866.
157. For a general overview see A. La Spina, *The anti-mafia fight in Italy and abroad* in *Italian Mafias Today*. Cheltenham, Edward Elgar Publishing, UK, 2019. For instance, France, while allowing the exclusion from public tenders for convictions related to serious crimes,

does not adopt preventive administrative measures similar to Italy's interdiction. The Sapin II Law of 2016 strengthened anti-corruption measures, but without including preventive actions based on suspicions. On this point, please refer to Y. Broussolle, *Les principales dispositions de la loi Sapin pour la transparence et la modernisation de la vie économique*, in *Gestion et finances publiques*, 2, 2017, pp. 108 ff. In the United Kingdom, tools like Serious Crime Prevention Orders (SCPO) are available only after judicial proceedings. See T. Tulich, S. Murra, N. Skead, *Antipodean perspectives on preventive justice: The High Court and Serious Crime Prevention Orders*, in *Griffith Law Review*, 2, 2021, pp. 221 ff. An interesting example comes from the Netherlands, where the «BIBOB» system (*Wet Bevordering Integriteitsbeoordelingen door het Openbaar Bestuur*) allows authorities to deny licenses, permits, or public contracts when there are well-founded suspicions of links to organized crime. Local governments can request a risk assessment from a dedicated national office, which may also rely on confidential information. The BIBOB system is the closest equivalent to Italy's *interdittive* measures, though it is limited to specific sectors – such as construction, nightlife venue management, and logistics – and offers stronger procedural safeguards. See M. Peters, A. Spapens *The administrative approach in the Netherlands. Administrative approaches to prevent and tackle crime: Legal possibilities and practical application in EU Member States*, Eleven International Publishing, The Hague, 2015, pp. 265 ff.

158. On December 31, 2021, the conversion into law - with some amendments - of Decree-Law No. 152 of 2021 was published in the Italian Official Gazette. This decree contains urgent provisions for the implementation of the National Recovery and Resilience Plan (NRRP) and for the prevention of mafia infiltration. Included within it are various provisions dedicated to investments and the strengthening of the anti-mafia prevention system. Of relevance here is the fact that Articles 47 to 49-bis of the decree-law introduced significant changes to the Anti-Mafia Code (Legislative Decree No. 159 of 2011). In particular, these changes concern the introduction of the adversarial principle in the procedure for issuing anti-mafia interdiction measures, and the so-called collaborative prevention (which will be discussed later).
159. Please refer to Dipartimento della Pubblica Sicurezza Direzione Centrale della Polizia Criminale, *Le interdittive antimafia 2021-2021*, available at the following link https://www.interno.gov.it/sites/default/files/2023-04/le_interdittive_antimafia_2021_2022_.pdf.
160. The National Anti-Mafia Database (Banca Dati Nazionale Antimafia) is an official Italian database designed to centralize and manage information on individuals, entities, and organizations suspected of or involved in mafia-related activities. It serves as a vital tool for law enforcement, public authorities, and the judiciary in monitoring, preventing, and combating organized crime. The database contains data on criminal convictions, preventive measures, asset seizures, and other relevant details, helping ensure public safety and preventing mafia infiltration across various sectors of the economy and society.
161. The ATECO code is an alphanumeric classification system used in Italy to identify and

categorize the type of economic activity carried out by businesses and professionals. It is based on the European NACE classification system but adapted to the Italian context by the Italian National Institute of Statistics (ISTAT). The ATECO code is used for statistical, fiscal, and administrative purposes, including business registration, tax reporting, and eligibility for public funding or incentives.

162. On this point, please refer to F. Fracchia, *Transizioni: il punto di vista del diritto amministrativo,* Editoriale Scientifica, Napoli, 2024; *id*., *I doveri intergenerazionali. La prospettiva dell'amministrativista e l'esigenza di una teoria generale dei doveri intergenerazionali,* in P. Pantalone, *Doveri intergenerazionali e tutela dell'ambiente*. *Sviluppi, sfide e prospettive per Stati, imprese e individui*, Stem Mucchi Editore, Modena, 2021, pp. 55 ff; For a general overview of the right-duty relationship in the Italian legal system, see S. Romano, *Doveri. Obblighi*, in *Frammenti di un dizionario giuridico*, Giuffrè, Milano, 1953, pp. 91 ff.
163. On this point, please refer to R. Maria, A. Amore, *Effetti «inibitori» delle interdittive antimafia e bilanciamento fra principi costituzionali: alcune questioni di legittimità dedotte in una recente ordinanza di rimessione alla Consulta*, in *Federalismi*, 12, 2021 pp. 91 ff. and M. Interlandi, *Interdittive antimafia e diritti fondamentali nella prospettiva della separazione dei poteri,* in *P.A. Persona e Amministrazione*, 2, 2023 pp. 557 ff.
164. Before the adoption of the current Anti-Mafia Code, Italy introduced several legislative measures aimed at preventing and combating organized economic crime, albeit in a more fragmented and limited manner. A key milestone was Law no. 575 of 1965 (the so-called «Anti-Mafia Law»), which established automatic disqualifications - such as the revocation of business licenses and exclusion from public contracts - for individuals subject to final preventive measures.The 1982 Rognoni–La Torre Law further strengthened the system by assigning to the Prefect the duty to alert public administrations of disqualifying conditions. Following the mafia massacres, anti-mafia disclosure requirements (*informative antimafia*) were introduced by Legislative Decree no. 490 of 1994 and later updated by Presidential Decree no. 252/1998, Legislative Decree no. 159/2011, and Decree No. 161/2017. These reforms progressively extended the scope of anti-mafia checks and improved their effectiveness. Without claiming to be exhaustive and deferring more specific references to subsequent sections, the following sources are worth mentioning: A. Police, *La disciplina antimafia tra tutela dell'ordine pubblico e diritto al sostentamento*, in *www.amministrazioneincammino.it,* 19 dicembre 2023; R. Rolli, M. Maggiolini, *Interdittiva antimafia e "occasionale occasionalità" della permeabilità mafiosa*, in www.giustiziainsieme.it, ottobre 2023; R. Rolli, *L'informazione antimafia come "frontiera avanzata" (nota a sentenza Consiglio di Stato Sez. III n. 3641 dell'08.06.2020)*, in *www.giustiziainsieme.it,* 3 luglio 2020; N. Durante, *L'interdittiva antimafia, tra tutela anticipatoria ed eterogenesi dei fini*, in *Riv. trim. appalti*, 4, 2020, pp. 1693 ff.; F.M Calamunci, M.A De Benedetto, D.B. Silipo, *Anti-Mafia Law Enforcement and Lending in Mafia Lands. Evidence from Judicial Administration in Italy*, in *The B.E. Journal of Economic Analysis & Policy*, 3, 2021, pp. 1067 ff; J.P. De Jorio, *Le interdittive*

antimafia e il difficile bilanciamento con i diritti fondamentali, Napoli, 2019; A. Longo, *La "massima anticipazione di tutela". Interdittive antimafia e sofferenze costituzionali*, in *Federalismi*, 19, 2019, pp. 22 ff.; V. Salamone, *La documentazione antimafia nella normativa e nella giurisprudenza*, Editoriale Scientifica, Napoli, 2019; G. Amarelli, S. Sticchi Damiani, *Le interdittive antimafia e le altre misure di contrasto all'infiltrazione mafiosa negli appalti pubblici*, Giappichelli, Torino, 2019; F.G. Scoca, *Le interdittive antimafia e la razionalità, la ragionevolezza e la costituzionalità della lotta "anticipata" alla criminalità organizzata*, in *www.giustamm.it*, 30 giugno 2018; M. Noccelli, *I più recenti orientamenti della giurisprudenza amministrativa sul complesso sistema antimafia*, in *Foro amm.*, 12, 2017, pp. 2524 ff.; V. Neri, *Informativa antimafia e contrasto alla criminalità organizzata*, in *Corr. Merito*, 8, 9, 2010, pp. 810 ff; A.L. Spina, *Recent Anti-Mafia Strategies: The Italian Experience.* in Siegel, D., Nelen, H. *Organized Crime: Culture, Markets and Policies. Studies in Organized Crime*, vol 7., Springer, New York, 2008, pp. 195 ff.

165. See M. Mazzamuto, *Profili di documentazione amministrativa antimafia,* in *Giustamm.it,* 3, 2016, pp. 8 ff. The antimafia certificate (comunicazione antimafia) is a preventive tool provided by the Italian Anti-Mafia Code (Legislative Decree no. 159/2011), aimed at preventing individuals connected to organized crime from obtaining public funding, authorizations, concessions, or contracts with public administrations. Specifically, Article 84, paragraph 2 of the Code states that the antimafia certificate consists of: ‹‹*a declaration as to whether or not one of the grounds for disqualification, suspension, or prohibition under Article 67 applies*›› (free translation). It is, therefore, a formal verification carried out by the Prefecture, which checks whether the individuals involved (such as entrepreneurs, partners, or directors) are subject to final judicial decisions or personal or asset-related preventive measures.
166. That is, according to case law, the one corresponding to the province where the company has its registered office at the time the anti-mafia interdiction is issued (Italian Council of State, Section III, 13 May 2020, no. 3030, and Article 90, paragraph 2, of Legislative Decree no. 159 of 2011).
167. F. Gatto, *Le nuove frontiere della Legislazione Antimafia alla luce del D.L. 6 novembre 2021, n. 152*, in *www.giustizia-amministrativa.it*, 2021.
168. Please refer to F. Mazzacuva, *La natura giuridica delle interdittive antimafia, in Le interdittive antimafia e le altre misure di contrasto all'infiltrazione mafiosa negli appalti pubblici* in G. Amarelli, S. Sticchi Damiani, *Le interdittive antimafia e le altre misure di contrasto all'infiltrazione mafiosa negli appalti pubblici*, cit., pp. 57 ff.; G. Amarelli, *Le interdittive antimafia "generiche" tra interpretazione tassativizzante e dubbi di incostituzionalità* in G. Amarelli, S. Sticchi Damiani, *Le interdittive antimafia e le altre misure di contrasto all'infiltrazione mafiosa negli appalti pubblici*, cit. pp. 207 ff.; L. Di Ciommo, *L'interdittiva antimafia: ai confini con "l'ergastolo imprenditoriale" e la natura cautelare*, in *Amministrativamente*, 3, 2020, pp. 365 ff; L. Delli Priscoli, *Diritto di iniziativa economica dell'impresa sospettata di essere collusa con la mafia e diritto della*

collettività ad un mercato concorrenziale, in *Giur. comm.,* 44, 2021, pp. 1 ff. See also A. Manna, F. P. La Salvia, *Le pene senza diritto*: *sull'inaccettabile truffa delle etichette,* in *Arch. Pen*., 1, 2017, pp. 5 ff.

