

The governance of irregular migrant work: policy clusters and regional convergences

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Country report on Italy by **Eleonora Celoria and Irene Ponzo (FIERI)**

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Country report on Spain by Francesco Pasetti and Anna Farrés (CIDOB)

Country report on Poland by **Paweł Kaczmarczyk, Agnieszka Fihel, Katarzyna Rakowska, Andrei Yelisseyeu (Centre of Migration Research, University of Warsaw)**

Country report on The Netherlands by **Masja van Meeteren, Sterre Naaktgeboren, Nouredine Azzaoui, Tesseltje de Lange (Radboud University)**

Country report on Ukrainian by **Iryna Sushko, Yevheniia Hryhorieva, Pavlo Kravchuk, Olha Kovalenko (Europe Without Barriers)**

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Reviewers

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Executive summary

The DignityFIRM project is driven by the ambition to deepen the understanding of and improve policies related to irregular migrant work (IMW) in the Farm to Fork (F2F) sector, considering both its economic pivotal role and the EU's commitment to protecting the dignity of all individuals, regardless of their legal and employment status. Within this framework, the aim of this report is to investigate the governance arrangements underpinning the national policies addressing IMW in the F2F sector in five EU Member States (namely Germany, Italy, Poland, Spain and the Netherlands) and two Associated Countries (namely Morocco and Ukraine) in the period 2019-2024. This is both challenging and innovative, as neither IMW nor the F2F are institutionalised policy fields as such; rather IM work in the F2F is situated at the crossroads of different policy fields.

IMW in the F2F sector constitutes a broad and heterogeneous policy target, as: a) it includes individuals with different legal statuses (whether still valid or expired), such as EU mobile citizens and visa-exempt migrants, asylum seekers and beneficiaries of international protection, as well as migrants subject to visa requirement; b) whereas in some countries IMW largely refers to foreigners without a regular legal status, in others it mainly stems from the irregular employment situation of foreigners who reside legally.

Moreover, IM workers are generally implicit targets of policies in the F2F sector, both because measures explicitly addressing them could violate the principle of non-discrimination and as a result of the scant attention paid to this category of workers and the limited concern for their dignity.

The empirical findings reveal a lack of comprehensive strategies addressing IMW in the F2F sector. Nevertheless, we have identified specific policy measures and related recurrent patterns. First, we have distinguished four policy clusters: 1) measures addressing (fair) competition; 2) measures countering bogus self-employment/subcontracting; 3) Measures regularising IMW; 4) Measures countering workers' exploitation. Notably, the majority of these measures are intended to regulate the labour market rather than to improve migrant workers' conditions, which appear as a sort of secondary objective, if not merely a side effect. Moreover, we have observed a sort of regional convergence in terms of policy measures, which can be grouped by geographical areas transcending EU borders: Mediterranean countries (Italy, Spain and Morocco) are the only ones who enacted regularisations of IMW in the analysed period while measures addressing (fair) competition appear marginal there; Eastern European countries (Poland and Ukraine) are mainly focused on the (de)regulation of the labour market by promoting the liberalisation of foreigners' access to the labour market; Northern and Central European countries (Germany and The Netherlands) show a tendency towards sanctioning employers.

When looking at the policy cycle - i.e. the idea that policymaking can be articulated in stages (agenda-setting, formulation, implementation, evaluation, etc) and each stage affects the subsequent one - policies show little receptiveness to both inputs conveying IM workers' demands and to feedback from policy implementation. The only relevant exception is represented by Court rulings, which often trigger adjustments in policies concerning IM workers. Against this backdrop, crises, such as the COVID-19 pandemic and Russia' 2022 full-scale invasion of Ukraine, were major engines of policymaking, either by being used as "windows of opportunity" or by raising awareness of the essential role of IM workers in the F2F sector. At the same time, although these crises emphasised the importance of food security, they failed to highlight its connection with ensuring dignified conditions for migrant workers. Instead, EU legislation played a marginal role in prompting national policymaking on IMW, mainly because national legislation was already in line with its content. However, some EU Directives affected national policymaking on IMW indirectly, although generally producing unintended negative consequences. Paradoxically, during the observed period, the EU's influence appears more significant in the Associated Countries due to the conditionality mechanism.

In terms of governance, we did not observe a prevailing model, but rather recurrent patterns. For instance, centralised governance occurred only in measures addressing (fair) competition and those regularising IMW, probably because these are two policy areas in which the state holds key competences and where dialogue with social partners may be limited. In contrast, participatory governance appears the main mode in measures contrasting bogus self-employment and workers' exploitation. We can assume that, given the loose and partially contentious definition of these issues, the state feels a greater need to involve stakeholders in the formulation of shared parameters and to build consensus around them. Overall, we can affirm that policies on contentious issues appear more likely to be regulated through participatory governance mechanisms.

Among stakeholders, employers appear as particularly powerful actors, able to shape policies and sometimes to initiate them, especially in Eastern European countries. Against this backdrop, food delivery shows peculiar dynamics as employers in this sector take the form of multinational companies operating on a global scale, capable of circumventing national legislation aimed at contrasting bogus self-employment by signing their own collective agreements, as in Italy, and by adjusting employment contracts to avoid state regulation, as in Spain.

Instead, IM workers are marginally involved in the investigated governance arrangements and struggle to have their voices heard in policymaking across all the target countries, as they are underrepresented in trade unions, political parties and key CSOs.

Trade unions play a particularly relevant role in Southern European countries whereas they appear quite marginal in Eastern Europe. On average, CSOs fighting to improve IM workers' rights appear weaker than trade unions, as the modes of their involvement in governance arrangements

on IMW in the F2F sector are poorly institutionalised (with the exception of the Netherlands) and their influence largely depends on national governments' political will.

International organisations - especially UN agencies such as IOM, ILO, and UNHCR - play a quite crucial role in the governance of IMW in Associated Countries, but also in Italy. In these three countries they seem to make up for the state's and civil society's low political-institutional capacity, intended as the ability to implement policy goals.

When analysing the policy frames of the actors involved in governance arrangements on IMW in the F2F sectors, it is evident that the "humanitarian frame" is the most prevalent. This is followed by the "deserving workers" and "socio-economic" frames. Hence, IM workers are mainly perceived as vulnerable individuals; at the same time, their labour market inclusion is seen as beneficial to the economic system and society at large. The analysis of the target countries reveals that policy frames and policy clusters are somewhat related. In fact, the "humanitarian frame" appears more widespread in the Mediterranean countries (Spain, Italy, and Morocco), in line with their prevailing focus on promoting migrants' rights through regularisations and fight against exploitation and bogus self-employment. Eastern European countries (Poland and Ukraine) stand out as the only investigated countries where the "security frame" acquires some relevance, consistently with the focus of their policies on resident and work permits. Finally, the "market-need frame" has emerged exclusively in Germany and the Netherlands, coherently with the tendency to view society at large as the main intended beneficiary of the measures under investigation.

Finally, we observed systematic limitations in the implementation of the analysed policies, significantly undermining their expected positive impact. Specifically, the main factors hindering implementation, common to almost all target countries, are: 1) limited coordination among the various agencies and entities tasked with implementation; 2) shortages of human resources within national enforcement agencies, resulting in a limited number of inspections; 3) variations in efficiency levels and approaches among local offices of enforcement and implementation bodies, generating heterogeneous practices.

When considering the challenges ahead, three stand out. First, the little policy concern for workers' dignity represents a major shortcoming for countries that claim to uphold fundamental rights. Secondly, national states appear largely unequipped to deal with the spreading platformisation of the F2F sector, i.e. the integration of digital platforms into business activities, since they lack the necessary skills to formulate effective legislation and implement adequate controls. Third, failing to address the link between workers' conditions, labour shortages, and food security could soon become a major hazard, if it is not already.

Keywords: irregular migrant work; governance; policymaking



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1. Theoretical and methodological design between challenges and innovation

1.1 Aims and concepts: going beyond institutionalised policy fields and the text of law

The DignityFIRM project is driven by the ambition to deepen the understanding of and improve policies related to irregular migrant work (IMW) in the Farm to Fork (F2F) sector, considering both its economic pivotal role and the EU's commitment to protecting the dignity of all individuals, regardless of their legal and employment status.

Within the DignityFIRM project, the term “*irregular migrant work*” broadly refers to migrant workers facing a totally or partially irregular condition of stay and/or employment¹. Specifically, we can identify *three different categories of IMW*².

1. Employment of irregularly staying migrants, who do not generally have the possibility of taking up registered work.
2. Informal employment of migrants, both regular and irregular, including where only part of employment is declared (i.e. under-registered work) or labour conditions are irregular (eg. wages below the legal minimum standards, unregulated and unjustified wage deduction, endure workdays, substandard accommodations, etc).
3. Bogus self-employment, intended as “disguised employment relationships and dependent self-employment”³.

The **main aim** of the research presented here is to understand **the governance arrangements underpinning the national policies addressing IMW in the F2F sector**. We intended **governance** as the process through which a plurality of actors - generally actors with a stake in that particular issue - interact in order to formulate, promote and achieve common objectives⁴.

Actually, **neither IMW nor the F2F are institutionalised policy fields as such**; rather IM work in the F2F is situated at the crossroads of different policy fields (mobility and migration, labour, economic development, social policies, etc). This has brought about **substantial methodological and empirical challenges** as IM work in the F2F is regulated by a large and rather inconsistent array of policies with diverse issue definitions, goals, targets and instruments. On the other hand, given that governance studies have traditionally focused on clearly defined policy fields, the decision to study how a significant social phenomenon is regulated beyond established policy boundaries can be seen as **a theoretical and empirical innovation**.

In analysing governance arrangements, we have followed the projects' theoretical framework by adopting the concept of **policy cycle**⁵, i.e., a more or less complex sequence of stages (e.g., agenda-setting, policy

¹ For details, see Schweitzer, R. (2024), *Migrant Workers' Irregularity, Precarity, Dignity, and relevant Actors: A critical review of selected literature around key concepts and questions of the DignityFIRM*, DignityFIRM Working paper, https://www.dignityfirm.eu/portfolio_page/migrant-workersirregularity-precaritydignity-and-relevant-actors/

² Fihel, A. and P. Kaczmarczyk (2025), *Scale and structure of informal (migrant) employment in Europe*, DignityFIRM Working paper, forthcoming.

³ International Labour Organisation(2018). *Informality and non-standard forms of employment*, Prepared for the G20 Employment Working Group meeting. ILO, Buenos Aires, pp. 6-7.

⁴ Torfing, J., Guy peters, B. Pierre, J. and E. Sørensen (2012), *Interactive governance. Advancing the Paradigm*, Oxford, Oxford University Press.

⁵ Brewer, G. D. (1974). The policy sciences emerge: To nurture and structure a discipline. *Policy Sciences*, 5(3), 239-244; Brewer, G. D., and deLeon, P. (1983), *The foundations of policy analysis*. Monterey, CA, Brooks/Cole; Lasswell, H. D. (1948). *Power and personality*. New Brunswick, NJ: Transaction Press; Lasswell, H. D. (1956). *The decision process*. College Park:

formulation, policy decision-making, policy implementation, policy evaluation, etc.) that ultimately lead to the creation of a public policy, with each stage of the cycle affects the subsequent one⁶. Particularly, we focused on three main stages:

1. **agenda-setting**, when certain issues are recognised as “public problems” and are regarded as requiring action⁷;
2. **policy formulation**, consisting of the setting of policy goals, objectives and instruments;
3. **policy implementation**, i.e., the process of putting a public policy into effect.

Given our focus on governance, we paid particular attention to the **different actors participating at each stage of the policy cycle**.

In the analysis of governance, we can distinguish⁸:

- a. a vertical dimension of governance, which refers to the involvement of different levels of government (e.g. supra- national, national, regional and local);
- b. an horizontal dimension of governance, which refers to the relations between public and non-public actors.

In this perspective, the two broad and fundamental categories of **actors** in governance arrangements are **state and society**. Yet, they are **far from being unified actors**. First, the state is never a single entity; instead, it is articulated in different (and often conflicting) ministries, political/representative bodies and bureaucracies, and different levels of government. Just as the state is an internally differentiated actor, so is society. Among societal actors, **private companies and their associations**, on the one hand, and **migrant workers and their organisations**, on the other hand, are particularly relevant in our analytical framework, because of our focus on IMW.

In identifying the actors involved in governance arrangements over IM work in the F2F, we have also paid attention to **non-participation**. Non-participation can be either **imposed or voluntary**, as it can derive not only from the lack of power and marginalisation in decision-making process, but also from the “**exit power**”, which is the influence deriving from the threat of non-participation when your involvement is vital for the effectiveness of the policies at stake⁹.

Against this backdrop, we can distinguish two modes of governance:

- a. **centralised governance**, where the state plays a rather authoritative role and often adopts unilateral top-down imposition, with little involvement or merely formal involvement of stakeholders which do not have an actual influence on national policymaking;
- b. **participatory governance**, where stakeholders play an active role in policymaking, and the state, without employing command, facilitates and manages interactions among them.

Finally, given that we consider policies as purposive actions (or purposive non-action), we focused only on those measures addressing IM workers, rather than on all those measures that somehow de facto have an impact on their conditions. Particularly, in our analysis, we have considered the following types of policies (see par. 3 for details):

- a. Policies **explicitly targeting IM workers**;

University of Maryland Press; De Leon, P. (1999). The Stages Approach to the Policy Process: What has it Done? Where is it Going?. In P. A. Sabatier (Ed.), *Theories of the policy process*. Boulder, CO: Westview Press, 19-34.

⁶ Laegreid, P., and K. Verhoest (2010). *Governance of Public Sector Organisations: Proliferation, Autonomy and Performance*. London: Palgrave Macmillan.

⁷ Howlett, M. and M. Ramesh (2003). *Studying Public Policy: Policy Cycles and Policy Subsystems*, Toronto, Oxford University Press.

⁸ Caponio, T. and M. Jones-Correa (2018). Theorising migration policy in multilevel states: the multilevel governance perspective, *Journal of Ethnic and Migration Studies*, 44(12), 1995-2010.

⁹ *Ibidem*.

- b. Policies **implicitly targeting IM workers**, i.e., even though the latter are not explicitly mentioned, their specific situation is taken into consideration by decision-makers;
- c. **Non-policy**, i.e., IM workers constitute an issue regarded as a matter of public concern by (part of) the stakeholders and an issue in the public debate, yet policies fail to address it.

Considering non-policy and policies where IM workers are implicit targets has allowed us **to go beyond the text of the laws** and understand how the countries under investigation address the issue of IMW – or the reasons why they do not address it – even when the issue as such is explicitly not mentioned.

1.2 Methodological strategies: how we studied the governance of IMW in the F2F sector in the absence of comprehensive national policies

The analysis concerns **five EU Member States** (namely Germany, Italy, Poland, Spain and The Netherlands) and **two Associated Countries** (namely Morocco and Ukraine). It is worth noting that, since **Germany** was not initially included among the target countries and the fieldwork there was funded by the project partner (i.e., Bielefeld University) with its own resources. Because of this, the fieldwork focused on just one specific sector, namely the meat industry without screening the others.

In each country, we first mapped all the relevant policies addressing IMW in the F2F sector. Consistently with the findings presented in DIGNITY Firm Working Paper 3.1¹⁰, which illustrates the regulatory infrastructure at the EU level and highlights the absence of measures addressing the specific needs and vulnerabilities of migrant workers in the F2F sector at that level, **the mapping of national policies revealed a lack of comprehensive policy strategies capable of adopting a food-chain perspective in the governance of (irregular) MW.**

Therefore, in each country we selected **the most relevant policies** implicitly or explicitly addressing IMW in sectors belonging to the F2F, resulting in a total of **15 policies**. They include both:

- policies specifically addressing the F2F (agriculture, meat processing, food delivery, etc);
- general policies regulating migration or labour markets that have been adopted taking into account the specific situations of the F2F sectors.

As better explained in the following sections, this analysis:

- points out **the main measures** adopted by national governments when addressing IMW in the F2F sector;
- provides **compelling examples**, revealing key characteristics, challenges, and the potential of IMW governance in the F2F sector.

The empirical analysis focused on the period **2019–2024**. The choice of the time span was driven by the willingness of considering two key events that have impacted both human mobility and food production chains – and presumably their governance: the **Covid-19 pandemic** and **Russia' full scale invasion of 2022**.

In order to analyse the policy-making and governance processes, we analysed the **relevant policy documents** and conducted 132 **semi-structure interviews with stakeholders** (MPs, member of the government, members of political parties, public officials, experts, representatives of trade unions, employer organisations, temporary agencies, CSOs and international organisations), either in person or

¹⁰ Neidhardt, A.-H., Milazzo, E., Kapeti, L., van Meeteren, M., & de Lange, T. (2024). *Dignity for (irregular) migrants employed in Farm to Fork sectors: A regulatory infrastructure approach to EU legal and policy frameworks*, DignityFIRM. <https://doi.org/10.5281/zenodo.12751532>

online. Interviewing national stakeholders, specifically those belonging to ministries and food delivery platforms, proved to be challenging. In some countries, these obstacles were particularly acute:

- in Poland, because of the election and change of government occurred in 2023 and the so-called “visa scandal”¹¹;
- In Ukraine, as a consequence of Russia’s 2022 full-scale invasion which partially disrupted the fieldwork and necessitated a shift in focus away from agriculture, as the southern and southeastern agricultural regions of the country have been either occupied, partially mined, or are under constant missile attacks, hampering both agricultural work and the research fieldwork in the area.

When reaching the target of 20 interviews per country, as initially envisaged, proved to be unfeasible, the empirical material was integrated with **alternative sources** allowing the identification of stakeholder’s stances and relations, such as media reports and parliamentary debates (including debates in parliamentary commissions and parliamentary groups).

The analysis will begin with an overview of the policies under review and the composition of IMW in the target countries. In par. 3, policies will be illustrated in detail. Next, key policy components, such as targets and triggers of policymaking, will be highlighted. Finally, the governance arrangements underlying these policies will be examined by identifying the main governance modes, stakeholders, and their frames.

2. An overview of policies on irregular migrant work

2.1 Policy clusters and regional approaches

As we explained in the previous paragraph, the mapping of national policies revealed a **lack of comprehensive policy strategies addressing IMW in the F2F sector**, so we focused on specific measures. Here, we draw some general considerations in this regard, before delving into the details of the measures under investigation.

First of all, in the countries under study **the measures tackling IMW in the F2F sector** can be **grouped into four broad clusters** (see Table 1), as follows:

1. Measures addressing (fair) competition, where the main aim is either enhancing fair competition within the country by levelling the playing field and sanctioning non-compliant employers (e.g. the Netherlands), or enhancing the country’s competitiveness by liberalising the employment of foreign workers preventing them from falling into irregularity (e.g. Poland and Ukraine).

2. Measures countering bogus self-employment/subcontracting, including bogus subcontracting, namely employment relations where workers are formally contracted as external to the company they work for, although they remain subject to rules imposed by the employer

3. Measures regularising IMW, where the link between legal status and employment status can take different forms, as the possibility of signing a contract may be a prerequisite for or the consequence of obtaining a residence permit.

4. Measures countering workers’ exploitation, where the main objective is protecting workers and ensuring dignified working conditions.

¹¹ In Autumn 2024, an investigation found that Polish consulates in Asia and Africa issue Polish visas in exchange for cash.

Therefore, despite the heterogeneity of contexts and individual policies analysed in this research, certain patterns and lines of action appear to emerge from the fieldwork.

Second, *the majority of these measures are intended to regulate the labour market rather than to improve migrant workers' conditions*, which appear as a sort of secondary objective, if not merely a side effect. This is the case for almost all the measures belonging to the first three clusters, with a few exceptions (e.g., regularisations in Morocco). That said, *the two objectives often coexist*. For instance, measures against bogus self-employment, despite being aimed at regulating emerging forms of employment, have often been prompted by protests seeking to protect (IM) workers' conditions. Similarly, although regularisations of IMW tend to address labour shortages or curb the shadow economy and undeclared or underdeclared work, they are supported by those actors seeking to improve workers' legal and employment status. On the other hand, legislation countering workers' exploitation, beside protecting workers, can also serve the objective of ensuring a level playing field.

A third consideration concerns *regional convergence in terms of policy measures*, which can be grouped by geographical areas transcending EU borders:

- In Mediterranean countries (Italy, Spain and Morocco) measures addressing (fair) competition appear marginal, if not absent; at the same time, these countries are the only ones where regularisations were enacted;
- Eastern European countries (Poland and Ukraine) mainly focused on the (de)regulation of the labour market by promoting the liberalisation of foreigners' access to the labour market;
- Northern and Central European countries (Germany and The Netherlands) show a tendency towards sanctioning employers - to regulate the market and protect workers; moreover, in both countries, this trend appears to be a reaction to an earlier trend of labour market liberalisation, which has never affected the Mediterranean countries to the same extent.

Table 1 – Selected measures by type of strategy and country

	MEASURES ADDRESSING (FAIR) COMPETITION	MEASURES CONTRASTING BOGUS SELF-EMPLOYMENT/ SUBCONTRACTING	MEASURES REGULARISING IMW	MEASURES CONTRASTING WORKERS' EXPLOITATION
FileCENTRAL/NORTHERN EUROPEAN COUNTRIES				
GERMANY		Ban of subcontracting of workers in the meat industry's core areas (2020 Occupation Health and Safety Control Act)		
THE NETHERLANDS	Bill on employer sanctions for employing foreign workers irregularly (Parliamentary Documents 2024-2025 36446 nr. 15)	<i>Non-policy on food delivery</i>		Bill criminalising 'serious harm' sanctions for exploitative working conditions (Parliamentary Documents number 2023/24, 36 547, nr. 3)

FileMEDITERRANEAN COUNTRIES				
SPAIN	<i>Non-policy on IMW in social conditionality in agriculture (Law 30/2022)</i>	Riders Law (Law 12/2021)	Reform of Arraigo (Decree 629/2022)	
ITALY		Riders Law (Law 128/2019)	Covid19 regularisation (Law 70/2020)	Law against gangmastering in agriculture (Law 199/2016)
MOROCCO			Collective regularisations	<i>Non-policy on IMW in the Green Generation strategy (2020)</i>
FileEASTERN EUROPEAN COUNTRIES				
POLAND	Introduction of the Harvest Help Contract in agriculture (amendments to the Act on Farmers' Social Insurance, 13 April 2018)	<i>Non-policy on food delivery</i>		
UKRAINE	Law "On Amendments to Certain Laws of Ukraine Regarding Employment of Foreigners and Stateless Persons in Ukraine and Provision of Mediation Services in Employment Abroad" (Law No. 2623-IX, 2022).			

2.1 The heterogeneity of irregular migrant workers across countries

Before outlining the policies investigated in each country, it is worth noting that ***IM workers in the F2F sector constitute a broad and heterogeneous population***. First, it includes individuals with different legal statuses (whether still valid or expired), such as EU mobile citizens and visa-exempt migrants, asylum seekers and beneficiaries of international protection, as well as migrants subject to visa requirements. This means that, when we address IMW, we speak of rather different categories of people. Second, the main cause of IMW is not the same everywhere and can relate to residence status, employment status, or both (see definition of IMW in par. 1.1): whereas in some countries IMW largely refers to foreigners without a regular legal status, in others it mainly stems from the irregular employment situation of foreigners who reside legally. Below, we provide a brief overview of IMW in the policy fields investigated in each country.

Germany. From around 2008 and until 2014, the German meat industry, to which the Ban of subcontracting has been applied, had used EU mobile workers via posting: the workers were employed by temporary employment agencies in East and South-East EU member states and put to work in German meat plants, at conditions and pay below German minimum standards. However, general statutory minimum wage in 2015,

and the 2017 expansion of contractors' liability for accurate payment of wages and social insurance contributions specifically in the meat industry made posting unattractive. Hence, the German meat industry required temporary employment agencies to relocate to Germany. Nowadays, German meat industry heavily relies on EU mobile citizens from East and South-East European countries, mainly Romania and Bulgaria (plus fewer from other East/ South-East European countries such as Poland, Serbia, Ukraine) employed by German-based temporary agencies. Hence, IMW mainly arises from irregular working conditions rather than from irregularity of stay.

