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Deconstructing 'Agromafie': A Case Law Analysis of the Interplay of Organised and Corporate Crime in Food Frauds in Italy.

Food frauds regularly gain media and institutional attention worldwide due to associated health risks and the impact they have on trust in the food industry. In Italy, media, NGOs, and farmers' associations tend to consider food fraud and, more broadly, food crimes as an issue of 'agromafie', suggesting the infiltration of the agri-food sector by mafia-type criminal associations. This article deconstructs this narrative by drawing on the findings of a case law analysis of decisions of the Italian Supreme Court related to food fraud cases for the period 2011-2022. The article describes how food fraud is prosecuted and sentenced as well as providing an overview of the food fraud activities, offences, criminal actors and their *modus operandi* contained in these court cases. It shows that the main perpetrators of food fraud are legitimate food firms, often judicially framed as organised crime conspirators. Only few cases relate to the involvement of mafia groups. The article ends with a discussion of the benefits and pitfalls of framing food fraud either as a problem of 'agromafie' or as a form of corporate food crime.

Keywords: food fraud, agromafie, mafias, organised crime, corporate crime

1. Introduction

“In our everyday shopping, without knowing, we pay mafia.” (*A Corbo, 2011*)

Food has been investigated in many disciplinary fields and under multiple aspects (B Ashley, ed. 2004; K Albala, ed. 2013). It can also be analysed through the lens of crime and deviance. Due to a profitable and complicatedly structured market, food is frequently at the centre of sensational scandals as well as investigations, which usually refer to cases of food fraud (C Milmo, 2022). Food fraud can be defined as the deliberate and intentional substitution, addition, tampering, or misrepresentation of food, food ingredients, or food packaging; as well as false or misleading statements made about a product for economic gain (J Spink and D Moyer, 2011). These fraudulent practices often have health impacts, jeopardize trust in the food market, and are regularly framed as a matter of organised crime in media reports (J Doward and A Moor, 2014; E Roberts, 2018; S Stewart, 2022). In the criminological literature and in other scientific fields, several authors have associated organised crime to food crimes or, more broadly, to the food sector (for instance, M Hauck and N Sweijd, 1999; J Pointing, 2005; R Walters, 2013; M De Rosa and F Trabalzi, 2016; R Smith, L Manning and G McElwee, 2017; G Perone, 2018).

In Italy, media, NGOs, and farmers’ associations tend to label food crimes and food fraud as ‘agromafie’ (H Roberts, 2018; A Ziniti, 2019) and suggest an infiltration of the agri-food sector by mafia-type criminal associations (Legambiente, 2016; Osservatorio Placido Rizzotto, 2016; Eurispes et al., 2019). Since 2011, Coldiretti (Italy’s largest farmers’ association) has published annual reports titled ‘Agromafie’ in collaboration with the Observatory on Criminality in the Food Sector and the Agri-Food System (or, in Italian, Osservatorio sulla Criminalità nell’Agricoltura e sul Sistema Agroalimentare). These reports explore criminal practices within the Italian agri-food sector and focus on organised criminals (particularly of mafia-type) operating in the food supply chain. Reports from 2011-2019 have repeatedly raised alarm about a perceived increase in the presence of organised criminality in adulteration and counterfeiting of food products. The concept behind ‘agromafie’ widely embraces criminal and harmful practices perpetrated at the stages of production, transformation or processing, transport, and sale. Examples of these practices are counterfeiting and adulteration, control of the wholesale distribution, rustling and smuggling of animals, frauds committed to obtain

European agricultural subsidies, and exploitation of illegal workers (SOS Impresa, 2011; Legambiente, 2016; Osservatorio Placido Rizzotto, 2016; Eurispes et al, 2019). While the agromafie narrative suggests a systematic infiltration of the food supply chain by mafias, the actual extent of this phenomenon is unclear.