169. Broadly speaking, the expression «*any attempted mafia infiltration*» clearly functions as a general or open-ended clause - an intentional choice by the legislature. This is likely one of the main reasons the measure has sparked criticism and tension, given its close connection to the criminal (or quasi-criminal) framework underpinning anti-mafia legislation. In such a context, the use of open clauses raises particularly delicate issues, especially in relation to the constitutional principles of legal certainty and strict legality.
170. According to leading Italian case law, anti-mafia interdiction measures play the role of an "advanced line of defense" (Cons, St., 30 January 2019, n. 758) in the broader system of mafia prevention - an approach made necessary by the constantly evolving nature of organized crime. These measures are situated within a "proactive framework for safeguarding legality" (Corte cost., sent. 26 March 2020, n. 57) and are inherently precautionary and preventive in nature (Cons. St.., 6 April 2018, n. 3). Prefects, who are empowered to issue such measures, are expected to consider not only legally defined indicators but also non-standard, symptomatic elements that are not explicitly set out by law. This is because "the ways in which mafias pursue their goals are themselves atypical" (Cons, St., 30 January 2019, n. 758). See also: Cons. St., 30 October 2023, n. 9343; 3 March 2021, n. 1825; 20 January 2020, n. 452; 3 April 2019, n. 2211.
171. Please refer to A. Longo*, La Corte costituzionale e le informative antimafia. Minime riflessioni a partire dalla sentenza n. 57 del 2020,* in *Nomos –L'attualità del diritto-Quadrimestrale di teoria generale, diritto pubblico comparato e storia costituzionale*, 2, 2020, pp. 1 ff.
172. The *De Tommaso v. Italy* judgment, delivered by the European Court of Human Rights on 23 February 2017 (Application no. 43395/09), addressed personal preventive measures but has also been referenced in discussions surrounding anti-mafia interdiction orders. The Court set out several key principles regarding the requirement of legal foreseeability and the proper exercise of discretion. First, the law must be accessible to those it concerns, and its consequences must be foreseeable.

    Second, in certain areas-such as the fight against criminal infiltration- the law must remain flexible enough to adapt to changing circumstances. Third, while some degree of vagueness in legislation may be unavoidable, the application of such laws must be subject to robust judicial oversight. Judges must be empowered to assess all relevant facts and provide substantive interpretation to ensure legal certainty. Fourth, when the law grants discretionary powers-as in the case of Prefects issuing anti-mafia interdictions-the extent of that discretion must be clearly defined. Decisions must be fully reasoned and based on identifiable elements, so that discretion does not slide into arbitrariness. These principles are essential in the context of preventive measures, as they help to safeguard fundamental rights and uphold the rule of law.
173. Among the first comments on the judgment of the European Court of Human Rights, see

G. Amarelli, *L'onda lunga della sentenza De Tommaso: ore contate per l'interdittiva antimafia "generica" ex artt. 84, co. 4, lett. d) ed e) d. lgs. n. 159/2011?,* in *www.dirittopenalecontemporaneo.i*t, 4, 2017, e f. viganò, *La Corte di Strasburgo assesta un duro colpo alla disciplina italiana delle misure di prevenzione personali*, ivi, 3, 2017.

174. See Cons. St., 8 February 2024, n. 1282; 18 July 2023, n. 7049; 20 April 2021, n. 3182; 5 September 2019, n. 6105; However, also see Cons. St., 7 June 2023, n. 5601, where it is emphasized that the particular approach adopted by the legislator in balancing public and private interests in this field is justified by the fact that the private interest in the free exercise of entrepreneurial activity is not specifically protected by the ECHR nor can it be classified as part of the sphere of inviolable constitutional rights.
175. For an in-depth analysis of the symptomatic elements with specific reference to the role of the administrative judge, see S. Sticchi Damiani*, Le interdittive fra lacune normative e discrezionalità amministrativa. Il ruolo del giudice amministrativo nell'individuazione degli elementi sintomatic*i, in G. Amarelli, S. Sticchi Damiani, *Interdittive antimafia e le altre misure di contrasto all'infiltrazione mafiosa negli appalti pubblici*, cit., pp. 89 ff. With reference to a relevant jurisprudential analysis, see Cons. St., 4 February 2021, n. 1049; 5 September 2019, n. 6105; 3 May 2016, n. 1743.
176. See the data provided by the Ministry of the Interior for the period 2016-2019, which shows a 27% appeal rate in relation to the total number of anti-mafia interdictions issued, with a 36% acceptance rate of appeals before the TAR and only a 5% acceptance rate before the Council of State. Please refer to V. Maglioni, B.L. Mazzei, *Dai Prefetti in quattro anni stop a più di 3700 imprese a rischio mafia*, in *Il Sole24Ore*, 29 settembre 2019.
177. Please refer to T. Passarelli, *Interdittive antimafia e prevenzione collaborativa: azioni di contrasto al crimine organizzato tra incertezze legislative e discrezionalità applicativa,* in *Federalismi,* 10, 2024 pp. 163 ff.
178. See Cons. giust. amm. Regione siciliana, 8 March 2022, n. 294.
179. See Cons. St., 15 February 2024, n. 1517; 31 January 2024, n. 952; 7 August 2023, n. 7625; 21 July 2023, n. 7156; 18 July 2023, n. 7045; 16 May 2023, n. 4856; 4 April 2022, n. 2465; 21 January 2022, n. 424; 6 September 2021, n. 6225; 4 June 2021, n. 4293; 17 February 2021, n. 1447; 8 July 2020, n. 4372 - have repeatedly clarified that the facts underlying preventive measures need not be the subject of criminal proceedings or trials, and may even have already been examined in a criminal context resulting in acquittal, dismissal, or closure of preliminary investigations by an order of archiving. This is because the inability to establish criminal liability does not prevent the authority responsible for public order from assessing the same facts within the distinct framework of prevention and social defense.
180. See Cons. St., 27 February 2024, n. 1925; 19 January 2024, n. 614; 17 October 2023, n. 9016; 27 September 2023. In particular, while it is generally held that a mere familial relationship cannot, by itself, be considered indicative of mafia-related influence - since it would be logically flawed to presume that a relative of a mafioso is necessarily involved in criminal activities such a relationship may nonetheless serve as sufficient grounds for a

presumption of infiltration when it reaches a level of intensity that suggests a family-run business structure and a form of "collective leadership" within the enterprise.

181. See Cons. St., 25 January 2022, n. 488.

182. See Cons. St., 19 July 2023, n. 7081; 5 May 2023, n. 5163.

183. The methods used to evaluate circumstantial evidence within the Italian public administration could give rise to a wide-ranging discussion; however, for the sake of conciseness, reference is made to G. Terracciano, A.M. Colarusso, *L'indizio nella decisione amministrativa. Teoria e prassi dell'inferenza probatoria nell'esercizio della funzione amministrativa e del potere giurisdizionale*, Editoriale Scientifica, Napoli, 2021. With reference to the case law specifically addressing the application of this criterion, see, among others, Cons. St., 8 February 2024, n. 1282.

184. As originally set out in Article 93(7) of Legislative Decree no. 159/2011, the procedure for issuing an anti-mafia disqualification is marked by speed, confidentiality, and urgency, reflecting its purpose of safeguarding public order (Cons. St., 30 January 2019, n. 758).Early access to evidentiary material – particularly confidential police reports or documents covered by investigative secrecy – could compromise the preventive function of the measure, rendering it ineffective (Cons. St., 31 January 2019, n. 820). In some cases, even the perception of an impending disqualification has led to evasive actions by companies, such as abrupt changes in corporate governance to conceal ties under investigation.

    These risks underscore the need for confidentiality. Accordingly, some case law has held that procedural safeguards, such as the right to be heard, may be limited to preserve the effectiveness of preventive tools, as long as such limitations align with fundamental legal principles.

185. Please refer to L. Bordin, *Contraddittorio endoprocedimentale e interdittive antimafia: la questione rimessa alla Corte di Giustizia. E se il problema fosse altrove?* in *Federalismi*, 22, 2020, pp. 34 ss. See also P. Capace, *Conformità dell'interdittiva antimafia alle norme costituzionali unitarie e internazionali pattizie. Nota a Consiglio di Stato, sez. Terza, sent. 25 ottobre 2021, n. 7165*, in *Giustamm*., 11, 2021. The non-mandatory nature of adversarial proceedings in the context of the prefect's procedure for issuing anti-mafia disqualification measures – when the conditions under Article 84(4) of the Anti-Mafia Code are not met – was the subject of a preliminary reference by the Regional Administrative Court (TAR) of Puglia to the Court of Justice of the European Union (CJEU). The question concerned the possible incompatibility of such a procedure with Article 41 of the Charter of Fundamental Rights of the European Union, which guarantees the right to be heard before the adoption of any individual measure that adversely affects a person. However, the CJEU declared the request inadmissible (Order of 28 May 2020, Case C-17/20), citing the lack of a sufficient connection between the national rules on disqualification measures and EU law. The Court also clarified that the right to be heard is not absolute and may be subject to limitations, provided these serve legitimate public interests and do not disproportionately undermine the essence of the

rights concerned. This reasoning aligns with the position of the Italian administrative courts, which consider restrictions on adversarial rights justified by the urgency and confidentiality required in preventing mafia infiltration.

186. For a full account of the institution in question, reference may be made to M.A. Sandulli, *Il contraddittorio nel procedimento della nuova interdittiva antimafia*, in *www.giustiziainsieme.it*, 15 maggio 2023 e M. Cocconi, *Il perimetro del diritto al contraddittorio nelle informazioni interdittive antimafia,* in *Federalismi*, 15, 2022, pp. 45 ff.
187. Among these, the following are to be considered: changes in the registered office, company name, business purpose or object, composition of the governing, management, and supervisory bodies; replacement of corporate bodies, legal representation of the company, as well as ownership of sole proprietorships or company shares; mergers or any other variation in the corporate, organizational, managerial, and financial structure of companies and businesses affected by attempts of mafia infiltration.
188. In this new context, participatory guarantees serve multiple functions, as highlighted by administrative law doctrine, and are closely tied to their existence and activation. On this point, please refer to M. Cocconi, *La partecipazione all'attività amministrativa generale,* Padova, Cedam, 2010.
189. This is the position of the Observatory on Property Measures and Prevention of the Italian Union of Criminal Chambers in *Le modifiche legislative presentate dal Governo in materia di interdittive antimafia e controllo giudiziario*, 29 ottobre 2021, p. 3, https://www.camerepenali.it/.
190. See F. Di Tullio, *La prevenzione collaborativa. Potenzialità applicative del nuovo strumento di bonifica aziendale ex art. 94 del codice antimafia*, Edizioni Scientifiche italiane, Napoli, 2023, in www.anticorruzione.it and M. Vulcano, *Le modifiche del decreto legge n. 152/2021 al codice antimafia: il legislatore punta sulla prevenzione amministrativa e sulla compliance 231 ma non risolve i nodi del controllo giudiziario*, in *Giur. pen. web*, 2021, pp. 11 ff.
191. The concept of occasional facilitation has been shaped by case law and refers to situations where the connections between a business and organized crime are so sporadic and superficial that the company is considered capable of being steered onto a path of disengagement from mafia influence. See: Cons. St., 22 June 2023, n. 6144.
192. Such as: the adoption and implementation of organizational measures aimed at removing and preventing the causes of occasional facilitation of criminal infiltration; the notification to the inter-agency coordination group established at the competent Prefecture (based on the registered office or place of residence), within fifteen days of execution, of any transactions with a value equal to or greater than €5,000, or a higher threshold set by the Prefect; in the case of corporations or partnerships, the communication to the same group of any forms of financing provided by shareholders or third parties; the notification of any profit-sharing agreements (contratti di associazione in partecipazione) entered into; the use of a dedicated bank account for all payments and receipts, as well as compliance - where

requires - with the prescribed procedures for tracking financial flows.