The Netherlands. Since the early 2000s, with increasing restrictions on TCN low-waged labour migrants and the enlargement of the EU, free movement within the EU has become the dominant migration route into the low-waged F2F sector. Moreover, similarly to Germany, the country has a highly regulated labour market where temporary contracts are mainly managed by temporary agencies. The latter often employ the so-called "constructions" whereby people are put to work through a chain of employment agencies, making it challenging to determine who the employer is and facilitating the illegal employment of migrant workers, EU and non-EU nationals alike, such as bogus posted workers and bogus-self-employed. Although EU mobile workers and third country nationals who work through "constructions" are legal residents, their stay can become irregular when they lose their employment. However, like in Germany, IMW in agriculture mainly arises from irregular working conditions rather than from irregularity of stay, while in the hospitality sector riders face more irregularity of stay.

Spain. According to the Funcas Foundation, around 700,000 third-country nationals (approximately 16% of the total) live in irregular administrative situations in Spain, with weak enforcement and limited inspections perpetuating exploitation. No official data is available on the extent IMW in the F2F sector, but evidence confirms its structural reliance on migrant labor. Irregularity stems from both residence and employment status, affecting different categories of migrants: especially people with temporary visa and asylum seekers, apart from undocumented ones. In agriculture, the GECCO programme facilitates seasonal recruitment but fails to meet demand, leading to informal hiring and overstay. In food delivery, irregular migrants—mainly from Latin America and South Asia—often work through subleased accounts. Three main profiles of IMW are observed in this sector: overstayers with expired tourist visas (common among South Asians), rejected asylum seekers and asylum seekers awaiting work authorization (mostly Latin Americans).

Italy. The F2F sector largely relies on migrant labour, and the share of informal employment is notably high. However, over time there has been a gradual shift from undeclared to under-declared employment of migrants legally residing in the country. This shift reduces the risk or severity of sanctions for employers and has been facilitated by the increasing availability of asylum seekers and refugees, which has led to the so-called "refugeeization" of the workforce¹². Temporary employment agencies are mainly used by larger companies while smaller ones tend to hire migrant workers directly, often through social networks. However, given the complexity of bureaucratic procedures, an increasing number of agricultural employers rely on private (often foreign-owned) cooperatives and companies that offer "all-inclusive service", managing entry permits, labour contracts, housing, and transportation for workers. Especially (but not only) in agriculture, a part of workers is recruited informally through illegal intermediaries known as gang-master (*caporali* in Italian), who organise transportation, housing, and payments, under exploitative conditions.

¹² Dines, N., Rigo, E. (2015). Postcolonial citizenships and the "refugeeization" of the workforce: migrant agricultural labour in the Italian mezzogiorno. In Sandra Ponzanesi e Gianmaria Colpani (Eds, Postcolonial transitions in Europe: contexts, practices and politics, London: Rowman and Littlefield, 151-172; Guidi C.F., & Berti F. (2023). Labour exploitation in the Italian agricultural sector: the case of vulnerable migrants in Tuscany. *Frontiers in Sociology*, 8, 1234873.

Morocco. By 2023, an estimated 75,000 irregular migrants were recorded, most of whom originated from Western and Central African countries¹³ and got stranded in the country on their way to Europe. On the one hand, they cannot continue their journey due to border controls, and on the other, they cannot be deported back to their countries due to Morocco's alignment with international conventions that prohibit the return of migrants and refugees if their lives would be at risk in their country of origin. Consequently, the informal employment of irregular migrants provides for the basic conditions of subsistence of IMWs in the F2F sector. Nevertheless, the vast majority of the labour force in the F2F sector still consists primarily of nationals, particularly internal migrants.

Poland. Poland's economic model, including the F2F sector, is largely reliant on low labour costs and characterised by a high proportion of temporary employment contracts and low collective bargaining coverage¹⁴. Against this backdrop, labour migration in Poland was strongly shaped by the so-called simplified employment procedure introduced in 2006 and initially applied in agriculture. This procedure allows the citizens of six Eastern European countries (Armenia, Belarus, Georgia, Moldova, Russia until 2022, and Ukraine) to enter and work in Poland based solely on declarations on entrusting work to a foreigner submitted by Polish employers to the local Labour Offices. However, work permits or seasonal work permits have decreased significantly since 2023 because of the sharp increase of Ukraine refugees, who nowadays constitute around 70% of foreign migrants in Poland and who have been granted full access to the labour market. Hence, the irregularity concerning migrants in Poland, refers mainly to their work, not their stay¹⁵.

Ukraine. Since the mid-1990s, Ukraine was more a transit country and a country of origin than a destination country for irregular migration. Hence, the volume of illegal migration in Ukraine is relatively small. According to the IOM¹⁶, the number of migrants with an irregular status in Ukraine at the end of 2019 ranged from 37.7 to 60.9 thousand people, namely a small amount compared to the total population. The report concluded that the majority of migrants entered Ukraine legally - as tourists or for educational purposes - but subsequently lost their grounds for remaining in the country. However, a substantial share (around 40%) entered illegally, often as a result of military conflicts, the threat of persecution, and widespread human rights violations. Due to the large size of the "grey" labour market in Ukraine, especially in the F2F sector, a significant proportion of foreigners work informally.

3. Policy measures towards IMW in the F2F sector: national case studies

Below, we briefly illustrate the policies summarised in Table 1. The table also includes "non-policies", i.e. issues raised in the public debate but not regulated through policy measures, in order to provide a more complete overview of the fieldwork. For the sake of comparison, the analysis will proceed not by country, but by type of policy, namely:

1. Measures addressing (fair) competition;
2. Measures countering bogus self-employment/subcontracting;
3. Measures regularising IMW;
4. Measures countering workers' exploitation.

¹³ UN (2022). "International Migration Report 2021: Building a Better Future for Migrants and Refugees in the Arab Region," Economic and Social Commission for Western Asia (ESCWA). pp. 36-125. <https://bit.ly/49ba1lh>

¹⁴ Owczarek, D. (2018). *Don't GIG up! Extending social protection to GIG workers in Poland. State of the art report.* Institute of Public Affairs. <https://www.isp.org.pl/pl/publikacje/don-t-gig-up-extending-social-protection-to-gig-workers-in-poland>

¹⁵ Szulecka, M., & Klaus, W. (2021). Who Assists Irregular Migrants in Poland and at What Cost? A Court Files' Analysis of Convictions of Facilitating Unauthorised Stay of Migrants. *Studia Migracyjne - Przegląd Polonijny*, 2 (180), 87-114.

¹⁶ See IOM (2019, "Irregular migrants in Ukraine", 13 April 2021, <https://ukraine.iom.int/resources/irregular-migrants-ukraine>

For each cluster, non-policies will be discussed at the end of the corresponding section.

As explained in section 2, **certain policies, despite being allocated to a specific cluster for the sake of clarity, appear to transcend them.** For instance, policies liberalising the employment of foreign workers may be regarded as measures countering IMW, as they prevent them from becoming undocumented. Nevertheless, we believe that clustering policies according to their main aim facilitates the identification of patterns and potential explanations, thereby providing analytical tools to navigate the complexity of the real world.

3.1.Measures addressing (fair) competition

3.1.1 Administrative Employer Sanctions (fines) for the illegal employment of third country migrant workers/trainees in The Netherlands

Administrative sanctions were first introduced into the Foreign Nationals Employment Act in 2005 (Official Gazette 2004.705, Parliamentary Documents 29523), replacing a system previously hinged only upon criminal sanctions. With the implementation of the **EU Employer Sanctions Directive 2009/52/EU in 2011, little changed**, as the Dutch law in this regard already foresaw the provisions contained in the Directive. Moreover, whereas the EU Directive on Employer Sanctions focuses only on employment of TCNs without legal residence, in the Netherlands the offense of “illegal employment” can be applied to all those individuals without the appropriate work permit (even if they hold a valid residence permit). Therefore, the applicability of the sanction extends beyond undocumented migrant workers to include other legally residing third-country nationals who work beyond the limits foreseen by their residence permits (eg. international students, asylum seekers, etc)¹⁷.

Over the last decade, political pressure pushed towards higher fines aimed at **building a level-playing field amongst employers** and curbing the incentive for illegal employment and irregular migration whereas courts lowered the fines based on proportionality, producing a sort of policy circle, as illustrated in Figure 1. Overall, **polymaking** on administrative employer sanctions can be best seen as **state-centred, with governments** (especially the Ministry of Social Affairs and Employment, generally aligned with the National Labour Authority) **repeatedly imposing higher fines and courts lowering the fines based on proportionality.** These changes generally happened through the revision of executive Guidelines rather than through evidence based policy reforms.

Figure 1. Policy and court interaction on the height of fines as employer sanctions (2017-2025)



Against this backdrop, in 2020 the Dutch government revised the 2017 Guidelines prescribing higher fines (8,000 euro for legal entities). Yet, the 2022 ruling by the Administrative Jurisdiction Division of the Council of State determined that the 2017 Policy Rules failed to sufficiently account for the degree of culpability of

¹⁷ Since 2019, the NLA has maintained an open-access database documenting the outcomes of its inspections (Nederlandse Arbeidsinspectie, 2024b)

[<https://www.nlarbeidsinspectie.nl/nederlandse-arbeidsinspectie/openbare-inspectieresultaten>]. Over the past five years (2019–2024), the most frequently identified violation has concerned irregular employment, specifically breaches of the Foreign Nationals Employment Act, wherein businesses fail to comply with work permit/single permit requirements.

employers¹⁸. Consequently, the Council annulled the 2020 reform and introduced a new framework based on the severity of the violation and leading to a reduction in fines (from 8,000 to 4,000 euro), as the Court ruling functioned as guideline. In March 2024 the debate was reopened, as the National Labour Authority released a report¹⁹ where, after analysing 24 cases from different sectors, it concluded that financial sanctions for employing foreign workers irregularly were insufficient to prevent violations and should be increased (from 8,000 to 15,000 euro). In many cases, the National Labour Authority found that the fines imposed were not a significant deterrent because companies could quickly offset these costs through the economic benefits gained from employing workers illegally at lower wages: most companies managed to recover fine amounts within a year, with some companies even offsetting fines within a few months. Interviewed civil servants at the Ministry of Social Affairs and Employment stressed that **the report and advice of the National Labour Authority contributed to trigger the review of Guidelines in March 2025 with a new fine increase**. Specifically, on 25 October 2024, shortly after the new Minister of Social Affairs and Employment took office, it announced that fines for serious and/or culpable violations of the Foreign Nationals Employment Act (Wav) would be increased in 2025 to euro 11,500 (Parliamentary Documents 2024-2025 36446 nr. 15).

Surprisingly, **there was almost no political discussions regarding this new policy**. This is apparently due to, on the one hand, the government transition (the National Labour Authority published its report in March 2024, after the election of November 2023, when negotiations on the new right-wing government were still ongoing); on the other hand, to the relatively minor nature of the fine increase, without changes to the wider regulatory framework. Consequently, **policymaking was rather centralised** and confined within the executive power, especially of the Ministry of Social Affairs and Employment: although several departments within that Ministry were involved as well as the directorate for labour relations and the National Labour Authority, which was asked to conduct an enforcement assessment, the process remained in the hands of the central state. This does not mean that politics has been irrelevant, as fining employers for illegal employment and being tough on illegal migration fitted the new right-wing government's prevailing security frame²⁰.

It is worth underlining that in the policy formulation and political debates **there has been very little consideration for the employers**, especially temporary employment agencies, which have been regarded as the "cowboys", i.e. business more or less outside the law, to be dealt with through heftier fines or business closure. At the same time, **there has been no attention for the consequences on migrant workers illegally employed in the F2F sector** who are not benefitted by the fines that may, on the contrary, exacerbate their vulnerability by leaving them without employment. Yet ample attention was paid by leftwing politicians who advocated for slimming down the (agricultural & food) industries highly dependent on migrant workers. This seems to imply the conviction that **(irregularly) employed migrant workers are** (in the eyes of left-wing politicians more right-wing ones) **as not needed** in the Dutch economy. Neither right nor left make a strong case for protecting the IMW rights.

In terms of **implementation**, from 2022 to 2024, some interviewees noted that the National Labour Authority – as well as the Ministry of Social Affairs and Employment - regards existing fine levels as

¹⁸ Raad van State. (2022). *Uitspraak 202006623/1/V6 (ECLI:NL:RVS:2022:1973) [Court ruling 202006623/1/V6 (ECLI:NL:RVS:2022:1973)]*. <https://www.raadvanstate.nl/uitspraken/@131926/202006623-1-v6/>.

¹⁹ Nederlandse Arbeidsinspectie (2024). *Signaal over bedrijfseconomische/financiële drijfveren overtredingen Wet arbeid vreemdelingen [Signal about commercial/financial incentives Foreign Nationals Employment Act]*. <https://open.overheid.nl/documenten/oep-d3e6900e5475a3ce14029298ed7cb6d0a6d454c7/pdf>.

²⁰ Indeed, the first political debate on the topic of labour migration, including fining, was held with the new Minister of Social Affairs and Employment on 2 September 2024. There, all government and right wing or conservative opposition parties called for higher fines to sort out the "cowboys". On 10 September 2024, a motion was submitted by the four Members of Parliament from political parties currently in government, mirroring the National Labour Authority's language and reasoning, emphasising that current fines for companies illegally employing foreign workers are inadequate.

insufficiently deterrent, therefore turning to business closures (a sanction introduced in 2013 and rarely used in recent years), which have substantially increased towards the end of 2024 (17 closures, 231 warnings) and the beginning of 2025. Nevertheless, as with fines, business closures do not benefit affected workers; on the contrary, they may exacerbate their vulnerability by leaving them without employment. Moreover, policy implementation is further hindered by problems faced by the Labour Inspectorate concerning the a) excessive regulatory complexity in general b) complexity in cross-border settings with possibly “fake” intra-EU posting of third-country nationals ; c) insufficient inter-agency cooperation, communication and trust due to several scandals in the Netherlands on data sharing between agencies; d) a lack of data on the impact of employer sanctions and the number of illegally employed migrant workers, their status (e.g., international students or trainees, unreported asylum seekers or visa overstayers), and whether they want to claim outstanding wages etc..

3.1.2 The simplified employment procedure in Poland: the Harvest Help Contract

Poland's transition from a net-sending to a net-receiving country was largely marked by a liberal approach to migrant labour²¹, although it developed in the absence of a national migration strategy. This liberalising approach, however, contradicted the publicly communicated need to control and reduce migration. Moreover, the state appeared reluctant to admit the presence of IM work, as it could disappoint public expectations about the state's control capacity. As a result, in the analysed period, **the public debate on IM work was largely muted and non-existent²²**, as it could potentially lead to a loss of consensus. According to some interviewees, there was an unwritten convention at the highest governmental level not to raise public discussion on immigration issues. However, interviewees also acknowledged that since 2023, as the new government came to power, migration policies have been more openly discussed.

Overall, **polymaking** addressing migrant workers during the period under analysis was limited and aimed at **liberalizing foreigners' stay and employment in the country**. This was done primarily through the extension of residence permits, visas, and other documents authorising stay, which, to some extent, helped prevent migrant workers from falling into irregularity (see the Act on Foreigners adopted in December 2021 extended the validity period for employment declarations from 6 to 24 months). These measures were particularly relevant during the **crises triggered by the Covid-19 pandemic and the Russia's 2022 invasion of Ukraine**, which led to a sharp increase in the number of Ukrainian citizens living in Poland (see the “Anti-Crisis Shield” related to the Covid-19 pandemic and the Act on Assistance to Ukrainian Citizens, along with its subsequent amendment).

Specifically, the policy of widening the access to labour market has been backed by **the alignment between government²³ and employers** on market needs and labour shortages. Indeed, while employers' organisations have considerable influence on policy-making on migrant work and appear capable of rapidly

²¹ Górny, A., & Kaczmarczyk, P. (2018). A known but uncertain path: The role of foreign labour in Polish agriculture. *Journal of Rural Studies*, 64, 177–188. <https://doi.org/10.1016/j.jrurstud.2017.12.015>; Górny, A., & Kaczmarczyk, P. (2021). Temporary farmworkers and migration transition. On a changing role of the agricultural sector in international labour migration to Poland. In J. F. Rye & K. O'Reilly (Eds.), *International labour migration to Europe's rural regions*. Routledge; Górny, A., & Kaczmarczyk, P. (2021). Temporary farmworkers and migration transition On a changing role of the agricultural sector in international labour migration to Poland. In J. F. Rye & K. O'Reilly (Eds.), *International labour migration to Europe's rural regions*. Routledge.

²² Jaroszewicz, M., & Grzymski, J. (2021). Technocracy Revisited: The Polish Security Dispositif and Ukrainian Migration to Poland. *Journal of Contemporary European Research*, 17(2). <https://doi.org/10.30950/jcer.v17i2.1215>

²³ Disagreement also emerged within the state. Interviewed stakeholders mentioned serious disagreements over migration policies between the Ministry of Development and Technology, which follows a market-oriented perspective, and the Ministry of the Interior and Administration, which tends to prioritise a security-based approach. At the same time, the Ministry of Family, Labour and Social Policy advocates for stricter penalties for entrusting work performance to a foreigner illegally while the Ministry of Development and Technology has supported more lenient rules. Similarly, the Ministries of Agriculture and Rural Development has favoured a more lenient approach concerning social protection for migrant workers, whereas the State Labour Inspectorate has advocated for higher social security standards.

disseminating their positions in the media, **trade unions**, which advocate for agricultural workers' social protection, generally show little interest in the issue, lack the resources to effectively follow legislative processes and have poor relations with the government²⁴. Similarly, although **non-governmental organisations** try to speak out on pressing issues concerning the work and residence of foreigners, their activities in this area are constrained by insufficient human and financial resources and they lament a limited involvement in the decision-making process²⁵. Nevertheless, the largest CSOs (Nomad Association, Association for Legal Intervention, Helsinki Foundation for Human Rights) often submitted joint positions on public policies and draft laws²⁶ and their positions were generally in line with the state, as they concerned facilitating migrants' access to the labour market and preventing falling into irregularity.

As for **agriculture, a relevant trigger of liberalising policies was the transposition of the Seasonal Workers Directive (Directive 2014/36/EU) into Polish law**. The introduction of the Directive was perceived by farmers as potentially leading to a reduction in the labour supply, as it equalised the employment conditions of Polish citizens and foreigners in terms of the minimum wage, increased the fees for the legalisation of foreign workers, and lengthened their registration process. Under the advocacy of the agricultural organisations and the **concern for maintaining the competitiveness of the Polish agricultural sector**, the government decided to introduce **the harvest help contract**, a new type of civil law contract established by amending the Act on Social Insurance of Farmers.

Although this new contract applies to all agricultural workers, **IM workers were the implicit target** as the amendments were aimed at simplifying the employment of foreigners for harvesting tasks in agriculture to respond to the alleged labour shortages, with potentially positive consequences on the prevention of migrants' undeclared work.

In terms of **policy formulation**, the introduction of the harvest help contract was asked by the farming community. The Ministry of Agriculture, responsible for the regulation of labour in agriculture, took the initiative and held two meetings with farmers' organisations in 2018 to draft amendments to the law. However, other Ministries were also involved, such as the Ministry of Family and Social Affairs, which was responsible for labour issues, the Ministry of Foreign Affairs, the Ministry of Justice Ministry of Finance, Ministry of Health and the Agricultural Social Insurance Fund²⁷.

The draft amendments were then subjected to **public consultation** by circulating it to 32 CSOs and other stakeholders, including trade unions, employer organisations and associations of farmers and agricultural producers. According to the government report, comments were submitted by nine entities, mainly agricultural producers or their associations and farmers' representations. After accepting the written comments, the Ministry of Agriculture and Rural Development organised an additional meeting with stakeholders where farmers and their associations expressed a general agreement on the comments collected during the consultation.

The draft amendments were then discussed in **parliamentary committees and during parliamentary sessions**, although the bill was processed relatively quickly due to pressure from agricultural organisations and the approaching fieldwork season, so that it was referred to the Parliament on 13th March 2018 and voted on as soon as on 14th April 2018. Generally speaking, **two opposing sides can be identified in the**

²⁴ Mrozowicki, A. (2024). Authoritarian innovations in the Polish industrial relations: From liberal to illiberal illusory corporatism?. *Journal of Industrial Relations*, 66(4), 558–577.

²⁵ Gumkowska, M., Charycka, B., Bednarek, J., & Chimiak, G. (2022). *Efekt mrożący. O kondycji rzecznictwa organizacji pozarządowych*. Stowarzyszenie Klon/Jawor; Berek, M., Frączak, P., Izdebski, K., Kopińska, G., & Wołojk P. (2023). *Polski Bezład Legislacyjny. raport Obywatelskiego Forum Legislacji z prac IX kadencji Sejmu*. Fundacja im. Stefana Batorego. https://www.batory.org.pl/wp-content/uploads/2023/10/Polski.BezLad.Legislacyjny_XV.Raport.OFL_.pdf.

²⁶ SIP. (2021). *SIP W DZIAŁANIU Raport z działalności Stowarzyszenia Interwencji Prawnej w 2020 roku*; SIP. (2023). *SIP W DZIAŁANIU Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 roku*.

²⁷ Miąsko, M. (2018). Analiza charakterystyki umowy o pomocy przy zbiorach (ujęcie komparatystyczne). *Studia z Zakresu Prawa Pracy i Polityki Społecznej*, 25(2). <https://doi.org/10.4467/25444654SPP.18.010.8606>; Cybulak, K. (2018). W MRIRW o "pomocniku przy zbiorach". *Informator. Biuletyn Związku Sądowników Rzeczypospolitej Polskiej*, 1, 9–10.

parliamentary discussions. One was represented by the **farmers' organisations** which advocated for more liberal regulations, arguing that harvest help contract should be a civil law contract to which minimum hourly rates and health and safety regulations do not apply, its duration should be prolonged to 120 days and its scope should be extended from a closed catalogue of crops to an unlimited one; they were supported by many MPs, particularly the Polish People's Party (PSL). **The opposing camp included the Independent and Self-Governing Trade Union "Solidarność"** (Niezależny Samorządny Związek Zawodowy "Solidarność") - which primarily opposed to the introduction of this new type of contract because of its poor health and safety safeguards - and two state institutions responsible for the supervision of working conditions, i.e. **the State Labour Inspectorate and the Central Institute for Labour Protection - National Research Institute** (Centralny Instytut Ochrony Pracy-Państwowy Instytut Badawczy - CIOP-BIP). This side promoted amendments aimed at providing agriculture workers with greater protection in terms of pay and working conditions. Although not all the farmers' requests were accepted – i.e., the catalogue of crops remained closed and specific – their positions largely prevailed with the governments' and parliament's almost total support, demonstrating **an imbalance of power in favour of farmers.**

Specifically, the harvest help contract is a form of civil law contract, under which work can be performed for 180 days a year in some agricultural sectors. The act expressly states that the **new type of contract does not constitute an employment contract** within the meaning of the Labour Code²⁸. Thus it tries to circumvent the Seasonal Workers Directive which concerns entry conditions for "employment" in seasonal labour. It is worth noting the obligation to control the number of days worked has been imposed on the employee, who should submit a statement to the employing farmer on the number of days worked as harvest help in a given calendar year, while the law does not provide for any sanctions either for the worker or for the farmer for exceeding the initially stated number of days in a calendar year. Moreover, there is no minimum wage and the person performing the work is insured only to a very limited extent, as he/she only has health insurance in the month of work and insurance against accidents at work in the form of on-time compensation for damage to health or death. The contract does not guarantee sickness, maternity, disability and pension insurance. Nor does the contract guarantee maximum working hours, the right to rest, either daily or weekly, or in the form of paid annual leave.

