

# Sorry we subcontracted you

Silvia Borelli, Antonio Loffredo,  
Claire Marzo and Manfred Walser

Report 2025.02



EUROPEAN  
TRANSPORT  
WORKERS'  
FEDERATION

etui.





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Report 2025.02  
european trade union institute

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## Abstract

The logistics sector has become increasingly important to the European economy over the past years due to the spread of the e-commerce, which has brought about consumer-driven supply chains and integrated transport into retail. The four country case studies in this volume – covering France, Germany, Italy and Spain – converge in indicating that, despite this growth, **working conditions in logistics have been deteriorating** and consequently the staff turnover is massive. These two tendencies are only apparently contradictory. Indeed, the booming of logistics goes hand in hand with stiff price competition, boosted by the need to deliver goods to end consumers in the shortest possible time at the lowest cost.

This Report demonstrates that in logistics **subcontracting is a prevalent business model** that leads to lower pay and poorer working conditions for the purpose of cutting costs and boosting profits. Moreover, because of their strong market position, the companies belonging to the big logistics and e-commerce group maintain a certain control over smaller companies, temporary work agencies or individuals (especially drivers who they treat as ‘self-employed’), to which they contract out. Therefore, subcontracting has become a strategy for separating power and profits from risks and responsibilities.

Facing the **unsustainability of the current logistics business model**, the Authors claim for a European regulation aimed at reducing the benefits that companies gain through subcontracting in terms of lower responsibility and labour cost reductions. In particular, they advocate that **subcontracting has to be limited**: both what can be contracted out and the length of the subcontracting chain need to be restricted. As a general rule, subcontracting needs to be justified by reasons other than pure profit because, according to national Constitutions and the European Charter of Fundamental Rights, pure profit cannot prevail over workers’ rights.

# The logistics sector in Italy: the normalisation of deviance

Silvia Borelli

## 1. Analysis of the context

### 1.1 Market structure

The logistics sector in Italy has grown constantly since 2009.<sup>1</sup> According to the National Statistical Institute (ISTAT),<sup>2</sup> in 2021 no fewer than 117,402 companies were present in transport and logistics, employing 1,149.692 workers. In 2023, the turnover of the logistics sector represented 8.2% of GDP (€135.4 billion), according to the main Italian business association (Confindustria).<sup>3</sup> The sector's growth has been boosted mainly by the increase of e-commerce, especially during the Covid-19 pandemic.<sup>4</sup> Consequently, in Italy, logistics has been restructured to respond to the needs of consumers who are able to buy products in online marketplaces, at any time.

Logistics has always been called upon to search for the most efficient solution, namely the one that allows goods to be delivered in the shortest possible time and at the lowest cost. Companies in the sector must therefore develop expedients to reduce the cost of the services they offer.

The development of e-commerce has created a new problem, so-called 'last-mile delivery'. This is the delivery of goods to end consumers, as quickly as possible, within metropolitan areas.<sup>5</sup> Last-mile logistics has to fulfil numerous orders scattered throughout a city. Consumers would like to track their goods in real time and be informed in advance on the delivery time.<sup>6</sup>

The development of e-commerce and last-mile logistics has led to the entry of new players, such as Amazon, able to control its entire supply chain through

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1. While in 2009 the turnover of Italian logistic companies was €71.2 billion, in 2023 it was €112 billion, <https://www.euromerci.it/i-nostri-esperti/logistica-boom-del-mercato-italiano-che-nel-2030-varra-140-miliardi-di-dollari-24.html>. For this Report, the author conducted three semi-structured interviews with key respondents in the sector.
  2. [http://dati.istat.it/Index.aspx?DataSetCode=DICA\\_ASIAUE1P](http://dati.istat.it/Index.aspx?DataSetCode=DICA_ASIAUE1P)
  3. Confindustria, *Industria, Trasporti, Logistica e Infrastrutture: Insieme per la competitività del paese*, 2024, p. 36.
  4. Interview with a labour inspector (interview LI01). The rise of e-commerce is a global trend: World Economic Forum, *The Future of the Last-Mile Ecosystem*, 2020, p. 5.
  5. Alemanni C., *La signora delle merci*, LUISS, 2023, p. 136.
  6. Dossier Logistica. Efficienza per l'ultimo miglio, 2022, <https://www.logisticanews.it/efficienza-per-lultimo-miglio-il-dossier-di-logistica/>

technology. The use of devices equipped with so-called ‘AI’ systems makes it possible to constantly monitor the activities of workers who, as a result, are subjected to an increasingly stressful work pace.<sup>7</sup>

Another trend in the logistics sector in Italy is the **‘verticalisation’ of the supply chain**.<sup>8</sup> Large corporations are acquiring control of various companies operating in ports, airports, rail and road transport. In this way, these big players manage their logistics supply chain on a global scale. A prominent example of this trend is the MSC Group,<sup>9</sup> a global leader in the transport and logistics sector with 1,127 affiliate companies. The group encompasses a cargo division, MSC Mediterranean Shipping Company, and other prominent companies, such as *Rimorchiatori Mediterranei* and MEDLOG, as well as a passenger division led by MSC Cruises and complemented by Mediterranean passenger ferries with Grandi Navi Veloci and SNAV. The group operates also in rail transport, controlling Italo s.p.a. and other companies in the sector. The group is thus tending toward integrated management of different carriers in sea, rail and air transport. It is also expanding into the control of logistics activities.

Both the development of last-mile logistics and the ‘verticalisation’ of the supply chain go hand in hand with the rise of subcontracting. In fact, both e-commerce actors and big logistics corporations have greatly increased their leverage over subcontractors. Consequently, they can broadly determine the ways in which the latter perform their services and the fees paid. Amazon and other big players exploit their technologies to control ‘the entire logistics process from supply chain down to the last mile’,<sup>10</sup> constantly checking how their subcontractors are carrying out their activities. In the meantime, big logistic groups usually outsource part of their production to subsidiaries that are totally or partially controlled by holdings.

Often, subcontracting is not driven by the need to acquire a specialised service but is rather the way in which logistics companies structure their business model to save on labour costs (interview TU01). As we will explain, the Italian legislator has favoured this process by facilitating contracting out and eliminating the obligation of equal treatment of workers.

Sometimes, major companies have exercised such tight control of subcontractors that the courts have deemed the arrangement to be illegal and have declared that the principal companies were the real employers of workers formally hired by subcontractors. In some cases, the labour exploitation was so severe that judges found that the crime of operating as a ‘gangmaster’ had been committed

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7. Alemanni (*La signora delle merci*, LUISS, 2023, p. 171) reports that ‘in the most advanced logistics systems, the human element plays a purely cybernetic role [...]. It is a mechanism that must perform certain actions, complementary to the machine, at the times and in the ways that the configuration of the system provides.’
  8. Federazione italiana lavoratori dei trasporti (FILT-CGIL), Federazione italiana trasporti (FIT-CISL), Unione italiana dei lavoratori dei trasporti (Ultrasporti-UIL), Piattaforma per il Rinnovo del CCNL Logistica Trasporto Merci e Spedizione, 2023, p. 1.
  9. Spirito P., Multinazionale del trasporto e della logistica, il caso di MSC, <https://www.genteeterritorio.it/multinazionale-del-trasporto-e-della-logistica-il-caso-di-msc/>
  10. Interview with Jun Fan, Head of JD Express, JD Logistics in World Economic Forum, *The Future of the Last-Mile Ecosystem*, 2020, p. 7.

(*caporalato*; see Article 603 bis of the Italian Penal Code<sup>11</sup>; see Box 5). In some instances, these investigations led to **re-internalisation processes** (see the example of the DHL supply chain in Italy, explained in Box 1).

#### Box 1 DHL supply chain Italy

In June 2021, DHL was investigated by the Milan Prosecutor's Office. The company was suspected of exploiting the workers supplied by a consortium of cooperatives. Workers were hired by these cooperatives under several kinds of precarious contract and were transferred from one cooperative to another to evade controls. During the proceedings, DHL decided to directly hire 1,500 workers previously engaged by subcontractors. Following this recruitment (which effectively constituted re-internalisation), the criminal investigation was closed (Prosecutor's Office of Milan, decree 9 November 2022).<sup>12</sup>

It should be noted that, among the top ten logistics companies in 2023,<sup>13</sup> no fewer than four (DHL, BRT, FedEx Express Italy and Amazon Italia Transport) have been prosecuted for the crime of operating as a gangmaster in Italy. As stated by the prosecutor who has run most of the investigations, 'gangmaster' has become the business model of the main logistics companies and is so widespread that they no longer regard it as a crime. In this connection, the prosecutor went as far as to talk about a 'normalisation of deviance'<sup>14</sup> (see Section 2.1).