193. The antimafia judicial control (controllo giudiziario antimafia) is a less intrusive preventive measure compared to judicial administration (amministrazione giudiziaria), introduced by the Italian legal system to address situations in which the support or facilitation of organized crime, as referred to in Article 34 of the Antimafia Code (Legislative Decree no. 159/2011), appears to be merely occasional or marginal. Unlike judicial administration, which entails the temporary replacement of company management, judicial control allows the business to continue operating under its existing governance, but under the supervision of a court-appointed judge or commissioner. This measure aims to remediate the risk of mafia infiltration without interrupting the company's economic activity, thereby preserving jobs and commercial relationships, while ensuring compliance with legality and transparency standards. The measure thus represents a proportional and corrective response that seeks to prevent the exclusion of potentially recoverable businesses from the legal economy and is typically applied where signs of mafia influence exist but do not justify the more invasive remedy of full administration.
194. M. Vulcano, *Le modifiche del decreto-legge n. 152/2021 al codice antimafia: il legislatore punta sulla prevenzione amministrativa e sulla compliance 231 ma non risolve i nodi del controllo giudiziario*, in *Giur. pen. web*, 11, 2021, p. 11.
195. As previously described, particular importance is attributed in the new regulatory framework established by Legislative Decree no. 36/2023 to the mandatory exclusion grounds related to attempted mafia infiltration. Specifically, Article 94 of the Public Contracts Code provides that the existence of an antimafia interdiction measure, issued pursuant to Articles 84 et seq. of Legislative Decree no. 159/2011 (the Antimafia Code), constitutes an automatic ground for exclusion from procurement procedures. This exclusion also extends to subcontracts and access to public concessions.
196. Dating back to preliminary researches about the interaction between environment and market, reference is made to M. Clarich, *La tutela dell'ambiente attraverso il mercato*, in *Dir. Pubbl*, 2007, pp. 219 ff., M. Cafagno, F. Fonderico, *Riflessione economica e modelli di azione amministrativa a tutela dell'ambiente*, in P. Dell'Anno, E. Picozza, *Trattato di diritto dell'ambiente*, Vol. I., *Principi generali*, Cedam, Padova, 2012, pp. 487 ff; F. Bassanini, G. Napolitano, L. Torchia, *Lo Stato promotore: una ricerca sul mutamento degli strumenti di intervento pubblico nell'economia*, in *Irpa working progress*,1, 2021, pp. 3 ff. On the importance of the procurement system understood as a lever for the economic transition, see S. Valaguzza, *Sustainable Development in Public Contracts: An Example of Strategic Regulation*, Editoriale Scientifica, Napoli, 2016; id., *Governing by Contract: Procuring for Value. Creating Value through Public Contracts*, Editoriale Scientifica, Napoli, 2021. With particular focus on ecological transition, see also R. Caranta, C. Cravero, *Sustainability and Public Procurement*, in A. La Chimia, P. Trepte, *Public Procurement and Aid Effectiveness*, Hart, Oxford, 2019, pp. 173 ff.
197. On this point, please refer to M. Stein, M. Mariani, R. Caranta, Y. Polychronakis, *Sustainable Food Procurement: Legal, Social and Organisational Challenges*, Routledge,

London, 2024.

198. Reference is made to A. La Chimia, *Appalti e sviluppo sostenibile nell'Agenda 2030*, in L. Fiorentino, A. La Chimia, *Il Procurement delle Pubbliche Amministrazioni*, Il Mulino, Bologna, 2021, pp. 73 ff and T. Stoffel, C. Carvero, A. La Chimia, G. Quinot, *Multidimensionality of Sustainable Public Procurement (SPP) - Exploring concepts and effects in Sub-Saharian Africa and Europe*, in *Sustainability*, 11, 2019, pp. 6352 ff.
199. FAO, Alliance of Bioversity International and CIAT and Editora da UFRGS, *Public food procurement for sustainable food systems and healthy diets – Volume 1.* Rome, 2021
200. For the sake of brevity, a more in-depth discussion of the topic is referred to G.Antonelli, F. Penna, E. Chaturvedi, A. Cilento, *Planetary Health - Laws, Policies and Science on the "One Health" Approach,* Springer Law Nature, Cham, 2025; E. Scotti *One Health: per un'integrazione tra salute umana e ambientale*, in Aperio Bella F., *One Health: la tutela della salute oltre i confini nazionali e disciplinari*, Editoriale Scientifica, Napoli pp. 45 ff; S. Pitto, *Cambiamento climatico e sicurezza alimentare: dall'approccio One Health ai modelli olistici del Global South*, in *BioLaw Journal*, 2, 2023 pp. 315 ff. For a general overview about the implementation of the One Health approach in the Italian system, please refer to A. G. Caraglia, M. Leggio, *Governance e regolazione del settore agroalimentare verso il paradigma One Health,* Giappichelli, Torino, 2024.
201. Please refer to M. Daniela, *"White list" e interdittive antimafia (Nota a sent. Cons. Stato sez. III 3 aprile 2019 n. 2211 (Omissis vs Ministero dell'Interno))*, in *Urbanistica e appalti*, 5, 2019, pp. 680 ff.
202. On this topic, reference is made to A. Maltoni, *Sussidiarietà orizzontale e munera pubblici. L'esternalizzazione di funzioni amministrative: verso un'amministrazione in senso* "*sostanziale/funzionale*", Clueb, Bologna, 2002; E. Padovani*, Il governo dei servizi pubblici locali in outsourcing. Il controllo dell'efficacia*, Franco Angeli, Milano, 2004; D. Cepiku, *La scelta strategica dell'esternalizzazione, in Dipartimento della Funzione Pubblica, L'esternalizzazione come scelta strategica*, Rubettino, Catanzaro, 2006; A. Mori, *Traiettorie di mercatizzazione e distribuzione dei rischi nell'esternalizzazione di servizi pubblici in Europa*, in *Stato e mercato*, 3, 2019, pp. 449 ff.
203. On the risk of mafia infiltration in the system, reference is made to what is discussed in the report *Illegalità e criminalità nelle filiere agroalimentari e nell'ambiente delle Province del Lazio*, edited by the Ministery of Ecological Transition (now Ministry of the Environment and Energy Security) Lazio Region and the Italian Agromafias Observatory «*The agromafia supply chain, which exerts influence over the agricultural production system and, by extension, the entire connected business network, also involves the restaurant industry, as has been reported and denounced for years by the Agromafie Report by Eurispes, the Agromafie Observatory Foundation, and Coldiretti. The restaurant sector, in fact, has historically been of great interest to mafia organizations, due to the ease with which it allows for money laundering. Furthermore, restaurants facilitate the marketing of food and wine products—including fruit and vegetables—that may come from agro-food production influenced or directly controlled by mafia-run businesses. Vegetables, fruit, wines and*

sparkling wines, cheeses, and pasta may all be produced through agromafia-linked supply chains that contribute to a constantly expanding criminal business. These are products that fill the pantries of some of the most renowned restaurants in Italy's major cities, including Rome, located in some of the most prestigious neighborhoods of the capital, areas of high real estate and tourism value. One could say that in this way, the mafia-controlled food supply chain stretches "from farm to table", passing through fruit and vegetable markets, logistics, processing companies, wholesale trade, and finally, the kitchens of certain Italian restaurants. The Lazio region is a particularly emblematic case, with fruit and vegetable production in the Province of Latina influenced by the presence of various mafia clans and by a widespread illegal labor system (caporalato). This is compounded by the presence, in the City of Rome, of restaurants managed by some of the most dangerous and powerful mafia clans in Italy. The mafia's interest in the restaurant sector, especially in Rome, stems not only from the relative ease of laundering illicit funds and the opportunity to complete their criminal food supply chain using agricultural and food products grown, processed, and marketed by clan-controlled companies - like those identified in the Province of Latina -but also from the ability to gain territorial control. Through restaurant businesses located in touristic and economically strategic areas, they can build relationships with figures from the political, entrepreneurial, professional, and administrative worlds of the capital, thus reinforcing and expanding their criminal social network» (free translation).

204. A detailed treatment of this issue can be found in G.M.F. Nitti, *Note sui protocolli di legalità, per la promozione di condotte etiche nei pubblici appalti,* in *Federalismi*, 2, 2019, pp. 2 ff. and F. Saitta, *I protocolli di legalità al vaglio dei giudici europei*, in *Rivista Italiana di Diritto Pubblico Comunitario*, 1, 2015, pp. 244 ff. In addition to legality protocols, there are other tools and initiatives designed to promote legality in the agri-food sector such as Legality Rating (awarded by the Competition and Market Authority (AGCM). This rating recognizes companies that demonstrate ethical and transparent practices, making it easier for them to access public procurement opportunities) and Integrity Pacts (voluntary agreements between contracting authorities and economic operators, in which both parties commit to upholding principles of transparency and legality throughout the procurement process).
205. On the use of legality protocols in public procurement, the Court of Justice of the European Union also intervened in Case C-425/14, ruling on the compatibility of Article 1, paragraph 17, of Law no. 190/2012 with EU law. The Court held that it is permissible to provide in tender notices for the automatic exclusion of a candidate or bidder from a public procurement procedure for failing to submit, together with their offer, written acceptance of the commitments and declarations contained in a legality protocol aimed at preventing organized crime infiltration in the public procurement sector. *Court of Justice of the European Union*, Case C-425/14, *Impresa Edilux Srl and Società Italiana Costruzioni e Forniture Srl (SICEF) v Assessorato Beni Culturali e Identità Siciliana*, Judgement of 22 October 2015, ECLI:EU:C:2015:721.
206. On this point, reference is made to L. Van Wassenear, *What Blockchain Are We Talking*

About? An Analytical Framework for Understanding Blockchain Applications in Agriculture and Food, in *Frontiers*, 4, 2021, pp. 1 ff. See also, E. Battelli, *Innovazione tecnologica e gestione della filiera agroalimentare,* in *Diritto Agroalimentare*, 3, 2024, pp. 457 ff.