After the eventual adoption of the amendments, **trade union "Solidarność" submitted a complaint to the European Commission in August 2018**, arguing that the act breached EU law in respect to occupational health and safety (OHS) regulations. **The European Commission**, after consultation with the Polish government, **disagreed and closed the case without further legal proceedings**, claiming that OHS regulations derived from the Labour Code cover all entities employing persons, regardless of the form of the contract, including farmers providing workers with harvest help contracts. Actually, while farmers are obliged to ensure safe and hygienic working conditions for all employees, an individual farmer who is not an employer under Polish law can only be liable under criminal law for causing injury to health or loss of life. Moreover, in Poland the State Labour Inspectorate is only authorised to control farmers with employer's status, i.e. those who have at least one person employed under an employment contract. Hence, farmers who hire workers on other types of work contracts (eg. civil contracts), fall outside its controls.

In terms of **implementation**, the enforcement of labour regulation is hindered by **governance problems** such as: a) the excessive regulatory complexity and limited policy coherence; b) the insufficient inter-agency cooperation and communication. Moreover, **the system of control and enforcement in agriculture is particularly poor contributing to violations of the rights of workers' rights** which generally take the forms of employers' failure to declare all working hours, negligence in paying social security contributions as well

²⁸ Florczak, I. (2019). Umowa o pomocy przy zbiorach—Nowa podstawa prawna zatrudnienia. *Przegląd Prawa i Administracji*, 117, 21–28. <https://doi.org/10.19195/0137-1134.117.2>

as statutory wages or wages at all, hazardous working conditions, and inadequate training²⁹. The State Labour Inspectorate suffers from a **shortage of human resources**, and several interviewees deemed an increase necessary. In any case, as said above, the State Labour Inspectorate is not authorised to monitor farms which employ workers on various types of civil contracts, which constitute the majority of private farms in Poland³⁰ - the Border Guard, which is authorised to control individual farmers and has technical and human resources needed for this kind of activities, can only control the legality of employment of foreigners while cannot verify work safety and other work law regulations. Against this backdrop, it happens that foreigners are employed with harvest help contracts through temporary agencies, further limiting responsibilities for the farm company. Finally, some interviewees underlined how, in general, the amount of national fines for irregular work is low, especially compared to profits, so that they do not represent significant disincentives.

As KRUS (Agricultural Social Insurance Fund) statistics show, **the actual harvest help contract's popularity was lower than expected**: despite in 2017 the Ministry of Agriculture and Rural Development claimed, citing the Institute of Agricultural and Food Economics, that Polish agriculture needed 500,000 seasonal workers during harvest season, in June 2019 the actual figures were 23,991, and in June 2024 only 7,991 such contracts were registered, of which 7,197 were signed with foreigners, mostly Ukrainian citizens (6,695).

3.1.3 Liberalisation of access to the labour market for foreign citizens in Ukraine

Before Russia's full-scale invasion of 2022, Ukraine was mostly a transit country on the way to the EU and until 2021 the focus of the **public and political debate** was on stopping the outflow of Ukrainian labour force abroad rather than on (irregular) migrant workers. **Russia's 2022 invasion of Ukraine and the resulting mass displacement further worsened the demographic situation and increased the labour shortages**. At the same time, due to the war, the number of migrants became even smaller as, not only citizens of Ukraine, but also foreigners and stateless persons started fleeing. As a result of war-related demographic changes, consensus on the inevitability of relying on large numbers of foreign workers for Ukraine's development and reconstruction grew. Nevertheless, **as of 2024**, when the fieldwork was carried on, the **issue of IM work was not yet relevant in Ukraine's national debate**, and overall **irregular migration was predominantly and increasingly framed as a security issue**. Interviewees from both state services and civil society even reported a strengthening of the security-oriented approach in the migration policies since Russia's invasion of 2022³¹.

As for the F2F sector, **agriculture** had always been one of the leading economic sectors in terms of the number of undeclared workers, and the need of bringing agribusiness out of the shadow had been discussed in society and in the government. However, with the beginning of the war, **the focus of the public debate shifted from formalizing undeclared work to ensuring enough labour force**. More generally, the policy agenda started being set mainly reactively, under the pressure of circumstances, rather than resulting from strategic planning. As a result, at the time of the fieldwork, there wasn't any specific policy directly addressing IMW either in the F2F sector or in general and **IM work in Ukraine was regulated mainly by general policies**. In this context, **different policy actors and rationales emerged**. Like in Poland, **employers** are often those who initiated public debates and new legislation on migration, with the aim of liberalising the labour market. In contrast, **trade unions** appear primarily concerned about potential competition from foreign migrants, and their influence on policymaking is lower than that of employers. Like in Morocco,

²⁹ PIP. (2023). *Sprawozdanie z działalności Państwowej Inspekcji Pracy—2022*. pip.gov.pl.

³⁰ The available mode of State Labour Inspectorate interaction with farmers only includes preventive and promotional activities organised in cooperation with the Agricultural Social Insurance Fund (KRUS). Examples of promotional activities are contests among farmers related to adherence to health and safety rules.

³¹ Verkhovna Rada of Ukraine. (2023, March 15). Law "On Amendments to the Code of Ukraine on Administrative Offenses Regarding Improvement of Legislation in the Field of Migration". <https://zakon.rada.gov.ua/laws/show/3196-IX#Text>.

supra-national actors, such as IOM, ILO and UNHCR, often provide the necessary technical assistance to better regulate both work and migration and improve migrant workers' rights. The action of these organisations, however, rarely focuses on IM workers, but rather on migrants' basic rights or specific vulnerable groups of migrants, e.g. asylum seekers. Specifically, ILO is an influential actor promoting general standards for the protection of workers' rights. Similarly, the IOM maintains robust cooperation with the Ministry of Internal Affairs and the State Migration Service for the development of new migration policy. Moreover, since 2022, when Ukraine received the status of a candidate for EU accession, **EU's** influence has increased, as Ukrainian legislation has been under revision to ensure the application of the EU standards in the field of employment and protection of the rights, including those of foreigners.

Human rights organisations and CSOs, such as the Right to Protection and the ZMINA Human Rights Center, hold more critical stances towards government actions compared to international organisations. However, their interactions with the government is poorly developed and their influence on decision-making on migration is limited: their recommendations are generally heard, but rarely adopted. As an alternative strategy, they use evidence from legal cases and monitoring in order to hold authorities accountable and advocate for policy reforms aimed better protecting the rights of irregular migrants, particularly where courts highlight deficiencies.

Within the **government**, competences over migrant work remain dispersed, although responsibilities of regulating labour migration were transferred from the Ministry of Social Policy to the **Ministry of Economy** in 2019. At the same time, the latter gained new relevance with the opening of negotiations between Ukraine and the EU on accession in 2024, as it became a key negotiator on the issues concerning the access to the EU labour market and free movement of workers, which partially includes IMW. Specifically, this Ministry is responsible for tasks related to the "Free Movement of Workers," encompassing standards pertaining to the permit system, workers' rights, working conditions, etc.

In terms of governance patterns, Russia's 2002 invasion of Ukraine significantly limited the opportunities for the engagement of different types of actors in policymaking on migrant work. According to interviewees, the invasion further reduced the ability of civil society organisations to influence migration policymaking. For instance, with the outbreak of the war, consultative bodies involving non-governmental organisations, such as the Coordination Council on Refugees under the Ombudsman or the Public Council under the State Migration Service, suspended their activities. In the same vein, within public bodies and ministries, some working groups remained on paper, mainly due to the beginning of Russia's full-scale invasion in 2022. For instance, the Coordination Council for the Protection of Immigrants' Rights, which was established in 2020 and whose Regulations and personnel were approved, has never met.

Against this backdrop, **both international organisations and the EU offer important venues for exchange and cooperation among stakeholders in the field of migration.** Often, innovation in the field of migration started within the platforms established by IOs, where ideas and proposals for policy reform are exchanged with state and civil society actors. Similarly, the "Civil Society Platform Ukraine-EU" (CSP Ukraine-EU), established within the framework of the implementation of the Association Agreement with the EU, involves representatives of trade unions and employers and includes a "Migration" working group where policy proposals are formulated and submitted to the relevant authorities.

Overall, the above-mentioned dynamics seem to result in **a trend toward the liberalisation of access to the labour market for foreign citizens** which started in 2019 and intensified with Russia's full-scale invasion of 2022 and Ukraine's recognition as EU candidate. The majority of interviewees agreed that the main policy achievement in the period 2019-2024 in the field of employment of migrants in Ukraine was that **"On Amendments to Certain Laws of Ukraine Regarding Employment of Foreigners and Stateless Persons in Ukraine and Provision of Mediation Services in Employment Abroad"** adopted in 2022 (Law No. 2623-IX). The purpose of the law was to facilitate the employment of foreign nationals and stateless persons to better

meet employers' labour needs, ensure equal working conditions for Ukraine and foreign citizens, **de-shadow (i.e., legalise) labour relations**, and eliminate legal inconsistency.

IM workers were an implicit target of Law No. 2623-IX. Within this framework, the law cancelled the minimum wage rule, according to which an employer could obtain a permit to employ a foreign worker only by committing to pay him a monthly wage on the level of at least 5-10 times the minimum wages established by the state. In the same vein, the law suppressed restrictions on the employment of foreign students of higher education institutions during their studies and in the case of employment no later than 30 days before graduation. More generally, the law No. 2623-IX:

- simplified the procedures for obtaining work permits for foreigners with the aim of reducing the incentive to employ them informally;
- improved policy consistency by removing regulatory contradictions, which previously created loopholes that fostered informal employment practices;
- reinforced the role of employment mediation services, including those operating internationally, to facilitate lawful and transparent recruitment processes;
- improved oversight by standardising employment documentation and enabled better monitoring by state labour and migration authorities.

According to several interviewees, the deshadowing-effect of this law was crucial not only for protecting foreign workers' rights and ensuring fair competition in the labour market, but also for increasing tax revenue and strengthening Ukraine's compliance with international labour standards, particularly in the context of the European integration, following Ukraine being awarded the EU candidate state status. As for the actors involved in policymaking, all interviewees indicated that the transfer of competence on labour migration from the Ministry of Social Policy to the Ministry of Economy in 2019 contributed to this policy change. However, it seems that **the real initiator of this policy reform was the business sector**, which faced significant labour shortages even before the war, whereas **trade unions were not involved in policy formulation**. Despite its key role, the business sector expressed complaints about the increase in the number of documents required to obtain a permit and the higher fees for issuing or extending work permits for foreigners, expressing concern about the "unnecessary gloom" and the additional economic burden, viewed as contrary to the principles of deregulation.

Finally, it is worth underlining that **the liberalisation trend proved to be an obstacle to the increase of employer sanctions**. For instance, representatives of the State Migration Service pointed to the attempts of their department to control more meticulously not only migrants, but also employers engaged in illegal employment of foreigners, by introducing more severe administrative liability of employers in the Code of Ukraine on Administrative Offenses. However, the State Migration Service regulatory proposals were not taken into account, since they were interpreted by lawmakers as a departure from the liberalization of employment policies, arguing that the liability of employers was sufficiently ensured in the "Law of Ukraine on Employment".

3.1.4 Non-policy on IMW in the social conditionality of the Spanish agricultural sector

Migrant workers' working conditions in the agricultural sector gained salience in the **public and political debate**, especially after **the 2018 public scandal regarding labour and sexual abuses in the strawberry sector of Huelva**, which highlighted the systemic vulnerability of migrant workers employed in the sector. The following reports of unpaid wages, sexual violence, and precarious housing, amplified by journalistic investigations, sparked widespread mobilisation of civil society organisations, such as Jornaleras de Huelva en Lucha and the SAT union. **The COVID-19 pandemic** further highlighted the precariousness of migrant workers in the agricultural sector, as mobility restrictions disrupted seasonal hiring, leaving many workers

stranded and vulnerable³². In 2020, Philip Alston, *the United Nations Special Rapporteur on extreme poverty*, visited Spain and drew attention to the systemic issues in the agricultural sector, including rural depopulation, gender exploitation, and the “inhumane” living conditions of migrant workers³³, strengthening public perception of migrant workers’ vulnerability. These types of initiatives had political resonance in the early stages of reflection on the reform of the Common Agricultural Policy (CAP), especially in conjunction with the initial phases of the European CAP development but, as we will see, they did not finally affect the national policymaking process in this regard.

At EU level the CAP 2023-2027 included for the first time social conditionality alongside environmental requirements, linking subsidies to compliance with labour rights standards and using payment reductions as an incentive³⁴. The CAP delegated both the regulation of penalties and enforcement of labour standards to Member States. Another important novelty introduced by the CAP 2023-2027 was the requirement of Member States to have a CAP Strategic Plan, defining the interventions and measures intended to achieve the CAP objectives. It is on such premises, that the Spanish Government - and more specifically the Ministry of Agriculture, Fisheries and Food – developed the *Spanish Strategic Plan for the CAP (PEPAC)*, which is a comprehensive document which includes measures to address the needs of the Spanish agriculture sector and to achieve the objectives set by the CAP and the European Green Deal. Its formulation, which started in parallel with the policymaking process at the EU level, dates back to 2018 and lasted till 2022, when the first version of the PEPAC was approved by the European Commission, followed by the approval at national level in 2024.

The PEPAC was accompanied by a complex set of policy measures that provided the definition of the executive and control mechanisms, the most relevant of which are Law 30/2022 and Royal Decree 1049/2022. **The Law 30/2022 introduced social conditionality** by transposing the definition enshrined in EU regulations and establishing its penalty framework (articles 3 and 9, respectively). The enforcement of labour standards relies on two mechanisms: sanctions for labour infractions identified during inspections, and the novel financial penalties through subsidy reductions for non-compliance, the application of which was assigned to the Regional governments (*Autonomous Communities*) under a common minimum threshold of a 3% reduction in CAP direct payments (article 9.5). **The Royal Decree 1049/2022**, instead, established detailed rules by defining the specific standards (and related penalties) that farmers must meet in terms of: occupational health and safety; employment contracts (article 19 and Annex III).

Overall, **the formulation of CAP reform mainly followed a hierarchical, multi-step approach** that translated EU regulations into national policies through a top-down dynamic. However, the PEPAC and Law 30/2022 differ in terms of governance dynamics. The first was developed through an open, participatory policymaking process involving key stakeholders via consultations, public participation channels, and meetings. Notably, five partnership meetings for the Strategic Plan took place from the beginning of the process in 2018 until the definition of the first draft in 2022. In contrast, the approval of Law 30/2022 was marked by a state-centered policymaking dynamic with little stakeholder involvement. The law was adopted through an “urgency” procedure, heavily criticized by the opposition parties and farmers, whose protests - such as the demonstration before the Senate under the banner “*Una PAC sin agricultores*” (a CAP without farmers) - expressed broader concerns about the law's lack of meaningful consultation and its perceived

³² Corrado, A., Palumbo, L. (2022). Essential Farmworkers and the Pandemic Crisis: Migrant Labour Conditions, and Legal and Political Responses in Italy and Spain. In Triandafyllidou, A. (eds) *Migration and Pandemics*. IMISCOE Research Series. Springer, Cham.

³³ Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Spain, 27 January – 7 February 2020.

³⁴ The agreement on reform of the CAP 2023-2027 was formally adopted on 2 December 2021 and the new legislation entered into force on 1 January 2023.

imposition of EU directives on local agricultural practices. Indeed, the policy formulation of the CAP reform involved a **confrontation between two political blocs centered on the relationship between the EU and local-rural levels in Spain**: the government, led by PSOE (the Spanish Socialist Workers' Party), legitimised the CAP reform based on EU requirements and the need to secure European funding and emphasised the positive aspects of EU inputs for progress in the agricultural sector, climate change mitigation, and worker rights protection, whereas the opposition parties and protesting farmers criticised the reform as an imposition by the EU, insensitive to the specific needs of the Spanish context.

Against this backdrop, **not only migration was notably absent from the political debate and policy formulation, but even social conditionality was marginal**. Specifically, the confrontation between the two blocs on social conditionality **focused on the regulation of the labour market**, namely the **double sanction** (i.e., the non-punitive nature of social conditionality, allowing penalties alongside other sanctions for the same labour infractions deriving from labour inspections) **and penalty thresholds**. The farmers lost on the first issue (the double penalty remained) while they won on the second (the thresholds were lowered from 3% to a 1-3% range). Although social partners did not play a significant role in policy formulation, even a greater involvement would likely not have increased the relevance of MW at this stage. **For farmers, social conditionality did not represent a primary concern**. The issue, which arose in Brussels when discussing the new CAP and mainly concerned the possible additional administrative burden that the new social conditionality requirements could represent for farmers, faded when the debate shifted to the national level. Farmers agreed on social conditionality measures, recognising it as a useful and legitimate tool but **thinking it did not represent a significant change** of the existing labour regulatory framework in the country. Unlike the reinforced environmental conditionality, which posed new bureaucratic and logistical challenges for farmers, social conditionality was not perceived as introducing significant changes. **Trade unions adopted a similar approach**: despite acknowledging that the agricultural workforce was largely made up of migrants, their framing of social conditionality did not embrace the issue of immigration and, in line with the position of farmers, they recognised the merit of the measure but also believed that it did not represent a substantial change in terms of labour regulations.

At the same time, the political parties in power sought **to avoid the debate on social conditionality turning into a dispute over immigration**, with the subsequent risks of politicisation and polarization. At the same time, they aimed to protect the image of farmers and to avoid portraying them as those exploiting migrants, which could have negatively affected the whole negotiation process. Even Podemos, traditionally one of the parties most sensitive to the issue of foreign workers, made no reference to the situation of immigrants in the agricultural sector during the parliamentary debate on the CAP reform, instead maintaining a more general focus on workers' conditions. As a result, in the PEPAC, social conditionality is briefly addressed - by affirming that Labour Authorities are responsible for monitoring compliance with labour laws and Payment Agencies handle subsidy reductions for non-compliance - while migration is not directly mentioned, and social conditionality was not explicitly linked to migrant labour conditions during preparatory work either. Similarly, the preamble of Law 30/2022 states that the law's implementation must respect workers' labour rights, including adequate housing for seasonal workers, recalling a concern highlighted by the UN Special Rapporteur on extreme poverty and human rights. This mention, however, remains largely isolated within the broader legislative text. Therefore, **in relation to IMW, the situation can be described as one of non-policy**.

The main reasons for non-policy, namely the inability of this new policy to address (explicitly or implicitly) IMW despite its relevance in the public debate illustrated at the beginning of the section, seem to be the following ones.

1. **Political strategy**. The politically sensitive nature of immigration and labour exploitation likely contributed to the deliberate omission of explicit discourse on migrant workers within the CAP

reform debate, preventing politicization and polarization which could jeopardized the negotiation process.

2. **Lack of political representation of migrant agricultural workers.** The interests of migrant workers, who constitute a significant portion of Spain's agricultural workforce, remained underrepresented in national policy discussions and decision-making processes and did not have the opportunity of having their voice heard during the policy formulation.

Finally, based on fieldwork insights and secondary literature analysis, **implementation** of social conditionality **may be challenging** for the following reasons:

1. **shortcomings of Labour Inspection Authorities**, such as inspection gaps and resource deficiencies;
2. **potential heterogeneity in actual practices** due to the decentralised nature of labour standards enforcement and the different efficiency of Labour Inspectorates across regions;
3. **administrative adjustment processes**, as the implementation of social conditionality represents a new area of collaboration between the Spanish Agricultural Guarantee Fund and the Ministry of Labour and requires the establishment of new procedures, implying a growth in workload without a corresponding increase in resources;
4. **the agricultural sector' difficulties in adapting to the new requirements** (e.g., training for agricultural migrant workers to meet new standards in areas such as risk prevention), particularly in light of the sector's lack of professionalisation and modernisation.

Overall, the practical impact of social conditionality on labour conditions, particularly for IM workers, remains uncertain.

3.1.5 Concluding remarks

The cluster of measures addressing competition encompasses policies with two different approaches: on the one hand, the Administrative Employer Sanctions for the illegal employment of third country migrant workers/trainees adopted in The Netherlands and the non-policy on IMW in the social conditionality of the Spanish agricultural sector were aimed at improving fairness in competition by levelling the playing field and sanctioning non-compliant employers; on the other hand, the Harvest Help Contract in Poland and the liberalisation of access to the labour market for foreign citizens in Ukraine were mainly concerned with enhancing the competitiveness of the national F2F sector by loosening constraints on employers. Despite this important difference, we believe they can be conceptually grouped into a single cluster, as these measures are clearly focused on competitiveness, with little attention paid to improving IM workers' conditions, which appear secondary both in the inputs and in the outcomes.

3.2 Measure contrasting bogus self-employment/subcontracting

3.2.1 The federal Occupational Safety Control Act in German meat industry

The German meat industry relies heavily on EU mobile citizens who, until 2021, were precariously employed through indirect employment arrangements, namely service contracts/subcontracting (*Werkverträge*) and temporary work (*Leiharbeit*). **Indirect employment arrangements were so complex that they facilitated irregularities, producing negative consequences for workers' conditions and fair competition.** Theoretically, the workers were supposed to have the same social and labour rights as permanent workers, with some exceptions related to the temporary character of their work. However – especially during the COVID19 pandemic or also in the case of work accidents - it often turned out that the reality of migrant workers in the meat industry was different. For instance, the numbers of registered workers did not match those of people actually present in

workplaces and collective facilities. Some people worked under the name of another (registered) worker or did double shifts by using different names. Unions collected evidence of pervasive violations of legal requirements, and the authorities' inspections similarly indicated "institutionalised non-compliance on employment conditions", most commonly in the form of illegal wage deductions, breaches of work time regulations, occupational safety and health shortcomings, and inadequate housing. The German meat industry's practices provoked discontent also within the EU, including a 2013 formal complaint of unfair competition to the European Commission by the Belgian government.

The precarious situation of the workers was denounced through ***decade-long efforts by civil society organisations, including trade unions, counselling centres and church officials***, to raise awareness on the meat companies' manifold violations of workers' rights. However, the interviewed civil society representatives said that they often felt ***powerless*** vis-à-vis meat companies, which were embedded in local economic, political, and social structures in ways that made them extremely powerful and sheltered against any attempts at reform. Unions, in turn, barely had access to the workers, because of both the workers' employment arrangements and lack of organisation, and of German unions' past tendency of "protecting national workers" against foreign ones that had hindered the development of solid relations with the latter. The topic of migrant labour in the meat industry thus remained ***off the public and political agenda***; and irregular work was/is not considered a policy problem.

Only a few policymakers at the state and federal level had since long been working on the issue of living and working conditions of mobile workers, and meat workers in particular, proactively exchanging with stakeholders in the field to gain input. Just before the onset of the pandemic, the Ministry of Health and Social Affairs of the state of North Rhine-Westphalia carried out an extensive labour inspection campaign in the meat industry, which revealed widespread breaches of standards and norms. The results were widely disseminated, raising policy debates on ***worker rights violations and the evasion of responsibilities by employers and contractors, including the risk that subcontracting was often bogus, with the aim of limiting employers' liability***³⁵.