## 1.2 Employment in the sector

Last-mile logistics is a male-dominated sector. In fact, according to the data available, men account for more than 80% of the workforce.<sup>15</sup> This can be explained by long shifts, night work and frequent changes of working time that make it difficult to reconcile work and family life (in Italy, women are still predominantly responsible for family or domestic work).<sup>16</sup> The paradox is that

11. Article 603 bis of the Italian Criminal Code criminalises the recruitment of 'workers on behalf of third parties under exploitative conditions, taking advantage of the workers' state of need' as well as to 'employ, hire or engage workers – including by the means of the intermediation activity referred to above – exploiting them and taking advantage of their state of need'.
12. <https://www.ilfattoquotidiano.it/2022/11/24/dhl-dopo-linchiesta-quasi-1500-lavoratori-assunti-la-procura-di-milano-chiede-larchiviazione/6884439/> Re-internalisation also took place at TNT-Fedex: <https://mattinopadova.gelocal.it/padova/cronaca/2021/04/03/news/tnt-fedex-internalizza-160-lavoratori-1.40109333>, and at Esselunga: <https://www.ilfattoquotidiano.it/2024/02/16/esselunga-internalizza-2mila-lavoratori-della-logistica-dopo-linchiesta-sui-contratti-dappalto-fittizi-per-la-fornitura-di-manodopera/7449004/>
13. Il Giornale della Logistica, I primi 1000. 22<sup>o</sup> edizione, <https://www.ilgiornaledellalogistica.it/la-classifica/classifica-primi-1-000-fornitori-servizi-logistici-italia-edizione-2023/>
14. Tribunal of Milan, decree n. 6/2023; Tribunal of Milan, decree n. 5/2023.
15. Randstad Research, *Trasformazioni del settore e delle professioni nella logistica*, 2023, p. 19.
16. One of our respondents emphasised that many women engaged in the sector resign following the birth of a child (Interview LLo1). The phenomenon has been detected in many sectors: Save the Children, *Le Equilibriste. La maternità in Italia nel 2024*, <https://www.savethechildren.it/cosa-facciamo/pubblicazioni/le-equilibriste-la-maternita-italia-nel-2024>. See also Filt, FitFILT, FIT, Uiltrasporti, *Piattaforma per il Rinnovo del CCNL Logistica Trasporto Merci e Spedizione*, 2023, p. 7.

some companies in the sector (such as Amazon<sup>17</sup>) have been awarded ‘equality certification’ (*certificazione di parità*), in other words, recognised as promoting equality between male and female workers. As a ‘reward’ they have obtained a reduction of social contributions and increased public funding.<sup>18</sup>

The vast majority of workers in last-mile logistics are **migrants**.<sup>19</sup> In fact, logistics is an unattractive sector for Italian citizens because of the low wages, fast work pace and long shifts (interview TU01).<sup>20</sup> Migrants accept jobs in the sector because of their vulnerable or precarious status. In Italy, the procedure for obtaining a work permit is very cumbersome. Moreover, migrants can retain their work permit only if they have a job. Consequently, they tend to accept any kind of job and, once they have it, they tolerate exploitation so they do not lose it.

We should also underline that the digitalisation of the logistics sector requires numerous new professions and skills, raising the issue of adequate training of the existing workforce. This fosters polarisation among the high-skilled managers and engineers, on one side, and the low-skilled and low-paid craft activities, on the other side.<sup>21</sup> This polarisation is further boosted by subcontracting: in fact, the low-skilled jobs, such as last-mile delivery, are very often outsourced to companies that usually apply worse collective agreements, pay lower wages and offer more precarious contracts than the big logistics companies. This polarisation has clearly emerged from the many investigations on gangmaster crimes (see Section 2.1).

Due to the discredit caused by these investigations, several companies decided to negotiate with trade unions (see, for example, the Amazon case described in Box 4) and a protocol to promote legality in subcontracting was signed by the Prefecture in Milan (see Section 3.1). However, in Italy, data on the number of workers employed by subcontractors are not available for either logistics or other sectors.

Finally, it should be pointed out that, over the past decade, wages in the sector have not increased,<sup>22</sup> whereas the number of temporary contracts and seasonal jobs has grown, both to further cut labour costs and to cope with the frequent peaks of activity.<sup>23</sup>

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17. <https://www.aboutamazon.it/notizie/diversita-equita-e-inclusione/amazon-ha-ottenuto-la-certificazione-della-parita-di-genere-per-tutte-le-sue-linee-di-business-in-italia>

18. The ‘equality standard’ (*certificazione di parità*) is based on indicators developed by UNI (the main Italian private association developing and disseminating standards) and is issued by private auditors, paid by the company. Thus, this quality standard entails a severe risk of conflict of interest and risks boosting a process of privatisation of law (Salmoni F., *Le norme tecniche*, Giuffrè, 2001).

19. Randstad Research, *Trasformazioni del settore e delle professioni nella logistica*, 2023, p. 20.

20. See also Allamprese A. and Bonardi O., Studio sulle condizioni di lavoro nella logistica: tempo e salute, in *Diritto della sicurezza sul lavoro*, 2020, 2, p. 43.

21. Randstad Research, *Trasformazioni del settore e delle professioni nella logistica*, 2023, p. 80.

22. Randstad Research, *Trasformazioni del settore e delle professioni nella logistica*, 2023, p. 32. Wage stagnation is a widespread problem in Italy (see the essay published in *Rivista giuridica del lavoro* 2023, vol. 4).

23. Randstad Research, *Trasformazioni del settore e delle professioni nella logistica*, 2023, p. 55.

## 2. Problematic cases in the logistics sector

### 2.1 Working conditions and workers' rights violations

As pointed out by the Committee on Strikes in Public Services<sup>24</sup> and the Committee on Undeclared and Under-declared Work,<sup>25</sup> the main problem in logistics, as well as in other labour-intensive sectors, is subcontracting. The two Committees have underlined that, in these sectors, subcontracting aims mainly to reduce labour costs and creates 'serious social problems'.<sup>26</sup> In fact, subcontracting entails both **legal and illegal forms of labour exploitation**,<sup>27</sup> separating power and profit from risks and responsibilities, worsening job stability, lowering working conditions, fragmenting the workforce and consequently hindering trade union activities, making inspections much more difficult.

In Italy, the negative effects entailed by subcontracting are exacerbated by the fact that collective agreements do not have *erga omnes* effects; in other words, they apply only to companies affiliated to the employer associations that signed them. Therefore, the main national collective agreement on logistics and transport<sup>28</sup> – that is, the collective agreement signed by the most representative trade unions and business associations – does not apply to all companies operating in the sector. Besides, for each sector there exist several collective agreements, sometimes signed to cut labour costs (this is a form of social dumping, dubbed '**contractual dumping**').<sup>29</sup> In practice, unscrupulous business associations look for more docile trade unions, whose members and activities are often unknown, to sign a national collective agreement that establishes lower wages, longer working

24. The Committee on Strikes in Public Services is an independent public authority, comprising experts nominated by the President of the Italian Parliamentary Chamber and the President of the Italian Senate, to ensure the fair balancing of the right to strike with the enjoyment of the other constitutional rights.

25. The Committee on undeclared and under-declared work was created by the Ministry of Labour to draft a National Plan against undeclared and under-declared work. The Committee gathered representatives of the Italian public administrations and other experts.

26. Commissione di garanzia sullo sciopero nei servizi pubblici essenziali, *Appalti e conflitto collettivo: tendenze e prospettive*, 2020, p. 2; Tavolo tecnico sul lavoro sommerso, *Piano nazionale per la lotta al lavoro sommerso 2023-2025*. See also Allamprese A. and Bonardi O., *Introduzione*, in *Rivista giuridica del lavoro* 2020, 3, p. 364; Bellavista A. and Razzolini O., *Il dossier della Commissione di garanzia sullo sciopero in materia di appalti nei servizi pubblici essenziali. Una panoramica ricca di spunti nuovi e di prospettive stimolanti*, in *Lavori, diritti, Europa* 2021, p. 1; Bologna S. and Curi S., *Relazioni industriali e servizi di logistica: uno studio preliminare*, in *Giornale di diritto del lavoro e relazioni industriali* 2019, p. 155; Dorigatti L. and Mori A., *Condizioni di lavoro e relazioni industriali nelle catene del valore della logistica*, in *Rivista giuridica del lavoro* 2020, 3, p. 389.

27. Commissione di garanzia sullo sciopero nei servizi pubblici essenziali, *Appalti e conflitto collettivo: tendenze e prospettive*, 2020, p. 15.

28. *CCNL Logistica Trasporto Merci e Spedizione*, signed by FILT-CGIL, FIT-CISL and Ultrasporti.

29. See *Relazione del Gruppo di lavoro sugli interventi e le misure di contrasto alla povertà lavorativa in Italia*, 2022, p. 22. Companies have to declare to the Ministry of Labour and to the National Institute for Social Protection (INPS) which collective agreement they are applying for calculating the social contribution (Article 16 quarter of Law Decree n. 76/2020).

time, longer shifts and shorter leaves than the collective agreement signed by the most representative trade unions and business associations. These cheaper collective agreements can then be applied by all companies that do not belong to the business associations that have signed the main national collective agreement.

Contractual dumping is also caused by the overlapping scopes of collective agreements. For example, the national collective agreement on multi-services signed by the most representative trade unions regulates porters and other professions present in logistics. Because this agreement establishes lower wages than those established by the main national collective agreement on logistics and transport, it allows companies to cut labour costs.

Many subcontractors are cooperatives.<sup>30</sup> As explained in Section 3.3, in Italy these companies benefit from special regulations (for example, on tax, social contributions and labour law). Moreover, cooperatives have their own collective bargaining system and collective agreements signed with them usually entail lower labour costs than those signed with industry. Cooperatives can come together in consortia and this further boosts subcontracting because consortia usually play the role of main contractor and then contract out to the affiliated cooperatives.

Some such cooperatives are '**bogus cooperatives**', in the sense that they do not have a mutual purpose and their worker-members do not participate in the management of the company, as required by the law on cooperatives. These bogus cooperatives are created for the sole purpose of exploiting the advantageous regulations on cooperatives. In 2017, the legislator modified the law on cooperatives to strengthen the measures against bogus cooperatives (Article 1 § 936 of Law n. 205/2017).<sup>31</sup> Simultaneously, the National Labour Inspectorate launched a campaign to monitor cooperatives in logistics.<sup>32</sup>

Other forms of legal exploitation are generated by several **precarious contracts of employment** allowed by Italian legislation. Fixed-term contracts, on-call contracts and temporary agency workers are widespread in logistics. The use of these precarious contracts further increases job instability entailed by subcontracting.<sup>33</sup> In fact, workers employed by subcontractors typically hope to be internalised by the client and engaged with an open-ended contract. For this reason, they tend to accept several forms of exploitation.

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30. See Bellavista A., *Cooperative e sfruttamento del lavoro nella logistica*, in *Rivista giuridica del lavoro*, 2020, 3, p. 452 ff.

31. Since 2017, cooperatives have been obliged to have a board comprising at least three members whose mandate can last for maximum of three years (they can be re-elected once) (Article 2542 of the Italian Civil Code). Cooperatives that refuse controls or do not respect their mutual purpose are cancelled by the National Register and may no longer operate. Labour inspectors can nominate a commissioner charged with carrying out certain tasks to remedy the violations discovered.