Given that representations of food fraud cases in the media as well as in official documents are important in shaping law enforcement responses to the problem, in this article, I will unpack and critically analyse this narrative by drawing on the judicial perspective on food fraud in Italy. I will present the results of an analysis of Italian Supreme Court decisions on food fraud cases that happened in Italy between 2011 and 2022. Based on this dataset, I will question the 'agromafie' label and argue that food fraud is mostly an economic or corporate crime committed by legitimate actors in the food system (N Lord, C Flores Elizondo and J Spencer, 2017). The findings show that, despite the media narrative and public discourse, in its judicial representation, food fraud is prosecuted and sentenced as a form of economic crime, usually committed by small and medium enterprises. Based on this, I will argue that food frauds are caused by an interplay between illegal actors (also of mafia type) and legal actors already active in the food supply chain.

I will start this article by providing a brief overview of the methodological approach used in the case law study. Moreover, I will briefly introduce the reader to the criminological literature on food crime and food fraud. An overview of a few famous cases of food fraud in Italy and the Italian legal and regulatory framework will follow to provide insight into how food fraud is conceptualised, policed, and prosecuted in Italy. In the core part of the article, I will present the findings under two main themes or analytical categories: activities of food fraud or offences, and food fraud actors or their *modi operandi*. Finally, I will conclude by arguing that, in Italy, the public narrative around food crime and, more precisely, food frauds, needs to be grounded in the evidence seen in judicial decisions. Ultimately, the 'agromafie' concept should be reframed to better reflect the interplay between corporate and organised crime and the involvement of legitimate actors already active in the food sector.

2. Brief notes on methods

To analyse the role of organised crime and mafias in food fraud and deconstruct the 'agromafie' narrative in Italy, this study considers which "behaviours become the focus of

law” (M Lynch and P Stretesky, 2003: 228). To do so, this article provides a case law analysis of court decisions by the penal section of the Italian Supreme Court of Cassation (or Corte di Cassazione) made between 2011 and 2022. The specific timeframe of this study aligns with the first use of the term ‘agromafie’ coined by Coldiretti/Observatory on the Criminality in the Food Sector and the Agri-food System in their first report in 2011. I have retrieved the court decisions through the juridical databases Italgire, DeJure and Leggi d’Italia, which provide access to sentences and judicial documents in Italy. I used two searches: a broad search for “frode OR frodi OR alimentare” (fraud OR frauds OR food), and a second search for decisions relating to criminal charges addressing food frauds (these are specifically: articles 439, 440, 442, 444, 452, 473, 474, 515, 516, 517, 517quater of the penal code and articles 5 and 6 of law n. 283/1962). Based on these searches, I downloaded and thematically analysed 128 court decisions. I used the software NVivo to extract and code the excerpts from the court decisions. The following themes have been identified and used for the analysis: criminal charges or food fraud activities; types of products; actors or their *modi operandi*; results of the indictment or trial.

Like every study, this research has its limitations. The study relies only on cases that proceeded to the Supreme Court. This means that the cases have been filtered through the criminal justice system from prosecutors’ decision to charge (including the type of charge applied), to decisions of lower courts, and the appeals process. While this has limited the number of cases and potentially skewed the proportion of cases compared to the total number of cases that come to the attention of law enforcement agencies, the records still allow insight into previous stages of proceedings and the analysis can provide a good overview of the types of cases associated with food fraud. All in all, this study represents the first attempt to question the ‘agromafie’ narrative in Italy; for this purpose, the sample as well as the analytical strategy have been appropriate. Future research should look into a wider set of cases including those at lower courts and should explore the prosecution’s charging decisions.

This study is a socio-legal investigation of food fraud and the ‘agromafie’ narrative in Italy. As such, the terminology and analytical approach of this paper is at times legalistic. The scope of this study is limited to practices that are prohibited by Italian law, which is mostly concerned with food safety issues and damages to market reputation. To balance this aspect, future considerations should also include the harms of food fraud, and more broadly food crimes,

beyond criminal charges and legalistic terms (A Gray, 2018). This would include “lawful but awful” practices (N Passas, 2005) happening in the food supply chain such as the legal/non-criminalised addition of chemicals, dubious pricing practices, or the overuse of fertilisers and pesticides that is detrimental to the natural environment and animals.