207. Since the 1990s, the EU has gradually integrated environmental considerations into public procurement policies, transforming the purely economic focus of earlier directives. This shift was supported by the Maastricht and Amsterdam Treaties, which promoted sustainable development and required environmental concerns to be embedded in all EU policies.A key milestone in legal interpretation came with the *Concordia Bus Finland* case (2002), where the European Court of Justice (ECJ) confirmed that environmental criteria could be used in public tenders - as long as they were linked to the subject of the contract, clearly stated, and complied with core EU principles, including non-discrimination. This stance was reinforced in later cases like *EVN AG v. Austria*, which expanded the legitimacy of green criteria to production processes such as renewable energy sourcing. These judicial principles were codified into EU law through Directives 2004/17/EC and 2004/18/EC, which formally allowed contracting authorities to consider environmental factors in awarding and executing contracts. Despite this progress, the application remained limited and uneven. In response, the European Commission launched a strategic push to mainstream Green Public Procurement (GPP), particularly in the wake of the 2008 financial crisis. Key documents like the 2010 "Europe 2020" strategy and the Green Paper on modernising public procurement emphasized the pivotal role of GPP in economic recovery, innovation, climate action, and social inclusion. The Green Paper outlined two main approaches: one focusing on "how to buy" sustainably – ensuring that procurement procedures support environmental goals; and another on "what to buy" – introducing mandatory requirements or incentives for greener goods and services. This effort culminated in the adoption of a new legislative package in 2014, including Directives 24/2014/EU (standard procurement), 25/2014/EU (utilities), and 2014/23/EU (concessions). These texts explicitly position public procurement as a core tool for delivering the Europe 2020 agenda, promoting smart, sustainable, and inclusive growth while ensuring the efficient use of public funds.
    On this point, allow me to refer to A. Depietri, *Il Green Public Procurement tra riforme, mercato ed effettività,* in *Munus*, 3, 2023, pp. 787 ff. See also, A. Maltoni, *Contratti pubblici e sostenibilità ambientale: da un approccio "mandatory-rigido" ad uno di tipo "funzionale"*?, in *Ceridap*, 3, 2023; F. De Leonardis*, L'uso strategico della contrattazione pubblica: tra GPP e obbligatorietà dei CAM*, in *RQDA*, n. 3, 2020, pp. 62 ff.; A. Perini, *Appalti verdi: una strategia per lo sviluppo sostenibile*, in *Le Regioni*, 1-2, 2022, pp. 147 ff.; O. Hagi Kassim, *I criteri di sostenibilità energetica e ambientale negli appalti pubblici. l'emersione dell'istituto degli "appalti verdi" nel panorama europeo e nazionale*, in *Italiappalti.it*, 14 febbraio 2017.
208. On this topic, see G. Caddeo*, I CAM per le mense scolastiche: uno strumento di attuazione dello sviluppo sostenibile e di educazione alimentare,* in *Federalismi*, 14, 2024, pp. 19 ff.

209. See A. Depietri, *Il Green Public Procurement tra riforme, mercato ed effettività,* cit, pp. 818 ff.
210. Agriculture 4.0 ushers in a new era of technological innovation in the agri-food sector, driven by the integration of the Internet of Things (IoT) into farming practices – creating what is often called the "Internet of Farming". This digital shift is transforming traditional agriculture like never before. With the help of cutting-edge technologies such as smart sensors, robotics, drones, and big data analytics, farmers can now gather and manage real-time data directly from their fields. This allows for smarter resource use, higher productivity, and a meaningful reduction in environmental impact. On this topic, reference is made to F. Albisinni, *Agricoltura e digitalizzazione: l'impresa agricola nel tempo presente,* in *Rivista di diritto alimentare,* 1, 2023, pp. 92 ff.; M. Ferrari, *Fattori di produzione, innovazione e distribuzione di valore nella filiera agroalimentare*, Ledizioni, Milano, 2023; G. Neri *L'impresa nell'Era Digitale. Tecnologie informatiche e rivoluzione digitale al servizio dell'impresa*, Guaraldi, Milano, 2015.
211. Vertical farming is an innovative agricultural technique that involves growing crops in vertically stacked layers, often within controlled indoor environments such as skyscrapers, warehouses, or shipping containers. Unlike traditional farming, which relies on horizontal fields and natural weather conditions, vertical farming uses hydroponic, aeroponic, or aquaponic systems to cultivate plants without soil and with minimal water usage. For a general overview, see R. Kumar, S. Rathore, K. Kundlas, et al., *Vertical farming and organic farming integration: a review*, in *Sarathchandran U.M.R.*; T. Sabu, D.K. Meena, *Organic Farming*, Woodhead Publishing, Cambridge, 2023, pp. 291 ff.; D. Despommier, *The Vertical Farm: Feeding the World In The 21st Century*, Picador, London, 2010.
212. The European Green Deal was formally introduced by the European Commission on December 11, 2019, through a Communication addressed to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions (COM (2019) 640 final). This initiative lays the groundwork for a comprehensive plan aimed at guiding the European Union through a fair and inclusive transition to a more sustainable economic model. At its core, the Green Deal calls for a collective effort, involving citizens, various levels of government, civil society, industry, and EU institutions, to shape a greener future. For those interested in exploring the topic further, recommended readings include D. Bevilacqua, E. Chiti, *Green Deal. Come costruire una nuova Europa*, Bologna, il Mulino, 2024; N. Chomsky, R. Pollin, *The Climate Crisis and the Global Green New Deal: The Political Economy of saving the Planet,* Versobook, London, 2020.
213. On this point, see the Communication *A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system* (COM (2020) 381 final). For further analysis, refer to F. Venturi, *The Farm to Fork Strategy: A comprehensive but cautious approach to "multidimensional" food sustainability*, in *RQDA*, 1, 2021, pp. 7 ff. and M.Cocconi, *Sostenibilità dell'accesso al cibo*, cit., pp. 1 ff.
214. The EU Biodiversity Strategy for 2030, adopted by the European Commission on 20 May

2020, is a cornerstone of the European Green Deal (COM (2020) 380 final). It sets out a long-term plan to reverse biodiversity loss and put Europe's natural environment on a path to recovery by 2030. Rooted in the principles of sustainability, ecological restoration, and legal enforceability, the strategy recognizes biodiversity as a fundamental component of the EU's economic and ecological resilience. See E. Chiti, *Oltre la disciplina dei mercati: la sostenibilità degli ecosistemi e la sua rilevanza nel Green Deal europeo,* in *Rivista della Regolazione dei Mercati*, 2, 2022, pp. 468 ff; G. Antonelli, T. Qin, M.V. Ferroni, A. Erwin, *Biodiversity Laws, Policies and Science in Europe, the United States and China*, Springer, Cham, 2024.

215. From a strictly legal standpoint, the Common Agricultural Policy (CAP) represents a crucial area of EU legislation. Its main legal basis is found in Articles 38 to 44 of the Treaty on the Functioning of the European Union (TFEU). For the purposes of this discussion, it is sufficient to note that Article 38(1) states ‹‹*The Union shall define and implement a common agriculture and fisheries policy*››, while Article 39 sets out its specific objectives. These objectives are closely linked to various economic, social, and environmental goals recognized by the TFEU: the promotion of employment (Article 9), socio-economic cohesion (Articles 174-178), environmental protection within a framework of sustainable development (Article 11), animal welfare (Article 13), and human health (Article 168). The most recent reform of the Common Agricultural Policy (CAP), covering the period 2023-2027, is based on a renewed legal and operational framework established by three key regulations, all adopted on December 2, 2021. Together, they define the new direction of the CAP, aligning it more closely with sustainability, efficiency, and flexibility goals. The Regulation 2116/2021/EU focuses on the financing, management, and monitoring of the CAP. It replaces Regulation 1306/2013/EU and introduces updated mechanisms for ensuring greater transparency and accountability in the use of EU agricultural funds. The Regulation 2021/2115/EU lays down the rules for the design and implementation of National Strategic Plans by Member States. These plans are the core instruments through which countries tailor CAP interventions to their specific needs, backed by financial support from the European Agricultural Guarantee Fund (EAGF) and the European Agricultural Fund for Rural Development (EAFRD). This regulation repeals Regulations 1315/2013/EU and 2013/1307/EU, which previously governed rural development and direct payments. Lastly, the Regulation 2021/2117/EU amends several sectoral regulations to ensure coherence across EU agricultural law. It updates: Regulation 2013/1308/EU, which establishes a common organization of agricultural markets; Regulation 2012/1151/EU, on quality schemes for agricultural products and foodstuffs; Regulation 2014/251/EU, concerning the labeling and protection of geographical indications for aromatized wine products; Regulation 2013/228/EU, which sets out specific measures for agriculture in the EU's outermost regions. For a reconstruction of the evolution of the CAP, reference is made to A. Germanò, E. Rook Basile, *Manuale di diritto agrario comunitario*, Giappichelli, Torino, 2014, pp. 232 ff.

216. See N. Röder, C. Krämer, R. Grajewski, S. Lakner, A. Matthews *What is the*

environmental potential of the post-2022 common agricultural policy?, in *Land Use Policy*, 144, 107219, 2024; D. Carloni, *La «nuova» politica agricola comune sotto accusa: le ragioni degli agricoltori in rivolta*, in *Diritto e Giurisprudenza Agraria dell'Alimentazione e dell'Ambiente*, 1, 2024, pp. 1 ff: P. Lattanzi, *Il New Green Deal, la PAC 2021-2027 e la sostenibilità nelle produzioni alimentar*i, in P. Borghi, I. Canfora, A. Di Lauro, *Trattato di diritto agroalimentare italiano e di diritto europeo*, Giuffré, Milano, 2021, pp. 711 ff.; V. Rubino*, La sostenibilità in agricoltura e la riforma della PAC*, Cacucci, Bari, 2021, pp. 202 ff.

217. The EAGF's allocation is around €291.1 billion. Up to €270 billion will be provided for income support schemes, with the remainder dedicated to supporting agricultural markets.
218. For the EAFRD the total allocation amounts to €95.5 billion.
219. A comprehensive overview of the risks of fraud related to the Common Agricultural Policy (CAP) funds across Europe, including types of fraud not necessarily connected to organized crime, is provided by the European Court of Auditors' 2022 report titled *The European Commission's Response to Fraud in the Common Agricultural Policy: Time to Tackle the Problem at Its Roots.* The full report is available at the provided link https://op.europa.eu/webpub/eca/special-reports/fraud-in-cap-14-2022/it/#chapter0. Frauds harm the financial interests of the EU and prevents EU resources from reaching their strategic objectives. In this report, the Court provides an overview of the fraud risks to which the CAP is exposed and evaluates the European Commission's response to fraud within the CAP. The Court concludes that the Commission has responded to cases of fraud in CAP spending but has not been sufficiently proactive in addressing the impact of illegal land grabbing on CAP payments, monitoring the anti-fraud measures of Member States, and exploiting the potential of new technologies. The Court recommends that the Commission take actions to deepen its understanding of fraud risks and anti-fraud measures, then intervene to assess them accordingly. Additionally, it suggests strengthening its role in promoting the use of new technologies for fraud prevention and detection. This Special Report of the European Court of Auditors was presented under Article 287(4), second subparagraph of the Treaty on the Functioning of the European Union (TFEU). Among others, see S. Pellegrini, *La mafia dei pascoli: dal controllo violento del territorio, alle truffe per i fondi europei. Una criminalità a danno della salute pubblica,* in S. Pellegrini, *Prospettiva Interdisciplinari di analisi in materia di criminalità e violenza. Un laboratorio interdipartimentale per la legalità e contro la violenza (Le.Vi.La.P),* Bologna University Press, Bologna, 2024, pp. 141 ff., G. Minì, *La mafia sui Nebrodi e le frodi europee nel settore agro-zootecnico*, Giuffrè, Milano, 2020, pp. 39 ff.
220. With reference to the Italian case, in 2017, OLAF, in collaboration with the Guardia di Finanza, investigated in Italy and found that some agricultural assistance centers, which help farmers submit aid applications, had entered fake farmers into the national paying agency's database, thus allowing ineligible applicants to receive EU subsidies. OLAF's investigations revealed that the applications were based on inadmissible declarations regarding the allocation of public land, or based on false rental contracts, as the landlord

was deceased or unaware of the existence of the rental contract or submitted for land under seizure due to crimes committed by organized crime or submitted by individuals subject to precautionary measures for mafia-related crimes. For an in-depth description about this operation please refer to The OLAF report 2017, pp. 20 ff. available at this link https://anti-fraud.ec.europa.eu/about-us/reports/annual-olaf-reports_en.