32. Ispettorato nazionale del lavoro (INL), circular n. 8777/2017.

33. According to the Committee created by the Ministry of Labour to investigate poverty, precarious jobs are the main cause of poor work in Italy (*Relazione del Gruppo di lavoro sugli interventi e le misure di contrasto alla povertà lavorativa in Italia*, 2022, p. 22).

In the past, many logistics companies based in Italy engaged self-employed drivers (called '*padroncini*').<sup>34</sup> These drivers own their own van and are paid according to the number of deliveries; however, they very often work for a single company. The courts have almost always denied these drivers the status of employee of the companies for which they habitually work because they benefit from a certain autonomy, owning their van and being allowed to refuse any deliveries requested.<sup>35</sup> Recently, the use of these *padroncini* in last-mile delivery has been replaced by subcontracting.<sup>36</sup> In fact, logistics companies currently find it more convenient to subcontract last-mile delivery to other companies (sometimes 'labour reservoir companies'; see below) than to engage self-employed drivers directly.

In some cases, practices to reduce labour costs through subcontracting degenerate into **illegal forms of labour exploitation**, as proven by the data on inspections in the sector. The number of companies in which irregularities have been detected has been growing constantly since 2021.<sup>37</sup> In fact, logistics is one of the sectors in which the percentage of irregularities is the highest (in 2022, 69.55% of the companies inspected in the sector presented irregularities; this rose to 73.24% in 2023). According to the annual reports of the National Labour Inspectorate, the most widespread violation in the sector is **illicit labour supply**. This violation occurs when labour inspectors notice that the company at the top of the supply chain is directing and controlling workers employed by subcontractors. As a result, it is declared the actual employer of the workers (see Section 3.2).

In many cases of illicit labour supply, the inspectors also detect tax and social security evasion.<sup>38</sup> In fact, subcontractors are sometimes so-called 'labour reservoir companies' (*società serbatoio*), that is, companies that supply low-cost workers, do not pay social contributions and are used to enable the company leading the supply chain to pay VAT through false invoices. Sometimes, the subcontracting chains are extended by the presence of '**filter companies**' that do not perform any activities and are used solely to make these chains more opaque. Often these companies have a very short duration: after a few years they disappear and their capital is transferred abroad (often to a secrecy jurisdiction or 'tax haven').<sup>39</sup> Benefiting from the corporate veil, their managers are usually not responsible for violations committed and they can freely create a new company. Workers

34. See Riccobono A., *Logistica e diritti dei lavoratori nelle catene del valore: prospettiva qualificatoria e recenti novità legislative*, in *Variazioni su temi di diritto del lavoro* 2024, 2, p. 453.

35. See Court of Cassation n. 28568/2022.

36. Dossier Logistica. *Efficienza per l'ultimo miglio*, 2022, <https://www.logisticanews.it/efficienza-per-lultimo-miglio-il-dossier-di-logistica/> Some *padroncini* were hired by BRT s.p.a., a company prosecuted by the Tribunal of Milan for operating as gangmasters. In his Decree (n. 6/2023), the prosecutor considers these drivers as BRT's employees.

37. See the *Annual reports on controls concerning labor law and social security* here available: <https://www.ispettorato.gov.it/attivita-studi-e-statistiche/monitoraggio-e-report/rapporti-annuali-sullattivita-di-vigilanza-in-materia-di-lavoro-e-previdenziale/>

38. See, recently, the FedEx case: <https://ilmanifesto.it/societa-serbatoio-e-lavoratori-sfruttati-fedex-indagata>

39. Decree n. 5/2023 on the Geodis case.

pass from the old to the new company, losing their seniority, and subcontracting becomes a never-ending story.<sup>40</sup>

In several cases, these ‘labour reservoir companies’ are set up by figureheads, in other words, persons who formally register a company but do not organise its activities. Sometimes, these figureheads are migrants who have previously worked for the leading company and are persuaded by it to create a ‘labour reservoir company’ to improve their working and living conditions.<sup>41</sup>

The combined use of ‘labour reservoir companies’, bogus cooperatives and illicit labour has led to **severe forms of labour exploitation** and has induced some Italian tribunals to investigate the crime of **gangmaster** (*caporalato*) (Article 603 bis of the Italian Penal Code; see Box 5). As already mentioned, four of the top ten companies in the sector in 2023 have been prosecuted for this crime (DHL, BRT, FedEx Express Italy and Amazon Italia Transport), as well as other big players (such as Esselunga, Mondoconvenienza, Ups, Gls, Uber, Lidl, Geodis, Securitalia, Gs belonging to the Carrefour group, Gxo).<sup>42</sup> In the Decrees adopted by the Tribunal of Milan, the prosecutor constantly repeated that unlawful practices were so deep-rooted that they could be considered part of a broader business model.<sup>43</sup> In fact, the conduct investigated does not appear to be the result of extemporaneous and isolated initiatives, but evidence of an illicit corporate policy.

In the words of the Tribunal of Milan:

This gives rise to a process of organisational decoupling according to which, next to the formal structure of the organisation aimed at complying with institutional rules, another, ‘informal’ structure develops, aimed at following the rules of efficiency and results. In this way, the constant and systematic violation of rules generates the *normalisation of deviance*, in a context where irregularities and illicit practices are accepted and in some way promoted, as they are considered normal.<sup>44</sup>

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40. Borelli S., Frosecchi G., Guamán Hernández A., Loffredo A., Orlandini G., A. Riesco-Sanz, *Securing workers' rights in subcontracting chains*, Report for the ETUC, 2021, <https://www.etuc.org/en/securing-workers-rights-subcontracting-chains>.

41. See Decrees n. 5/2023 and n. 6/2023 of the Tribunal of Milan on the *Geodis and BRT cases*.

42. On Mondo Convenienza Holding s.p.a.: <https://www.editorialedomani.it/fatti/mondo-convenienza-in-5-a-processo-per-caporalato-sotto-accusa-il-sistema-delle-cooperative-i2kxr3fd> On Bartolini and Geodis: <https://www.ilpost.it/2023/03/28/amministrazione-giudiziaria-brt-geodis-trasporto-merci/> On Esselunga: <https://www.sistemapenale.it/it/scheda/merlo-alla-ricerca-della-via-italiana-ai-non-prosecution-agreement-il-caso-esselunga> On Bologna freight terminal: <https://www.ilpost.it/2021/10/22/sfruttamento-logistica-emilia-romagna/> See also Box 1 for the *DHL* case, 2 for the *Ceva Logistics* case, and 5 for the *Uber* case.

43. BRT is suspected of being supplied with 26,105 workers from 2,931 subcontractors: <https://www.ilfattoquotidiano.it/2023/03/27/lamministrazione-giudiziaria-per-brt-e-geodis-il-tribunale-un-nuovo-potere-dei-processi-lavorativi-alternativo-allo-stato/7110534/>

44. Tribunal of Milan, decree n. 6/2023 on the BRT case; Tribunal of Milan, decree n. 5/2023 on Geodis. The original text of the quoted paragraph of the decree is available here: [https://milano.corriere.it/notizie/cronaca/23\\_marzo\\_27/brt-bartolini-in-amministrazione-giudiziaria-cento-milioni-di-risparmi-l-anno-ai-danni-dei-lavoratori-e-del-fisco-f8055998-ff27-49bb-8316-af61de6b8xlk.shtml](https://milano.corriere.it/notizie/cronaca/23_marzo_27/brt-bartolini-in-amministrazione-giudiziaria-cento-milioni-di-risparmi-l-anno-ai-danni-dei-lavoratori-e-del-fisco-f8055998-ff27-49bb-8316-af61de6b8xlk.shtml)

It is worth mentioning that, in these cases, companies become involved in criminal trials that sometimes end with severe punishment.<sup>45</sup> However, the workers involved usually prefer not to participate in these proceedings because they take much longer and are more complex than civil ones. Consequently, workers involved in gangmaster crimes often do not benefit from any remedy for unpaid overtime, unpaid wages, untaken annual leave and other violations they suffered. The case described in Box 2 is one of the few in which some workers were involved in a trial without, however, obtaining full compensation for the damages suffered.

#### Box 2 Cooperatives as letterbox companies

Ceva Logistics Italia s.r.l. was the subsidiary of a Dutch group that managed the Città del Libro in Stradella, the main book terminal in Italy. Ceva Logistics contracted out logistics services to Consorzio Premium Net that offered these services at a very competitive fee. Consorzio Premium Net then subcontracted logistics services to its cooperatives.

During the proceedings led by the Prosecutor's Office of Milan it emerged that these cooperatives were letterbox companies, all of them controlled by the President of Consorzio Premium Net. Workers were hired for some months by one cooperative and then transferred to others in order to reduce their seniority and to evade the legislation on fixed-term contracts. Some workers were formally recruited by a Romanian company that then fictitiously posted them to Italy. Moreover, workers were obliged to work overtime, during public holidays or on night shifts; wages were not paid in full; working time legislation, as well as health and safety law and the national collective agreement on transport and logistics signed by the most representative trade unions were constantly violated.<sup>46</sup> The Tribunal nominated a commissioner to verify labour exploitation present at all sites of the companies and to check whether their organisational model was able to prevent crime (Tribunal of Milan, Decree n. 59/20). In 2020, 159 workers entered the criminal trial claiming compensation.

The President of Consorzio Premium Net was acquitted of criminal charges and the Consorzio failed. In the meantime, Ceva Logistics Italia was sold. Workers were recruited by the new cooperatives operating in the Città del libro. Currently, worker representatives are present on the site and can organise the protests of workers still fighting against subcontracting and the bad working conditions it entails.<sup>47</sup>

It can also happen that a company is **infiltrated by the mafia**.<sup>48</sup> In these cases, companies acquire a competitive advantage from the ability of organised crime gangs to lower labour costs by threatening the workforce and also from relationships with persons close to the mafia.