3. Food fraud in the criminological literature

The academic literature on food fraud is generally embedded in the literature on food crime, which was first investigated by Hazel Croall in her research on trading offences against consumers (1988). Later, she referred to food crime as the “many crimes that directly involve the processing, production and sale of food, as well as those that are more indirectly involved in local and global food trades” (H Croall, 2013: 167). According to Smith, Manning and McElwee (2017), research on food crime is located in an inter-disciplinary field that includes varied areas from food science and safety of the food industry to criminology. Moreover, scholars in legal studies have investigated food fraud as a breach of food safety regulations (J Pointing, 2005; L Tumminello, 2013) and in relation to its domestic and European legal framework (B Jack, 2018). In recent years, criminological research has begun to investigate and examine dynamics, features, practices, and harmful consequences of the food industry through the lenses of criminality and deviance (E Gladkova, 2023; A Gray and R Hinch, eds. 2018; N Lord, C Flores Elizondo and J Spencer, 2017; W Tourangeau, 2016; W Tourangeau and A Fitzgerald, 2020). The majority of publications centre on the issue of food fraud addressing several forms of criminal activities committed along the supply chain that endanger the safety and authenticity of food products.

In law, food fraud encapsulates a wide range of activities such as adulteration, counterfeiting, misrepresentation, irregular labelling or the use of non-authorised ingredients (A Corini and B van der Meulen, 2018). Practically, a food fraud takes place when a fraudulent behaviour affects a food product, before or during the supply/distribution stage, by changing its quality and/or quantity with respect to what is declared on the label or other documents (A Sigismondi, 1969). A few authors have focussed on the organisational aspects and situational drivers of food fraud and on the measures taken to prevent or counter them (J Curll, 2015; N Lord, J Spencer, J Albanese and C Flores Elizondo, 2017b). Amongst them, Lord, Flores Elizondo and Spencer (2017a) argue that, in cases of food fraud, legitimate actors break

regulations and procedures to gain profits and/or cause harm. They conceptualise food fraud as:

The abuse or misuse of an otherwise legitimate business transaction and an otherwise legitimate social/economic relationship in the food system in which one or more actors undertake acts or omissions of deception or dishonesty to avoid legally prescribed procedures (process) with the intent to gain personal or organizational advantage or cause loss/harm (outcome) (N Lord, C Flores Elizondo and J Spencer, 2017a: 611).

Moreover, they argue that, in contrast to this conceptualisation, policy documents often portray food fraud as a “problem of external ‘organised crime groups’ operating transnationally that undermine the integrity” of a food supply system (N Lord, C Flores Elizondo and J Spencer, 2017a: 612).

Strands of the literature debate the interests of organised crime in the food sector and claim that a variety of actors beyond organised crime are involved in criminal and harmful behaviours in the food supply chain (H Croall 2005 and 2013). Spink and Moyer (2013) identify three categories of actors including organised crime groups, corporate insiders, and rogue farmers and entrepreneurs. Other strands of the literature criticise this assumption. For example, McElwee, Smith and Lever (2017) argue that criminological inquiry is mainly concentrated on the presence of external, organised crime and mafia in the food market without investigating the more common malpractice of actors within the food sector. Similarly, Lord et al (2017b) point out that the public discourse that marks food fraud under the organised crime label does not take into consideration that fraudulent behaviours are often engaged in by legitimate business actors already operating in the food supply chain. They claim that fraudulent activities are often the result of the interplay between legal and illegal actors within the food supply chain and their criminal networks which produces criminal opportunities to make profits. Eventually, research focus should shift from the perpetrators of food fraud and their criminal networks to understanding the circumstances of food fraud. We should scrutinise organisational conditions of food fraud and the dysfunctionalities of the food market that facilitate the perpetration of food fraud by legitimate occupational actors and organisations. Criminals, even of organised crime or mafia

type, need to liaise and collaborate with legitimate actors within the supply chain (J Spencer et al, 2018). Food frauds could be examined through situational crime prevention and routine activity theory that allow to analyse food frauds by focusing on the identification of criminal opportunities, offenders' motivations, and absences of capable guardianship (N Lord, J Spencer, J Albanese and C Flores Elizondo, 2017b).

The following section will provide an overview of the Italian legal framework and the food scandals that have influenced it. This is needed to understand if the representation of food crime (and food fraud) as an issue of 'agromafie' has shaped responses adopted by regulatory and law enforcement bodies.