221. The main legal instruments supporting the management of CAP funds are Regulation 2021/2116/EU and the implementing Regulations 2022/128/EU and 2022/127/EU, which govern the financing, management, and monitoring of CAP.
222. On this topic see B. Kołcz, *The activities of the European Anti-Fraud Office (OLAF) in combating corruption and ensuring the financial security of European Union funds*, in *Politics & Security,* 8, 2024, pp. 6 ff.; N. Ilett, *The European Anti-Fraud Office (OLAF),* in *Journal of Financial Crime,* 2, 2004, pp. 120 ff.; V. Pujas, *The European Anti-Fraud Office (OLAF): a European policy to fight against economic and financial fraud?*, in *Journal of European Public Policy*, *10*(5), 2003, pp. 778 ff.
223. The European Public Prosecutor's Office (EPPO) is an independent body of the European Union, operational since 1 June 2021 under the Treaty of Lisbon. Based in Luxembourg, EPPO is responsible for investigating and prosecuting crimes that harm the EU's financial interests. This includes offences related to financial operations such as loan contracting and disbursement, as well as crimes - whether completed or attempted - involving the misappropriation or unlawful diversion of EU funds or assets managed by the Union or on its behalf. Before EPPO's establishment, national authorities were limited by their territorial jurisdictions, making it difficult to effectively tackle cross-border financial crimes. EPPO addresses these challenges by enabling stronger cooperation through an enhanced cooperation framework involving 22 participating Member States. Its creation is grounded in Article 86 of the Treaty on the Functioning of the European Union (TFEU) and was formalized through Council Regulation 2017/1939/EU of 12 October 2017. About this topic, see J.A. Vervaele, *The European Public Prosecutor's Office (EPPO): Introductory Remarks*, in W. Geelhoed, L. Erkelens, A Meij, *Shifting Perspectives on the European Public Prosecutor's Office*, T.M.C. Asser Press, The Hague, pp. 11 ff.; L.B. Winter, *The European Public Prosecutor's Office: The Challenges Ahead*, Springer, Cham, 2018.
224. Please refer to §2.2. On the systemic flaws regarding the specific topic of agricultural fund management, see S. Pellegrini, *La mafia dei pascoli: dal controllo violento del territorio, alle truffe per i fondi europei. Una criminalità a danno della salute pubblica,* op. cit., p. 149: «*In 2019, €4,260 million in EU aid was disbursed to Italian farmers. Of this amount, the European Commission reimbursed Italy €4,101 million. The difference (€123 million) resulted from negative financial corrections and adjustments imposed by the Commission due to deficiencies and irregularities in the management and control systems. According to the Court of Auditors, it is no longer acceptable for AGEA to delay the necessary improvement of control mechanisms over the paying agencies. These inefficiencies risk financial penalties from the EU stemming from irregularities and negligence attributed*

both to AGEA and to the regional paying bodies. AGEA, also acting as the Coordinating Body, bears responsibility for ensuring consistency and accountability across the system». (free translation).

225. The Agenzia per le Erogazioni in Agricoltura (AGEA) is the main national paying agency in Italy for the implementation of the European Union's Common Agricultural Policy (CAP). Established under Legislative Decree no. 165/1999, AGEA operates under the supervision of the Italian Ministry of Agriculture. In addition to its own operational responsibilities, AGEA supervises and coordinates the activities of several regional paying agencies that have been officially recognized by both the Italian government and the European Commission. These regional agencies operate within their respective territories and are tasked with managing the implementation of CAP funds. Among the most prominent are ARTEA, which serves the Tuscany Region; AVEPA in the Veneto Region; the Paying Agency of the Piedmont Region; and those of Lombardy, Emilia-Romagna, and Sicily. The two autonomous provinces of Trento and Bolzano also maintain their own paying agencies, integrated within the regional structures of their agricultural departments. Each of these agencies is responsible for evaluating applications for agricultural subsidies, disbursing EU funds, and performing administrative and field checks to ensure that all payments comply with EU regulations. They work in close collaboration with AGEA and the Italian Ministry of Agriculture to ensure transparency, legality, and efficiency in the use of public resources. Through this decentralized yet coordinated system, Italy can manage the complex flow of CAP funding while addressing the specific agricultural needs of its diverse regional landscapes.
226. Please refer to §2.2.
227. On this point, please refer to Ten. Col. L. Stella, *Dal monitoraggio satellitare al controllo contabile della Corte dei Conti*, in *SILVAE*, 31.10.2024, available at the following link https://www.carabinieri.it/media---comunicazione/silvae/la-rivista/aree-tematiche/agricoltura-e-alimentazione/controlli-su-erogazioni-dei-fondi-comunitari-in-agricoltura.
228. See §3. Among scholars, reference is made to A. La Spina, *Mafia e corruzione: differenze concettuali, connessione, strumenti di contrasto, in Sicurezza e scienze sociali*, IV, 2, 2016, pp. 47 ff.; R. Sciarrone, L. Storti, *Complicità trasversali fra mafia ed economia. Servizi, garanzie, regolazione*, in *Stato e mercato*, 3, 2016, pp. 353 ff.
229. Reference is made to G. Falcone, M. Padovani, *Cose di casa nostr*a, Rizzoli, Milano, 2017. On the relationship between criminal law and economics, see G. Pignatone, *Mafia e corruzione: tra confische, commissariamenti e interdittive*, in *Diritto Penale Contemporaneo*, 4, 2015, p. 261. Here, the A. argues for the multiplication of instruments for combating organised crime, ‹‹*given the continuous tension that rigid criminal law inevitably experiences when it meets the ever-changing world of the economy*›› (free translation). See also, A. Alessandri, *Diritto penale e attività economiche*, Ed. Il Mulino, Bologna, 2010.
230. S. Mocetti, L. Rizzica, *Questioni di Economia e Finanza. La criminalità organizzata in Italia: un'analisi economica, Occasional Paper*s, Banca d'Italia, 661, 2021, p. 5 ff.; see also

the analysis conducted by Istat, *L'Economia non osservata nei conti nazionali*, Roma, 2021 and even before by Transcrime, *Gli investimenti delle mafie, Progetto PON sicurezza*, Transcrime e Università Cattolica del Sacro Cuore, Milano, 2007-2013.

231. G. Manuguerra, *L'influenza della criminalità organizzata*, cit., p. 136; M. Santoro, *Mafia, cultura e politica,* in *Rassegna Italiana di Sociologia*, 4, 1998, p. 444; s To explore the field of economic criminality, refer to B. Fleisher, *The Effect of Income on Delinquency: Comment*, in T*he American Economic Review*, 1963.
232. Italy's food inspection system forms part of a multi-level regulatory framework combining European rules and national legislation. The overarching goal of this framework is to ensure food safety and product traceability, as well as to protect public health. At the European level, the main reference is Regulation no. 625/2017/EU, which governs official controls throughout the food chain - from primary production to distribution - replacing the previous Regulation no. 882/2004/EC. In Italy, this framework has been implemented through legislation such as Legislative Decree 193/2007, which sets out sanctions and institutional responsibilities, and Law 283/1962, a key piece of legislation for tackling food fraud and ensuring sanitary standards. The competent authorities include Local Health Units (ASL), specifically the Food and Nutrition Hygiene Services (SIAN); the Health Protection Unit (Carabinieri NAS); the Central Inspectorate for Quality Protection and Fraud Repression (ICQRF); regional authorities; and, in specific contexts, the Customs Agency. Inspections may be scheduled, in line with national or regional plans based on risk assessment, or unannounced, in response to reports or suspected violations. For an in-depth analysis on this topic, reference is made to A. Vitale, *Manuale di Legislazione Alimentare,* Milano, Franco Angeli, 2018. See also, F. Albisinni, *Il Regolamento (UE) 2017/625: controlli ufficiali, ciclo della vita, impresa, e globalizzazione,* in *Rivista di Diritto Alimentare*, 1, 2018, pp. 11 ff.
233. For a general overview of the topic, see L. Califano, *Sicurezza alimentare, diritto al cibo, etica della sostenibilità. Politiche giuridiche, economiche e sociali,* Franco Angeli, Milano, 2022.
234. G. Pignatone, *Mafia e corruzione*, *cit.*, p. 259 ff., A. Noceti and M. Piersimoni, *Confisca e altre misure ablatorie patrimoniali*, Giappichelli, Torino, 2011. See also, F. Basile, E. Zuffada, *Manuale delle misure di prevenzione*, Giappichelli, Torino, 2021, pp. 151 ff.
235. S. Pellegrini, *Il sequestro come vincolo ai patrimoni criminali: dall'indisponibilità temporanea del bene, all'ablazione*, in *Riv. di Studi e Ricerche sulla Criminalità Organizzata*, 2, 2015, p. 17 ff.
236. M. Romano, G. Grasso, T. Padovani, *Commentario sistematico al Codice penale, III*, Giuffrè, Milano, 1994 For an in depth analysis under the lens of criminal law see E. Nicosia, *La confisca, le confische. Funzioni politico-criminali, natura giuridica e problemi ricostruttivo-applicativi,* Giappichelli, Torino, 2012; A. Balsamo, *Il sistema delle misure patrimoniali antimafia tra dimensione internazionale e normativa interna*, in A. Balsamo, V. Contraffatto, G. Nicastro (eds), *Le misure patrimoniali contro la criminalità organizzata*, Giuffré, Milano, 2010; G. Fiandaca, C. Visconti (eds), S*cenari di mafia.*

Orizzonte criminologico e innovazioni normative, Giappichelli, Torino, 2010; C. Visconti, *Dalla «vecchia» alle «nuove» confische penali: recenti tendenze di un istituto tornato alla ribalta*, in *Studium iuris*, 2002, pp. 960 ff; A. Alessandri, *Confisca nel diritto penale voce*, in *Dig. Disc. Pen.*, III, Utet, Torino, 1989, 39 ff.