45. 121 million euros were seized from Amazon Italia Transport s.r.l. for fiscal fraud: <https://finanza.lastampa.it/News/2024/07/23/amazon-italia-gdf-sequestra-121-milioni-di-euro-per-frode-fiscale/MTIxXzIwMjQtMDctMjNFVExC>

46. Merlo A., *Il contrasto al "caporalato grigio" tra prevenzione e repressione*, 2019, <https://archiviodpc.dirittopenaleuomo.org/d/6761-il-contrasto-al-caporalato-grigio-tra-prevenzione-e-repressione>

47. Mastrandrea A., *L'ultimo miglio*, Manni, 2021, p. 53 ff.

48. Mastrandrea A., *L'ultimo miglio*, 2021, p. 117 ff.

## 2.2 Problems caused or exacerbated by algorithmic management

Another problem that has emerged in last-mile logistics is the increase in **work accidents** as a result of the intense work rhythm imposed by algorithmic management systems.<sup>49</sup> These systems are used to improve efficiency and reduce last-mile delivery costs. However, they also make it possible to strictly monitor work performance in its entirety. Consequently, workers are required to carry out certain activities in a certain time; if the working times dictated by the algorithm are not respected, workers risk being sanctioned. For this reason, rest time is often infringed. These algorithmic management systems also cause work-related stress and privacy violations. For example, in 2021 the labour inspectorate authorised Amazon to use only ‘systems that record essential images and consist of cameras pointed at the areas that are most at risk of theft and damage’.<sup>50</sup> Moreover, the inspectorate prescribed that workers may be filmed only in incidental and occasional instances. Despite this order, at its Cividale site (Northeast Italy), Amazon has installed 46 external cameras and 437 internal cameras that enable the constant monitoring of workers. Through such monitoring, continuous pressure is put on employees, including the threat of retaliation (such as assigning them more exhausting tasks or not allowing them to take vacations).<sup>51</sup>

Since 2022, it has been very difficult to prevent such violations because the companies using these algorithmic management systems were not obliged to share with workers and trade unions information about their functioning or the data collected. Therefore, until recently, workers were not able to provide evidence of **working time violations** entailed by these algorithmic management systems.

It is worth mentioning that such violations are widespread also in logistics companies that do not use algorithmic management systems. Workers in the sector complain about the lack of rest time, long shifts, night work, the unpredictability of working time and the consequent fragmentation of time,<sup>52</sup> involuntary part-time working and envelope wages for overtime (interview LI01).<sup>53</sup> These working time violations increase the number of work accidents, as well as high workforce turnover, the presence of self-employed and other precarious workers and the risks generated by the simultaneous (and disruptive) presence of workers employed by different companies in the same workplace.

49. In Italy, the logistics sector ranks second with regard to work accidents and occupational disease (Randstad Research, *Trasformazioni del settore e delle professioni nella logistica*, 2023, p. 20).

50. In Italy, the labour inspectorate must give prior consent to the installation of control systems if the latter have not been agreed with worker representatives (Article 4 of the Workers' Statute).

51. <https://www.collettiva.it/copertine/lavoro/amazon-lavoratori-controllati-e-schedati-wugwfcgj>

52. Allamprese A. and Bonardi O., *Studio sulle condizioni di lavoro nella logistica: tempo e salute*, in *Diritto della sicurezza sul lavoro*, 2020, 2, p. 47.

53. To solve these problems, the collective agreement signed by FILT, FIT and UilTrasporti in December 2024 introduced the right to disconnect. The agreement is available here: [https://www.filtgil.it/images/Contratti/Mobilit%C3%A0/Testo\\_accordo\\_del\\_6.12.2024.pdf](https://www.filtgil.it/images/Contratti/Mobilit%C3%A0/Testo_accordo_del_6.12.2024.pdf)

### **3. Legal analysis of subcontracting chains and working conditions in logistics**

#### **3.1 Regulation of subcontracting**

Despite requests from a number of actors, including the Committee on Strikes in Public Services,<sup>54</sup> Italian legislation does not limit subcontracting in the private sector. By contrast, various constraints are imposed on public contracts by Legislative Decree no. 36/2023. According to Article 119 § 1 of this law, the main contractor cannot contract out work in its entirety, not to mention the bulk of work related to the main object of the contract and labour-intensive contracts. Besides that, the contracting administration can indicate in the tender work or services that, once subcontracted, cannot be further subcontracted, because of the specific characteristics of the public contract, the need to tighten control of workplaces, guarantee more intensive protection of working conditions and health and safety or prevent the risk of criminal infiltration (Article 119 § 17 of the Legislative Decree n. 36/2023).

Until 2022, Italian legislation on public contracts did not allow the main contractor to subcontract more than 30% of work or services. The legislation was modified in order to end the infringement procedure the European Commission had opened against Italy. Currently, the main contractor can subcontract work or services, subject to authorisation from the public administration that has contracted out, provided that: (i) the subcontractor is qualified to carry out the work or service to be performed; (ii) there are no reasons for exclusion against it; and (iii) the work or services intended to be subcontracted are indicated at the time of the offer (Article 119 § 4 of the Legislative Decree n. 36/2023).

Some limits to subcontracting are established by Article 42 of the main national collective agreements on logistics and transport, whose contents were strengthened in 2024 following several instances of gangmaster crimes in the sector. Under this Article, contracting out is permissible only to companies with adequate technical and professional skills, and which comply with health and safety regulations, have an organisational model able to prevent criminal activities, pay social contributions and taxes regularly, and apply the national collective agreements signed by FILT, FIT and UilTransporti. These companies are prohibited from further subcontracting. However, consortia can subcontract to their cooperatives' members, and companies can subcontract to other companies belonging to the same group. If a contractor does not meet the abovementioned requirements, does not apply the national collective agreement signed by FILT, FIT and UilTransporti, does not pay social contributions, does not correctly pay its workers or violates health and safety regulations, the client can terminate the contract.

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54. Commissione di garanzia sullo sciopero nei servizi pubblici essenziali, *Appalti e conflitto collettivo: tendenze e prospettive*, 2020, p. 15.

It should be noted that, because of the *inter partes* efficacy of the collective agreements, Article 42 binds only companies affiliated to the business associations that signed the main national collective agreements on logistics and transport. Consequently, any contractor or subcontractor that does not belong to these associations and does not apply this agreement voluntarily, can infringe Article 42 without any consequence.<sup>55</sup>

Following the many cases of labour exploitation identified in the Italian courts, the Prefecture of Milan, Region of Lombardia, several business associations and the main trade unions signed a Protocol to promote legality in logistics.<sup>56</sup> The Protocol is aimed at increasing supply chain transparency and holding the main companies operating in logistics accountable for workers' rights violations in their supply chains. For this purpose, the Protocol sets up a platform in which companies operating in the sector can register voluntarily. The registered companies shall provide information showing that they regularly pay their workers, social contributions and taxes, and respect health and safety regulations. These companies shall also provide the contracts they have signed. The companies registered on the platform receive a 'certificate' that allows them to benefit from incentives granted by the Region of Lombardia.

Another tool for promoting compliance with workers' rights is the 'Ethical Logistics' label granted to companies that respect the Metropolitan Charter for Ethical Logistics promoted by the Municipality of Bologna, the Emilia Romagna Region and other public authorities. This label is based on rules agreed by these authorities and social partners, such as: compliance with the main national collective agreement, health and safety law, working time regulations, the obligation to shorten their supply chains and the application of clauses aimed at ensuring employment continuity in case of a change of subcontractor.

Finally, it should be mentioned that special logistics zones (*zone logistiche semplificate* – ZLS) and economic areas (*zone economiche speciali* – ZES), which are aimed at attracting foreign investment (Article 37 of Law Decree n. 37/2022)<sup>57</sup> also exist in Italy. This is a prominent example of derogatory regimes applied to logistics in order to boost the competitiveness of the companies in the sector.<sup>58</sup> Companies in such ZLS and ZES benefit from several advantages, such as administrative simplifications, economic incentives and tax relief.

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55. Riccobono A., *Logistica e diritti dei lavoratori nelle catene del valore: prospettiva qualificatoria e recenti novità legislative*, in *Variazioni su temi di diritto del lavoro*, 2024, 2, p. 467.

56. <https://www.interno.gov.it/it/notizie/protocollo-milano-legalita-negli-appalti-sulla-logistica>

57. Confindustria, *Industria, Trasporti, Logistica e Infrastrutture: Insieme per la competitività del paese*, 2024, p. 51.

58. Alemanni C. (*La signora delle merci*, LUISS, 2023, p. 171) refers to 'places with "liquid" jurisdiction', in which the law is "frozen" in order to promote economic and logistics efficiency'.

## 3.2 Liability among clients, contractors and subcontractors

As mentioned in Section 2.1, one of the main problems generated by subcontracting is the **separation of power and profit from risks and responsibility**. The main instruments available in Italy to solve this problem are: (i) a substantive notion of employer; and (ii) joint and several liability.

The **substantive notion of employer** prevents any form of illicit labour supply. In fact, in Italy the person or firm that directs and controls workers must be their employer. If a different person signed the contract of employment, a judge will deem this illicit labour supply and declare that the real employer is the one that directs and controls the workers. In order for there to be a genuine contract or subcontract therefore it is necessary to verify that the contractor or the subcontractor provides a work or service ‘through an effective and autonomous organisation of labour, exerting the power of management and control over its employees, using its own means and assuming the business risk’.<sup>59</sup> An illicit labour supply is found where the managerial and organisational power is entrusted to the client and the contractor (or subcontractor) simply provides workers.<sup>60</sup>

It should be mentioned that, if a contractor (or a subcontractor) uses an algorithmic management system provided by the client, it could be easier for workers to prove that the real employer is the latter. In fact, several Italian courts have recognised ‘computerised direction of work’ when work is governed by software that tells the worker what to do, where and when (see Box 3). In this case, the company that owns and manages the software and the technical devices provided to workers is the employer<sup>61</sup> while the contractor (or subcontractor) simply administers the employment relationship (for example, it hands over the payroll, pays wages and schedules annual leave).

### Box 3 The real employer in case of algorithmic management

In 2019 the Tribunal of Padua ruled on a case concerning pickers<sup>62</sup> hired by a contractor, whose activities were fully controlled by software provided by the client (Aspiag Service s.r.l.). The pickers were employed in the warehouse of the client, were equipped with barcode readers and received instructions from a voice terminal via a headset and microphone connection. The activities of each picker were directed and monitored by Aspiag Service s.r.l. in real time, calculating for each hour and for each package the quantity and type of goods handled by the picker. The client could thus continuously collect information on pick-rate, duration of breaks, and workers’ peak efficiency; it could assess workers’ performance and consequently evaluate them.