The ***COVID-19 pandemic, by impacting the public debate, offered a "window of opportunity" for a radical intervention***. Indeed, COVID-19 outbreaks in meat plants impacted the surrounding communities leading to a local lockdowns and mass quarantines, which were followed by a media storm and public indignation over the conduct of meat companies. This shifted the public debate to the meat industry's exploitative practices and evasion of liability. In the very first phase of the pandemic, policymakers sought to address the need for protective measures in partnership with meat companies. However, according to interviewees, meetings resulted in a falling out with some company representatives, who acted "as if they were immune" to COVID-19 restrictions. Reportedly, this attitude very much upset certain policymakers and made them resort to top-down legal measures: ***employers were left out*** of the process of policy formulation. Instead, ***trade unions and civil society organizations were involved in the form of dedicated round tables, providing inputs***. Within the parliament, the left-wing parties (SPD, Greens, Left) supported a legislative reform aimed at impeding the subcontracting of workers while centre and right-wing parties (CDU, FDP, AfD) resisted. However, the latter eventually agreed under the public pressures to re-regulate the meat industry to protect worker rights and limit bogus subcontracting – under the condition that the law would be limited to the meat industry only. Hence, by the summer 2020, the government submitted a bill to the German parliament, expressing the need to establish "clear lines of responsibility" in order to reliably protect workers' rights. In ***December 2020***, the German Federal Minister of Labour declared in front of the German Parliament: "We are thoroughly cleaning up the meat industry

³⁵ By bogus subcontracting, here, we refer to the practice of relying on subcontracted workers for maintaining the core function/production of the business, with the subcontracted workers working alongside direct hires and using company equipment and machinery.

because the human dignity of employees is at stake". One week later the parliament **passed the federal Occupational Health and Safety Control Act (Arbeitsschutzkontrollgesetz, ASKG)** aimed at putting an end to substandard living and working conditions for workers in the meat industry, by forcing meat companies to directly hire workers from 2021. Specifically, the 2020 ASKG:

- bans the subcontracting and temporary work of workers in the meat industry's core areas of slaughtering, deboning, cutting and meat-processing;
- stipulates the electronic recording of working hours and increases the frequency of inspections and penalties for employer non-compliance;
- sets standards for workplaces and housing for all economic sectors, beyond the meat industry;
- clarifies employers' responsibilities.

The law mentions **fair competition as a goal alongside the strengthening of worker rights**, insofar as "social dumping must be effectively countered, to ensure a level playing field for other domestic and foreign companies... (and thereby) fair competition within the sector"³⁶.

Meat companies were given three weeks to directly hire most of their previously subcontracted workers in the core production segments, between December 2020 and January 2021, followed by directly hiring all temporary workers by April 2021. The direct hiring implied also the expansion of their responsibilities, including social and health insurance coverage, occupational safety and health measures, and housing. For temporary work agencies and contractors, in turn, it meant a de facto expulsion from the meat sector. A few employers, mainly temporary work agencies and contractors, **sued against the reform in the constitutional court**, claiming that the law discriminated against the meat industry and violated the freedom of occupation. To date, however, the court has rejected these claims and upheld the law. Although appreciating the improvements, **many criticized the law's narrow sectoral and geographic scope**. Several interviewees emphasized that further industries (e.g., logistics and delivery, agriculture) ought to be regulated to prevent exploitation of migrant and precarious labour through atypical employment arrangements. Also, many job tasks in the meat industry were not considered "core business" (e.g. cleaning and packaging), thereby permitting subcontracting.

In terms of **implementation**, there is evidence for more accurate working hours and pay, and for decreasing rates of occupational accidents and injuries among those workers whose employment status changed from subcontracted to direct hire. **Increased inspections and higher fines for violations** appear to have contributed to improvements, as follow-up inspections found markedly fewer deficits in the controlled facilities. **The question whether or not the reform has increased the agency of the workers employed in the sector is contested**. On the one hand, as early as 2021, joint action with the trade unions asserted a nationally and industry-wide binding minimum wage and to an agreement on sector-wide minimum working standards in 2021, whose legal enforceability is yet to be confirmed by the federal government. On the other hand, unionists and social counsellors report that the vast majority of mobile workers remain un-organized, and most production sites did not see any meaningful change in the workers' conditions due to entrenched informal hierarchies and power relations.

3.2.2 The Riders Law in Spain

The **public debate** around food delivery sector can be traced back to the summer of 2017, when Deliveroo announced a further deterioration of the working conditions (e.g. absence of workplace health policy and lack of safety protections), leading to the first **strike** in June and subsequent several **rallies**. **The death of**

³⁶ See: <https://dserver.bundestag.de/btd/19/219/1921978.pdf>, p. 38.

Pujan Koirala, a Nepalese rider, which occurred in Barcelona in 2019, sparked new protests and reignited debates about the labour model of delivery platforms. Despite the migration background of the victim, the debate around riders revolved around whether they were self-employed or dependent workers, with **almost no reference to migration, although foreigners represented most of this workforce**³⁷.

The protests were marked by the rise of R4R³⁸ (Riders for Rights), the first organisation defending riders' rights at the national level, initially established as an informal, assembly-based organisation, highly heterogeneous across the country and active in various strategic domains (including journalism, academia, and social movements). Over time, it became more formal and structured, eventually scaling up to the national level. Like in Italy, the relationship between **R4R and trade unions** (especially UGT and CCOO) evolved significantly over time: in the early period (2017–2018) they joined forces mainly through protests and rallies, while later they expanded their range of action as to include legal cases and strategic litigation, thereby **successfully framing the public debate and influencing the political agenda**. At the same time, between 2019 and 2020, the Labour Inspectorate carried out several assessments on platforms, especially targeting Glovo. After each resolution by the Labour Inspectorate, the General Treasury of Social Security automatically registered the affected delivery riders in the General Social Security scheme, ultimately claiming over 16 million euros in unpaid contributions from Glovo. The contestation by the platform led to the so-called **“macro-trials” between the General Treasury and Glovo**, where the riders could opt to be represented. In these same years, **the COVID-19 pandemic** led to a substantial growth in the food delivery sector, highlighting the essential role of food delivery workers and bringing them into the public debate as indispensable professionals.

In this context, the **food delivery platforms** (Deliveroo, Glovo, Just Eat, and Uber Eats), which had maintained a shared strategy until the approval of the Riders Law, proposed a revision of the TRADE contract — which defines and regulates the status of economically dependent self-employed workers — into a **“DIGITAL TRADE contract”**, tailored to the digital market and including additional protections such as accident insurance, liability coverage, and specific compensation in the event of unilateral contract termination by the employer.

Platforms' positions have been partially shared by **the riders' organisations sustaining self-employed work** (including APRA, AA, Asoriders and ARAC)³⁹, although they gained visibility in the public debate especially after the adoption of the Riders Laws, organising demonstrations such as the #YesIAmSelfEmployed campaign. Their main objective is to enhance riders' working conditions (salary increase and limitation to new hirings), while preserving their independent contractor status.

Against this backdrop, **the Supreme Court issued a landmark ruling on 25th September 2020**, concerning a rider who had worked for Glovo in 2016 and recognising the dependent relationship between that rider and the platform. Challenged by the Supreme Court's ruling, platforms struggled to preserve their business model based on self-employment by altering contractual conditions to claim different working arrangements from those addressed by the Court and emphasizing the riders' organisational autonomy. Hence, further trials initiated by individual riders followed⁴⁰, with **courts** generally rejecting the platforms'

³⁷ Adigital (2020). Análisis del impacto económico de la labouralización de los repartidores, *Adigital*, <https://www.marketingdirecto.com/wp-content/uploads/2020/10/Analisis-del-impacto-economico-de-la-labouralizacion-de-repartidores.pdf>

³⁸ Its precursor was represented by the National Association of Messengers, an organisation aiming to unite all messenger workers in Spain, as pointed out in Felipe Díez (2023). *Las plataformas de reparto y la ley “rider” en España. Historia, seguimiento y análisis*, Observatorio de trabajo, algoritmos y sociedad, Madrid.

³⁹ Moares, F. F.-T., & Betancor Nuez, G. (2023). The mobilisation of food delivery gig economy workers (riders). *Capital & Class*, 47(3), 353-359. <https://doi.org/10.1177/03098168221131687>

⁴⁰ Baylos, Antonio. (2022). La larga marcha hacia el trabajo formal: el caso de los riders y la ley 12/2021, *Cuadernos de Relaciones Laborales*, 40 (1), 95-113.

claim of self-employment, substantially contributing to the **political legitimisation of the employment model in the public debate**.

In this context, the centre-left government formed by Podemos and the PSOE (Spanish Socialist Workers' Party) proved to be particularly responsive to the demands of trade unions and R4R, also because of the strong ideological alignment with them. When it comes to **policy formulation**, the negotiations began within the broader framework of labour and social security reforms involving the government and key stakeholders (e.g. national business associations and trade unions), facilitating the process. Yet, the policy formulation phase, *stricto sensu*, began in June 2020, when the Minister of Labour Yolanda Diaz, member of Podemos, convened the main stakeholders for a consultation on the Riders Law. The public consultation was followed, in October of the same year, by the official opening of the negotiation with social partners, including R4R, the most representative unions (CCOO, UGT) and business associations (CEOE), thus adopting a **participatory governance model**.

The government pushed for the presumption of employment and for its application to the entire platform economy beyond the food delivery sector, following the experience of California, where in 2019 the AB5 Law established the presumption of employment for all individuals who provide work or services in exchange for remuneration (whether through platforms or not). **The government's position was aligned with that of R4R and trade unions** and stood in clear opposition to that of the employer associations (CEOE), the food delivery platforms, the riders' associations advocating for the self-employment model (i.e. APRA, AAR, and Assoriders), supported by the right-wing opposition parties (i.e. Ciudadanos, People's Party and VOX). CEOE was however opened to accept the presumption of employment if applied only to the delivery platforms. Because of that, Glovo decided to leave the CEOE (April 2021), followed by Deliveroo and Uber Eats, creating a new employer association called APS (Association of On-Demand Service Platforms - *Asociación de Plataformas de Servicios bajo demanda*) and aimed at representing the interests of companies that use algorithmic technology. In this context, the government, as it wanted to deliver one of its most publicised electoral promises⁴¹, accepted **a minimal agreement** in order to proceed with legislation: the presumption of employment relationship was obtained in exchange for restricting the scope of the law to the delivery sector (as requested by the CEOE) and not to the entire platform economy (as requested by trade unions).

In 2021 the government approved a **Royal Decree-Law 9/2021**, 11th May, subsequently converted into what is known as the **Riders Law** (Law 12/2021, 28th September), which introduced **the right to "algorithmic transparency"**, that obliged all platforms to share their algorithms with workers' legal representatives (i.e., trade unions), and established **a legal presumption of a dependent employment relationship** for digital platform workers in the delivery sector. This made Spain the first EU Member State to explicitly require digital platforms in the delivery sector to recognise their workers as employees. As the Riders Law addresses platform workers in general, although stakeholders involved in policymaking were aware that migrants constituted the majority of riders, we can say that **IM workers are**, to some extent, an **implicit target**.

The de facto exclusion of the main platforms from the final agreement had negative repercussions on the law's **implementation**, as it **was undermined by most of the platforms** which regarded the regulatory change as not only unjustified, but also incompatible with their business model⁴². Beyond the division between CEOE and the platforms, the latter **split into two different camps**, as it happened in Italy: JustEat - which since the Supreme Court ruling had already transitioned to an employee-based work - **signed a collective agreement** with the main trade unions (UGT and CCOO) on 16th December 2021, which recognised the employment model; the other platforms, instead, went on introducing new changes in contracts to circumvent the law and ensure the survival of their self-employment business model. Exploiting

⁴¹ A key role in this solution was played by Yolanda Diaz, the Minister of Labour, who represents one of the most left-leaning and worker-focused positions within the government, and who had made the rider law one of her main campaign promises.

⁴² Because of the alleged unsustainability of the business model, Deliveroo announced the intention to leave the country in July 2021, after the approval of the Royal Decree-Law, and did it in November 2021.

the fact that actual implementation depended on them, **the platforms exerted a sort of “exit power”** (see par. 1.1), establishing an alternative and independent path opposing the one agreed upon by the government and the other actors.

In response to platforms’ strategies, **the Spanish government strengthened labour inspections and introduced two key measures**: 1) the Organic Law 14/2022, which penalized those who imposed contracts alien to the standard employment contracts or maintained them despite administrative warnings or sanctions; 2) Law 3/2023, the Employment Law, which tackled the platforms’ strategy aimed at appealing and delaying the fines by making sanctions more immediate and effective.

However, these measures did not solve the issue. The courts continued to issue rulings rejecting the claim of non-employment, which the platforms continued to challenge. At the same time, **the lack of inspection resources limited the effectiveness of controls**. As a result, as of 2024, the transitioning towards a labour-dependent model is yet to be achieved.

3.2.3 The Rider Law in Italy

According to different interviewees, **the outbreak of the pandemic**, not only **increased** the public awareness of the riders’ working conditions, but also **the share of migrants in food delivery**, due to the increased labour demand and the worsening working conditions. Nevertheless, **the key actors involved in the public debate never emphasised the role of migrants because of different reasons**. The confederal trade unions did so in order to mobilise a larger basin and because they believed that the specific labour relations of the platform work would soon spread to many sectors becoming a key issue in the near future. Similarly, employers advanced the idea that riders were first and foremost workers. Finally, as explained by a former ministry of Labour and Social Policies, centre-left policymakers, who were in favour of improving riders’ conditions, avoided emphasising migration to prevent politicisation and polarisation, recalling the Spanish government’s strategy concerning the transposition of CAP social conditionality. As a result, **the public and political debate was dominated by** the issues of the **dire labour conditions** and of the **bogus self-employment without any specific focus on migrants**. Nonetheless, the interests of migrants, including **IM workers, were implicitly considered**. Specifically, both representatives of the trade unions and the government affirmed that the choice of advocating for employment instead of self-employment was also driven by migrants’ interests, as the possibility to sign a job contract would have helped them in stabilising their legal status.

Against this backdrop, the main **triggers** of the policymaking process were **the significant mobilisation of riders**, which started in 2016, and the **judicial cases on riders’ rights**, which begun before the Court of Turin in 2018, to advocate for the recognition of the hetero-directed⁴³ nature of the jobs. The surge in protests was triggered by the shift from an hourly pay system to a payment-per-delivery model. These protests were mainly organised by informal and local unions which enjoyed strong legitimacy among riders but lacked channels of communication with the media and the government. Hence, after an initial period of tensions between the informal unions and CGIL, they eventually joined forces, giving CGIL more legitimacy among workers and informal unions access to the institutions, as it occurred in Spain. In contrast, UGL Rider, which aimed to enhance riders’ working conditions while preserving their independent contractor status, was regarded as an opponent by both the confederal and informal unions, who claimed that UGL was instrumental to right-wing political parties’ strategies⁴⁴. Nevertheless, while centre-left parties openly

⁴³ Law Decree n. 81/2015) the Italian government regulated a specific form of employment named hetero-directed. It refers to those work relationships which are “predominantly personal, continuous, organised by the employer including through the use of digital platforms”. In such cases, the Decree established that those workers have access of the same labour rights guaranteed to employees, although being self-employed.

⁴⁴ The union secretary, Claudio Durigon, is a well-known member of the League and a senator, he was appointed undersecretary of the ministry of Labour and Social Policy in October 2022, within the government led by Giorgia Meloni.

supported the unions' demands for the subordinate model, differently from Spain right-wing parties did not take a strong position in the debate.

Policy formulation officially started when the government decided to take action in 2018, by initiating a legislative process. It was Labour Minister Luigi di Maio (Five Star Movement) who promoted **participatory governance** by convening a series of meetings which involved a wide range of actors, namely not only the relevant platforms (i.e. Deliveroo, JustEat, Foodora, Domino's Pizza and Glovo) and the confederal trade unions but also the local unions that gathered together into the Riders for Rights (R4R), which from that point onward have been fully recognised as key actors in policymaking process on food delivery.

These meetings resulted in the Law Decree no. 101/2019 converted into **Law no. 128/2019 (called Riders Law)** which addressed specifically the labour conditions of riders. Many actors also intervened during parliamentary hearings for the conversion of the decree law into the law, i.e., R4R, all the confederal trade unions, and AssoDelivery (an employer organisation founded in 2018 and representing all the major delivery platforms in Italy), academics and labour law experts, and the National Labour Inspectorate, continuing the participatory governance started with the meetings. Surprisingly, there wasn't almost any involvement of ministerial bureaucracies in policy-making on food delivery, which was promoted and led directly by the ministries of Labour and Social Policies, with the support of external experts. This exceptional situation was explained by a former Ministry of Labour and Social Policies with **the lack of competences on such a new sector in the central government's bureaucracies**.

The 2019 Law appears as a sort of **compromise** between the involved actors: the law specified that "delivery workers" working occasionally were in principle self-employed (art. 47) and that the assessment of hetero-directed or subordinate work conditions had to be made case-by-case and could not be assumed a priori. At the same time, the law established a set of minimum level of rights for delivery workers: right to be informed on the working conditions which will be applied to them in advance; right to a compulsory insurance covering occupational injuries and diseases; right to have the retribution defined by a collective contract, and prohibition of piecework pay if there are no such agreements. Actually, **the main goal of the law was to promote a collective agreement between social partners to further specify the working conditions of riders**, as the law established a one-year period (till November 2020) for its adoption. If the social partners would not have come to an agreement by that deadline, the law established that riders had the right to receive a minimum hourly compensation equivalent to the one set by other collective agreements in similar sectors (i.e. logistics).

With the start of the **implementation stage**, the government tried to play a role by facilitating a series of meetings between November 2019 and September 2020 among the platforms, the confederation unions and R4R while UGL Rider, which supported the self-employment model, was not invited to the negotiations - according to the interviewees from the government this was due to its limited representativeness, and to its poor interest for the employment model that made its involvement in governance arrangements aimed at recognising riders as employees unreasonable whereas the interviewed member of UGL perceived that as an exclusion based on political and ideological reasons. However, the process did not live up to the government's expectations. **Like in Spain, platforms split and undermined the implementation process**. In September 2020, without any notice and explanation, Glovo, Deliveroo and Uber Eats exited the negotiations led by the government and decided to sign an agreement with the UGL, with the aim of maintaining a model based on the self-employment of riders, albeit with some additional safeguards. As a consequence of this unilateral decision and the interruption of the negotiations, in 2021 Just Eat signed an agreement with the confederal unions (CGIL, CISL and UIL) accepting the request of establishing employment relations and extending to riders the same working conditions as those enjoyed by workers in the logistics sector, in exchange for greater work flexibility - given that food delivery is concentrated in few hours during the day making 8-hours shift useless. As a result, Assodelivery was dissolved and **a dual labour**

market in food delivery, regulated by two different agreements, was set up: one based on self-employment and the other on subordinate employment.

Unexpectedly, **social partners set alternative and independent paths where the government and, more generally, the public actors were completely excluded**. Even though implementation didn't work out as planned, these agreements can be seen as coherent with the approach of the 2019 Law, which, differently from the Spanish legislation, did not impose a strict and binding regulation of the employment model in the sector and left the issue to negotiations between social partners. **Some trade unions believe that this bottom-up approach works better than the top-down imposition of rules by the government** occurred in Spain: given that platforms can easily evade regulation, it may be more effective to agree on shared rules.

Against this backdrop, the centre-left Italian Democratic Party sought to resume the policymaking process by drafting a bill that reproduced the content of the EU Platform Work Directive. However, it eventually gave up because of the different positions of the political parties participating in the Draghi government (i.e., all the Italian parties except for Brothers of Italy). At the same time, similarly to what happened in the Netherlands, both employers and the government emphasised that the ongoing negotiations **on the new EU Platform Work Directive induced national actors to suspend any domestic initiatives while waiting to understand the EU normative framework** within which the new legislation should be developed. Moreover, the election of the government led by Brothers of Italy, which appeared extremely cautious, in October 2022 completely marginalised the issue.

Finally, **as it happened in Spain, policy implementation was shaped by the Courts**. Indeed, the self-employment model has been repeatedly challenged in court by riders, often backed by trade unions (notably CGIL). The approach of the courts, which initially showed reluctance in recognizing the employment relationship⁴⁵, later became very strict against the platforms since 2020, when the Italian Supreme Court ruled that Foodora riders should be considered as full employees, marking a turning point in the implementation process. Following this decision, many local courts classified riders either as employees or as heteronomous workers, putting pressure on platforms which, as emerged from the interviews, seem to fear the courts more than the government.

3.2.4 The halt in policymaking on food delivery in The Netherlands

In interviews, union representatives noted a significant shift in the food delivery workforce from 2017-2018, when it was composed of 50-60 percent Dutch students and youth, to 2024, when the majority of workers were migrants, particularly third-country nationals. However, like in Spain and Italy, in The Netherlands **public debate on food delivery is, by many actors, not explicitly framed in terms of migration**, and whenever migrant workers are mentioned, discussions focus on irregularly-staying migrant workers who use passports and accounts of other workers with a residence permit.

Surprisingly, in The Netherlands, **policy debate started before food delivery gained visibility in the general public debate**. Indeed, MPs played a pivotal role in shaping discussions on platform work, engaging directly with platforms and participating in debates at both national and European levels. Already in 2017 MPs engaged in a discussion on the self-employment models with platforms (Helpling, Deliveroo, Temper, Werkspot, etc), although the exchanges with the latter – and especially with Deliveroo – was perceived as rather disappointing by MPs. At the end of the year, on 21st December 2017, **MPs submitted a motion** endorsed by MPs across the political spectrum - including left-wing parties such as GroenLinks, PvdA, and SP,

⁴⁵ The first two decisions adopted by the Court of Turin (no. 778/2018) and by the Court of Milan (no. 1853/2018) against Foodora and Foodinho qualified the situation of riders as self-employed. Such decisions were later overturned in the appeal phase.

centrist parties like D66 and CDA, and the right-wing VVD⁴⁶ - and **asking the government to address the situation in the food delivery market**, calling for dialogue with “market players” and encouraging the government to explore additional measures for the Tax Administration to enhance enforcement in cases of evident malpractice⁴⁷. **The government**, including the Ministry of Social Affairs and Employment, **was quite supportive towards the idea of the legal presumption of employment**, revealing a notable **shift in governmental policy**, transitioning from a laissez-faire approach, which allowed platforms considerable operational freedom until 2018, to a more regulatory stance⁴⁸. More generally, a growing consensus has emerged that the flexibilization of the Dutch labour market has gone too far - largely as a consequence of years of liberal policies advanced by the liberal party VVD - so that addressing labour market challenges, including bogus self-employment, became a shared priority.

The **public debate** around food delivery platforms, instead, rapidly raised in response to different events. First, Deliveroo's 2018 decision to classify its riders as self-employed rather than employees was a key catalyst for this attention and prompted **protests from riders**⁴⁹. The first food delivery union was the self-organized **Riders Union**, formed in response to Deliveroo's decision and initiated by the “lead riders” (the most experienced riders within Deliveroo's system) who leveraged their pre-existing informal connections with **FNV**, the largest trade union federation in the Netherlands, to establish a formal collaboration. In fact, the cooperation between these two different unions went even further than in Spain and Italy: in 2017, it resulted in the creation of the FNV Riders Union, with the Riders Union becoming an official chapter of FNV's Youth department, and in 2018, transitioning into the platform economy department under FNV's Campaigning sub-section. On the contrary, **grassroots sector-specific unions**, like Radical Riders, did not ally with traditional trade unions and followed different strategies. Indeed, they focused on direct action against platforms addressing their immediate concerns within the platform economy rather than on broader legislative changes concerning employment status.

Against this backdrop, **trade unions' and courts' strategies and roles were very similar to those observed in Italy and Spain**. Trade unions confronted platforms such as Deliveroo, Uber (Eats) and Helpling and faced a lack of cooperation on the side of platforms. In response, in 2018 unions (especially FNV and CNV) shifted their strategies from mobilisation and protests to **legal action**, becoming drivers of litigation on platform work. Beyond back payments for riders, union representatives emphasised the symbolic value of legal action, using litigation to challenge the normalisation of precarious self-employment models. The FNV even initiated a collective action against Deliveroo, leading the Amsterdam District Court to rule that the relationship between Deliveroo and its riders constituted a labour contract⁵⁰. Deliveroo continued to oppose

⁴⁶ However, some differences across parties exist: right-wing parties prioritized preserving business models and reducing administrative burdens; in contrast, left-wing parties, aligning with the European Parliament's position, advocated for clearer rights and stronger protections for workers and emphasized stricter enforcement of existing laws, aiming to classify platform workers as employees rather than self-employed; conservative and right-wing parties, such as CDA and VVD, favored a system granting equal—but reduced—rights for both self-employed and employed workers.