237. G. Magliocco, *Corruzione e criminalità organizzata*, in *Sicurezza e scienze sociali* IV, 2, 2016, p. 128 ff. In jurisprudence, see the ruling of the Italian Constitutional Court no. 29 of 1961, <<*confiscation may present itself in the laws providing for it with various legal characteristics. While its content is always the same – the deprivation of economic assets – it may be ordered for different reasons and directed towards various purposes. Consequently, it may assume the nature and function of either punishment or security measures, or even civil and administrative legal measures* >> (free translation). This position was confirmed by the United Sections of the Italian Court of Cassation, ruling no. 26654 of 2008. Instead, the Italian Criminal Court of Cassation, Joint Divisions, 3 July 1996, no. 18 argues that confiscation <<*does not have the punitive nature of a criminal sanction, nor that of a preventive measure, but must be classified as a tertium genus consisting of an administrative sanction*>>. The Italian Constitutional Court, in its decision no. 21 of 9 February 2012, the Constitutional Court has again clarified the grounds for confiscation, which <<*include, but do not go beyond, preventive measures*>>, since the aim is not only to remove the asset from the illicit patrimony, but also to place it in a context free from the influence of crime. However, as the same Court points out, seizure and confiscation, although not of a criminal nature, remain measures that seriously affect the rights to property and economic initiative, which are protected at constitutional level (Articles 41 and 42 of the Constitution) and at conventional level (Article 1 of the Protocol to ECHR).

238. In the words of the Constitutional Court in no. 196 of 2010, confiscation for equivalent has <<*an essentially punitive nature and is not a security measure in the proper sense; it has a merely repressive function and not a preventive one*>> (free translation). For a general overview about this topic, see F. Vergine, *Confisca e sequestro per equivalente*, IPSOA, Milano, 2009 and M. Amisano Tesi, *Confisca per equivalente*, in *Dig. disc. pen.*, Agg., I, Utet, Torino, 2008.

239. G. Magliocco, *Corruzione*, cit., p. 132. Disproportionate (or extended) confiscation can be carried out if the relevant conditions are met. This allows assets directly linked to criminal activity to be seized, even if they cannot be proven to be the result of criminal activity. This is based on a relative presumption, which relieves the prosecution of the burden of proving the illicit origin of assets belonging to persons involved in criminal organisations. See also A. Alessandri, *Criminalità economica e confisca del profitto*, in E. Dolcini, C.E. Paliero (eds), S*tudi in onore di Giorgio Marinucci*, vol. III, Giuffré, Milano, 2006, pp. 2103 ff.

240. The Rognoni-La Torre law expanded the range of preventive measures against criminal assets by enabling the seizure and confiscation of property acquired illegally and held directly or indirectly by individuals suspected of belonging to the Mafia. These measures aimed to impoverish criminal organisations by acting as a deterrent against the assets (real estate and movable property) derived from their illegal activities, which were the main

means by which they established themselves in the territory.

241. The bibliography on this subject is vast, ranging from G. Fiandaca, *Misure di prevenzione (profili sostanziali)*, in *Digesto disc. penalistiche*, IV, Giappichelli, Torino, 1994, pp. 108 ff.; A. Balsamo, V. Contraffatto, G. Nicastro, cit.; in light of more recent scholarly interpretations see M. Mazzamuto, *Gestione e destinazione dei beni sequestrati e confiscati tra giurisdizione e amministrazione*, in *Giurisprudenza italiana*, 2013, pp. 477 ff.; N. Gullo, *La destinazione dei beni confiscati nel codice antimafia fra tutela e valorizzazione*, in *Il diritto dell'economia*, 1, 2014, pp. 55 ff.; R. Di Maria, F. Romeo, *I beni confiscati alla criminalità come "beni comuni": brevi considerazioni, tra diritto pubblico e privato*, in *Diritto e società*, 3, 2016, pp. 589 ff.
242. M. Petrini, *Profili processuali delle misure ablative fra codice antimafia e giusti processo*, in *Archivio Penale*, 2, 2016, p. 1 ff; G. Magliocco, *Corruzione*, cit., p. 132. About the main differences between most instruments used to combat assets of illicit origin, see G. Pignatone, *Mafia e corruzione*, cit., p. 265, where these instruments differ in terms of their prerequisites, effects, and legal nature. In terms of prerequisites, some require the ascertainment of an offence, while others (the prevention measures) are based on a judgement of dangerousness. In terms of their effects, some instruments have an immediate and direct scope of the proceedings in the form of ablative measures, such as seizure and confiscation. Other instruments have only an interdictory effect (Art. 91, Anti-Mafia Code), or are subordinate to the outcome of an earlier phase of a different nature (Art. 34, Anti-Mafia Code). Finally, some instruments are jurisdictional in nature and others are administrative.
243. G. Torelli, *I beni confiscati alla criminalità organizzata tra decisione amministrativa e destinazione giudiziale*, in *Dir. Amm*., 1, 2018, p. 208, article 29 of the Anti-Mafia code provides that ‹‹*l'azione di prevenzione può essere esercitata anche indipendentemente dall'esercizio dell'azione penale*›› (free translation).
244. Art. 16, para. 1, lett. a), Anti-Mafia Code states that prevention measures apply to the individuals referred to in Article 4, i.e. those subject to personal prevention measures, including individuals suspected of belonging to mafia-type associations.
245. Art. 20, para. 1, Anti-Mafia Code. The Court, even ex officio, may order the seizure of assets if there are sufficient indications that they are the proceeds of unlawful activities or constitute their reuse. For the sake of completeness, it is necessary to consider the reforms introduced by Law no. 161 of 2017, which, aside from a few amendments affecting the institution itself, did not alter the scope of the provision. See S. Finocchiaro, *La riforma del codice antimafia (e non solo): uno sguardo d'insieme alle modifiche appena introdotte*, in *Diritto Penale Contemporaneo*, 10, 2017, p. 251 ff; D. Ferranti, *Il codice antimafia: le ragioni della riforma delle misure patrimoniali di prevenzione*, in *Cassazione Penale*, 1, 2018, p. 15 ff.
246. Art. 24, para 1, Anti-Mafia Code. The 2017 reform primarily impacted the confiscation process, particularly the confiscation of equivalent assets (Article 25, Anti-Mafia Code), by eliminating any reference to the dispersal and concealment of assets. See S. Finocchiaro,

cit., p. 255, where A. notes ‹‹*Il legislatore ha così inteso eliminare quell'argine all'operatività della confisca di valore (...) consistente nella necessaria prova di una finalità elusiva insita nel comportamento distrattivo tenuto dal proposto. Una modifica, dunque, che aumenterà la possibilità di fare ricorso alla confisca per equivalente in sede di prevenzione*›› (free translation).

247. In scholars, the clear separation of the implementation of preventive measures from the verification of the lawful origin of assets, and even more so from an evaluation of the social danger posed by the proposed offender, is strongly criticised by A. Gialanella, *Un problematico punto di vista sui presupposti applicativi del sequestro e della confisca di prevenzione dopo le ultime riforme legislative e alla luce della recente giurisprudenza di legittimità*, in G. Fiandaca, C. Visconti (eds), cit., p. 368 ff; G. Pignatone, *Le recenti modifiche alle misure di prevenzione patrimoniale (l. 125/2008 e l. 94/2009) e il loro impatto applicativo*, in *Ibidem*, p. 314 ff. F. Mazzacuva, *La confisca disposta in assenza di condanna viola l'art. 7 CEDU*, in *Diritto Penale Contemporaneo online*, 5 novembre 2013; V. Mongillo, *La confisca senza condanna nella travagliata dialettica tra Corte costituzionale e Corte europea dei diritti dell'uomo. Lo "stigma penale" e la presunzione di innocenza*, in Giur. cost., 2015, fasc. 2, pp. 421 ff. V. Manes, *La "confisca senza condanna", al crocevia tra Roma e Strasburgo: il nodo della presunzione di innocenza*, in *Diritto Penale Contemporaneo online*, 13.4.2015. The author provides a critical analysis of non-conviction-based confiscation (NCBC) under Italian law, with a focus on the system established by Legislative Decree no. 159/2011 (also known as the Anti-Mafia Code). Manes explores how this form of preventive confiscation, which enables the state to seize assets without a prior criminal conviction, raises serious concerns regarding the presumption of innocence as enshrined in Article 6 § 2 of the European Convention on Human Rights (ECHR) and Article 27(2) of the Italian Constitution. The article discusses the tensions between Italian constitutional jurisprudence, which generally views such confiscation as a non-criminal measure and thus not bound by the full guarantees of criminal proceedings, and the evolving case law of the European Court of Human Rights, especially following the landmark De Tommaso v. Italy judgment in 2017. In that decision, the Court questioned whether preventive measures of this kind could remain outside the scope of criminal law guarantees, given their substantive punitive impact and the risk of circumventing due process protections. The Author's contribution offers a nuanced reflection on the expansion of symbolic and preventive criminal law in Italy and beyond, emphasising the need for a systematic reassessment of how asset deprivation measures can be balanced with fundamental rights and procedural fairness, particularly in the context of transnational human rights.

248. The bibliography on this subject is vast, ranging from G. Fiandaca, *Misure di prevenzione (profili sostanziali)*, in *Digesto disc. penalistiche*, IV, Giappichelli, Torino, 1994, pp. 108 ff. in light of more recent scholarly interpretations see M. Mazzamuto, *Gestione e destinazione dei beni sequestrati e confiscati tra giurisdizione e amministrazione*, in *Giurisprudenza italiana*, 2013, pp. 477 ff.; N. Gullo, *La destinazione dei beni confiscati nel codice*

antimafia fra tutela e valorizzazione, in *Il diritto dell'economia*, 1, 2014, pp. 55 ff.; R. Di Maria, F. Romeo, *I beni confiscati alla criminalità come "beni comuni": brevi considerazioni, tra diritto pubblico e privato*, in *Diritto e società*, 3, 2016, pp. 589 ff.