According to the Tribunal, ‘the overall governance of the company’s activities and the direction of work can be considered to be a “computerised relationship” (*relazione informatizzata*) with the apparent client, leaving the contractor with a residual

59. Court of Cassation n. 12551/2020.

60. Court of Cassation n. 9231/2021, n. 32289/2022 and n. 12189/2023.

61. Tribunal of Padua n. 126/2023; Tribunal of Catania n. 4553/2021. The Decree of the Tribunal of Milan on the Amazon Italia Transport case talks about ‘digital direction’: through its technological devices, Amazon Italia Transport s.r.l. exercises managerial powers by organising and controlling the overall activity of goods delivery, including the last-mile delivery apparently contracted out to suppliers.

62. Pickers are workers employed in warehouses, whose main activity is to collect goods that are then handed over to the persons who pack them for delivery.

function of control and disciplinary intervention, usually requested by the client' (Tribunal of Padua n. 550/2019 confirmed by the Court of Appeal of Venice, decision of 30 March 2023). In other words, the workers were directed by Aspiag Service not through physical managers, but through an algorithmic management system provided to the contractor.

A major obstacle to the application of the substantive notion of employer is the fact that it is very easy to set up a company in Italy and consequently very difficult for labour inspectors and trade unions to monitor the subcontracting chain (see Sections 4 and 5).

**Joint and several liability** is established by Article 29 §1 of Legislative Decree n. 276/2003. According to this Article, the client is jointly liable with the contractor and each subcontractor, within two years of termination of the (sub)contract, to pay wages and social contributions due to workers engaged by the contractor or subcontractors, in relation to the period of execution of the (sub)contract.<sup>63</sup>

The Italian Constitutional Court considers Article 29 §1 of Legislative Decree n. 276/2003 as a general rule that has to apply in any case of 'decentralisation of production and dissociation between the person that has signed the employment contract and the person that benefits from the work performance' (decision n. 254/2017).<sup>64</sup> According to the Constitutional Court, in all these cases, the rule on joint and several liability is necessary to protect workers' rights. Besides that, this rule prevents the client from contracting out to unreliable companies.<sup>65</sup>

There is a special rule on joint and several liability for the transport contract. According to Article 83 bis §§ 4 bis – 4 *sexies* of Law n. 133/2008, the client is jointly liable for wages and social contributions that the carrier has to pay to its workers only if it does not correctly fulfil the obligation to verify the 'legality' of the carrier. Thus, in the case of a transport contract, the client can easily avoid joint and several liability by acquiring from the carrier a document issued by the National Social Security Institute (INPS) that proves the correct payment of social contributions and by checking, on a database, information on social contributions paid by the carrier.<sup>66</sup>

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**63.** To verify the correct payment of social contributions by their contractor and subcontractors, clients can use software created by INPS: <https://www.inps.it/it/it/dettaglio-scheda.schede-servizio-strumento.schede-strumenti.monitoraggio-congruit%C3%A0-occupazionale-appalti.monitoraggio-congruit--occupazionale-appalti.html>

**64.** The principle stated by the Constitutional Court has then been applied by the Court of Cassation (see eg Court of Cassation n. 26881/2024).

**65.** Court of Cassation n. 2169/2022.

**66.** Article 83 bis of Law n. 133/2008 has been widely criticised by scholars because any company can easily avoid joint liability. See Izzi D., *La promozione della regolarità negli appalti attraverso la responsabilità solidale per i crediti da lavoro: sperimentazioni concluse e in corso*, in *Argomenti di diritto del lavoro*, 2016, n. 4-5, I, p. 815.

In 2022, the legislator inserted a new Article in the Italian Civil Code to regulate logistics contracts (Article 1677 bis of the Civil Code).<sup>67</sup> This Article considers that logistics contracts are contracts to provide services, but applies to them the rules related to transport contracts ‘insofar as they are compatible’. The wording of this Article initially gave rise to doubts on the application of Article 29 § 1 of Legislative Decree n. 276/2003 to logistics contracts. The majority of scholars,<sup>68</sup> as well as the Ministry of Labour,<sup>69</sup> confirmed the application of Article 29 § 1 to logistics contracts, stating that, on one hand, this is a general rule to protect workers involved in any form of contracting out (except in case of transport contracts, for which there is a special rule<sup>70</sup>). On the other hand, a logistics contract is a contract to provide services and thus the regulations on the latter apply. Besides, in order to reduce the scope of Article 83 bis of Law n. 133/2008, the courts have distinguished between a transport contract and a contract to provide transport services. The latter exists when a party is obliged to provide transport on a continuous basis, with a view to achieving an overall result and in exchange for a fee.<sup>71</sup> A contract to provide transport services is, obviously, a contract to provide services; therefore, the rules regulating the latter (including Article 29 § 1 of Legislative Decree n. 276/2003) apply.<sup>72</sup>

In 2024 the legislator broadened the scope of Article 29 § 1 to encompass cases of illicit labour supply (Article 29 of Law Decree n. 19/2024). As already mentioned, in this case, the client is considered the real employer of the worker formally engaged by the contractor (or subcontractor). According to the rule introduced in 2024, the latter remains jointly liable to pay wages and social contributions due for the period in which illicit labour supply has taken place.<sup>73</sup>

In public contracts, the rule on joint and several liability is strengthened (Article 119 § 7 of Legislative Decree n. 36/2023).<sup>74</sup> In these cases, the main contractor is jointly liable not only for the payment of wages and social contributions, but also for the fulfilment of all subcontractors’ obligations in accordance with Legislative Decree n. 36/2023 (see Section 3.3). Furthermore, the main contractor is jointly liable with subcontractors to comply with health and safety law (Article 119 § 12).

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67. A logistics contract is a contract aimed at the provision of two or more logistics services related to the activities of receiving, processing, storage, custody, shipping, transferring and distributing goods, and the activities of transferring things from one place to another (Article 1677 bis of the Italian Civil Code).
68. Bonardi O., *Il contratto di logistica e la responsabilità solidale negli appalti dopo il nuovo art. 1677 bis c.c.*, in *Lavoro Diritti Europa*, 2022, <https://www.lavorodirittieuropa.it/dottrina/1181-il-contratto-di-logistica-e-la-responsabilita-solidale-negli-appalti-dopo-il-nuovo-art-1677-bis-c-c>; Villa E., *La responsabilità solidale come tecnica di tutela del lavoratore*, 2017.
69. Ministry of Labour, Interpello n. 1/2022. See also Circular n. 17/2012 in which the Ministry clarified that Article 29 of Legislative Decree n. 276/2003 applies to contracts to provide transport services.
70. Court of Cassation no. 2169/2022 and no. 25551/2023.
71. Court of Cassation n. 23448/2023, n. 1444/2024.
72. Court of Cassation n. 6449/2020 and n. 24983/2022.
73. The same rule applies in case of temporary agency work when the agency has not been authorised by the Ministry of Labour to perform its activity (Article 29 of Law Decree n. 19/2024).
74. Article 29 of Legislative Decree n. 276/2003 applies to contractors and subcontractors in public contracts (Article 119 §§ 6 and 7 of Legislative Decree n. 36/2023).

Another way to ensure that social contributions and wages are paid as they should be in public contracts is through what is known as ‘substitution’ by the public administration that has contracted out. If the contractor fails to pay social contributions as required, the public administration can pay the contributions directly and reduce the contractor's remuneration accordingly. The same rule applies when the contractor does not correctly remunerate its workers (Article 11 § 6 of Legislative Decree n. 36/2023).<sup>75</sup>

### 3.3 Working conditions of subcontracted workers

Another problem observed in logistics is the **unequal treatment of workers engaged by contractor and subcontractors**. In Italy, the rule that imposed equal treatment between workers directly engaged by the client and workers engaged by contractor and subcontractors was repealed in 2003.<sup>76</sup>

In February 2024, five workers employed by subcontractors on a construction site in Florence died. During the investigation, it was discovered that some of these workers were not covered by the collective agreement for the construction industry but by the collective agreement for metalworkers, which provides for less stringent safety measures. After this serious work accident, the government intervened to prevent subcontracting aimed mainly at cutting labour costs. However, the government did not re-introduce an equal treatment clause but obliged contractors and subcontractors to ensure that their workers receive:

overall economic and regulatory treatment not less than that provided for in the national and territorial collective agreement signed by the most representative trade unions and business associations at the national level, applied in the sector and for the area closely related to the activity covered by the contract and subcontract. (Article 29 § 1 bis of Legislative Decree no. 276/2003 supplemented by Article 29 of Law Decree no. 19/2024)

This rule is very similar to the one established in Article 11 of Legislative Decree no. 36/2023 for public contracts (see below). However, in the latter context, the rule is justified because of the role the state has to play when purchasing certain work or services from private companies. In the private sector, by contrast, the obligation to respect the collective agreement signed by the most representative trade unions and business associations could infringe Article 39 of the Italian Constitution, which establishes a special procedure to guarantee *erga omnes* effect to a collective agreement.<sup>77</sup> Because this procedure was never implemented,

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75. The public administration can also directly pay the subcontractors the amount due for the services performed and correspondently reduce the fee due to the contractor (Article 119 § 11).

76. Article 3 of Law n. 1369/1960 repealed by Legislative Decree n. 276/2003. The re-introduction of the equal treatment obligation has been requested by the Committee on undeclared and under-declared work (*Piano nazionale per la lotta al sommerso 2023-2025*, p. 27) and by the Committee on strikes in public services (*Commissione di garanzia sullo sciopero nei servizi pubblici essenziali, Appalti e conflitto collettivo: tendenze e prospettive*, 2020, p. 15).

77. Bellavista A., *Le catene di appalti e la tutela dei lavoratori*, in *Diritto del mercato del lavoro*, 2024, p. 85.

collective agreements in Italy do not produce *erga omnes* effect and have to be applied only by companies affiliated to the signatory business associations and by companies that decide to apply them voluntarily.