⁴⁷ Heerma, P., Wiersma, D., van Weyenberg, S., Bruins, E., van Dijk, G., Özdiş, Z., & van Kent, B. (2017). 32775 XV Nr. 47 Vaststelling van de begrotingsstaten van het Ministerie van Sociale Zaken en Werkgelegenheid (XV) voor het jaar 2018 Motie van het lid Pieter Heerma c.s. [32775 XV No. 47 Adoption of the budget states of the Ministry of Social Affairs and Employment (XV) for the year 2018 Motion by member Pieter Heerma et al.]. <https://zoek.officielebekendmakingen.nl/kst-34775-XV-47.pdf>

⁴⁸ Bennaars, H. (2021). Hoofdstuk 3: De kwalificatie van de platformwerker: De gezagsverhouding naar een nieuw 'level'? [Chapter 3: The qualification of the platform worker: The authority relationship to a new 'level?']. In M. Houwerzijl, S. Montebovi, & N. Zekić (Eds.), *Platformisering, algoritmisering en sociale bescherming. Sociaalrechtelijke uitdagingen in tijden van digitale transformatie* [Platformisation, algorithmisation and social protection. Socio-legal challenges in times of digital transformation], Wolter Kluwers, 35-60.

⁴⁹ Vandaele, K. (2020). *From street protest to improvisational unionism: Platform-based food delivery couriers in Belgium and the Netherlands*. Friedrich Ebert Stiftung. <https://library.fes.de/pdf-files/iez/16608.pdf>

⁵⁰ Rechtbank Amsterdam. (2019). *ECLI:NL:RBAMS:2019:198*. <https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:RBAMS:2019:198>

this decision, but the Court of Appeal and the Supreme Court upheld the ruling⁵¹. Hence, *the Deliveroo case* has provided a structured framework for distinguishing employment from self-employment.

Another two catalysts of public debate on food delivery were the *COVID-19 pandemic*, which fueled the fear that many other jobs would be platformised following similar dynamics, and two *influential reports published in January 2020 by institutional committees*⁵², which advised to explore the potential usefulness of introducing a legal presumption of employment for platform workers. As a result, discussions surrounding the introduction of new legislation regulating platforms gained prominence. The widespread political support for the policy reports and the lack of controversies in this regard even during the interim period following the fall of the Cabinet and the lead-up to new elections in November 2023 highlighted the *growing consensus around regulation of platform work* illustrated above. However, the positions of the actors involved were not homogeneous. For instance, some left-wing parties and trade unions proposed automatic employee status for anyone working for a platform company rather than the legal presumption to be demonstrated in front of courts, as legal presumptions are seldom invoked in practice.

Policymaking which, as said, started in 2017, *appears as participatory*. Following the general model of Dutch policymaking, many stakeholders (e.g., legal experts, platforms, unions, employer associations, various ministries, various implementation organisations like the National Labour Authority) were asked for their opinions on the legal presumption of employment for platform work. Nevertheless, *the policy formulation process was halted by the EU-level discussion on the Platform Work Directive*, as the parliament and the national government decided to wait for the Directive in order to develop national legislation consistent with the EU legal framework – actually, various interviewees even expressed their belief that the Dutch proposal influenced the Platform Work Directive proposal greatly⁵³. Overall, *non-policy* was not due to a lack of political will, but rather it resulted from timing, namely the simultaneity of the discussion at the national and EU levels.

Although we cannot analyse the *implementation* of non-policy, it is worth underlining that, in the face of the awareness that very few companies were being fined for engaging in bogus self-employment practices, MPs submitted motions and initiated debates with the Minister and Secretary of State for Finance in this regard. Some interviewees recalled that the Ministry of Social Affairs and Employment and the Ministry of Finance had pledged to investigate between 100 and 150 companies for issues related to bogus self-employment. However, despite these assurances, the promised inspections and penalties were never carried out, leading to disillusionment among MPs. Respondents suggested that the lack of action was largely due to consensus dynamics, especially to concerns about alienating the self-employed voter base, shedding light on the actual effectiveness that new, tighter legislation could have on the ground.

⁵¹ Gerechtshof Amsterdam. (2021). *ECLI:NL:GHAMS:2021:392*.
<https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:GHAMS:2021:392>; Hoge Raad. (2023). *ECLI:NL:HR:2023:443*.
<https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:HR:2023:443>

⁵² The report by the Netherlands Scientific Council for Government Policy (WRR) (*Het betere werk*) was published on 15 January 2020 (<https://www.wrr.nl/publicaties/rapporten/2020/01/15/het-betere-werk>); the report by the Committee for the Regulation of Work [Borstlap report] (*In wat voor land willen wij werken*) was published on 23 January 2020 (<https://www.rijksoverheid.nl/documenten/rapporten/2020/01/23/rapport-in-wat-voor-land-willen-wij-werken>).

⁵³ van Gennip, C. E. G. (2022). 35230 Nr. 4 *Initiatiefnota van het lid Kathmann over De herovering van de platformeconomie* *Brief van de Minister van Sociale Zaken en Werkgelegenheid* [35230 No. 4 Initiative Paper by Member Kathmann on *The Reclaiming of the Platform Economy* Letter from the Minister of Social Affairs and Employment].
<https://zoek.officielebekendmakingen.nl/kst-35230-4.pdf>

3.2.5 Non-policy on food delivery in Poland

Platform work in Poland is characterised by the dominance of global **Big Tech corporations** (Uber, Glovo, Bolt, etc.) which maintain that they are purely a technology providers and have no obligations to either riders or drivers. Their obligations are further limited by the widespread use of so-called fleet partners, namely intermediaries between the platform and the courier or driver⁵⁴. Like in Italy, Spain and The Netherlands, **JustEats Takeaway (operating under the name Pyszne.pl) is an exception to this is⁵⁵**, as it employs workers both directly and through an employment agency, based on civil contracts that provide for a minimum wage but do offer some social protection such as paid leaves.

Although Poland, like the Netherlands, lacks specific legislation regulating platform workers in food delivery, the underlying reasons differ, and the overall situation appears to be quite the opposite. **Until the adoption of the EU's Platform Work Directive in 2024, the political debate on the IM work in the food delivery sector was limited** to occasional hearings in specialised parliamentary committees, foremost the **Committee of the Future of Work** - active between 2019 and 2023 and made up only of left parties' MPs, its meetings were attended by experts, one rider trade union, and representatives of employers' organisations but did not result in any relevant legislative proposal - and a couple of interventions by the Commission for Human Rights which however produced no results. Particularly, in 2019, the **Commissioner for Human Rights** took up *ex officio* the case of Uber Eats riders delivering meals in several Polish cities after a report published by a journal (Duży Format, 18 February 2019, "I worked illegally in Uber Eats"), which described precarious work of food delivery couriers⁵⁶. The second intervention by the Commissioner for Human Rights occurred in 2021, when he asked the Minister of Development, Labour and Technology to regulate working conditions through electronic employment platforms. In response, a representative of **the Ministry stated that that platform work didn't require dedicated regulations**, claiming that existing provisions in both the Labour and Civil Codes were adequate and emphasizing Poland's contractual freedom principle, which allows parties to freely choose and shape their contractual arrangements (employment contracts, mandates⁵⁷, specific task contracts, and service provision agreements)⁵⁸.

A clear conflict emerged between the position of the State Labour Inspectorate and the Commissioner for Human Rights, on the one hand, and the ministries responsible for entrepreneurship and investment, such as **the aforementioned Ministry of Development and Technology**, on the other hand. The first two institutions stressed the necessity of regulating labour in the sector, the latter the lack of such necessity in the spirit of freedom of contract and business. Against this backdrop, in the past years food delivery workers organised a number of **strikes** in the attempt to improve their working conditions⁵⁹. However, they got relatively little media attention (only the protests against Pyszne.pl, the largest Polish platform, obtained more coverage) while some of them received support from opposition left-wing parties⁶⁰. In all of these

⁵⁴ Polkowska, D. (2023). Przyspieszenie czy spowolnienie? Praca platformowa dostawców jedzenia w dobie pandemii Sars-Cov-2. *Studia Socjologiczne*. <https://doi.org/10.24425/sts.2021.139724>

⁵⁵ In 2014, Pyszne.pl was acquired by Dutch company Takeaway, which in turn merged with UK brand JustEat in 2020. In Poland, the company continues to operate under the brand Pyszne.pl

⁵⁶ Szostak, P. (2018, February 18). Pracowałem na czarno w Uber Eats. *Wyborcza.Pl*. <http://extra.wyborcza.pl/ubereats>

⁵⁷ In Poland, a "contract of mandate" (umowa zlecenie) is a type of civil law contract characterized by freedom in shaping its content, including working hours, and the ability to terminate it at any time.

⁵⁸ Owczarek, D. (2022). *Don't GIG up your rights. Country update Poland*. Institute of Public Affairs. <https://www.isp.org.pl/pl/publikacje/don-t-gig-up-your-rights-country-update-poland>

⁵⁹ The first such protest took place in 2021 against Glovo's wage policy changes and involved two cities, Białystok and Gdańsk. Another, much larger protest, covering at least eight cities (Wiązowska, 2022) was organised by couriers from Pyszne.pl at the turn of 2022 and 2023. The first protest in which migrants participated, according to media reports, was a strike against the company Wolt in 2023 in Wrocław. The largest protest in which migrants took part was organised in Grudziądz and Poznań in 2024 against Glovo's wage policy.

⁶⁰ Stożek, M. (2023, August 13). *Strajk kurierów firmy Wolt*. Oficjalna Strona Marty Stożek. <https://www.martastozek.pl/aktualnosci/strajk-kurierow-firmy-wolt>; Szymaniak, M. (2021). *Sztuczki Glovo w Polsce nie działają. Sprawa strajkujących kurierów trafiła do Sejmu*. <https://bizblog.spidersweb.pl/strajk-kurierow-glovo>.

protests, the demands **addressed the platforms directly rather than policy-makers** and were triggered by changes in fare calculation.

The EU's Platform Work Directive invigorated domestic discussions over regulation of the food delivery industry, while main stakeholders increased advocacy efforts and started more actively voicing their positions. The business sector, for instance, expressed concern over the Ministry of Family, Labour and Social Policy's intention to obligate companies to conclude work agreements with food riders which is seen as detrimental for labour flexibility that this sector thrives from. However, even after the EU Directive was passed, **the Ministry declared it would not introduce any legislation within a period shorter than the maximum period for the implementation of the directive**, i.e. not before December 2026, further delaying regulatory action. Hence, the sector remains loosely regulated in Poland and there isn't any relevant legislation pertaining to the food delivery sector.

The non-policy in the food delivery sector can primarily be explained by two underlying dynamics, which have already emerged in the analysis of the Harvest Help contract:

1. **A clear power imbalance between trade unions and platforms.** Actually, as of 2024, just a few trade unions representing food delivery workers existed in Poland. One was a trade union established in Pyszne.pl. In addition, as a result of the above-mentioned protests, the trade union Inicjatywa Kurierów, affiliated with the grassroots trade union Inicjatywa Pracownicza, was formed. Instead, platform companies are well-organised through associations like the Employers of the Republic of Poland or the Polish Union of Application Partners established in 2024, promoting the narrative that employment flexibility primarily benefits workers, consumers and restaurants. As a result, **platforms proved capable of exerting a form of "agenda-setting power" to limit and shape the public debate.**
2. **The liberal economic policies prevailing in Poland.** Specifically, the Ministry of Development and Technology clearly prioritised Poland's contractual freedom principle and business flexibility over worker protections. More generally, the issue of precariousness for workers employed in food delivery did not mobilise broad political interests - as said, only the left-wing MPs were involved in the Parliamentary Group on the Future of Work.

In the absence of regulation, **the effectiveness of control and inspection activities over irregular employment in the food delivery industry was limited.** Although intermediary companies happen to use bizarre types of work contracts, such as vehicle or bike rental agreements, the State Labour Inspectorate underlines that they do not violate existing laws. In any case, the Inspectorate cannot stop persons driving vehicles just because they seem to work in the food delivery sector; to this end, it has to cooperate with the Police, Road Transport Inspectorate or Border Guard, which controls legality of stay. In addition, workers are often unable to identify intermediaries. Moreover, the enforcement agencies face difficulties even in locating companies to inspect, as their offices are either virtual or located in private apartments. Overall, enforcement agencies, such as the State Labour Inspectorate, tend to frame their limitations in legalistic terms to manage public expectations about their control capacity, deflecting responsibility and emphasizing legal limitations which locate the sector outside its authority.

However, it is worth mentioning that the Central Institute for Labour Protection - National Research Institute (CIOP-PIB) created a **mobile application designed for digital platform workers** to give them advice on improving the quality of their employment, and provide information on risks associated with this form of work. Although being a positive development, the expert denounced the application's availability only in the Polish language and little promotion activities, so that the impact has been limited, especially for IM workers.

3.2.6 Concluding remarks

This section examines the widespread tendency of employers to shift responsibilities onto workers, assigning them core business functions without recognising an employment relationship. This trend fosters exploitative practices and enables the evasion of liability. Bogus self-employment in food delivery and bogus subcontracting in the meat industry, discussed here, are clear examples.

Moreover, the case studies under investigation highlight how platformisation, i.e. the integration of digital platforms into business activities, has increasingly affected the F2F sector. Actually, food delivery, a specific sub-sector of F2F, is probably one of the areas where this process is most advanced. The examples of Spain, Italy, the Netherlands and Poland show how platformisation has given rise to new forms of labour relations that national governments struggle to regulate, with results that remain disappointing to date. Moreover, in almost all the case studies, crucial input came from mobilisation by workers, trade unions and civil society organisations, further highlighting the poor responsiveness of public actors.

3.3 Measures regularising IMW

3.3.1 The reform of the Arraigo system in Spain

The **reform of the arraigo system** — a set of legal mechanisms that allow irregular migrants who have developed social, familial, labour, or educational ties in Spain to regularise their status - is part of the Royal Decree 629/2022, amending the Regulation of Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration. This piece of reform **explicitly targeted IM workers** and included the following measures:

- Labour Arraigo, which is based on prior work experience and a continuous residence of two years in Spain, and where the reform expanded eligibility from individuals who had previously worked irregularly to those who had worked regularly, becoming the main channel towards legal residence for rejected asylum seekers who worked regularly while their application was being processed;
- Social Arraigo, where applicants must demonstrate at least three years of continuous residence, typically through municipal registration records, and must have a job offer whose contract requirements were reduced to 30 hours per week, making this pathway more accessible;
- Family Arraigo, which applies to foreign nationals with direct family ties to Spanish citizens and where the reform extended eligibility, eliminating the requirement to prove sufficient financial means, and prolonged the residence permit duration to five years;
- Arraigo for Training, which is a new legal category introduced by the reform that allows irregular migrants to obtain a residence permit for the purpose of education or training.

The reform was primarily driven by economic considerations and labour market needs⁶¹: the government explicitly framed irregularity as a structural inefficiency that undermines labour market functioning and economic policy goals. The report analysing the potential impact further clarified that the reform was designed to “support economic recovery” and “alleviate labour market bottlenecks” by making migration policy more responsive to real hiring needs in sectors that were facing persistent shortages.

⁶¹ Ramos Poley, L. (2023). El nuevo modelo de gestión laboral de la migración a partir de la reforma operada por el Real Decreto 629/2022, de 26 de julio. Revista de Trabajo y Seguridad Social. CEF, 475, 107-140. <https://doi.org/10.51302/rtss.2023.9017>

That said, the Royal Decree 629/2022 was driven by a convergence of **legal, economic, and political triggers**:

- the COVID-19 pandemic and the consequent rise in irregularity among non-EU migrants, as many lost their jobs because of the pandemic and were unable to renew their residence and work permits;
- rulings by the Spanish Supreme Court (notably the judgment of 25 March 2021) which recognised previous regular work experience as eligible, alongside irregular work, to apply for Labour Arraigo.
- policy learning from Germany's "tolerated stay" (*Duldung*) model, allowing irregular migrants to obtain residence permits if they commit to vocational training;
- evolving employment regulations as established by Royal Decree-Law 32/2021 of 28th December 2021, with the consequent need to align migration policy with this development.

The governance of policy formulation behind the Royal Decree 629/2022 revealed a **highly centralised and state-driven model of policymaking, with minimal involvement of key stakeholders**. The reform was initiated and steered by the Ministry of Inclusion, Social Security and Migration and also involved the Ministry of Foreign Affairs, European Union and Cooperation, the Ministry of the Interior, and the Ministry of Territorial Policy. Although the reform responded to long-standing demands from employers for access to foreign labour, particularly in sectors facing chronic shortages, it did not involve the business community in a structured dialogue. The lack of dialogue was openly denounced by trade unions⁶², some civil society organisations, such as Servicio Jesuita a Migrantes⁶³, and center-right and right-wing opposition parties. Meanwhile, left-wing parties, while recognizing the value of the reform's legal innovations, criticised on the limited scope of the reform and its overwhelmingly economic and utilitarian orientation and the migration policy's link exclusively to labour market needs without a broader vision of migrant inclusion based on rights, equality, or social justice⁶⁴.

The reform was operationalised swiftly through two key executive instruments: a) Instruction SEM 1/2022, which provided detailed guidance on the new Arraigo for training and clarified procedures for all residence permits based on Arraigo; b) Order ISM/1302/2022 of 27 December, which implemented the new mechanisms for hiring workers in countries of origin. **The implementation process mirrored the centralised and top-down model of the reform's formulation**, being led by the Ministry of Inclusion, Social Security and Migration, with little to no formal involvement of regional governments, trade unions, civil society organisations, or migrant associations. At the same time, it was **heterogeneous**, with variation across policy components (e.g., Arraigo for training vs. labour Arraigo), localities (depending on the administrative capacity, resources, and political will of regional and local authorities).

Nevertheless, the outcomes were significantly positive, expanding access to residence permits for irregular migrants: by June 2023, the number of individuals granted initial residence permits through Arraigo had nearly doubled compared to the previous year, rising from 95,948 to 190,414. More than a half of newly

⁶² CC. OO. (26 de julio de 2022). "CC. OO. y UGT rechazan la modificación del Reglamento de extranjería aprobada en Consejo de Ministros." https://www.ccoo.es/noticia:633525CCOO_y_UGT_rechazan_la_modificacion_del_Reglamento_de_Extranjeria_aprobada_en_Consejo_de_Ministros&opc_id=8c53f4de8f8f09d2e54f19daf8d8ed95.

⁶³ Servicio Jesuita a Migrantes, (2022). "Análisis de la reforma del Reglamento de Extranjería." <https://sjme.org/wp-content/uploads/2022/07/Posicionamiento-reforma-RLEx-Julio-2022.pdf>.

⁶⁴ Rojo Torrecilla, E. (2023). Inmigración y mercado de trabajo. La reforma de la normativa española en materia de extranjería. *Revista Crítica de Relaciones de Trabajo, Labourum*, 7, 41-66.

regularised men (55%) concentrated in agriculture, hospitality, and construction, namely sectors historically marked by informality and labour exploitation⁶⁵.

3.3.2 Covid-2020 regularisation in Italy

The “**Covid-2020 regularisation**” was adopted in 2020 (Article 103 of Law Decree 34/2020, later converted into Law 70/2020) as a response to the pandemic. This measure represented a collective regularisation scheme, which could be accessed within a limited timeframe (from May to August 2020). It was motivated by **the need to address labour shortages in essential services** during the pandemic and targeted irregular work performed by both Italians and foreigners – even though **IM workers were the main target**⁶⁶. As a matter of fact, **the Covid-19 pandemic opened up a “window of opportunity”**: although collective regularisations have become highly controversial in Europe since the late 2000s, the pandemic legitimised this kind of interventions with the aim of protecting public health and ensuring labour supply for essential activities where undocumented migrants represent a significant workforce.

Advocacy actions by civil society organisations and employer associations served as triggers of policy-making. Since the outbreak of Covid19 pandemic in Italy, at the end of February 2020, CSOs advocated for a broad regularisation of migrants, which would have allowed them to have full access to healthcare and better employment opportunities during such an emergency⁶⁷. At the same time, employers' associations expressed their concern for the impact of the border closure on migrant labour supply, especially in agriculture⁶⁸. However, once the issue entered the political arena, **policy formulation was mainly driven by the central government** (especially the Ministry of Agriculture, the Ministry of Interior, and the Ministry of Labour) without any significant involvement of either social partners or civil society organisations. Indeed, the regularisation was adopted in an emergency context, as part of a comprehensive Law Decree on measures to tackle the pandemic, and thus outside of a debate centred on immigration.

Despite the centralised decision-making process, tensions emerged within the government coalition with, on the one side, centre-left and left-wing parties endorsing the collective regularisation proposed by the competent Ministries and, on the other side, the Five Star Movement initially opposed the proposal, during the 60 days in which the Decree Law was discussed in the Parliament. The agreement finally reached among the governing coalition parties resulted in a compromise: **the final outcome** was not the comprehensive measure originally advocated by civil society organisations, and **did not focus on the recognition of rights, but rather on economic necessities, resulting in a rather restrictive and bureaucratically complex procedure**; moreover, it was **limited to agriculture, breeding and fishery, domestic work and care work**. Although other sectors were equally “essential” sectors, such as logistics, they were not targeted. Interviewees from employer associations explained this limitation with the differing levels of mobilisation among employer organisations, with those in agriculture being more active.

⁶⁵ In November 2024, the Spanish government approved a new Foreigners' Regulation (Royal Decree 1155/2024), which came into effect in May 2025. The reform eases residency requirements and adapts the arraigo system to better reflect social realities, introducing more flexible pathways to regularisation. Key changes introduced by the reform can be found here: https://home-affairs.ec.europa.eu/news/spain-new-immigration-reform-enhance-migrant-integration-2024-11-21_en?prefLang=sv

⁶⁶ Two regularisation procedures were possible: the first one was employer-driven, allowing employers to either conclude a new fixed-term employment contract with foreign nationals or to declare an existing irregular employment relationship with Italian citizens, EU nationals, or non-EU migrants who were present in Italy before March 8, 2020; the second channel was intended to allow foreign citizens whose residence permits had expired after October 31, 2019, to apply for a six-month temporary residence permit for job-seeking purposes, provided they could demonstrate previous employment in eligible sectors and physical presence in Italy before March 8, 2020.

⁶⁷ ASGI. (2020) ‘Emergenza COVID: È indispensabile la regolarizzazione delle persone straniere’, 22 April.

⁶⁸ Coldiretti. (2020) ‘Coronavirus, 1/4 dei raccolti a rischio senza stagionali’, 12 March, <https://www.coldiretti.it/lavoro/coronavirus-1-4-dei-raccolti-a-rischio-senza-stagionali>

The implementation was extremely long and complex. One year past the Law, in 2021, only 26% of the applications had been examined⁶⁹; four years later, in June 2024, around 20% of the applications were still pending⁷⁰. The delays - which left many migrants in a precarious position being unable to change their employment⁷¹ - can be considered as the outcome of Italian public administration's inefficiencies and lack of resources. On the one hand, despite the Decree being published on May 19, 2020, crucial implementing acts (related to social security contribution payments, practical aspects of application submission and the payment of lump-sum contribution) were issued only months later, between August and September, and their interpretation was not always clear, creating relevant uncertainty. On the other hand, the local Prefectures and the Police Headquarters lacked adequate human resources. This latter issue reflected structural problems with Italy's limited administrative capacity⁷² and was aggravated by the pandemic, during which offices were closed for months, creating enormous backlogs. These delays penalised especially workers in the agricultural sector, where employment is more precarious and jobs are often short-term, with employers less willing to apply, particularly as the regularisation ultimately failed to address the labour shortages it was intended to tackle: according to the data published by the Ministry of Interior in 2020, out of 207,542 applications, only the 15% involved workers in agriculture (30,649), while the vast majority of requests were submitted in the field of domestic work (176,848).