249. C. De Benedictis, *I beni confiscati alla criminalità organizzata*, in *Riv. giuridica del Mezzogiorno*, 3, 2019, p. 735, as quoted by M. Baldascino, M. Mosca, *Il valore sociale delle aziende confiscate*, in *Rassegna Economica <<Rivista internazionale di economia e territorio>>*, 1, 2014, pp. 155 ff.
250. There are different opinions on the legal nature of confiscation, from the Italian Constitutional Court, 9 June 1961, no. 29, which recognises its multifaceted nature, stating that while its content <<*always consists in the deprivation of economic assets*>>, it can be directed towards different purposes, to be determined on a case-by-case basis, as a penal or security measure, or even as a civil or administrative measure. Instead, the Italian Criminal Court of Cassation, Joint Divisions, 3 July 1996, no. 18 argues that confiscation <<*does not have the punitive nature of a criminal sanction, nor that of a preventive measure, but must be classified as a tertium genus consisting of an administrative sanction*>>. The Italian Constitutional Court, in its decision no. 21 of 9 February 2012, the Constitutional Court has again clarified the grounds for confiscation, which <<*include, but do not go beyond, preventive measures*>>, since the aim is not only to remove the asset from the illicit patrimony, but also to place it in a context free from the influence of crime. However, as the same Court points out, seizure and confiscation, although not of a criminal nature, remain measures that seriously affect the rights to property and economic initiative, which are protected at constitutional level (Articles 41 and 42 of the Constitution) and at conventional level (Article 1 of the Protocol to ECHR).
251. Book I, Title III, reclassified as "The administration, management and allocation of seized and confiscated assets", Legislative Decree no. 159 of 2011.
252. The Rognoni-La Torre law expanded the range of preventive measures against criminal assets by enabling the seizure and confiscation of property acquired illegally and held directly or indirectly by individuals suspected of belonging to the Mafia. These measures aimed to impoverish criminal organisations by acting as a deterrent against the assets (real estate and movable property) derived from their illegal activities, which were the main means by which they established themselves in the territory.
253. N. Gullo, *Il procedimento amministrativo di destinazione dei beni confiscati alla mafia: aspetti problematici della normativa vigente e prospettive di riforma*, in *Il Foro Italiano*, 3, 2003, p. 72.
254. *Ivi*, p. 73 (Further insights into the relevant legislation can be found in the bibliography above). The model and the related procedure for the administrative allocation of confiscated assets are based on two factors. Firstly, the <<*presumed vulnerability of confiscated assets*>>. It is acknowledged that, even after judicial measures have been taken, these assets are at risk of being recaptured by the fluid criminal network. Secondly, there is the need to reaffirm the principle of legality. This is because of the <<*renewed capacity of the State to combine the fight against mafia crime with the promotion of social development*

through the enhancement of economic resources previously available to criminal organisations››.

255. The matter of regulatory integration was entrusted to Legislative Decree no. 300/1999.

256. The ANBSC was established by Law no. 50 of 31 March 2010 and is responsible for the management of seized and confiscated assets. As a public body, it is subject to the supervision of the Ministry of the Interior. ANBSC possesses its own resources and organisational and accounting autonomy, ‹‹*capable of efficient asset management. Furthermore, it is adequately geared towards the objectives of combating organised crime*››. M. Mazzamuto, *Gestione e destinazione dei beni sequestrati*, cit., p. 480. For a comprehensive examination of the function and composition of the Agency, see *Id*., *L'Agenzia nazionale per l'amministrazione e la destinazione dei beni sequestrati e confiscati alla criminalità organizzata*, in *Dir. Pen. Contemporaneo*, 2015, pp. 1 ff.

257. For a relatively recent examination, see N. Gullo, *Il recupero dei beni confiscati tra restyling normativo e opportunità delle politiche di coesione e di attuazione del PNRR*, in *Istituzione del Federalismo*, 1, 2022, p. 74.

258. *Ivi*, p. 75, in an attempt to ‹‹*reduce the obscure tangle of competences that has confusedly overlapped the role of the administrative authority with that of the judicial authority during the prevention procedure*››. This is a well-known issue that has been widely criticised by legal scholars, such as M. Mazzamuto, *Gestione e destinazione dei beni sequestrati*, cit., p. 487; G. Torelli, *I beni confiscati alla criminalità organizzata tra decisione amministrativa e destinazione giudiziale*, in *Dir. Amm*., 1, 2018, p. 240, where ‹‹*the legislator has endowed the Agency with extensive discretionary powers. Concurrently, the legislator has established mechanisms to both limit these powers and prevent their escalation through judicial decisions*››.

259. The new law covers a wide range of aspects, including the appointment and dismissal of the judicial administrator, the tasks of the National Agency, the criteria for allocation, the regime governing assets, the functioning of the administrative support network, and the staffing of the Agency.

260. For instance, Article 60-bis of Decree Law no. 77 established a series of measures with the objective of accelerating proceedings pertaining to confiscated assets, with a view to incorporating the relevant confiscation measures in the implementation of the enhancement measures provided for in the PNRR. See L. Costantino, *Il ruolo dell'agricoltura nel riutilizzo dei terreni confiscati: analisi e prospettive*, in *Diritto agroalimentare*, 3, 2021, p. 480.

261. Among scholars, these transformative factors are taken into account in R. Di Maria, F. Romeo, *I beni confiscati alla criminalità*, cit., pp. 593 ff.; C. Salati, *Beni confiscati alle mafie come beni comuni. L'amministrazione condivisa quale scenario di rigenerazione*, in *Labsus*, 4, 2019; F. Giglioni, *La collaborazione per la legalità: il caso dei beni confiscati alla criminalità organizzata*, in *Etica Pubblica*, 2, 2021, pp. 51 ff.; M.V. Ferroni, *Rigenerazione urbana e riuso temporaneo dei beni: i beni confiscati alla criminalità organizzata*, in *Sociologia urbana e rurale*, 128, 2022, pp. 71 ff.; A. De Chiara, *Gestione e*

destinazione dei beni sequestrati e confiscati alla criminalità organizzata tra diritto vigente e prospettive di modifica in attuazione della Direttiva UE 2024/1260, in *Riv. trim. di dir. amm.*, 4, 2024.

262. G. Torelli, *I beni confiscati alla criminalità organizzata*, cit., p. 241. As highlighted by the A., ‹‹*the realisation of the overriding public interest depends on the decisions of the criminal court and not on the administration*››. In this perspective, there appears to be ‹‹*a difficult-to-heal rift between the guarantees inherent in criminal law and the principle of good administrative practice, which cannot wait for the conclusion of the trial in order to manage and exploit the asset profitably*›› (free translation).
263. M. Mazzamuto, *Gestione e destinazione dei beni sequestrati*, cit., p. 479.
264. F. Giglioni, *La collaborazione per la legalità*, cit., p. 52. The interpretation of the principle of legality in these terms, as an authoritative role entrusted exclusively to the State, has been identified as ‹‹*an intangible asset of public interest whose protection is the sole responsibility of the security and justice systems*›› (free translation).
265. In case law, please refer to the Italian Constitutional Court, ruling no. 335 of 8 October 1996 and ruling no. 34 of 23 February 2012.
266. M.V. Ferroni, *Rigenerazione urbana e riuso temporaneo dei beni*, cit., p. 77; C. Salati, *Beni confiscati alle mafie come beni comuni*, op. cit.
267. F. Giglioni, *La collaborazione per la legalità*, cit., p. 53. It is important to note that legality thus ceases to be the sole preserve of public authorities and ‹‹*becomes a function that is, at least in part, shared with citizens*››. N. Gullo, *Il recupero dei beni confiscati*, cit., p. 81, in this section, the author reflects on the rethinking of the mission of the National Agency, characterised by the desire to return the ANBSC ‹‹*to its role as the administrative authority responsible for the allocation of confiscated assets, relieving it of the responsibility for the indefinite management of confiscated assets*›› (free translation).
268. ANBSC, *Relazione sull'attività svolta. Anno 2023*, 2024, p. 22. Of the 23,658 assets managed by the Agency, more than 19,000 were transferred to the assets of local authorities, confirming the underlying synergy with municipalities.
269. *Ivi*, p. 28. This is followed by emergency housing, initiatives concerning agriculture, green spaces and the environment, and the protection of vulnerable and disadvantaged groups. With regard to the involvement of third sector organisations, it is interesting to look at the mapping provided by Libera, *Raccontiamo il bene. Le pratiche di riutilizzo sociale dei beni confiscati alle mafie. I numeri, le esperienze e le proposte*, 2025. To date, more than a thousand entities involved in the management of confiscated properties obtained under concession from local authorities have been registered. The civic organisations involved are highly diverse, ranging from associations of various kinds to social cooperatives and consortia of cooperatives, as well as educational institutions, ecclesiastical bodies, private foundations, sports clubs and associations and, to a lesser extent, other entities in the third sector.
270. ANBSC, *Strategia nazionale per la valorizzazione dei beni confiscati attraverso le politiche di coesione*, 2018, p. 13. In general, it should be noted that the process of enhancement is

greatly hampered, firstly, by insufficient administrative capacity on the part of the responsible bodies. Secondly, the Strategy highlights the opportunity to proceed with ‹‹*forms of inter-institutional cooperation (...) both horizontally, between several municipalities, and vertically, between different levels of government*›› (free translation). Another negative factor concerns the availability of a reliable and accessible information base for both public and private stakeholders. On this last point, see Libera, *RimanDATI. Terzo Report Nazionale sullo stato della trasparenza dei Beni Confiscati nelle amministrazioni locali*, 2024.

271. C. Salati, *Beni confiscati alle mafie come beni comuni*, op. cit. The process of restitution of confiscated assets to the community is impeded by several objective difficulties. These include the duration of legal proceedings, the deterioration of assets, a lack of interested parties, financial costs and illegal occupation. N. Gullo, *Il procedimento amministrativo di destinazione*, cit., p. 80 observed that among the various critical aspects of the social allocation system was the role assigned to social planning, ‹‹*which should be the driving force behind allocation activities, but is relegated to the margins of the procedure*››. On the efficiency of local government see F. Giglioni, *La collaborazione per la legalità*, cit., p. 60, where practice shows that even when these become available, ‹‹*the allocation fails at the end of the procedure because they are not always able to entrust these assets to civic organisations, with the result that the ANBSC regains possession of the assets*›› (free translation).
272. The issue is central to scientific debate and is particularly important for confiscated farms, see S. Masini, *‹‹Agromafie››*, cit., p. 616, where it is noted that few farms have been recovered or actually put to social and productive use, highlighting objective difficulties, ‹‹*thus also reducing the symbolic value of the response to infiltration in the agri-food supply chains*››; VV.AA, *Agromafie. 6° Rapporto*, cit., p. 71, where, on the other hand, it is pointed out that ‹‹*the seizure and confiscation of a farm for mafia activity or illegal hiring must, in fact, become an opportunity for the recovery of the farm and its production chain*›› (free translation). The same report suggests the possibility of assigning a “tutor” to provide support, guidance and advice to the assignee in the period following the assignment.
273. A meticulous investigation is underway to ascertain the viability of proposing temporary custody as a means of mitigating the risk of deterioration of the confiscated property F. Giglioni, *La collaborazione per la legalità*, cit., pp. 60-61; M.V. Ferroni, *Rigenerazione urbana e riuso temporaneo dei beni*, cit., p. 80, where ‹‹*temporary reuse solutions appear to be a way of enabling active citizens to take care of an asset pending final confiscation (...) so that they can then become potential recipients of definitive management through direct assignment free of charge (...) on the basis of a specific agreement*››; G. Arena, *Da beni pubblici a beni comuni*, in *Riv. trim. dir. pubbl.*, 3, 2022, pp. 647 ff.
274. The suggestions provided by F. Giglioni, *La collaborazione per la legalità*, cit., p. 61 identify collaboration as a rewarding element, a sort of ‹‹social provision››, capable of exploiting the potential offered, for example, by co-planning and co-design as provided for in Article 55 of Legislative Decree no. 117 of 2017 (Third Sector Code). In the gaps left by

the legislation, see the recent contribution of C. Leone, *La sussidiarietà orizzontale nel sistema dei beni confiscati: il ruolo dell'Agenzia nazionale (ANBSC) e la collaborazione con il terzo settore*, in *Ceridap*, 2, 2025.