Another important legal tool to prevent unequal treatment is Article 36 of the Italian Constitution. According to this Article, ‘workers have the right to a remuneration commensurate with the quantity and quality of their work and in any case such as to ensure them and their families a free and dignified existence’. Judges have consistently interpreted Article 36 of the Italian Constitution as binding. In order to verify the proportionality and sufficiency of remuneration, they have referred to that established by the national collective agreement signed by the most representative trade unions and business associations, for the relevant sector.<sup>78</sup> Consequently, wages established by this collective agreement *de facto* become applicable to all workers.<sup>79</sup>

Article 36 of the Italian Constitution has also been claimed to prevent logistics companies from applying a collective agreement for a different sector.<sup>80</sup> In fact, judges refer to the national collective agreement signed by the most representative trade unions and business associations for the *relevant sector*. Therefore, when logistics companies apply a different national collective agreement, workers can request that the judge order them to pay the wage established by the main national collective agreement on logistics and transport.

For cooperatives, the mechanism elaborated by Italian judges to enforce Article 36 of the Constitution is mentioned explicitly in Article 7 § 4 of Law Decree n. 248/2007. This Article states that, if there are several collective agreements for the same sector, cooperatives shall ensure for their worker-members ‘overall economic treatment’ not inferior to that established by the collective agreements signed by the most representative trade unions and business associations at national level in the sector. According to the courts, this rule is necessary to guarantee fair competition among companies and avoid social dumping, as well as to ensure decent working conditions.<sup>81</sup>

It should be noted that in Italy industry, cooperatives and crafts have different collective bargaining systems. Therefore, the main trade unions in the logistics sector sign three different national collective agreements. In 2021, their texts were

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**78.** See Constitutional Court n. 51/2015.

**79.** See the article published in *Rivista giuridica del lavoro* 2023, vol. 4.

**80.** As already mentioned, some logistics companies apply the national collective agreement for multi-services signed by the Federazione Italiana Lavoratori Commercio, Alberghi, Mense e Servizi (FILCAMS-CGIL), Federazione Italiana Sindacati Addetti Servizi Commerciali, Affini e del Turismo (FISASCAT-CISL) and Ultrasporti that also regulates some delivery activities.

**81.** Tribunal of Milan, decision 11 December 2023, that took the view that Article 7 had been violated by a cooperative that applied the national collective agreement on multi-services, instead of the national collective agreement on logistics and transport, to workers engaged in loading/unloading, transport and assembly of furniture.

collected in a single document<sup>82</sup>; however, working conditions (including wages) remain different for industry, cooperatives and crafts.

Moreover, cooperatives benefit from special legislation (Law n. 142/2001) that allows them to approve an internal regulation to derogate labour law and national collective agreements in case of crisis. As mentioned by the labour inspector we interviewed (Interview LI01), it is extremely difficult to monitor these internal regulations, as well as the minutes of the meetings of cooperative members, because they do not have to be submitted to any public authority.

Other means of ensuring equal treatment for workers employed in the subcontracting chain are regulated by Legislative Decree no. 36/2023 on public contracts. This law establishes that workers employed by the contractor must receive treatment no less favourable than that established by the national and territorial collective agreement signed by the most representative business associations and trade unions. In particular, the law requires compliance with the collective agreement in force for the sector and for the area in which the work is carried out, whose scope of application is closely connected with the activity covered by the contract carried out by the company (Article 11 of Legislative Decree no. 36/2023). Article 119 § 7 of Legislative Decree no. 36/2023 applies the same rule to subcontractors, if the subcontracted activities coincide with those of the public contract. Moreover, subcontractors shall guarantee to their workers treatment no less favourable than what would have been applied if they had been recruited directly by the contractor (Article 119 § 12; see also Article 11 § 5).<sup>83</sup>

The Legislative Decree on public contracts also requires that contractors and subcontractors obtain a regular DURC (*documento unico di regolarità contributiva*), which is a document proving the regular payment of social contributions (Article 119 § 7). This law also obliges subcontractors to have a so-called *DURC di congruità* (Article 119 § 14), which certifies, for each public contract, the minimum number of workers that must be employed by a company to perform it.<sup>84</sup>

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**82.** The text of the agreement is available here: [https://www.filtcgil.it/images/Contratti/Mobilit%C3%A0/TU\\_CCNL\\_logistica\\_trasporto\\_spedizione\\_18\\_maggio\\_2021.pdf](https://www.filtcgil.it/images/Contratti/Mobilit%C3%A0/TU_CCNL_logistica_trasporto_spedizione_18_maggio_2021.pdf)

**83.** Orlandini G., *Clausole sociali e contrasto al dumping contrattuale: le ambivalenti novità del nuovo codice dei contratti pubblici*, in *Diritti&Lavoro Flash*, 2023, 3, p. 15; Santoro I., *‘A cavallo’ tra i due codici: l’equo trattamento dei lavoratori nella nuova normativa sui contratti pubblici*, WP CSDLE “Massimo D’Antona”.it n. 467/2023.

**84.** According to one respondent, the regulation on the DURC *di congruità* is sometimes circumvented because public administrations demand additional services or underestimate the working hours and the workers needed to perform a service (INT LL01).

### 3.4 Exacerbating workers' vulnerability

As already pointed out (Section 2.1), subcontracting increases **job instability**.<sup>85</sup> Currently in Italy, only Legislative Decree no. 36/2023 on public contracts tries to solve this problem. According to Article 57 of this law, tenders for public contracts must contain specific social clauses requiring measures to ensure the employment stability of the employees affected.<sup>86</sup>

The main national collective agreement on logistics and transport establishes that, in the event of changes of contractor or subcontractor, workers employed for at least six months by the previous (sub)contractor have to be re-employed by the new (sub)contractor, maintain their seniority, their wages and the rights they acquired (Article 42). However, the efficacy of this agreement is very limited. As already mentioned, it has to be applied only by companies affiliated to the business associations that signed it. Therefore, de facto, a number of companies do not respect Article 42 of the main collective agreement on logistics and transport, but cannot be punished because of it.

### 3.5 Regulation of algorithmic management

An important instrument for regulating **algorithmic management systems** is Legislative Decree n. 104/2022. This law requires companies to inform trade unions and workers on the functioning of these systems and on data collected. Some labour lawyers have made use of this legislation to open up the black-box algorithm and better understand how food delivery companies manage their workforces. These lawyers claimed a violation of the trade unions' right to information by algorithmic management systems, as introduced by Legislative Decree no. 104/2024, and succeeded in their action against this anti-union behaviour.<sup>87</sup>

<sup>85.</sup> Strengthening job stability in case of a subcontractor's replacement has been recommended also by the Committee on strikes in public services (Commissione di garanzia sullo sciopero nei servizi pubblici essenziali, *Appalti e conflitto collettivo: tendenze e prospettive*, 2020, p. 15).

<sup>86.</sup> Boscati A., *Appalti pubblici e clausole sociali tra ordinamento interno e diritto dell'Unione europea*, in Bellavista A. and Marinelli M. (eds), *Studi in onore di Alessandro Garilli, Giappichelli*, 2023, vol. I, p. 133; Di Noia F., *Le clausole sociali nel "nuovo" Codice dei contratti pubblici: conferme ed evoluzioni nel modello di tutela*, in *Lavoro e previdenza oggi*, 2023, p. 611.

<sup>87.</sup> Tribunal of Palermo, no. 231/2024.

## 4. The role of trade unions

### 4.1 Worker participation at company level

In Italy, worker participation at company level is regulated mainly by collective agreements.<sup>88</sup> The presence of many national collective agreements jeopardises workers' rights to information and consultation. Furthermore, because a law on trade union representativeness is missing, there is uncertainty on who benefits from these rights.<sup>89</sup> The weakness of workers' participation makes it very difficult for trade unions and workers' representatives to monitor a company's subcontracting chain. Moreover, the law provides worker representatives with rights only in companies with more than 15 employees. Consequently, worker representatives are rarely present in smaller companies.

It should be added that the workers' right to information and consultation established by the main national collective agreement on logistics and transport does not require that companies communicate the names of subcontractors or the services subcontracted.<sup>90</sup>

This situation could be improved by the EU Corporate Sustainability Reporting Directive (CSRD), which requires companies to provide information 'about the undertaking's own operations and about its value chain, including its products and services, its business relationships and its supply chain' (Articles 19a § 3 and 29a § 3 of Directive 2013/34).<sup>91</sup> However, the Legislative Decree that implements this directive does not specify either which worker representatives must be informed and consulted, or when, how and at which level they have to be informed and consulted (see Legislative Decree no. 125/2024).<sup>92</sup> Therefore, it is very probable that in Italy the CSRD will not improve the transparency of companies' value chains and will not increase workers' participation in the due diligence process.

To improve health and safety coverage for all workers in the subcontracting chain, the national collective agreement signed by FILT, FIT and UilTrasporti in 2024 provides for the possibility to nominate a workers' representative for health and safety issues on site.<sup>93</sup> However, it should be noted that the client's obligation to assess risks arising from conflicting client, contractor and subcontractor's activities (so called interferential risks), applies only in cases in which the client

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**88.** The only general law on workers' participation is Law no. 25/2007 implementing Directive 2002/14.

**89.** See the article published in *Diritto delle relazioni industriali*, 2023, no. 4.

**90.** The law obliges the main contractor to submit the names of all subcontractors and the work or service subcontracted, but only for public contracts (Article 119 § 2 of Legislative Decree no. 36/2023).

**91.** In 2025, the Commission suggested limiting the scope of Directive (COM(2025)81). In addition, its entry into force has been postponed for some companies (Directive 2025/794).

**92.** See Borelli S. and Mucciarelli F.M., *La direttiva sulla rendicontazione di sostenibilità: fra trasparenza e partecipazione*, in *Rivista giuridica del lavoro*, 2024, I, p. 492.