4. Food scandals in Italy and overview of the Italian legal framework

Historically, food has repeatedly been subject to fraud in Italy. After the Second World War, Italy experienced a period of rapid economic growth that contributed to an increased use of pesticides and additives in the agricultural sector. These chemicals enabled the adulteration and modification of food products. In response to food fraud scandals such as the "bottled donkey" in the 1960s (G Corbi and L Zanetti, 1958) and methanol-tainted wine in the 1980s (E Vettori, 2016), Italian institutions started to react against food fraud incidents. In the "bottled donkey" case, consumers' associations discovered an olive oil producer that was mixing olive oil with slaughterhouse bone waste from donkeys. In 1962, this case led to the establishment of the Carabinieri's Anti-Adulteration Unit¹ (or Carabinieri NAS) in charge of food safety and health checks. Furthermore, this fraud pushed the parliament to introduce the law n. 283/1962 that, still in force with regard to certain (and especially criminal) provisions, regulated the protection of food and drink safety and hygiene.

The case of methanol-tainted wine involved a wine producer that was caught producing poor-quality (but high-priced) wine tainted with methanol, which had been added to boost the alcohol content. Nineteen people died and many others were injured. The scandal endangered the Italian wine market's reputation globally (R Suro, 1986). This fraud led to the

¹ NAS stands for "Nuclei Antisofisticazione e Sanità". I have chosen to translate "antisofisticazione" as anti-adulteration to improve readability to an English-speaking audience. Italian agencies, however, distinguish between "adulterazione" (adulteration) and "sofisticazione". While the first is used to describe practices that substitute, remove, or change the proportions of a product's normal components, the second refers to the practice of adding unauthorized or illegal substances to food to improve its appearance or cover up defects.

law n. 426/1986 introducing urgent measures for the prevention and repression of food adulterations to be undertaken by the Carabinieri NAS, local health authorities, and the newly founded “Central Inspectorate for the protection of quality and fraud prevention of agri-food products”.

More recently, there have been numerous scandals involving the adulteration or mislabelling of extra virgin olive oil. For example, during Operation Arbequino², while conducting financial checks at a well-known olive oil company in Tuscany, officers of the Fiscal Police found documentary irregularities perpetrated to cover the counterfeiting of oil sold as Italian extra virgin olive oil. The oil was the product of a mix of lower-quality blends coming from abroad and subject to a chemical process undertaken to decrease the oil’s acidity. While this case had no public health implications, the prosecution decided to apply the charge of criminal association (usually applied to cases of organised criminality) put in place for the commission of a commercial (food) fraud (Procura della Repubblica presso il Tribunale di Siena, 2015). It must be noted that the company was also charged for corporate liability.

Often being the result of immediate reactions to food scandals, the Italian regulatory and criminal framework against food fraud and, more widely, for the protection of the food sector is broad and complex. It is established to regulate each stage of the food supply chain. Yet, even though the food market in Italy is heavily regulated at both domestic and European levels, the general definition and conceptualisation of food fraud seems to be unclear. For historical and cultural reasons (A Corini and B van der Muelen, 2018), there is no exact legal definition of food fraud, not even at the European level. In the EU, it is broadly acknowledged that food fraud should entail cases where fraudulent activities are committed in the food supply chain to intentionally pursue an economic/financial gain through consumer deception. Thus, each EU national legislation adopts specific criminal charge(s) complying with the EU safety and labelling standards. Overall, the Italian Food Law is based on European Food Law, which mostly consists of Reg. EC n. 178/2002 on food and food safety and other regulations on food hygiene such as EC n. 852/2004; EC 853/2004; EC 854/2004; and EC 882/2004. The criminal food law in Italy needs to comply with the standards set up by the EU (A Bernardi, 2015). More recently, legislation n. 27/2021 introduced the provisions established by Reg. EU

² Proc. pen. n. 41/2012 N.R. mod. 21.