275. N. Gullo, *Il recupero dei beni confiscati*, cit., p. 92, in this context, the 2017 Budget Law introduced the National Strategy for the Valorisation of Confiscated Assets, which ‹‹*should represent the most advanced solution for coordinating, guiding and supporting state administrations, local authorities and all those involved in various capacities in the management of confiscated assets*›› (free translation). The National Strategy is accompanied by strategic plans drawn up by individual regions, including Calabria (Regional Council Decree no. 682 of 29 November 2023), Campania (Regional Council Decree no. 366 of 7 July 2022), Emilia-Romagna (Regional Council Decree no. 217 of 21 February 2022) and Sicily (Regional Council Decree no. 584 of 29 December 2021).
276. For a preliminary list of references on the shared administration model, refer to the bibliography provided, we recommend G. Arena, *Introduzione all'amministrazione condivisa*, in *Studi parlamentari e di politica costituzionale*, 117-118, 1997, pp. 29 ff.; *Id*., *Un approccio sistemico all'amministrazione condivisa*, in *Id*., M. Bombardelli, *L'amministrazione condivisa*, Università degli Studi di Trento, 2022; F. Giglioni, *L'amministrazione condivisa come modello generale*, in Labsus, *Rapporto 2023. Sull'amministrazione condivisa dei beni comuni*, 2023, pp. 6-9. On this point, reference is made to N. Granato, F. Mosconi, *La governance dei beni comuni: l'affermazione della comunità. Il caso di Bologna*, in D. Donati, *La cura dei beni comuni tra teoria e prassi. Un'analisi interdisciplinare*, p. 285, where ‹‹*Change the administration, change the role of individual citizens; empower them and free them from their mere role as citizens to become urban resources, integrating the management and decision-making processes with the valuable wealth of knowledge that the territory possesses*›› (free translation).
277. G. Arena, *Da beni pubblici a beni comuni*, cit., p. 654. See R. Di Maria, F. Romeo, *I beni confiscati alla criminalità*, cit., p. 595, where the A. equate the assets subject to judicial administration with the genus of common assets, since they have the same constitutional basis, ‹‹*namely their function in the pursuit of social utility*›› (free translation).
278. Corte cost., sent., 26 June 2020, n. 131. The judge uses the term ‹‹*shared administration*›› for the first time to define the relationship between the administration and third sector entities, to be framed as a ‹‹*channel of shared administration, alternative to that of profit and the market*››, as it presupposes models of action that are ‹‹*phases of a complex process involving a different relationship between the public and the private social sector, not based simply on a synallagmatic relationship*›› (free translation). Among scholars, see E. Rossi, *Il fondamento del Terzo settore è nella Costituzione. Prime osservazioni sulla sentenza 131 del 2020 della Corte costituzionale*, in *Forum di Quaderni Costituzionali*, 3, 2020, pp. 49 ff.; L. Gori, *Gli effetti giuridici "a lungo raggio" della sentenza 131 del 2020 della Corte costituzionale*, in *Impresa sociale*, 3, 2020, pp. 89 ff. Instead, as a practical and legal testing ground based on co-design see G. Pisani, *L'"amministrazione condivisa" al centro di un nuovo modello di solidarietà*, in *Sociologia*

del diritto, 2, 2021, p. 25.

279. G. Arena, *Da beni pubblici a beni comuni*, cit., p. 650; C. Salati, *Beni confiscati alle mafie come beni comuni*, op. cit., where the functionality of the instrument in question is highlighted, to be applied also to confiscated assets, since the fight against organised crime is considered to be in the public interest. On the legal classification of cooperation agreements see E. Fidelbo, *Strumenti giuridici di valorizzazione del rapporto tra patrimonio culturale e territorio: il caso dei patti di collaborazione tra amministratori locali e cittadini*, in *Aedon*, 3, 2018, qualified as administrative acts of a non-authoritative nature, comparable to the agreements governed by Article 11 of Law 241 of 1990 (Law on Administrative Procedure).
280. ANBSC, *Relazione sull'attività svolta.*, cit., pp. 44-45. The report also reveals other interesting figures: for instance, of the nearly 18,000 plots of land confiscated in total, 52.89% are currently managed by the Agency, while since the ANBSC was established, 6,466 plots have been allocated, accounting for almost 80% of the total.
281. In scholarly writings, see L. Costantino, *Il ruolo dell'agricoltura nel riutilizzo dei terreni confiscati*, cit., pp. 485 ff.; A. Jannarelli, *Agricoltura sostenibile e nuova PAC: problemi e prospettive*, in *Riv. dir. agr.*, 1, 2020, pp. 23 ff.; I. Canfora, *L'agricoltura come strumento di welfare. Le nuove frontiere dei servizi dell'agricoltura sociale*, in *Diritto agroalimentare*, 1, 2017, pp. 5 ff.
282. On this issue, it should be noted that in July 2024, the ANBSC and Masaf signed an institutional cooperation agreement (Prot. no. 47873 of 01.07.2024) aimed at the reuse and enhancement of land confiscated from the mafia, for the implementation of youth agricultural entrepreneurship projects with the obligation to promote projects and initiatives in favour of vulnerable and disadvantaged social groups.Early reactions from groups such as Arci and Libera focused on the risk that the agreement could pave the way for further land privatisation. In addition, the text would open the possibility of leasing land only to young farmers, exclusively private and for-profit entities, completely excluding the involvement of municipalities, the third sector, cooperatives and trade unions. See Arci and Libera, *Accordo Masaf-Anbsc, terreni confiscati alle mafie a giovani agricoltori*, 25 July 2024, text available at the following link: https://www.arci.it/accordo-masaf-anbscterreni-confiscati-alle-mafie-a-giovani-agricoltori/.
283. I. Canfora, *L'agricoltura come strumento di welfare*, cit., p. 9, where social agriculture represents a <<*new and more advanced expression of the multifunctional role of agriculture, in a perspective of continuity with the logic of 'provider of common goods' recognised to agriculture, inaugurated with the recognition of the role of "guardian of nature" in the production of environmental goods*>> (free translation). For further information on this phenomenon, see C. Moretti, *Agricoltura sociale: progettualità possibili nel welfare sociale*, in *Sociologia urbana e rurale*, 123, 2020, pp. 75 ff.; F. Giarè, C. De Vivo, M. Ascani, F. Muscas, *L'agricoltura sociale: un modello di welfare generativo*, in *Riv. di economia agraria*, 2, 2018, pp. 125 ff.; F. Giarè, *Coltivare salute: agricoltura sociale e nuove*

prospettive di welfare. Atti del Seminario presso il Ministero della Salute Roma, 18 ottobre 2012, Inea, 2013.

284. L. Costantino, *Il ruolo dell'agricoltura nel riutilizzo dei terreni confiscati*, cit., p. 488.
285. L. Paoloni, *La sostenibilità "etica" della filiera agroalimentare*, in *Diritto alimentare*, 4, 2020, pp. 5 ff.; *Id*., *La filiera agroalimentare ‹‹etica›› e la tutela del lavoro*, in *Diritto agroalimentare*, 3, 2020, pp. 635 ff.; G. Allucci, *La valorizzazione dei beni confiscati alla camorra: occasione di sviluppo e di rafforzamento della legalità. L'esperienza di Agrorinasce*, in *Riv. economica del Mezzogiorno*, 3, 2020, pp. 455 ff.
286. L. Costantino, *Il ruolo dell'agricoltura nel riutilizzo dei terreni confiscati*, cit., p. 489.
287. See §2.4. We also recommend the study of A. Corrado, *Migrazioni e lavoro agricolo in Italia: le regioni di una relazione problematica. Policy Brief*, Open Society European Policy Institute, 2018; G. Marotta, C. Nazzaro, M. Simeone, *Capitale umano e capitale sociale nell'agricoltura multifunzionale: un'analisi delle esperienze di filiera corta nella Campania interna*, FrancoAngeli, Milano, 2013.
288. Public intervention in this regard would be consistent with the key role recognised to the agri-food sector, given its pervasiveness with regard to delicate but interconnected issues that can no longer be ignored, such as the protection of workers and the fight against the scourge of illegal hiring practices. See L. Costantino, *Il ruolo dell'agricoltura nel riutilizzo dei terreni confiscati*, cit., p. 492, ‹‹*The time is ripe, therefore, to recognise the role of economic and social development that the legal system entrusts to agriculture, expanding the activities that can be carried out on confiscated land*›› (free translation).
289. See M. Cocconi., *La nuova politica industriale europea verso un modello di crescita circolare e rigenerativo*, in *Id*. (ed.), *Il mosaico dell'economia circolare*, cit., pp. 25 ff.
290. E*x multis*: A. Farì, *Il principio DNSH nella fase di transizione della disciplina ambientale. Introduzione al dibattito,* in *RQDA,* 2, 2024*,* pp. 4 ff.; U. Barelli, *Il PNRR ed il principio "Do No Significant Harm" (DNSH)*, in *RGA online*, Febbraio 2023; G.M. Caruso, *Il principio "do no significant harm": ambiguità, caratteri e implicazioni di un criterio positivizzato di sostenibilità ambientale*, in *Citt. eur.*, n. 2, 2022, pp. 134 ff.; A. S. Bruno, *Il PNRR e il principio del do no significant harm (DNSH) davanti alle sfide territoriali*, in *Federalismi.it.*, 8, 2022; F. Spera, *Da valutazione "Non arrecare un danno significativo" a "principio DNSH": la codificazione di un nuovo principio e l'impatto di una analisi trasversale rivolto al futuro*, in *Quaderni AISDUE*, 34, 2022, p. 742; I. Costanzo, *Il principio "Do No Significant Harm" (DNSH) nel processo di transizione ecologica: un itinerario di riflessione*, in *Riv. it. dir. pubbl. comunitario*, 2023, pp. 710 ff.
291. Regulation 2020/852/EU of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2088.
292. In this sense, see U. Barelli, *The Ignored Revolution of the DNSH Principle*, in *Riv. giur. Amb. Online*, June 2025: «*In summary, the DNSH principle, sustainable finance, and the circular economy are not separate elements, but interdependent components of a single transformative strategy, which aims to build a more sustainable, regenerative, and inclusive*

European economy» (free translation).

293. F. de Leonardis, *La rivoluzione silenziosa del principio Do no significant harm (DNSH)*, in *RQDA*, 2, 2024, p.125
294. Regulation (EU) 2021/241 of 12 February 2021 establishing the Recovery and Resilience Facility.
295. The European Commission has clarified that the EU budget cannot finance activities whose legality is called into question by an infringement procedure under Article 258 TFEU, and that compliance with existing environmental legislation is a necessary condition for the eligibility of proposed measures under EU funding.