Another distinguishing feature of the implementation was **the key role played by civil society actors** (CSOs, migrants associations, lawyers, unions) **in facilitating the regularisation, often filling gaps left by inadequate administrative structures**: they took up multiple roles, from matching labour supply and demand to provide direct assistance to migrants navigating the complex bureaucratic requirements. Moreover, legal actors (e.g., ASGI and CILD) helped in interpreting regulations and providing guidance creating FAQs, fostering homogeneous understanding and practices among the actors involved (including the Prefectures) and, at the same time, engaged in more confrontational advocacy through class-action lawsuits challenging the implementation delays. Nevertheless, **the lack of communication and interactions** between CSOs and public offices partially disempowered the role of the first.

3.3.3 Collective regularisations of 2014 and 2016 in Morocco

The year 2014 marks a turning point in the country's migration policies with the development of a full-fledged approach whose cornerstone is the **National Immigration and Asylum Strategy (SNIA)**. The latter aims to manage flows of migrants entering Morocco and ensure their access to public services without discrimination on an equal basis with Moroccan citizens, marking an important evolution in relation to law

⁶⁹ Ero Straniero. (2021) 'Regolarizzazione, aggiornamento del monitoraggio: rilasciati in un anno circa 60.000 permessi di soggiorno, solo il 26% delle domande presentate', <https://erostraniero.it/regolarizzazione-20212309/>.

⁷⁰ The delays in the process are common to previous regularisations: the one implemented in 2002 lasted for almost 8 years (Pezzolo, M. (2024). Undocumented Migrants in Italy. A Study of the Regularization in Time of Covid-19. *Italian Labour Law e-Journal*. 1(17), 167-19.

⁷¹ Bonizzoni, P., Cacciapaglia, M., Artero, M. (2025). Trapped in administrative limbo. The Italian 2020 regularisation programme four years later. *Etnografia e ricerca qualitativa, Rivista quadrimestrale*. 1, 101-121; Celoria, E. (2024). Covid19 regularisation in Italy: a measure that did not live up to its promises. *DignityFirm Blog*, 10 June.

⁷² Bonizzoni, P., Cacciapaglia, M., Artero, M. (2025). Trapped in administrative limbo. The Italian 2020 regularisation programme four years later. *Etnografia e ricerca qualitativa, Rivista quadrimestrale*. 1, 101-121; Ponzo, I. (2023) *Looking Into Policy Change: How the Italian Asylum Regime Came of Age*. In: Finotelli, C., Ponzo, I. (eds) *Migration Control Logics and Strategies in Europe*. IMISCOE Research Series. Springer, Cham. https://doi.org/10.1007/978-3-031-26002-5_15; Tuckett, A. (2015). Strategies of Navigation: Migrants' Everyday Encounters with Italian Immigration Bureaucracy. *The Cambridge Journal of Anthropology*, 33(1), 113-128.

02-03 on the entry and stay of foreigners in Morocco which was passed in 2003 and adopted a security approach⁷³.

The SNIA included two exceptional collective regularisation campaigns: the first started in January 2014 and the second in December 2016, as regularising irregular migrants was one of the main objectives of this strategy in order to grant migrants and refugees access to rights and services. As a result, approximately 50,000 immigrants were regularised, which constitutes a significant advancement in matters of recognition of migrants' rights in integration, consistently with the country's commitments to human rights.

These regularisations were particularly relevant for the **F2F sector** as they coincided with the expansion of agricultural production, so that labour demand was insufficiently covered by national workers, allowing a large number of irregular migrants to gain their living as agricultural workers, although often on irregular basis. Asylum seekers have also benefited from regularisation processes, as the complex procedures often hindered full access to legal protection.

In the national political discourse, **the collective regularisations of 2014 and 2017 were primarily framed by a humanitarian approach, articulated around a vision of inclusive integration**. Particularly, since the promulgation of the 2011 Constitution⁷⁴, the issues related to migration, including irregular migration and the right to dignity and free movement, have gradually entered the national political agenda and, through the interaction with international and internal dynamics, led to SNIA.

At the international level, **reports from cooperation and international organisations** such as UNHCR, IOM and the UN Committee on the Protection of the Rights of all Migrant Workers and Members of their Families highlighted issues related to the situation of migrants in Morocco, prompting a space for dialogue and strengthening the momentum for reform in the field of migrants' human rights by implementing **the international commitments** and ratifying several International Labour Organisation's conventions⁷⁵. Furthermore, partnerships established with the **European Union**, as part of a shared approach to migration management, have also provided leverage for action. These partnerships, based on shared responsibility and cooperation, have helped strengthen institutional capacities and structure responses to the challenges posed by irregular migration⁷⁶. Alongside traditional measures such as strengthening border management, combating human trafficking and voluntary return schemes, regularisation has emerged as one of the complementary instruments encouraged by the EU, with a view to global, humane and shared management of migration⁷⁷.

⁷³ Although one of SNIA's goals is to upgrade the law 02-03, this has not yet been achieved, and the law remains in force to this day, despite previous drafts submitted in the legislative process and then retrieved back.

⁷⁴ Natter, K. (2012). The Formation of Morocco's Policy Towards Irregular Migration (2000-2007): An investigation on migration policies in transit states and public policy making outside the liberal-democratic context. Institut d'Études Politiques - École doctorale de Sciences Po (Paris).

⁷⁵ For instance, convention No. 144 on Tripartite Consultations in 1933; several provisions of Convention No. 87 on Freedom of Association are already part of the national labour code, with trade unions being considered elements of social peace and a bridge for relations between workers and employers; the International Convention on the Protection of the Rights of all migrant workers and members of their families; the General Comment No. 2 of the Migrant Workers Committee; the International Labour Organisation Convention No. 143 on Migration in Abusive Conditions ratified in 2016, and the ILO Convention No. 97 on Migrant Workers.

⁷⁶ Since 2004, Morocco' migration initiative started to be shaped with the EU's close partnership with Morocco on migration and border management. This was strengthened by the 2013 EU-Morocco mobility partnership which entails a joint collaboration of the EU and Morocco in combating the smuggling of migrants and trafficking in human beings and providing assistance for victims. It also committed both "to work closely in order to ensure that Morocco can establish a national asylum and international protection system" (European Commission Migration and mobility partnership signed between the EU and Morocco, 7 June 2013, https://ec.europa.eu/commission/presscorner/detail/en/ip_13_513).

⁷⁷ Dalouh, Mouna (2024, 3 July). Governance of Irregular Migration in Morocco: Achievements and Expectations. <https://mipa.institute/?p=11000&lang=en>; See also P8: https://euromedrights.org/wp-content/uploads/2015/03/PM-Morocco_Final-Version-EN.pdf

Finally, the SNIA, including regularisations, were part of **Morocco's positioning in Africa** with the Kingdom gaining the role of "Leader of the African Union on the issue of Migration" after the 28th African Union Summit in 2017. This pushed Morocco to handle migration as a human issue rather than a security concern⁷⁸. As the only North African country to implement large-scale regularisation campaigns, Morocco's policies have been praised by the international organisations and have contributed to its reputation as a leader in migration policies in Africa.

Internally, **the activism of CSOs, unions, and formal and informal community organisations** for revising the Law 02-03 and for improving the rights of immigrants and refugees remained unheard for years. The CSOs' and union's appeal **was eventually buttressed by a joint guidance document written by the National Council Human for Rights, the Inter-ministerial Unit on Human Rights and the IOM in July 2013** that stressed the need to establish a legislative and institutional framework that could accommodate the new dynamics of migration and comply with the country's commitments under the international human rights and refugee law⁷⁹. In the same year, **the National Council for Human Rights⁸⁰ published a report in which it called on the authorities to adopt a new migration public policy** addressing the situation of refugees and asylum seekers, undocumented migrants, and the rights of regular migrants⁸¹. Thanks to the absence of politicisation of the debate around migration in the parliament, the lack of electoral stakes on the issue and the mobilisation of civil society organisations, the recommendations of the National Council Human for Rights were approved by HM King Mohammed VI who called on the government to undertake the necessary reforms to effectively develop a new migration and asylum policy, which turned into two collective regularisations and the SNIA.

The boundaries between policy formulation and implementation werelargely blurred, as the implementation of both regularisations passed through **administrative circulars rather than through proper legislative acts**, following the will to act in a pragmatic and rapid manner, pending on the establishment of a legal structuring framework. Although the regularisations were formally ensured by the Ministry of the Home Affairs in collaboration with the Ministry of Foreign Affairs and International Cooperation in charge of Moroccans Residing Abroad and Migration Affairs (MDCMREAM), the role played by **other state actors and CSOs was significant**.

The operational decisions were mostly entrusted to the **provincial commissions**, which have played a central role in processing cases. Regularisation commissions, responsible for examining applications and making decisions regarding the regularisation of migrants, were composed of representatives of local authorities, the Prefecture, the province and CSOs.

Moreover, **CSOs advocated for and supported migrants throughout the process**. Specifically, they called for an extension or a waving of the criteria of regularisation in the second campaign. Indeed, the criteria have become more flexible and looser due to the calls of the civil society to regularise all IM. At the same time, unions have contributed in the regularisation process by supporting migrants in obtaining residence permits (eg, providing documents, accompanying them to the administrations, etc.) after an official mandate from the Ministry of the Interior and the Wali (the governor or the chief administrative official of a province or region).

⁷⁸ King Mohammed VI (2022). Extract from the report of HM in the 35th Ordinary Session of the Heads of State and Government of the African Union Addis Ababa. 6 February. <https://migrationnetwork.un.org/system/files/docs/Morocco%20-%20Voluntary%20GCM%20ew%20for%20IMRF%20-%20Overview%20.pdf>

⁷⁹ CNDH (2013). Etrangers et droits de l'Homme au Maroc: Pour une politique d'asile et d'immigration radicalement nouvelle. Résumé exécutif. http://archive.cndh.ma/sites/default/files/etrangers_et_droits_de_lhomme.pdf

⁸⁰ The National Council for Human Rights is a pluralistic and independent national institution set up by the Constitution (Article 161) which considers all issues related to the defence and protection of human rights including migrant workers' rights.

⁸¹ CNDH (2013). Etrangers et droits de l'Homme au Maroc: Pour une politique d'asile et d'immigration radicalement nouvelle. Résumé exécutif. http://archive.cndh.ma/sites/default/files/etrangers_et_droits_de_lhomme.pdf

CSOs had also a say at the appeal stage, being members of the National Appeals Committee⁸², which was chaired by the National Council Human for Rights and was responsible to review the complaints of rejected applicants by checking the respect of the Constitution and the international commitments. The Committee was encouraged to enable the largest number of migrants to benefit from the regularisation process, somewhat following *flexible criteria*. As a result, even IM workers who were able to prove that they were engaged in occupational activities but do not possess an employment contract were regularised.

Despite the general appreciation for the regularisations, a civil society organisation representative highlighted some relevant *limitations*. Notwithstanding the campaigns' success in granting 50,000 residence permits for IMs, administrative obstacles and complex procedures hindered access to the regularisations for some IMs, particularly those unfamiliar with official procedures. The renewal of residence permits also posed certain difficulties, within a legal framework that is still evolving. Finally, although the SNIA was aimed at providing a legislative framework able to govern migration and asylum and prevent "irregularisation", this objective has been only partially fulfilled as, by 2023, estimates of irregular migrants (mostly from West and Central Africa) already reached 75,000⁸³. These observations have fuelled a collective reflection on the importance of establishing strengthened support mechanisms, as well as on the need to offer, in the medium and long term, regular entry and residence pathways adapted to the diversity of professional profiles, including for low-skilled workers.

Regarding the effects of regularisations on migratory trajectories, testimonies collected during the fieldwork indicate a plurality of paths: while some migrants have chosen to settle permanently in Morocco, others have continued their mobility project towards other destinations, highlighting the complexity of the factors that motivate individual decisions regarding migration.

To conclude, it is worth underlining that, as Morocco is experiencing labour shortages, including in the F2F sector (eg. agriculture and fish processing), ***employers heard during the fieldwork expressed positive attitudes towards the idea of a new regularisation campaign*** in the future. According to them, this perspective could meet both the economic necessities and the needs of IM workers living in the country. At the same time, while migration was on the top of the political agenda between 2014 and 2019, it is no longer the case, as ***political priorities have gradually evolved*** towards food security, economic sovereignty and the expansion of social protection, under the effect of several factors such as the institutional reorganization carried out in 2019⁸⁴, with the modification of the responsibilities of the Ministry of Foreign Affairs; the economic and social repercussions of the Covid-19 pandemic; and the geopolitical effects of the Russian's 2022 invasion of Ukraine.

3.3.4 Concluding remarks

The three case studies analysed in this section illustrate markedly different approaches to regularisation. In Spain, it is an ordinary and permanent procedure, whereas in Italy and Morocco it has taken place only in exceptional circumstances. Moreover, since collective regularisations are generally discouraged in the EU, in Italy they were made possible by the extraordinary contingency created by the Covid-19 pandemic, while in Morocco they were praised as part of a broader strategy to enhance migrants' access to rights and services.

⁸² The Committee involved a wide range of actors, such as the Ministry of Foreign Affairs, the Wallis, the Director of Migration and Border Surveillance for Morocco at the Ministry of Home Affairs, the Ministry of Health, the State Ministry in charge of Human Rights and nine members representing civil society, including migrants' associations.

⁸³ UN (2022). "International Migration Report 2021: Building a Better Future for Migrants and Refugees in the Arab Region," Economic and Social Commission for Western Asia (ESCWA). 36-125. <https://bit.ly/49ba1lh>.

⁸⁴ SNIA and migration affairs were under the political supervision of the ministry in charge of Moroccans residing abroad and migrations Affairs in 2014, then it became a cross-cutting department attached to the Head of Government in 2016, then it became supervised by a delegate ministry responsible for Moroccans residing abroad and Migration Affairs attached to the Ministry of Foreign Affairs, African Cooperation, and Moroccans Residing Abroad in 2017. In 2019, the issue of migration affairs was suppressed from the delegate ministry which had a mandate of Moroccans residing abroad only.

In all cases, this kind of measure enjoyed broad support from both trade unions and employer organisations, with the latter generally playing a major role. Surprisingly, while the EU fostered and supported regularisations in the African country, it tends to discourage them within its own territory. In both cases, however, migration controls are its primary concern.

In terms of long-term outcomes, only the Spanish approach appears to have produced solid results. By contrast, in Italy and Morocco the complex bureaucratic procedures and the absence of effective structural measures to prevent migrants and asylum seekers from falling into irregularity have undermined the long-term impact. This suggests that establishing a clear pathway to obtaining a residence permit, including for those who entered the country without a visa or fell back into irregularity during their stay, is more effective and beneficial for both workers and employers.

3.4 Measures contrasting workers' exploitation

3.4.1 Bill criminalizing "serious harm" of workers in the Netherlands

Until 2017, severe forms of labour exploitation were only dealt with under criminal law through the criminalization of human trafficking, which was added to Article 273f of the Dutch Criminal Code in 2005. In order to tackle the **abuses which did not reach the relatively high threshold for being framed as human trafficking**, the **integrated approach to labour exploitation** was initiated in 2017 by the National Labour Authority (NLA). This new integrated approach combines, on the one hand, the prosecution of human trafficking under criminal law and, on the other hand, the fight against **less severe exploitative practices labelled "serious harm" (ernstige benadeling)** which is primarily combated using administrative law⁸⁵. In its policy documents, the National Labour Authority uses the following definition of serious harm: "[...] the situation in which an employer seriously violates labour laws on wages, working hours, working conditions and/or legal work one or more times"⁸⁶.

In 2021 a very influential and critical report compiled by the Netherlands Court of Audit on the Dutch approach to labour trafficking showed that the labour exploitation legislation had not produced the expected outcomes⁸⁷. This report gave rise to new discussions on a more effective way to combat "serious harm" which turned into **a new bill to criminalise it** (Parliamentary Documents number 2023/24, 36 547, nr. 3) presented on 29 April 2024. The bill focused on vulnerable groups in the labour market but, in the explanatory memorandum, it is recognised that migrants constituted a vulnerable group in particular. Hence, **IM workers can be regarded as an indirect target**.

The policy debate and policymaking process were mainly driven by institutional actors - such as the National Labour Authority, the Netherlands Court of Audit and the working groups convened by the Ministry

⁸⁵ Specifically, the guideline for an integrated approach to labour exploitation offers tools for tackling labour exploitation effectively in an integrated manner with existing legal instruments (Handreiking integrale aanpak arbeidsuitbuiting. Samenwerken in de praktijk, Utrecht, Centre for Crime Prevention and Safety, 2021, available at [Handreiking integrale aanpak arbeidsuitbuiting - Het CCV](#)). This could include a (combined) use of criminal, administrative or fiscal instruments. The idea is that various state actors – the labour Inspectorate, the Public Prosecution Service, the police, the municipalities, the Tax and Customs Administration – all make a contribution.

⁸⁶ NLA (2022). Monitor arbeidsuitbuiting en ernstige benadeling 2020-2021. Ministry of Social Affairs and Employment, p. 9. Available at [Monitor arbeidsuitbuiting en ernstige benadeling 2020-2021 | Publicatie | Nederlandse Arbeidsinspectie](#)

⁸⁷ Netherlands Court of Audit (2021). Daders vrijuit, slachtoffers niet geholpen: Knelpunten aanpak arbeidsuitbuiting, <https://www.rekenkamer.nl/publicaties/rapporten/2021/09/28/daders>[1]vrijuit-slachtoffers-niet-geholpen.

of Justice and Security- **on the basis of technical assessments**. Indeed, the issue of exploitative practices had not been a central political concern for voters, so that the criminalization of “serious harm” was affected by experts and public bureaucracies rather than being driven by electoral pressure and consensus dynamics.

Still, **the bill was drafted through a participatory process with the involvement of a wide range of actors**, i.e., the Ministry of Justice and Safety, the Ministry of Social Affairs and Employment, the Labour Inspectorate, the Public prosecutor, the National Rapporteur on Trafficking in human beings, the Centre for Crime Prevention and Security, experts and academics, unions, and CSOs. The round tables were initiated by the Ministry of Justice and highlighted the need for a simplification of the criminal code on human trafficking and the failure of the current provision to effectively tackle the bulk of abuses that took place on the labour market. Moreover, the actors participating in the round tables received a copy of the legislation on which they were again asked for comments and input which were included in the legislative proposal. Finally, the new legislation to criminalize “serious harm” was made publicly available for so-called **online consultation** where many different parties and organisations shared their feedback and proposals. **At the beginning of 2025, the bill was not yet turned into law**: it had to be formally discussed and voted on in Parliament as, because of more urgent acts, the discussion was moved forward a couple of times.

“Serious harm” emphasises the sanctioning of the employer rather than the protection of victims. Thus, it is striking that in the explanatory memorandum, **no reference is made to the Employer Sanctions Directive 2009/52/EU**, which equally targets employers, especially those illegally employing MW. Moreover, the lack of focus on the workers generates unintentional negative effects as, by stopping the situation of “serious harm” and removing people from that harmful situation, workers are suddenly out of a job and possibly also homeless as a result. Trade unions, CSOs, and labour rights organisations have played a role in shifting the debate towards worker protection and promoting local initiatives that provide shelter to these seriously harmed IMW through public-private partnerships⁸⁸. However, their influence remains secondary.

Moreover, although the proposal to criminalize “serious harm” was generally received positively, it also attracted several **criticisms**. First, because it remains largely reactive, responding to reports rather than proactively preventing exploitation. Second, many actors - including prominent employer organisations and enforcement agencies - argue that the legislative proposal does not define “serious harm” clearly enough. The third issue concerns the high standards for evidence, as demonstrating the occurrence of “serious harm” can be difficult in practice.

3.4.2 The Law against gang-mastering in Italy

In Italy, the salience of IMW in agriculture in the public and political debate was triggered, first of all, by **mobilisation organised both by exploited migrant workers** - either spontaneously or with the support of confederate unions, especially CGIL - from 2008 in the Southern Italian regions with large informal settlements of migrant agricultural workers (especially Apulia and Calabria). Hence, **in public representation exploitation in agriculture became strongly related to migration**. Thanks to these protests, the Law Decree 138/2011 introduced for the first time the criminal prosecution of illicit intermediation of work (gang-mastering, *caporalato* in Italian). By contrast, **the Employer Sanctions Directive 2009/52/EU**, although it introduced some safeguards, **did not trigger the adoption of new legislation, nor did it significantly influence public or political debate on the topic**.

⁸⁸ The program of serious harm has made arrangements with several other parties to help and take care of those seriously harmed, involving additional actors to the scene such as the municipality of the Hague, VNG, ABU. They have made arrangements for beds for victims of serious harm, and the ABU has set up a program to help people get a new job. The emergency beds were initially only made available to EU migrant workers, but the pilot was gradually expanded so that third-country nationals and undocumented migrants could also use the emergency beds.

That said, **the real turning point** for the adoption of the Law 199/2016 against gang-mastering (“Provisions on combating undeclared work, labour exploitation in agriculture and wage realignment in the agricultural sector”) came in 2015 with the mobilisations which followed **the death of Paola Clemente, an Italian agricultural worker exploited under gang-mastering conditions**. Her case, which attracted large media coverage, demonstrated that exploitation was not limited to foreign workers and generated widespread outrage that accelerated the legislative process. At the same time, interviewees noted that the receptiveness of Matteo Renzi’s centre-left government to the issue proved significant, with two Ministries particularly pushing for the adoption of the law (Maurizio Martina, from the Ministry of Agriculture, and Andrea Orlando, from the Ministry of Justice), both belonging to the Democratic Party.

The Law 199/2016 tackled the issue by introducing new sanctions against employers and defining more clearly what should be considered exploitation through a list of indexes⁸⁹. Specifically, **the Law 199/2016 provided for the criminal liability of the employers**, sanctioning not only those engaged in illicit intermediation (gang-mastering) but also the employers who made use of such practices, namely anyone who used, recruited or employed workers subjecting them to exploitation⁹⁰. The law is characterised by a **unique focus on the protection of victims, particularly IM workers**. First, given that a recurrent feature of gang-mastering is the monopoly on transport, housing and other services, with workers paying a fee to use these facilities⁹¹, the Law 199/2016 also addressed these aspects, committing the Ministries of Labour, Interior and Agriculture to draft an action plan to provide accommodation and social and logistic support to workers in agriculture, with the cooperation of regions, municipalities, trade unions, employer and civil society organisations. Therefore, the law was the starting point for tackling the issue not just from a criminal perspective, but also from a social one with the **aims of identifying and preventing exploitation and sustaining the victims**. Alongside trade unions, Caritas - drawing on its experience in the fight against exploitation in agriculture through the “Presidio Project”, established in 2013/2014 with the aim of counselling and supporting workers living in informal settlements - played a key role in advocating for increased protection for agricultural migrant workers.

Second, the law, despite addressing workers in general, **extended the special permit to stay to migrants involved in situations of labour exploitation and who collaborate with judicial authorities** in criminal proceedings against their employers, following the approach previously used for the victims of trafficking and sexual exploitation. Hence, **to some extent IM workers also are an explicit target**. That said, similarly to what we observed in The Netherlands, the focus on “serious exploitation” might not be effective in terms of IM workers’ protection, as the largest segment of them is in a situation of exploitation that doesn’t qualify as severe exploitation, as the element of danger is missing.