625/2017 on official controls along the agri-food chain and its operational guidelines. While the EU regulation has pushed for strengthening harmonised controls at domestic and EU levels as well as for clear indications of what constitutes “fraudulent or deceptive practices” (B Winkler et al., 2023), and the implementation of anti-fraud checks, the law n. 27/2021 has initially abolished some of the articles of the law 283/1962 containing food crime charges. This issue has then been addressed by law n. 71/2021 that has reinstated the charges that were abrogated.

First, in Italy there are detailed regulations on specific categories of products considered more vulnerable to food fraud (e.g. milk, tomatoes, and olive oil). These are centered around quality standards and labelling checks. This is particularly interesting as it might reflect a tendency of Italian authorities to protect the consumers’ trust and market reputation as the main judicial interests or public values associated with the anti-food fraud legislation (see also A Madeo, 2006). This is also shown in the particular significance given to the activity that Italian institutions call “Italian sounding”, which refers to using fake names, colours, images, and symbols that, by sounding Italian, recall Italy as a product’s country of origin (Commissione Parlamentare di Inchiesta sui Fenomeni della Contraffazione, della Pirateria in Campo Commerciale e del Commercio Abusivo, 2015). In the law and in official documents, “Italian sounding” is a form of counterfeiting that involves mislabelling products as ‘Italian’ to achieve a higher market value (Procura della Repubblica presso il Tribunale di Siena, 2015). This offence is a central part of the institutional, non-criminal, response against food fraud in Italy.

Second, there are criminal offences contained in the penal code that tackle different manifestations of food fraud and protect different juridical values and public interest. More specifically, these are charges that tackle crimes against public health - see articles 439, 440, 442, 444 of the penal code - as well as charges against counterfeiting and frauds committed against market, industry, and trade - see the sale of counterfeited products in articles 473, 474, and the commercial frauds in articles 515, 516, 517, 517 *quater* of the penal code (M Donini, 2016). The legislation is completed by the already-mentioned law n. 283 of 1962, which contains offences relating to food hygiene and safety. The legal reform introduced in 1999 de-criminalised some of the food crimes charges that were converted into administrative torts, yet this has not affected the prosecution of food offences (A Bernardi, 2005).

A final element that is relevant to the Italian regulatory context is a special parliamentary commission of experts (Commission Caselli) that was established in 2015 to draft a law that would revise the regulation against food crimes. The idea behind this was to add new charges that could reflect the dynamics and systematicness of food frauds by re-wording the current offences and improving crime deterrence by increasing penalties. Moreover, the draft law aims to introduce the charge of 'agropirateria' (or 'agro-piracy'), which would criminalise food frauds committed by complex and organised food businesses and attribute different levels of seriousness of fraudulent behaviours. This offence would tackle systematic and organised food frauds perpetrated through organised series of activities for cases in which it is impossible to apply the charge of unlawful association (Commissione per l'elaborazione di proposte di intervento sulla riforma dei reati in materia agroalimentare, 2015). After several years and multiple governmental and parliamentary turnovers, this law has still not been adopted, albeit being discussed multiple times. However, it must be noted that other draft laws have attempted to reform the legal framework on food crimes (M Donini and A Castronuovo, 2007). It is worth citing the proposal A.C. 2427 ("New rules on agrifood offences") that, drawing on the above-mentioned proposal by the Commissione Caselli, aims to reform the legal framework also by tackling systemic and organised fraudulent practices put in place by businesses (for more on this see D Castronovo, 2020, and L Tumminello, 2022).

Rooted in the food fraud literature summarised in the previous section and in the Italian legal framework, the following section will present this study's findings.

5. Findings

In a case law analysis, it is necessary to focus on the crime-types and characteristics of the criminal charges as these can help identify the kinds of actors committing them and how the crimes practically take place. This section will present the study's findings by referring to two macro-analytical categories: food fraud activities and offences, and actors and their *modi operandi*. These should reflect the current state of the judicial interpretation of the food fraud dynamics, characteristics, and actors in Italy. The cases retrieved from the dataset reveal a multi-faceted spectrum of fraudulent practices happening at every stage of the food supply chain: production, handling and storing, retailing, labelling, catering, and food service.

Moreover, they unveil a broad spectrum of criminal actors that, legitimately or illegitimately, operate in the food market and, only in a few cases, interact with mafia groups.