**93.** The Protocol for Bologna Interporto signed in 2023 establishes coordination between workers' safety representatives on the site.

has access to all workplaces (Article 26 of the Legislative Decree n. 81/2008). The latter condition is missing for many logistics activities and in any case the obligation to assess interferential risks does not concern delivery as this activity is not performed in a specific workplace.<sup>94</sup>

## 4.2 Collective bargaining

In Italy, collective bargaining has been a prominent means of intervening in some very problematic cases of subcontracting (see Box 4). As already mentioned, several cases of serious labour exploitation have been investigated by Tribunals, which has led to a number of re-internalisation processes. These processes have gone hand in hand with the increasing presence of trade unions. In last-mile logistics, unionisation has been fostered also by the signing of Protocols and company collective agreements that have improved working conditions and promoted job stability.<sup>95</sup>

### Box 4 The re-internalisation process negotiated with Amazon

Amazon commenced operations in Italy in 2010. Its warehouses are strategically positioned close to main highways, in areas with high unemployment and weak economic development.<sup>96</sup> The majority of personnel are temporary agency workers, under constant threat of dismissal.<sup>97</sup> Staff turnover is very high and workers complain that work shifts are long and irregular, work rhythm is intense, it is very difficult to reconcile work and family life, and work performance is constantly supervised through algorithmic management systems.<sup>98</sup> Amazon subcontracts some of its activities, such as last-mile delivery and building security.<sup>99</sup> To monitor subcontractor operations, Amazon provides them with devices to set up an algorithmic management system.

In 2018, labour inspectors verified that, in the period from July to December 2017, Amazon exceeded the monthly contractual limit of 444 temporary agency workers; in fact, it employed a further 1,308 temporary agency workers.<sup>100</sup>

During the pandemic, the main trade unions in the logistics sector signed a company agreement with Amazon to set up a Covid-19 company safety committee and to implement occupational health and safety measures prescribed by the National Protocol signed by the government and social partners.

To force the company to negotiate to improve the working conditions of temporary agency workers and subcontracted workers, on 22 March 2021 a general strike was

94. Allamprese A. and Bonardi O., *Salute e sicurezza del lavoro nella logistica*, in *Rivista giuridica del lavoro*, 2020, 3, p. 454.
95. Filt, Fit, Uiltrasporti, *Piattaforma per il Rinnovo del CCNL Logistica Trasporto Merci e Spedizione*, 2023.
96. <https://storymaps.arcgis.com/stories/5c724cb9425741bbb14b6e99a427>
97. According to research on the Amazon warehouses in the province of Rovigo, in 2021 temporary agency workers made up 52.4 per cent of the workforce; furthermore, two-thirds of the staff had a part-time contract (IRES Veneto, *Amazon nel territorio di Rovigo...un anno dopo*, 2023, pp. 32 and 35). The research reports also that 79% of the temporary agency workers employed by Amazon left for other jobs (p. 42).
98. Mastrandrea A., *L'ultimo miglio*, 2021, p. 40.
99. According to the case study conducted in the Team Hub project, almost all drivers (approximately 14,000–15,000 in 2022) are subcontracted. In Amazon warehouses approximately 16,000 workers are directly employed, while temporary agency workers number around 12,000 and subcontracted workers around 1,500.
100. <https://www.ilsole24ore.com/art/amazon-ora-deve-assumere-1300-interinali-l-ispettorato-lavoro-ha-sforato-quote-AE2Kbv2E>

called involving these workers as well as direct employees.<sup>101</sup> In September 2021 Amazon Italia Logistics s.r.l., Amazon Italia Transport s.r.l., CGIL, CISL and UIL signed, in the presence of the Minister of Labour, two Protocols with a view to defining a shared industrial relations system.

In November 2021, trade unions again threatened to call a strike. This gave impetus to negotiations with Assoespressi, which in February 2022 signed a collective agreement with companies in its association that carry out last-mile deliveries for Amazon Italia. This agreement establishes that, in recruitment, priority must be given to workers dismissed by other companies involved in last-mile deliveries for Amazon Italia Transport s.r.l. and to temporary agency workers with seniority of at least six months. Moreover, in case of a change in subcontractor, all drivers employed by the former subcontractor for at least six months shall be transferred directly to the new subcontractor, maintaining their wages and acquired rights. Finally, the agreement forbids the use of mobile phones and devices equipped with GPS to monitor drivers' performance and to collect data for disciplinary purposes.

In October 2022 Amazon Italia Logistics s.r.l., Amazon Italia Transport s.r.l., CGIL, CISL and UIL signed an agreement to increase the wages of Amazon staff and temporary agency workers. In this agreement, the parties committed to negotiations 'on topics aimed at improving working conditions and providing employment continuity to temporary agency workers'.

In November 2023 Assoespressi, as well as other Amazon's subcontractors in Emilia Romagna signed an agreement with CGIL, CISL and UIL to jointly monitor workloads and discuss 'the work organisation generated by Amazon's algorithm'. In practice, trade unions 'can submit reports to the company and employers' associations, which must provide data and means of resolving the problems encountered'.<sup>102</sup>

Finally, the trade unions obtained, starting from 1 October 2024, implementation of the main national collective agreement on logistics and transport for all Amazon workers (previously, they were covered by the national collective agreement for commerce that establishes lower wages and worse working conditions).<sup>103</sup>

Despite these negotiations, in July 2024 Amazon Italia Transport was prosecuted on the charge of operating as a gangmaster and fiscal fraud.<sup>104</sup> The proceedings concern mainly its constellation of subcontractors for last-mile delivery that, as the prosecutor showed, serve as so-called 'labour reservoirs', as their activities are fully organised and controlled by Amazon through its algorithmic management system.

The main trade unions in logistics intend to further promote collective bargaining both for the value chain and for sites such as freight terminals (*interporti*).<sup>105</sup> Their aim is to guarantee to all workers employed there treatment no less favourable

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**101.** <https://www.collettiva.it/copertine/lavoro/la-prima-volta-di-amazon-e-sciopero-vdc39xp9>

**102.** Team Hub, *Final Report*, May 2024, p. 15.

**103.** See Massimo F., *Una lotta di corpi e anime: la gestione di Amazon e le strategie sindacali in Francia e Italia*, in Alimahomed-Wilson J. and Reese E., *Il costo della spedizione gratuita. Amazon nell'economia globale*, Altraeconomia, 2023, p. 145 ff.

**104.** <https://www.editorialedomani.it/economia/amazon-sequestro-milano-inchiesta-caporalato-digitale-finti-fornitori-d5zp8dcj>

**105.** Filt, Fit, Uiltrasporti, *Piattaforma per il Rinnovo del CCNL Logistica Trasporto Merci e Spedizione*, 2023, pp. 4 and 9. FILT-CGIL plans also to set up several national coordinating zones to organise the workers engaged in logistics (ports, airports, rail and road transport) (Filt-Cgil, *Settore Merci e Logistica*, document presented during the last Congress of the Confederation, 2023).

than that provided for in the main national collective agreement on logistics and transport.

Facing the verticalisation of the supply chain, the trade unions are also demanding the development of collective bargaining at group level (interview TU01). They claim that, in big groups (such as the MSC group; see Section 1.1), many decisions concerning the workforce and industrial planning are taken by the holding. Consequently, it would be of paramount importance to negotiate working conditions and industrial relations for all group's companies.

### 4.3 Trade union actions

In recent years, trade unions, especially grassroots unions, have been very active in the logistics sector. Their intervention has often followed major protests organised against serious forms of labour exploitation. In some cases, workers participating in these protests were accused of crimes, such as blocking goods, road blocking, unauthorised assembly or private violence.<sup>106</sup> The Piacenza Public Prosecutor's Office has even charged some trade unionists with criminal conspiracy because they received money from workers for a fund to support striking workers.<sup>107</sup>

It is also not clear when Law n. 146/1990 on strikes in public services applies.<sup>108</sup> The Law includes among public services the supply of essential goods. The main national collective agreement on logistics and transport provides a sample list of such goods, mentioning milk, medicines, water, live animals and energy. To ensure the adequate supply of these goods, any strike in their logistics chain must respect the requirements of Law n. 146/1990.

## 5. Access to justice and enforcement legislation

### 5.1 Monitoring and inspections

As already pointed out, workers' rights violations are very frequent in the logistics sector. To combat the abovementioned '**labour reservoir companies**', in 2021 a taskforce of logistics and transport inspectors was set up (Ministerial Decree n. 160/2021).<sup>109</sup> Because the Meloni government failed to renew the mandate of this taskforce, it was wound up in 2023.

<sup>106</sup>. See Campanella P., *Logistica in lotta: primi sguardi*, in *Rivista giuridica del lavoro*, 2020, 3, p. 486 ff. Carta C., *Azione collettiva e circolazione stradale: contributo allo studio dei diritti sociali fondamentali in Europa*, in *Rivista giuridica del lavoro*, 2020, 3, p. 519 ff.

<sup>107</sup>. <https://www.ilpost.it/2022/07/28/inchiesta-sindacati-piacenza-logistica/>

<sup>108</sup>. See Campanella P., *Logistica in lotta: primi sguardi*, in *Rivista giuridica del lavoro*, 2020, 3, p. 483 ff.

<sup>109</sup>. Ispettorato nazionale del lavoro (INL), *Rapporto annuale delle attività di tutela e vigilanza in materia di lavoro e legislazione sociale*, 2022, p. 61.

In order to better plan investigations and to promote statistical analysis, the Committee on undeclared and underdeclared work suggested development of a single national database, collecting data from several public authorities.<sup>110</sup> Such a database could also strengthen law enforcement, because inspectors would have information at their disposal before carrying out on-site checks.<sup>111</sup> A good example of data sharing is given by the Metropolitan Charter for Ethical Logistics promoted by the Municipality of Bologna and the Emilia Romagna Region in 2022. This Charter creates a Committee for Ethical Logistics in which the Labour Inspectorate, the Health Authority and the Industrial Accidents Institute can exchange information. Within this Committee, companies undertake to share useful information for mapping their value chain.<sup>112</sup>

Recently, the legislator also introduced the possibility of carrying out documentary controls based on the consultation of databases (Article 30 § 10 of Law Decree no. 19/2024).<sup>113</sup> The same law also increases the number of labour inspectors (Article 31), trying to fulfil the target of a 20% increase in investigations planned for 2024.<sup>114</sup>

## 5.2 Access to justice

According to one of our respondents (interview LLO1), access to justice is a major problem for logistics workers. In fact, in order not to lose their jobs,<sup>115</sup> the few workers that can afford a lawyer and wait for the (sometimes long delayed) conclusion of the process, claim their rights only when their employment contract is terminated. This problem could be solved if trade unions could take legal action to defend workers' rights, as laid down in EU antidiscrimination law and in other recent EU directives (such as Directive no. 2024/2831 on Platform Work).