The **policy formulation** was primarily led by the Ministry of Justice and the Ministry of Agriculture, but there was a significant involvement of the Presidency of the Council of Ministries due to the sensitive nature of extending criminal liability beyond direct exploiters. During the drafting and discussion of the law, several

⁸⁹ The index are the following: a) repeated violations of hours of work and rest period regulations; b) no salary or salaries below those established by collective bargaining agreement; c) violation of occupational safety and health rules; and d) degrading living or working conditions

⁹⁰ According to the 2016 Law, ‘labour exploitation’ refers to work situations that differ significantly from standard working conditions, particularly in terms of workers’ recruitment, wages, hours of work, leave entitlements, decent treatment and living conditions, imposed on workers by taking advantage of their vulnerability or state of need. When coercion is involved (through violence or threats) there is a situation of aggravated or more serious labour exploitation that can amount to forced labour while gang-mastering is used to refer to unlawful labour recruitment and labour exploitation carried out by gangmasters who illegally recruit workers for third parties.

⁹¹ For an overview of the definition of labour exploitation, forced labour and caporalato, see the first “Three Year Plan to tackle labour exploitation and unlawful recruitment in agriculture 2020-2022”: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@europe/@ro-geneva/@ilo-rome/documents/genericdocument/wcms_766362.pdf.

employer associations (Agrinsieme, Copagri, Fna Consai, Ance, Italian Cooperative Alliance for Agri-food, Federdistribuzione), trade unions (CGIL, CISL, and UIL), civil society organisations, as well as academics and experts, were consulted by Parliament in a **participatory policy-making process**. Although employers were initially reluctant to extend criminal responsibility from illegal labour intermediaries to them, no sharp contrasts emerged, and the law proposal was largely supported.

The main **implementation** tools have been the Committee against gang-mastering, and the “Plan against labour exploitation in agriculture and gang-mastering”. The **Committee against gang-mastering** is a central national body, chaired by the Ministry of Labour and Social Policies and tasked with identifying the priority action on exploitation, planning the institutional activities and monitoring its implementation. It **involves both institutional actors⁹² and non-institutional organisations** such as employers, workers and the civil society organisations, which were selected through an expression of interest. According to interviewees, all the meetings of the Committee, which is organised into six thematic Working Groups⁹³, followed a **participatory approach** facilitating the exchange of views and positions as well consensual decisions.

In 2019, the Committee drafted the “**Plan against labour exploitation in agriculture and gang-mastering**”, which was approved at both central and regional levels in February 2020 and, although it was formally set to run until 2022, it was still being implemented at the time of our fieldwork (i.e., 2024). The Plan was designed to operationalise the principles of the 2016 law through **a coordinated and multi-stakeholder approach**. ILO (International Labour Organisation) was engaged by the Ministry of Labour and Social Policies to support the drafting of the Plan, provide counselling and technical assistance, and monitor the implementation through internal reports and public reports to the Parliament. The Plan was articulated into ten priority actions grouped into 4 “pillars” - 1) Prevention⁹⁴; 2) Enforcement⁹⁵; 3) Protection and assistance⁹⁶; 4) Labour and social reintegration⁹⁷ - with the **aim of combining a repressive approach with a preventive one**.

However, the lines of action that made the most progress were those where coordination and, above all, the necessary competencies for their implementation were in the hands of actors located at the central level, such as the Ministries and the National Labour Inspectorate. It is the case of the “Prevention and Pursuing of

⁹² The institutional bodies are the following: Ministry of Interior; Ministry of Justice; Ministry of Agriculture, Food and Forests; Ministry of Transport; National Agency for Active Labour Market Policies (ANPAL); National Labour Inspectorate (INL); National Institute of Social Security (INPS); the Army (Carabinieri); the Financial Police (Guardia di Finanza); State-Regions Conference; National Association of Italian Municipalities (ANCI). A Technical Secretariat was established at the Directorate-General for Immigration and Integration Policies of the Ministry of Labour and Social Policies, to support the activities of the Committee. The International Labour Office (ILO) and the European Commission (EC) provided technical assistance to the Secretariat.

⁹³ The Groups are the following: 1) prevention of labour exploitation and unlawful recruitment, coordinated by the National Labour Inspectorate (INL); 2) agricultural supply chain and prices of agricultural products, coordinated by the Ministry of Agriculture, Food and Forestry; 3) labour intermediation and enhancement of the role of the Public Employment Centres, coordinated by the National Agency for Active Labour Market Policies (ANPAL); 4) transport, coordinated by the Basilicata Region; 5) housing, coordinated by the National Association of Italian Municipalities (ANCI); 5) Network of Quality Work in Agriculture, coordinated by the National Social Security Institute (INPS).

⁹⁴ Under the first pillars, the interventions should aim at: managing and monitoring labour demand peaks during harvesting periods; curbing unfair market practices, by promoting the traceability of agricultural products and expanding the Network of Quality Work in Agriculture; increasing the transparency of intermediation services; providing transport services and decent housing for agricultural workers.

⁹⁵ Under the second pillar, the main goals are: the expansion of inspections; the increase in coordinated training targeting labour inspectors; and the enhancement of coordination among enforcement authorities.

⁹⁶ The third pillar focuses on the establishment of health and legal aid services for victims of exploitation, as well as on the access to labour and social reintegration programmes. It also promoted training for the organisations responsible to protect and assist the victims of exploitation.

⁹⁷ The fourth pillar is strictly coordinated with the third, and aims at expanding the availability of longer-term labour and social integration services for victims and the strengthening of coordination among service providers at national, regional, and local level.

Labour Exploitation and Unlawful Recruitment”, led by the National Labour Inspectorate, which set up mixed inspection task forces with the cultural mediators provided by the IOM (International Organisation for Migration). Conversely, where responsibilities lay with the regions or local authorities, such as the responsibility for housing and transport, implementation faced relevant obstacles. Hence, ***although decisions regarding the implementation of Law 199/2016 have involved a large number of actors, their translation into action has been more effective when governance follows hierarchical arrangements and is centralised.***

Moreover, it is worth underlining ***the relevant role of UN agencies***, namely the ILO and the IOM, comparable only to that observed in the two Associated Countries. According to some interviewees, the reasons lie in the technical competencies they could bring and in the lack of nationwide CSOs that could effectively support the government’s action.

Overall, ***implementation*** faced relevant challenges, because of the relatively small number of inspections⁹⁸ and the discrepancies in the approach of each territorial office of the National Labour Inspectorate. Moreover, over the last decade, new governments often restructured the organisational arrangements of the national labour and inspection agency, preventing procedures and practices from consolidating and becoming efficient. Against this backdrop, the regions, which in Italy have exclusive competence over labour policies, demonstrated uneven engagement with agricultural labour exploitation policies, reflecting the relevance of the agricultural sector in the local economy and the public awareness of the exploitation in each region.

Finally, the 2016 law strengthened the Network of Quality Work in Agriculture - introduced in 2014⁹⁹ and managed by the Social Security Institute (INPS) - by allowing registration only for agriculture and fishing companies that comply with labour and social security legislation and tax obligations. The interviewees underlined a generalised perception of ***lack of effectiveness of the Network of Quality Work in Agriculture due to the lack of advantages for the employers who join the Network, either in terms of taxes/funding or public acknowledgement.***

3.4.3 Non-policy on IMW in the Green Generation strategy of Morocco

In Morocco, ***the issue of (migrant) work in agriculture is discussed mainly at the local level, notably among CSOs and social partners (trade unions and employers).*** Among the most active actors, there are Attac Maroc and the North African Network for Food Sovereignty, which have repeatedly denounced the conditions of agricultural workers, including IM workers, and fight to strengthen solidarity between workers with the aim of fostering an agricultural policy that prioritises the needs of the local market. One of the members of the North African Network is the Democratic Union of Agriculture, which is an important organiser and defender of agricultural workers in the Souss region and in 2021 put forward a demand for a comprehensive agricultural policy, including decent and fair labour rights for all workers, both national and migrant. Its general aim is to ensure that the actual producers (i.e. farmers, fishermen, foresters, and agricultural workers) have a voice in policymaking on agriculture and that policy decisions take into account the expectations of those on the ground.

The reforms concerning agriculture, however, have not been informed by this debate, which has not spread to a national level. Hence, this can be regarded as a case of ***non-policy.***

Specifically, the main policy in the agricultural sector in Morocco is the ***Green Generation 2020-2030 strategy launched in 2020.*** It builds on the Green Morocco Plan, started in 2008, which aims to modernise

⁹⁸ For instance, in 2022-2023, out of 90.506 inspections carried out by labour inspectors and by the National Institute for Social Security, only 4.885 (6) took place in the agricultural sector, <https://www.lavoro.gov.it/documenti/piano-caporalato-allegato-1-relazione-al-parlamento-terza-annualita-2022-2023>.

⁹⁹ The Network of Quality Work in Agriculture was established at the National Institute for Social Security (INPS) by art. 6 of Decree Law No. 91/2014, as amended by Law. 116/2014: <https://www.gazzettaufficiale.it/eli/id/2014/06/24/14G00105/sg>.

the sector, address its structural dysfunctions and improve productivity. Green Generation strategy's main objectives are to strengthen production and promote youth employment in rural areas by emphasising sustainable growth and openness to foreign markets - with particular support for large-scale farms as drivers of competitiveness and employment - but it fails to address the issue of labour conditions in the agricultural sectors.

Various reasons for the lack of policies addressing IM workers employed in agriculture emerged from the fieldwork.

First, the agricultural policy concentrates on boosting production by paying ***attention to the natural and environmental dimensions rather than labour dimension***. This is partially due to a policy silos approach which is still prevailing in the country so that policies tend to mirror the distribution of competences among ministries. As a result, migrants, and even more so IM workers, are absent from Morocco's agricultural policies.

Second, ***migrant workers are quite invisible in agriculture***. Indeed, the labour force in the sector is constituted primarily of internal migrants. And the seasonal employment of most migrant workers further enhances their invisibility. Moreover, there is little accurate data on the number of international migrants employed in agriculture, making their presence little visible in statistics, as the representative of the Ministry of Agriculture pointed out, and makes it more complex to take them into account in the national political agenda.

Third, after the crises of the COVID19 pandemic and Russia' 2022 full-scale invasion, the priorities of the current government have become inflation, food sovereignty and security, and social protection. Hence, ***the issue of IM workers has lost relevance in the political agenda***.

In conclusion, it is worth noting that the issue of MW in the ***F2F sector is gaining visibility mainly in correspondence with Morocco's international commitments and international trade agreements***, which require the implementation of sustainable and fair labor practices. In this context, the European Union, as a strategic partner and an important market for Moroccan products, pays particular attention to compliance with social, environmental, and ethical standards. For example, the EU Investment Plan for the Southern Neighborhood, which is part of the EU-Morocco Green Partnership, supports the agricultural, fisheries, and forestry sectors while promoting social and professional inclusion, particularly through training and improving the working conditions of migrants. We will return to this conclusion in the discussion, as it is a rather telling finding that the EU appears more active in protecting the rights of IM workers outside the EU than inside its own territory.

3.4.4. Concluding remarks

Measures aimed at combating workers' exploitation do not appear to be central to the governance of the F2F sector during the period under consideration: we identified only two instances of new legislation in this field within the EU, and in Morocco the issue has not even scaled up from the local political debate to the national one. This confirms the idea that IM workers' conditions receive secondary attention compared with the primary aims of regulating the labour market or meeting labour demand, which seem to be the main drivers of policymaking concerning IMW in the F2F sector.

Within this policy cluster, criminal and administrative components are combined in national legislation. However, while criminalisation of exploitation can provide more effective tools for intervention, it appears unable to prevent unintended negative consequences, such as the risk that IM workers not only lose their jobs but are also expelled. In this regard, Italian legislation is particularly advanced, providing a special residence permit to those who report exploitation and cooperate during the proceedings. Yet implementation has proven to be partial and fragmented. More generally, the examples discussed in this section illustrate that policy formulation must take implementation dynamics into account to minimise unintended consequences.

4. Irregular migrant workers as (implicit) policy targets

IM workers are explicitly mentioned in the text of the law – as unavoidable - exclusively in case of regularisations or the introduction of sanctions for employing migrants with an irregular status. Hence, we can affirm that **IM workers are generally implicit targets of policies in the F2F**, as illustrated in Table 2 (non-policies are not included, as non-policy is defined as such when policymaking fails to address IMW, meaning that IM workers are neither an explicit nor an implicit target).

The prevailing implicit targeting is partially explained by the fact that measures explicitly addressing IM workers could violate the principle of non-discrimination (whether being in favour of or against IM workers). On the other hand, this seems the result of the scant attention paid to this category of workers and the limited concern for their dignity. As a matter of fact, as explained in Section 2.1, most of the policies under review are aimed at addressing labour market dynamics rather than improving workers' conditions.

Finally, **expectations towards the state in managing irregular migrants¹⁰⁰** seem to play some role in defining the targets of the investigated policies. For instance, **in Germany, the Netherlands and Poland**, the state is quite reluctant to admit the presence of IM work, as it would contradict public expectations about the state's control capacity. It is no coincidence that, in these countries, public and political debate focuses on society as a whole, with the aim of improving public health and safety or enhancing the performance and fairness of the economic system, rather than on the conditions of migrant workers.

Table 2 - Irregular migrant workers as policy targets^a

	MEASURE ADDRESSING (FAIR) COMPETITION	MEASURE CONTRASTING BOGUS SELF-EMPLOYMENT/SU BCONTRACTING	MEASURE REGULARISING IMW	MEASURES CONTRASTING WORKERS' EXPLOITATION
GERMANY		Ban of subcontracting in the meat industry <i>IMW implicit target</i>		
THE NETHERLANDS	Bill on employer sanctions <i>IMW explicit target</i>			Bill criminalising "serious harm" <i>IMW implicit target</i>
SPAIN		Riders Law <i>IMW implicit target</i>	Reform of Arraigo <i>IMW explicit target</i>	

¹⁰⁰ Boswell, C. (2021). What isn't in the files, isn't in the world": Understanding state ignorance of irregular migration in Germany and the United Kingdom, *Governance*, 34(2), 335-352.

ITALY		Riders Law <i>IMW implicit target</i>	Covid19 regularisation <i>IMW explicit target</i>	Law against gangmastering in agriculture <i>IMW explicit target</i>
MOROCCO			Collective regularisations <i>IMW explicit target</i>	
POLAND	Harvest Help Contract <i>IMW implicit target</i>			
UKRAINE	Law on Employment of Foreigners and Stateless Persons <i>IMW implicit target</i>			

5. The triggers and drivers of policymaking: the marginality of the “policy cycle” dynamics

The idea of the **policy cycle** describes a process, a sequence of stages that ultimately lead to the creation of a public policy. While scholars have often diverged in identifying more or less complex sequences (e.g., agenda-setting, policy formulation, public policy decision-making, policy implementation, policy evaluation), they agree upon the fact that **each stage of the cycle affects the subsequent one**¹⁰¹. In this loop, two passages are particularly relevant to ensure that policies meet actual needs: the initial inputs conveying the policy targets’ demands; and the feedback from policy implementation leading to policy adjustments either in terms of (re)formulation of policies or corrections in their implementation. In fact, **our findings highlight weak connections with respect to these steps**.

Concerning the initial inputs, **migrant workers’ voice appears very weak in policy-making on IMW in the F2F sector**. In our case studies, workers’ mobilisation and protests played as triggers only in the food delivery sector (The Netherlands, Spain, and Italy), and, in Italy, in the fight against gangmastering. In this context, **fatal accidents at work**, such as those that occurred to Paola Clemente in 2015 in Italy or to Pujan Koirala in 2019 in Spain were sometimes crucial in drawing media and political attention to protests. Workers’ protests were particularly marginal in policymaking addressing IMW in Morocco, where they weren’t able to scale up from the local to the national level, and in Ukraine, where immigration is still a limited phenomenon and Russia’ 2022 invasion hampers any possibility of mobilisation. More surprisingly, they were either limited or not very impactful in Poland, in line with the generally low levels of unionisation and worker mobilisation in the country.

¹⁰¹ Laegreid, P., and K. Verhoest (2010). *Governance of Public Sector Organisations: Proliferation, Autonomy and Performance*. London: Palgrave Macmillan.

With regard to the other passage, ***policy evaluation based on feedback from implementation*** seems indeed to be a relevant trigger of policy reforms ***only in The Netherlands***, where policy assessment by institutional bodies through public reports, along with the involvement of experts and academics in policy formulation, appear to be standard features of the policymaking process.

Instead, ***Courts' rulings*** played the role expected in policy cycle theory in several cases, triggering adjustments in policies addressing IM workers, in the case of administrative sanctions for the illegal employment of third-country migrant workers and trainees in the Netherlands, and in the reform of the Arraigo system in Spain. In the case of food delivery in Spain and Italy, they went further than that: they played a major role in legitimising the employment model over the self-employment one, shaping the framework of the so-called Rider Laws, as we will better illustrate in par. 6.2.

Against this backdrop, ***crises appear as major engines of policymaking***, either by being used as “windows of opportunity”¹⁰² or by raising awareness of the essential role of IM workers in the F2F sector. For instance, the COVID-19 pandemic acted as a trigger for the measures concerning regularisation of stay in Italy and Spain, served as a catalyst for the prohibition of subcontracting in the core sectors of the German meat industry, and significantly contributed to raising public and political awareness of the working conditions of food delivery riders in Italy, Spain, and to some extent in The Netherlands. Moreover, although not analysed in detail in this report, the COVID-19 pandemic prompted the extension of the validity of documents authorising stay and work in the target countries, preventing people from falling into irregularity due to difficulties in both crossing borders and renewing their documents.

However, as clearly illustrated by the case of Morocco, the pandemic and Russia's 2020 full-scale invasion also ***affected policy priorities, shifting attention away from the long-term conditions of migrant workers***. In fact, although these crises emphasised the importance of food security, they failed to highlight its connection with ensuring dignified conditions for migrant workers, which is necessary to attract and retain them, thereby enabling the F2F sector to function effectively.

Finally, ***Russia's full-scale invasion of Ukraine fostered liberalising policies on migrant work***, particularly in Poland and Ukraine. In ***Poland*** - as in many other EU countries - employment of Ukrainian citizens has been considerably facilitated in 2022 through the “Act on assistance to Ukrainian nationals” which extends the validity period of employment declarations from six to 24 months and establishes that employers are only required to notify labour authorities about employment of a Ukrainian national within 14 days from the start date of employment.

In ***Ukraine***, Russia's 2022 invasion caused the sharp deterioration of the demographic situation, because of the flight of both national and foreign workers, and the resulting need to replace the labour force. This situation fostered the adoption of the “Amendments to Certain Laws of Ukraine Regarding Employment of Foreigners and Stateless Persons in Ukraine and Provision of Mediation Services in Employment Abroad”, which liberalised and simplified foreigners' access to the labour market. More generally, the new scenario has changed the public discourse, making discussions about immigration and foreign labour more regular and professional.

Surprisingly, ***EU legislation plays a marginal role in prompting national policymaking on IMW***. Of course, it generally triggers a process of transposition into national legislation, but the actual consequences appear negligible, as was the case with the introduction of the social conditionality in the redistribution of CAP funds in Spain - similar evidence was observed in The Netherlands - and the transposition of Employer Sanctions Directive 2009/52/EU investigated in the Netherlands and Italy. In all cases, the effects were minimal, partly ***because national legislation was already in line*** with its content. This may reflect a

¹⁰² Kingdon, J. W. (1984). *Agendas, Alternatives and Public Policies*. Boston: Little, Brown and Company.

structural limitation of EU legislation, which, being shaped by Member States, or at least by the core ones, often amounts to a ratification of their status quo¹⁰³.

However, *some EU Directives affected national policymaking on IMW indirectly*, although generally producing *unintended negative consequences*. The Seasonal Workers Directive, which Polish farmers perceived as detrimental since it complicated procedures and increased the costs of employing foreigners, prompted the introduction of the Harvest Help contract, with the aim of counterbalancing the increase of rights produced by the Directive through a further liberalization of work contracts. The EU's Platform Work Directive has also impacted national policymaking, particularly in the Netherlands, Italy, and Poland, where national political debates were put on hold while awaiting clarifications on the constraints introduced by the Directive - either taking the new EU Directive as a key reference point for forthcoming national legislation or using it as an excuse to delay action.

Paradoxically, during the observed period, *the EU's influence appears more significant in the Associated Countries thanks to the conditionality mechanism*. For instance, in *Ukraine*, the EU is in a position to set the standard for relevant policy changes within the framework of the accession process. Similarly, in *Morocco*, cooperation with the EU in the context of migration management contributed to the adoption of the collective regularisation campaigns, in line with the EU strategy aimed at promoting the stabilisation of migrants in the country and preventing their onward movement to Europe.

6. The governance of IMW

6.1 Governance arrangements: the prevalence of participatory modes in the governance of contentious phenomena

As explained in par. 1, *governance* can be regarded as the *process through which a plurality of actors* - generally actors with a stake in that particular issue - *interact in order to formulate, promote and achieve common objectives*¹⁰⁴. This does not mean that the actors involved share a priori common objectives and priorities (actually they generally have diverging interests). Rather they interact with the aim of formulating and achieving some commonly accepted goals in order to cope with issues of public concern, namely with the aim of finding joint solutions that solve emerging problems. Hence, governance arrangements, like policies, are the result of a purposive action.

Against this backdrop, we conceive of the role of state as a matter of empirical investigation, distinguishing two modes of governance: a) *centralised governance*; and b) *participatory governance* (see par. 1.1)

Table 3 summarises the models of governance for each analysed policy, focusing on *policy formulation* rather than on implementation. Non-policies are not included in the table, as the policy-making process has either not started or has been interrupted.

The Table reveals that *neither of the two models prevails*. However, some *recurrent patterns* emerge. For instance, *centralised governance* occurred *only in measures addressing (fair) competition and those regularising IMW*. This can be partly attributed to the fact that these measures impose sanctions or regulate the legal status of foreigners, two areas in which the state holds key competences and where dialogue with social partners may be limited. That said, especially in Morocco and Italy, civil society organisations played a crucial role in implementation, both by advocating for broader interpretation of eligibility criteria and by supporting migrants in applying for regularisation.

¹⁰³ Boswell, C. and A. Geddes (2011), *Migration and Mobility in the European Union*, Palgrave Macmillan.

¹⁰⁴ Torfing, J., Guy Peters, B. Pierre, J. and E. Sørensen (2012), *Interactive governance. Advancing the Paradigm*, Oxford: Oxford University Press.

In contrast, *participatory governance* appears the main mode in *measures contrasting bogus self-employment and workers' exploitation*. We can assume that, given the loose and partially contentious definition of the issue at stake, the state feels a greater need to involve stakeholders in the formulation of shared parameters and to build consensus around them. In this regard, *food delivery governance is notably open*, with a broad range of stakeholders, including newer actors such as food delivery platforms and riders' unions that emerged from local protests, typically organised under Riders for Rights (Spain and Italy)/Riders Union (The Netherlands). This openness is likely fostered by the fact that it is a newly established sector, where traditional social partners still have limited expertise, staffing, and legitimacy. As a result, they are unable to "close" the policy arena and prevent new actors from gaining access. At the same time, during the field research, several interviewees pointed out that public institutions are struggling to keep up with new technological solutions and lack the necessary internal expertise. Hence, the involvement of a wide range of actors may be necessary to grasp the emerging employment models associated with platforms.

Overall, we can affirm that *the issue at stake plays a greater role than the country's policy setting in shaping governance arrangements*, with policies on contentious issues being more likely to be regulated through participatory governance mechanisms.