5.1 Food fraud activities and offences

In line with the literature on food crime, this article treats food fraud as a criminal category that encapsulates several behaviours punished under different offences³. I have identified two main types of offences in present in the cases: 1) forms of “sanitary fraud” aimed to protect public health and “food order” (in the words of the Supreme Court and according to the legislation)⁴ and 2) manifestations of trade or commercial frauds committed against the public economy, market and industry⁵.

The first type mostly encapsulates breaches of hygiene regulations and food safety standards. These offences are usually applied when foods are kept in bad storage conditions (e.g. causing or risking food poisoning) or containing or being contaminated with dangerous substances such as mercury in fish products or chemicals. As confirmed in the data, the prosecution tends to apply the offences established by the hygiene and safety regulation (outside the penal code)⁶. This seems to be due to the lower burden of proof required for this type of offences in comparison to the higher burden of proof needed for offences regulated by the criminal code. Interestingly, this happens in other jurisdictions such as the UK where the criminal charges provided in the Food Fraud Act 2006 are applied less than the regulatory provisions of the Food Safety Act 1990. Food fraud cases are mostly framed as safety concerns. Moreover, as others have found, there is a predisposition of the prosecution to regulatory rather than criminal protection (C Flores Elizondo, N Lord and J Spencer, 2019). However, it must also be noted that, in a few cases in this study’s dataset, the regulatory charges are applied in joint with the (criminal) charges of commercial fraud.

The second type encompasses trade frauds such as adulteration of food ingredients, counterfeiting, or contamination of PDO (products of designated origins) or PGI (products of geographical indication) products that are more expensive than regular ones. Moreover, PDO

³ It must be noted that the decisions of the Supreme Court include cases that entail non-compliance practices as well as intentional frauds or economically motivated adulterations.

⁴ Articles 439, 440, 442 and 444 of the penal code.

⁵ Articles 515, 516, 517 e 517-*quater* as well as articles 473 and 474 of the penal code.

⁶ For instance, see Cassazione penale sez. 3, ordinanza n. 205 del 2013 and Cassazione penale sez. 1, sentenza n. 48750 del 2012.

and PGI counterfeiting often entails the sale of products that, despite being labelled as made in Italy, are produced in other countries (often also violating EU food law regulating food origins). These fraudulent products are usually of low quality but priced highly because of the 'made in Italy' label. Additionally, still within the category of commercial fraud, there are those behaviours that violate labelling regulations. These mostly refer to mis-labelling breaches such the use of fake indications of origins or ingredients, or the fraudulent use of protected symbols or other types of market symbols (especially for expensive PDO and PGI products). The frauds are harmful in multiple ways: they jeopardise the authenticity and traceability of the food product, can pose safety risks, endanger the reputation of the Italian food market, and violate the consumers' trust.

The case law analysis has identified further offences beyond the two main types. For example, in two decisions, the Supreme Court confirmed the charge of fraudulent use of public fundings⁷ and document fraud⁸. The latter case refers to the falsification of laboratory documentation certifying the quality of meats coming from Brazil. Moreover, another sentence ruled on the corruption of a local health authority public officer who oversaw veterinary checks and authorised the trade of products that breached safety standards or were otherwise adulterated⁹. Interestingly, in this case the penal court at the stage of appeal had confirmed the charge of criminal association established to coordinate multiple types of frauds against trade, industry, and public safety - including food adulteration. On the one hand, this decision highlights the role of public officers in the protection of the food system as well as the role of criminal relationships with legitimate economic actors. On the other hand, as evident in five further decisions¹⁰, the analysis shows how penal courts apply jointly the charges of fraud and criminal association. For example, in one case¹¹, forty-seven defendants (individuals and collective entities) were charged for the trade of fraudulent PDO products, PGI and GI (geographical indication) counterfeiting, and establishing a criminal association for the purposes of committing a commercial fraud. In another case, the charges

⁷ Cassazione penale, sez. V, 13/12/2011, (ud. 13/12/2011, dep.25/01/2012), n. 3214.

⁸ Cassazione penale, sez. V, 13/12/2011, (ud. 13/12/2011, dep.25/01/2012), n. 3214.