Currently, trade unions in Italy can take action against anti-union behaviour (Article 28 of the Italian Workers' Statute) and in case of discrimination (but not in cases of gender discrimination). In June 2023, the Administrative Tribunal of Lazio (TAR) voided the Decree that excluded trade unions from the list of entities that can file a class action. This exclusion prevented trade unions from taking action to obtain compensation for an employer's violations (840 *bis* of the Italian Code of civil procedure), and to obtain an injunction to prevent the occurrence of further harm to workers and measures aimed at eliminating the effects of such violations (840 *sexiesdecies* of the Italian Code of Civil Procedure). In his decision, the judge pointed out that

**110.** *Piano nazionale per la lotta al sommerso 2023-2025*, 18 ff. This database was initially mentioned by Article 19 of Law Decree no. 36/2022.

**111.** Data exchange between public authorities is requested also by Confindustria to promote fair competition (*Confindustria, Industria, Trasporti, Logistica e Infrastrutture: Insieme per la competitività del paese*, 2024, p. 51).

**112.** A similar obligation is imposed by the Protocol on Bologna Interporto signed in 2023.

**113.** Strengthening these controls was a recommendation of the Rapporto del Gruppo di lavoro sugli interventi e le misure di contrasto alla povertà lavorativa in Italia, 2022, p. 28.

**114.** *Piano nazionale per la lotta al sommerso 2023-2025*, p. 22.

**115.** In Italy, in case of unfair dismissal, a company is only obliged to pay compensation (reinstatement is compulsory only in case of null or discriminatory dismissal).

the defence of homogeneous individual rights of a given category of subjects (such as employees) are within the scope of the typical purposes of trade unions: it is therefore irrational to exclude them from the list of those entitled to take collective action. On the other hand, historically, trade unions were created to exercise collective initiatives in defence of the ‘class’ of workers.<sup>116</sup>

### 5.3 Remedies and sanctions

As already made clear, the introduction of the crime of operating as a gangmaster (see Box 5) has been of paramount importance in identifying and punishing the widespread and systematic violation of workers’ rights by certain companies.

#### Box 5 Illicit intermediation and labour exploitation

Article 603 bis of the Italian Penal Code provides that:

Unless the act constitutes a more serious crime, the crime of operating as a gangmaster is punishable with imprisonment of between one and six years and a fine of 500 to 1,000 euros for each worker recruited, applying to anyone who: (i) recruits workers with the aim of assigning them to work for third parties under exploitative conditions, taking advantage of the workers’ state of need; (ii) uses, hires or employs workers, including through the intermediaries referred to in point (i), exploiting them and taking advantage of their state of need. [...]

For the purposes of this article, the existence of one or more of the following conditions constitutes exploitation: (i) payment of wages constantly and excessively lower than the minimum established by national or territorial collective agreements signed by the most representative trade unions at national level, or anyway disproportionately low, relative to the quantity and quality of the work performed; (ii) recurrent violation of regulations related to working time, rest periods, weekly rest, compulsory leave and holiday regulations; (iii) violation of health and safety regulations; (iv) indecent working conditions, surveillance methods or housing conditions. [...]

A criminal trial is not aimed at protecting workers’ rights but at defending public interests. Therefore, it is not surprising that workers do not participate in these proceedings. In some cases, trade unions have joined in the criminal prosecution, claiming damages.

Some logistics companies involved in these proceedings have decided to re-internalise the workers provided by subcontractors (see Section 2.1). However, in other cases (for example, Consorzio Premium Net<sup>117</sup>), the companies subject to preventive measures (measures to prevent them committing further crimes) went bankrupt, without compensating the damages caused to workers and trade unions. Besides, the measures applied by the criminal judges are aimed mainly at restoring the correct functioning of the company. In particular, companies are required to adopt an organisational model capable of preventing crime (according to Legislative Decree no. 231/2001). It should be underlined that preventing crime

<sup>116</sup>. Administrative Tribunal of Lazio, decision taken on 23 June 2023, <https://binaries.cgil.it/pdf/2023/06/23/141454859-52f0c579-ab45-4d24-b856-5380a2499aad.pdf>

<sup>117</sup>. <https://www.supplychainitaly.it/2021/12/31/fallito-il-consorzio-premium-net-coinvolto-nei-casi-di-sfruttamento-alla-citta-del-libro/>

does not mean that labour law and social security legislation are fully respected; it means only that the organisational model should be able to prevent serious forms of labour exploitation and other crimes punished by health and safety legislation (see Box 6).

#### Box 6 Gangmaster crime involving Uber Eats riders

In June 2020, the Tribunal of Milan nominated a commissioner to restructure the business model of Uber Eats, suspected of having exploited several riders hired through two cooperatives (Decree n. 9/2020). These cooperatives recruited migrants waiting for a regular work permit. Their vulnerability forced them to accept any working conditions to fulfil their 'dream' of remaining in Europe.<sup>118</sup> Riders were paid €3 per delivery and were sanctioned if they refused a delivery or cancelled a delivery previously accepted. Uber Eats provided the two cooperatives with its app through which it could control working time, work pace and other areas of worker behaviour. The proceedings also demonstrated that Uber Eats was perfectly aware of, and sometimes stepped up exploitative practices against riders.

In March 2021, the Tribunal of Milan ended the mandate of the commissioner (decree of 3 March 2021). According to the Tribunal, Uber Eats had adopted an organisational model able to prevent illicit work supply and to oblige the company to engage its workforce directly. However, this organisational model did not force Uber Eats to hire riders as employees. Uber Eats was obliged not to exploit its riders; not to recruit migrants without a regular work permit; not to discriminate against or harass its riders; to respect their privacy; and to act in accordance with health and safety law. Furthermore, the Tribunal positively evaluated the national collective agreement signed by Assodelivery (to which Uber Eats is affiliated) and Unione generale lavoro (UGL), which qualifies riders as self-employed and allows piecework wages.<sup>119</sup>

In order to be taken on as Uber Eats' employees, some riders sued the company before the Tribunal of Turin, which finally recognised their rights.<sup>120</sup>

For the abovementioned reasons, the crime of operating as a gangmaster – the intermediary recruitment of 'workers on behalf of third parties under exploitative conditions, taking advantage of the workers' state of need' – does not fully solve the workers' rights violations widespread in logistics, but merely forces companies to remain below the threshold of what constitutes criminality. Without a doubt, the introduction of Article 603 bis of the Criminal Code has been important to investigating and punishing widespread illegal practices in the sector. However, insisting on using the gangmaster model to solve workers' rights violations could promote so-called penal populism, namely a tendency to criminalise problems without dealing with their real causes.<sup>121</sup> The same tendency affects the legislation against mafia infiltration. In this case, too, the legislation severely punishes companies that have been infiltrated, without considering the causes of underlying the widespread presence of organised crime in the sector.

**118.** Merlo A., *Sfruttamento dei riders: amministrazione giudiziaria ad Uber per contrastare il 'caporalato digitale'*, 2020, <https://www.sistemapenale.it/it/scheda/uber-sfruttamento-rider-amministrazione-giudiziaria-caporalato-digitale>

**119.** This agreement was strongly criticised by the Ministry of Labour because it prevented the new legislation to protect riders from applying (see note of the Ministry of Labour n. 9430/2020).

**120.** Tribunal of Turin, decision taken on 18 November 2021 and confirmed by the Court of Appeal of Turin on 18 November 2022.

**121.** [https://www.questionegiustizia.it/rivista/articolo/il-populismo-penale-nell-eta-dei-populismi-politici\\_627.php](https://www.questionegiustizia.it/rivista/articolo/il-populismo-penale-nell-eta-dei-populismi-politici_627.php)

## 6. Conclusions

Subcontracting is widespread in last-mile logistics in Italy. Its presence has not been diminished by the two main trends that characterise the sector: the rise of e-commerce and the verticalisation of the supply chain. Both e-commerce corporations and large logistics groups have further increased their leverage over subcontractors, further exploiting the benefits, in terms of less accountability and reduced labour costs, that result from subcontracting.

The combined use of ‘labour reservoir companies’, bogus cooperatives and illicit labour supply in several logistics chains has often resulted in implementation of the gangmaster (*caporalato*) model. Among the top ten logistics companies in 2023, four (DHL, BRT, FedEx Express Italy and Amazon Italia Transport) have been prosecuted for this crime. As stated by the prosecutor who ran most of these investigations, the gangmaster model has become a standard business model of the main logistics companies and is so widespread that it is no longer perceived as a crime: in fact, we face a ‘normalisation of deviance’.<sup>122</sup>

Trade unions have reacted to these investigations by promoting re-internalisation. Moreover, the main trade unions in the sector signed a national collective agreement for the entire logistics chain (including warehouses, last-mile logistics and road transport). They have also collected the national collective agreements for industry, cooperatives and crafts in a single text.

Despite these important trade union actions, contractual dumping is still very much present in logistics in Italy. The lack of representativeness criteria also makes worker representatives at company level very weak and consequently it is difficult for them to monitor a company’s subcontracting chain. Labour inspections also struggle to counteract the negative effects of subcontracting because of the complexity of subcontracting chains and the small number of inspectors.

### Annex Interviews (in chronological order)

No.	Institutional affiliation	Position	Date	Code
1	Federazione italiana lavoratori dei trasporti, Confederazione generale italiana del lavoro (FILT-CGIL)	Trade unionist	3.10.2024	TU01
2	Italian National Inspectorate	Labour inspector	8.2.2024	LI01
3	National Bar Council	Labour lawyer	7.2.2024	LL01

<sup>122</sup>. Tribunal of Milan, Decree n. 6/2023; Tribunal of Milan, Decree n. 5/2023.

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