Table 3 - The governance models of formulation of policies on IMW

	MEASURE ADDRESSING (FAIR) COMPETITION	MEASURE CONTRASTING BOGUS SELF-EMPLOYMENT/ SUBCONTRACTING	MEASURE REGULARISING IMW	MEASURES CONTRASTING WORKERS' EXPLOITATION
GERMANY		Ban of subcontracting in the meat industry <i>Participatory governance</i>		
THE NETHERLANDS	Bill on employer sanctions <i>Centralised governance</i>			Bill criminalising "serious harm" <i>Participatory governance</i>
SPAIN		Riders Law <i>Participatory governance</i>	Reform of Arraigo <i>Centralised governance</i>	
ITALY		Riders Law <i>Participatory governance</i>	Covid19 regularisation <i>Centralised governance</i>	Law against gangmastering in agriculture <i>Participatory governance</i>
MOROCCO			Collective regularisations	

			<i>Participatory governance</i>	
POLAND	Harvest Help Contract <i>Participatory governance</i>			
UKRAINE	Law on Employment of Foreigners and Stateless Persons <i>Centralised governance</i>			

6.2 Main stakeholders: the (im)balance between employers and migrant workers in the governance on IMW

While the previous paragraph focused on the varying roles the state can assume, this one addresses the other *actors involved in the governance of IMW in the F2F sector*.

Employers generally appear as particularly powerful actors, able to shape policies and sometimes to initiate them. Against this backdrop, *Northern and Central European countries*, on the one hand, and *Eastern European countries*, on the other, can be depicted (purely for heuristic purposes) as the **two extreme poles**. In the first group, employers, although powerful and influential, ultimately appear unable to resist the will of the state (when it exists) to sanction them and place limits on their actions - although in Germany, this only occurred thanks to the window of opportunity created by the Covid-19 pandemic. In the second group, employers appear able to impose their demands and priorities to the government and to initiate policymaking processes that suit their needs, also due to the weakness of trade unions and civil society organisations advocating for migrant workers.

Against this backdrop, *food delivery* shows peculiar dynamics. Here, employers, which take the form of *multinational companies operating on a global scale*, were eventually excluded from policy formulation. However, this appears as the result of their refusal to cooperate (except for JustEat). In this specific case, exclusion from governance arrangements is voluntary and primarily a result of *the platforms' "exit power"*, which is the influence deriving from the threat of non-participation when your involvement is vital for the effectiveness of the policies at stake (see par. 1.1). Indeed, when the effectiveness of policies largely depends upon the involvement of certain actors, the influence deriving from their threat of non-participation increases. Moreover, they appear capable of circumventing legislation aimed at contrasting bogus self-employment by signing their own collective agreements, as in Italy, and by adjusting employment contracts to avoid state regulation, as in Spain, in the face of national governments' limited leverage.

As for the workers' side, *trade unions play a particularly relevant role in Southern European countries*, probably because policies liberalising the labour market have been more limited than in the other countries analysed, *while they appear quite marginal in the governance of IMW in the F2F sector in Eastern Europe*. That said, *the overall ability of trade unions to influence policymaking appears to be greater when governments are centre-left oriented*. This was the case with the Law against gangmastering in Italy, the Riders Laws in Italy and Spain, and the reform of Arraigo in Spain. Finally, as explained in the previous

section, in food delivery new unions have emerged and gained relevance, as traditional social partners still have limited expertise and legitimacy in this field. In Italy, Spain and The Netherlands, an alliance between established and new unions has developed to combine the institutional channels of the former with the legitimacy and mobilisation capacity towards riders of the latter.

CSOs also advocate for IM workers' rights. However, their role often appears even weaker than that of trade unions, as their involvement in policymaking in the field of labour is less established and consolidated. In fact, they were often consulted during policy formulation (e.g., parliamentary hearings, consultative processes), yet their input was seldom taken into account. We can affirm that ***the modes of their involvement in governance arrangements on IMW in the F2F sector are poorly institutionalised*** (with the exception of the Netherlands) ***and their influence largely depends on national governments' political will***. However, their role in policy formulation and especially implementation, seems to increase when they prove to be able to provide useful services, as was the case of the Italian and Moroccan regularisations.

Migrants - and especially IM workers - play a marginal role in the investigated governance arrangements and struggle to have their voices heard in policymaking across all the target countries. Migrant organisations were almost absent from both policy formulation and implementation of policies on IM work in the F2F sector. Overall, migrant workers remain structurally weak with little direct influence on policymaking for multiple reasons:

- their underrepresentation in trade unions and political parties, which appear unable to engage a significant portion of IM workers;
- trade unions' difficulties in sustaining long-term participation even from the most active IM workers, due to their precarious living conditions and high mobility;
- IM workers' limited interest in long-term legal and policy-oriented strategies due to their greater exposure to retaliation and their focus on immediate concerns, such as keeping their jobs and obtaining fair payment;
- the structural weaknesses of migrant associations, often compounded by the informal nature of many migrant-led groups and communities.

Against this backdrop, ***policies can empower IMW***, as it happened in Germany, where the subcontracted workers were not part of the decision-making processes, as they were excluded from the worker councils and then had no voice. After implementation of the ban of subcontracting, those workers became represented in the worker councils and organised for pay rises: joint action with trade unions asserted a nationally and industry-wide binding minimum wage through collective bargaining and strikes in 2020³³.

International organisations - especially UN agencies such as IOM, ILO, and UNHCR - ***appear to play a crucial role in the governance of IMW in Associated Countries***. In ***Morocco***, international organizations have played an important role in the implementation of certain aspects of the National Immigration and Asylum Strategy (SNIA), notably through technical support, institutional capacity-building, and assistance to grassroots associations¹⁰⁵. In ***Ukraine***, international organisations such as IOM, ILO and UNHCR are influential actors as well and their platforms appear as the main venues of exchange among stakeholders, where a wide range of participants are invited to discuss and agree on the goals of the new migration strategy. Surprisingly, international organisations are quite relevant in ***Italy*** too, as emerged from the analysis of the law against gang-mastering, in the implementation of which ILO and IOM have important

¹⁰⁵ More generally, the SNIA is part of the structural human rights reform process that Morocco initiated in 2000, with a focus on women's empowerment, and which culminated in the promulgation of the new Moroccan constitution in 2011. It is not by chance that the new constitutional requirements prioritise the country's international commitments over national legislation. Consistently, in cases of legal gaps or convergence between national law and Morocco's international commitments with regard to (irregular) migrant workers, court rulings apply the principle of the precedence of international commitments.

functions. As some interviewees explained, the main reasons for their involvement are their technical competences and their capacity to operate across the entire national territory, in contrast to the highly fragmented landscape CSOs in Italy. Moreover, it is worth noting that IOM is also regarded as a proxy for migrants' representation in the absence of strong and representative migrant organisations. Overall, ***in these three countries, IOs seem to make up for the state's - and civil society's - low political-institutional capacity***¹⁰⁶.

Finally, ***courts*** that, as explained in par. 5, allowed for adjusting policies, have played a ***non-traditional role in contrasting bogus self-employment in the food delivery sector*** in three out of the four countries where we analysed this sector (namely Spain, Italy and The Netherlands, while they have only played a marginal role in Poland). In fact, on the one hand, they counterbalanced the disparity of power between food delivery platforms and workers/trade unions which initiated litigations contesting the self-employment model and, on the other hand, they compensated for the low effectiveness of state intervention. This second function seems to depend on two main factors:

- the recent and rapid development of food delivery and its specific forms of employment, requiring a rapid reinterpretation of the legislation;
- the "exit power" of the multinational food delivery platforms circumventing the national legislation through slight and subsequent revisions of the employment relations.

In the face of these elements, ***courts seem to be able to react more rapidly than governments***.

At the same time, the key role of the courts apparently produces some ***limitations*** as:

- they must apply the existing legislation and therefore have a limited ability to produce policy innovation;
- except for the highest courts, courts' rulings apply only to single cases, so that they cannot be generalised to every worker in the sector;
- courts' rulings appear quite diverse in such a new sector, generating diverging and heterogeneous situations and inputs;
- such cases are often lengthy, partly because platforms intentionally prolong litigation to delay changes to their business models.

It is important to note that these negative unintended effects are mainly due to the fact that court rulings often compensate for inadequate legislation, yet courts lack the appropriate tools to develop new policies.

6.3. Policy frames and their impact on the governance of IMW

The actors involved in governance arrangements on IMW in the F2F sector hold not only different interests and priorities, but also different frames, i.e., definitions and interpretations of the issue at stake. Therefore, we have classified the actors' frames specifically concerning IM workers, according to the following

¹⁰⁶ The political-institutional capacity can be defined as the ability to achieve the established goals. For the definition of state capacity see : Geddes, B. (1996). *Politician's dilemma: Building state capacity in Latin America*. University of California Press ; Skocpol, T. (1985). Bringing the state back. In P. B. In Evans, D. Rueschemayer, & T. Skocpol (Eds.), *Strategies of analysis in current research*. Cambridge University Press ; Skocpol, T., & Finegold, K. (1982). State capacity and economic intervention in the early new deal. *Political Science Quarterly*, 97(2), 255–278. On the role of international organisations in migrant integration policies see Ponzo, I. (2023). *Looking Into Policy Change: How the Italian Asylum Regime Came of Age*, in Finotelli, C., Ponzo, I. (eds) *Migration Control Logics and Strategies in Europe*, Springer, Cham. https://doi.org/10.1007/978-3-031-26002-5_15.

categories, largely (though not exclusively) drawn from the classifications proposed by Caponio on local integration policies, and by Delvino and Spencer on municipal activism concerning irregular migrants.¹⁰⁷

1. the **“security frame”**, where IM workers are regarded as a threat to security;
2. the **“unfair competition frame”** where IM workers are regarded as sources of unfair competition;
3. the **“market-need frame”**, where IM workers are regarded as a necessary solution to face market competition;
4. the **“humanitarian frame”**, where IM workers are regarded as victims (of exploitation, trafficking, etc) and/or vulnerable people with unmet welfare needs and/or individuals excluded from human rights;
5. the **“deserving workers frame”**, where IM workers are not defined as vulnerable but as deserving of legal status and/or support because of their contribution to the labour market;
6. the **“socio-economic frame”**, where the exclusion of IM workers undermines the possibility of achieving collective economic and social policy goals such as the fight to irregular economy, public health, social cohesion, and integration of (regular) migrant population;
7. the **“efficiency frame”**, which implies that it is more cost-effective and efficient to manage IM workers when they are included in public registers and services than when they are excluded;
8. the **“migrant-responsibility frame”**, in which IM workers are viewed as willingly engaging in irregular employment for their own benefit.

Looking at the **overall picture, the “humanitarian frame” emerges as the most widespread, followed by the “deserving workers” and “socio-economic” frames**. Hence, IM workers are mainly perceived as vulnerable individuals; at the same time, their labour market inclusion is seen as beneficial to the economic system and society at large.

In terms of **actors, trade unions and employers** largely focus on employment and economic dynamics, although the former appear more worker-centred, while the latter tend to refer to the needs of the overall economic system. In fact, the “deserving workers frame” prevails among trade unions, whereas among employers the “socio-economic” and the “unfair competition” frames are the most common, with the latter depicting peers using irregular work as playing dishonestly and damaging those who pay fair wages and social security taxes. Against this backdrop, **Spain appears as an exception**: the interviewed trade unions hold the “humanitarian frame”, while among employers the “deserving workers frame” is largely prevalent, revealing a greater sensitivity towards migrants’ rights compared to the same actors in the other countries.

Concerning **public entities**, the frames appear quite mixed. However, it is worth noting that in Spain, all the interviewed public entities display a “humanitarian frame” (probably because they all belong to government parties, i.e. PSOE and Podemos), while in Italy the “efficiency frame” prevails.

Finally, the “humanitarian frame” prevails among **CSOs and international organisations** in all countries except Germany, where the “socio-economic” and “deserving workers” frames are more prominent for this category of actors.

In terms of **countries**, although the “humanitarian”, “deserving workers” and “socio-economic” frames are the prevailing ones almost everywhere, **the “humanitarian frame” appear more widespread in the Mediterranean countries** (Spain, Italy, and Morocco), in line with their prevailing focus on promoting

¹⁰⁷ Spencer, S. and N. Delvino (2019), Municipal Activism on Irregular Migrants: The Framing of Inclusive Approaches at the Local Level, *Journal of Immigrant & Refugee Studies*, 17(1), 27-43; Caponio, T. (2014), [The legal and political dimension of local integration policy](#), KING Desk Research Paper n. 9/July 2014.

migrants' rights through regularisations and efforts to combat exploitation and bogus self-employment (par. 2).

Eastern European countries (Poland and Ukraine) *stand out as the only investigated countries where the "security frame" acquires some relevance*. This seems to align with the focus of their policies on resident and work permits. In the other countries, although the "security frame" is certainly strong when dealing with migrants entering the country irregularly, it appears to be far less pronounced when these same migrants are considered as workers. However, Ukraine also shows a substantial diffusion of the "humanitarian frame", probably due to the significant influence of integration organisations and the EU in policymaking on IMW.

Finally, *the "market-need frame" has emerged exclusively in Germany and the Netherlands*. This appears coherent with the tendency to view society at large as the main intended beneficiary of the measures under investigation (see par. 4).

These findings suggest that *policy frames and policy clusters are connected*, so we can safely presume that the former impact the latter.

7. The limits of policy implementation

Implementation is about how policies are delivered or enacted on the ground. In this regard, systematic limitations in the implementation of the analysed policies emerged, significantly undermining their expected positive impact.

The main factors undermining implementation, common to almost all target countries, are as follows:

- limited coordination among the various agencies and entities tasked with implementation;
- shortages of human resources within national enforcement agencies, resulting in a limited number of inspections;
- variations in efficiency levels and approaches among local offices of enforcement and implementation bodies, generating heterogeneous practices.

On *migrant workers' side, their vulnerability and the imbalance of power and resources with employers seem to prevent them from denouncing rights violations*. This is particularly evident when it comes to the measures countering workers' exploitation, where interviewees highlighted difficulties faced by IM workers in reporting abuses, due to lack of information, limited language skills, and fear of negative consequences, especially when they are not protected against expulsion.

It is worth noting that, in this policy cluster, the Italian law against gang-mastering appears particularly effective in addressing this shortcoming, as it:

- extends the special permit to stay to migrants involved in situations of labour exploitation and who collaborate with judicial authorities in criminal proceedings against their employers;
- enables the National Labour Inspectorate to set up mixed inspection task forces with IOM cultural mediators, in order to facilitate access to victims and ensure their protection, socio-economic reintegration, and access to comprehensive support systems.

Other factors identified during the fieldwork pertain, instead, to *specific economic sectors*.

The *food delivery sector shows very specific and cross-country peculiarities* which make implementation particularly challenging:

- the novel and poorly defined nature of the employment relations in this field allows platforms to circumvent the law by modifying work contracts, as observed in Spain;
- the absence of a clearly defined workplace makes it challenging to stop riders for inspection;
- locating companies to inspect is difficult, as their offices are often virtual;
- enforcement agencies show limited skills concerning the actual functioning of platforms;

These limitations highlight the need to keep pace with a rapidly evolving labour market by equipping implementing bodies with new tools and skills.

The analysis of agriculture has instead shown how employers' arrangements capable of undermining implementation reflect the general regulation of national labour markets. For instance, in Poland, the vast majority of private farmers hire workers through civil contracts (which are not considered employment relationships), so these farmers appear as individual business owners and, because of that, fall outside the scope of the Labour Inspectorate's controls. In the Netherlands and Germany, the widespread use of temporary employment agencies fosters the so-called "constructions" (e.g., where workers are employed through a chain of agencies) which makes it challenging (even for the workers) to determine the actual employer and assign responsibilities. In Italy, where the F2F foreign workforce is made up of TCNs rather than intra-EU mobile workers, many agricultural employers increasingly rely on small private (often foreign-owned) cooperatives and companies that manage entry permits, labour contracts, housing, and transportation for workers, offering easier solutions than temporary agencies and public employment centres. Although employers remain co-responsible in the event of any irregularities related to residence permits or work contracts, they tend to lose control over many aspects and are often unaware whether the procedures and practices adopted by these intermediaries are actually compliant.

Against this backdrop, we can assert that, regardless of the legislation, the implementing actors' power, instruments and skills and the actual organisation of each economic sector significantly shape the challenges encountered during the implementation phase.

8. Concluding remarks: the challenges ahead

Our investigation has revealed ***the existence of patterns in the governance of IMW in the F2F sector at national level despite the absence of comprehensive strategies.*** Specifically, four policy clusters have been identified, and after the initial mapping, we can safely presume that they provide a comprehensive overview.

1. Measures addressing (fair) competition;
2. Measures countering bogus self-employment;
3. Measures regularising IMW;
4. Measures countering workers' exploitation.

This has helped us to identify recurrent configurations linked to these policy clusters, for instance in terms of policy targets, governance modes and policy frames. At the same time, it has also allowed us to understand some of the challenges that lie ahead.

Firstly, ***workers' dignity is far from being a central policy concern*** in the countries under investigation, and this represents a major shortcoming for the implementation of the EU Social Pillar and, more broadly, for countries that claim to uphold fundamental rights. Workers are rarely at the core of the policies concerning IMW in the F2F sector. The will to regulate the market, to enhance the competitiveness of the national economy or of specific economic sectors, and to ensure a level playing field are frequently more significant

objectives of the analysed policies. More generally, IM workers appear to be in a vulnerable position and increasingly marginalised in both the political discourse and the actual policies. With few exceptions, measures on IMW in the F2F sector have been passed only when employers' organisations have agreed to them whereas the “go-ahead” of trade unions, CSOs and migrant organisations appears to be less relevant.

Secondly, ***national governments appear largely unequipped to deal with the spreading platformisation of the F2F sector***, i.e. the integration of digital platforms into business activities¹⁰⁸. The many case studies concerning bogus self-employment in food delivery highlight how national governments encounter difficulties in formulating effective policies that platforms cannot circumvent: they lack the necessary skills to formulate effective legislation and implement adequate controls. Against this backdrop, the impact of the EU Directive on Platform Work is still uncertain. However, many interviewees doubt its effectiveness given that workers must go to court to be recognised as employees.

Third, and most importantly, the neglect of IMW in the F2F contexts investigated - despite its heavy reliance on migrant labour - risks making this sector less attractive for EU mobile workers and TCNs. This may have serious implications for food security, which has become a political priority since Covid-19 and Russia' 2022 invasion of Ukraine. ***Failing to address the link between workers' conditions, labour shortages, and food security could soon become a major challenge***, if it is not already.

These challenges are addressed in the WP4 Policy Briefs, which, based on exchange workshops with stakeholders held in each target country, provide recommendations to national and, to some extent, EU policymakers.

¹⁰⁸ Capello, R., Ciappei, S. and C. Lenzi (2025), Digitalisation, platformisation and the transformations of local labour markets, *Regional Science*, 104(4).

Annex 1 – Table of interviewees per country

GERMANY

CODE	ACTOR
GER-WP4-1	Public entity
GER-WP4-2	CSO
GER-WP4-3	CSO
GER-WP4-4	CSO
GER-WP4-5	CSO
GER-WP4-6	Public entity
GER-WP4-7	Trade union
GER-WP4-8	Employer
GER-WP4-9	Public entity
GER-WP4-10	Employer
GER-WP4-11	Trade union
GER-WP4-12	Trade union
GER-WP4-13	Public entity
GER-WP4-14	Public entity

ITALY

CODE	ACTOR
ITA_WP4_1	Trade union
ITA_WP4_2	Trade union
ITA_WP4_3	Employer
ITA_WP4_4	Trade union
ITA_WP4_5	Expert
ITA_WP4_6	Political party
ITA_WP4_7	CSO
ITA_WP4_8	Trade union
ITA_WP4_9	Public entity
ITA_WP4_10	IO
ITA_WP4_11	Employer
ITA_WP4_12	Public entity
ITA_WP4_13	CSO
ITA_WP4_14	IO
ITA_WP4_15	Public entity
ITA_WP4_16	Employer
ITA_WP4_17	CSO
ITA_WP4_18	CSO
ITA_WP4_19	Political party

MOROCCO

ACTOR	CODE
MOR_WP4_1	CSO
MOR_WP4_2	CSO
MOR_WP4_3	Employer
MOR_WP4_4	Public entity
MOR_WP4_5	Trade union
MOR_WP4_6	Public entity
MOR_WP4_7	IO
MOR_WP4_8	Public entity
MOR_WP4_9	CSO
MOR_WP4_10	Political party
MOR_WP4_11	Public entity
MOR_WP4_12	Public entity
MOR_WP4_8	Public entity
MOR_WP4_9	CSO
MOR_WP4_10	Political party
MOR_WP4_11	Public entity
MOR_WP4_12	Public entity
MOR_WP4_13	Public entity
MOR_WP4_14	Expert

POLAND

ACTOR	CODE
PL_WP4_01	Expert
PL_WP4_02	Public entity
PL_WP4_03	Public entity
PL_WP4_04	Trade union
PL_WP4_05	Expert
PL_WP4_06	SCO
PL_WP4_07	Employer
PL_WP4_08	Public entity
PL_WP4_09	Employer
PL_WP4_10	CSO
PL_WP4_11	Public entity
PL_WP4_12	Employer
PL_WP4_13	Public entity
PL_WP4_14	Employer
PL_WP4_15	Employer
PL_WP4_16	CSO

SPAIN

ACTOR	CODE
ESP_WP4_1	CSO
ESP_WP4_2	CSO
ESP_WP4_3	CSO
ESP_WP4_4	Employer
ESP_WP4_5	Employer
ESP_WP4_6	Employer
ESP_WP4_7	Employer
ESP_WP4_8	Employer
ESP_WP4_9	Trade union
ESP_WP4_10	Trade union
ESP_WP4_11	Trade union
ESP_WP4_12	Trade union
ESP_WP4_13	Employer
ESP_WP4_14	Employer
ESP_WP4_15	Political party
ESP_WP4_16	Expert
ESP_WP4_17	Expert
ESP_WP4_18	Political party
ESP_WP4_19	Political party
ESP_WP4_20	Employer
ESP_WP4_21	Employer
ESP_WP4_22	Trade union
ESP_WP4_23	Public entity
ESP_WP4_24	Public entity
ESP_WP4_25	Public entity
ESP_WP4_26	Public entity
ESP_WP4_27	Public entity

THE NETHERLANDS

ACTOR	CODE
NL_WP4_01	CSO
NL_WP4_02	Employer
NL_WP4_03	Public entity
NL_WP4_04	Trade union
NL_WP4_05	Employer
NL_WP4_06	Public entity
NL_WP4_07	Trade union
NL_WP4_08	Employer
NL_WP4_09	Expert
NL_WP4_10	Expert
NL_WP4_11	Employer
NL_WP4_12	Public entity
NL_WP4_13	Political party
NL_WP4_14	Public entity
NL_WP4_15	Trade union
NL_WP4_16	Political party
NL_WP4_17	Political party
NL_WP4_18	Public entity
NL_WP4_19	Expert
NL_WP4_20	Expert
NL_WP4_21	Public entity
NL_WP4_22	Employer
NL_WP4_23	Public entity
NL_WP4_24	Public entity

UKRAINE

CODE	ACTOR
UA-WP4-01	Expert
UA-WP4-02	Public entity
UA-WP4-03	Public entity
UA-WP4-04	Public entity
UA-WP4-05	Public entity
UA-WP4-06	Public entity
UA-WP4-07	Public entity
UA-WP4-08	Trade union
UA-WP4-09	Expert
UA-WP4-10	CSO
UA-WP4-11	IO
UA-WP4-12	IO
UA-WP4-13	Public entity
UA-WP4-14	Public entity
UA-WP4-15	IO
UA-WP4-16	Trade union
UA-WP4-17	CSO
UA-WP4-18	CSO

The governance of irregular migrant work: regional convergences and EU's marginality

ABOUT DignityFIRM

Towards becoming sustainable and resilient societies we must address the structural contradictions between our societies' exclusion of migrant workers and their substantive role in producing our food.

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