⁹ Cassazione penale, sez. VI, 10/12/2014, (ud. 10/12/2014, dep.23/12/2014), n. 53637.

¹⁰ Cassazione penale, sez. III, 30/01/2017, (ud. 30/01/2017, dep.29/08/2017), n. 39508; Cassazione penale, sez. IV, 17/10/2017, (ud. 17/10/2017, dep.15/11/2017), n. 52154; Cassazione penale, sez. IV, 21/09/2016, (ud. 21/09/2016, dep.09/11/2016), n. 47065; Cassazione penale, sez. I, 14/04/2015, (ud. 14/04/2015, dep.09/11/2015), n. 44702; Cassazione penale, sez. 3, sentenza n. 5906 del 2014.

¹¹ Cassazione penale, sez. III, 15/10/2013, (ud. 15/10/2013, dep.07/02/2014), n. 5906.

of commercial fraud and criminal association were applied to a business that falsified documents to fraudulently obtain a certificate for organic products¹². Similarly, other cases demonstrate the prosecution's use of the criminal association charge for sanitary frauds as well as mislabelling practices.

These examples demonstrate that economic crimes such as food frauds and criminal associations are often prosecuted (and charged) together in the same trial. On the one hand, conceptually this can represent a form of organised crime manifestation in food frauds, even if not of mafia-type. On the other hand, it can also signal the interplay and, at times overlap, between corporate/economic crime and organised crime (V Ruggiero, 2006).

5.2 Food fraud actors and their *modi operandi*

The variety of criminal actors indicted and convicted for food fraud in Supreme Court decisions mostly consists of legitimate economic actors operating illegitimately in the food sector. These are:

- 1) farmers and small agri-food businesses
- 2) medium and small producers, as well as, to a lesser extent, large manufacturers
- 3) small and medium retailers (mostly in cases of mislabelling)
- 4) consortia of food firms
- 5) restaurateurs or other entrepreneurs in food services and catering
- 6) corrupted veterinaries and health officers in charge of food safety tests.

In terms of mafia penetration, the following judicial cases are relevant: The first case refers to a court decision from 2014 that discussed the criminal association established by food entrepreneurs who had committed food adulterations (of PDO products) to the advantage of two Camorra clans¹³. Remarkably, here the Supreme Court recognised the role played by the businessmen in pressuring the Minister of Agricultural Policies to modify the regulation regarding the trade of the specific PDO product (mozzarella) that was being adulterated. Moreover, catering and food service businesses have been caught being involved in (minor) safety breaches or sanitary frauds as well as in (major) money laundering schemes with the

¹² Cassazione penale, sez. 3, sentenza n. 29166 del 2012

¹³ Cassazione penale sez. 3, sentenza n. 33399 del 2014.

involvement of mafia groups. For instance, Operation Aemilia¹⁴ unveiled the penetration of 'ndrangheta clans in the food service sector of some areas of the Emilia-Romagna region. Furthermore, in Operation Provvidenza¹⁵, an olive oil producer made adulterated extra virgin olive oil for the US market on behalf of the 'ndrangheta clan Piromalli. In this case, the mafia group reinvested profits from illicit activities (such as drug trafficking) in legitimate businesses including the sale of olive oil. In another case, the Supreme Court discussed the links between a wholesale retailer and a member of a cosa nostra clan from Trapani (Sicily)¹⁶. The retailer enabled the clan member to use the wholesale business for expanding the clan's territorial power and make profits. Importantly, the court stressed that the manufacturer was complicit in the wrong behaviour. This case might represent what previous literature has conceptualised as "grey area" or the encounter between mafia groups and business actors through corruption, money laundering, and other illicit practices (Sciarrone, 2011). Last, it must be noted that, in three cases, collective entities were charged for the corporate liability which can also lie upon the individual liability of corporate officials, (e.g. company CEO or legal representatives)¹⁷.

6. Discussion and conclusions

This article has addressed the 'agromafie' narrative in Italy by analysing the types of criminal charges and the criminal actors discussed in Supreme Court decisions between 2011 and 2022. The data shows that, with few specific exceptions, food fraud is mostly initiated and committed by legitimate actors operating at different stages of the food supply chain. Ultimately, the article argues for recognising the importance of the role of food firms and of the interplay between legitimate actors and organised crime groups, also of mafia type. Even if this article has not analysed the various motivations of criminals to commit food fraud (see Levi, 2008), it must be stressed that food fraud is an economic or business crime rather than a mafia crime. Drawing on the case of 'agromafie' and food fraud in Italy, this study has

¹⁴ Cassazione penale sez. II - 07/05/2022, n. 39774.

¹⁵ Tribunale di Reggio Calabria, n. 206/2017 RGNR DDA.

¹⁶ Cassazione penale sez. V, 17/10/2013, n. 2810.

¹⁷ Cassazione penale sez. III, 14/04/12, n. 20248; Proc. pen. n. 41/2012 N.R. mod. 21; Cassazione penale sez. 3, sentenza n. 20857 del 2015; Cassazione penale sez. 3, sentenza n. 15249 del 2015.

confirmed that the main perpetrators of food fraud are legitimate food firms, and that the food system holds features and dynamics that make it profitable and attractive to criminals (N Lord C Flores Elizondo and J Spencer, 2017a). Indeed, as argued by Cheng (2012:255), the modern food industry is part of a *cheap capitalism* “characterized by low prices, inferior quality and unsafe condition of goods or services to maximize profits (...) facilitated by cheap labour and raw materials and associated with degraded morality in the business world”.

In the court decisions, this study found only four references to mafias. More importantly, in these cases, mafia groups were always linked to legitimate businesses cooperating with or affiliated to mafia groups. This might indicate a low interest of mafias towards food fraud practices. On the other hand, the links between mafia groups and mafia-linked companies demonstrate that the first tend to operate through intermediaries and other formally legitimate companies that own specific knowledge and technical know-how of the features and complexities of the food market. This is usually to reinvest dirty money, gain territorial and political power, as well as to enter the food sector for reasons beyond food fraud. In fact, as argued in another article (Author, 2022), mafias are involved in other types of food crimes in logistics, service, or transportation. Moreover, they are attracted by the food market as a means to commit other crimes such as money laundering or drug trafficking. Despite little mafia involvement, the label of ‘agromafie’ might be useful beyond its sensational effects - even if it does not match the judicial reality. Mainly, prosecuting food frauds and food crimes as mafia issues can be highly beneficial in terms of upgraded or wider resources and institutional attention.

The judicial documents analysed in this study allow to frame food crime as a form of economic crime with the responsible corporate actors often being prosecuted as organised crime actors under the offence of criminal association. As mentioned in section four of this paper, the 2015 draft law has aimed to introduce a new offence to encapsulate organised and systemic frauds committed by actors of the food industry, especially for those cases in which the organisational features are not stable and systemic enough to enable the prosecution to charge under criminal association (A Quaranta, 2016). However, being beyond the scope of this article, it remains to be questioned if a newly drafted ‘agropiracy’ offence that tackles organised and systemic food frauds would be applied by prosecutors and criminal courts. Similarly, the efficacy and adequacy of criminal law to respond against food frauds should also be scrutinised. As seen, offences that could be constitutive of food fraud and trigger the

response of the criminal law are often likely to be prosecuted as regulatory non-compliance not following proper due diligence and breaching health, hygiene, and safety regulations (C Flores Elizondo, N Lord and J Spencer, 2019). Perhaps, as suggested by Mongillo (2017), in prosecuting food fraud, the use of the criminal law should be discarded, when not truly necessary, in favour of the expansion of preventive compliance programmes. Further criminological research is needed to analyse this aspect.

To conclude, fighting against 'agromafie' committed by mafias or tackling 'corporate food frauds' committed by legitimate actors of the food industry entail the protection of different judicial values. Countering mafias means protecting public order and national security, beyond the specific wrongdoing under investigations. On the other hand, countering corporate food frauds by investigating and prosecuting legitimate business actors, means protecting market reputation and economic stability of an entire economic sector. However, at the same time, it also means (or it should mean) investigating and addressing the flaws, distorted dynamics, and opaqueness of the food system. Clearly, the latter are hard to regulate and incentivise the commission of food frauds.

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