

# **Organised Food Crime?**

**Analysing harmful and criminal activities in the food supply chain  
in England and Italy**

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*‘The beautiful things are not things’ - ‘Le cose belle non sono cose’*

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## **List of Acronyms**

NAC = Nucleo Anti Frodi (Carabinieri)

NAS = Nucleo Anti Sofisticazioni (Carabinieri)

ICQRF = Ispettorato Centrale della tutela della qualità e della repressione frodi dei prodotti agroalimentari (Central Inspectorate for fraud repression, labelling, and quality protection of the agri-food products and foodstuffs)

NFCU = National Food Crime Unit

NCA = National Crime Agency

FSA = Food Standards Agency

TS = Trading Standards (local authorities)

EH = Environmental Health departments (local authorities)

DNA = Direzione Nazionale Antimafia

DEFRA = Department for Environment, Food and Rural Affairs

EFRA = Environment, Food and Rural Affairs Committee

WHO = World Health Organisation

FAO = Food and Agriculture Organisation

## Summary

Food has always been subject to practices such as counterfeiting or adulteration. Yet, food crime – criminal practices committed throughout the food supply chain – is an under investigated field of research of extreme importance as modern food systems offer profitable opportunities to criminal actors.

By drawing upon documentary analysis of public reports, court decisions and official documents published by relevant authorities, and on twenty-seven semi-structured interviews with experts such as prosecutors, law enforcement, and other public officers active in England and Italy, this socio-legal research study investigates the perceptions and conceptualisations of food crime adopted by relevant food and criminal justice system institutions. By adopting a comparative approach, this study unpacks the official narratives on food crime and explores the way this is conceptualised, investigated, prosecuted, and sentenced in the English and Italian jurisdictions. Moreover, this research unveils the involvement of organised crime and mafia-type groups in food crime and, by drawing upon literature on green criminology and organised crime studies, it formulates the socio-legal category of '*organised food crime*'.

Considering the findings, the study argues that the English and Italian approaches converge in adopting narrow conceptualisations of food crime that mostly overlap with food fraud. Furthermore, it points out how, in food crime, corporate and organised crime actors are involved to the extent that the conceptual and practical boundaries between the two categories of actors overlap. Finally, this research pushes for a wider conceptualisation of food crime that encompasses food harms that are not criminalised by law. In doing so, it suggests that, under the food crime label, institutions should protect interests beyond public health and national economy such as food security, environmental sustainability, and food workers 'rights'.

## **Chapter 1 – Introduction**

- 1. Background: Starting point and criminological significance of the study**
- 2. Research questions and thesis outline**
- 3. Comparing England and Italy: A challenging but fitting comparison**
- 4. The EU context and the challenges of Brexit**
- 5. Conclusions**

### **Objective of the chapter**

To introduce the study and contextualise it in the media and policy discourse; to specify the research questions and to provide a clear outline of the thesis structure in relation to the content of each chapter; to announce and justify the country selection; to briefly place the study in the European context; to highlight the challenges that Brexit has posed to this research and how these have been tackled.

## **1. Background: Starting point and criminological significance of the study**

In January 2010, in Rosarno, a small town in Calabria (Southern Italy), a group of migrant workers organised a protest that brought to light the exploitative and abusive conditions of agricultural workers employed in harvesting agri-food products such as oranges and tomatoes. The workers, mostly non-EU citizens, protested for their rights against unfair and illegal working and living conditions, highly detrimental to their physical and mental health. This protest – depicted by the media as the ‘Riot of Rosarno’ – unveiled practices of so-called ‘*modern slavery*’ happening along the food supply chain in Italy. The riot had consequences on both the regulatory level – a law against illegal exploitation of labour was introduced years later – and on the societal level with several NGOs active in the field, publishing reports on what has been labelled as ‘*agromafie*’. The label ‘*agromafie*’ refers to unlawful practices perpetrated by illicit actors along the food supply chain and implies the active infiltration of mafias in illegal practices inside the food sector in Italy. The very first starting point of this study on food crime has aimed to deconstruct the narrative underneath the label ‘*agromafie*’. The need to put under scrutiny the dynamics of the food supply chain and to unpack the perception of the actual mafia-involvement in the food sector are the first and principal goals of this exploratory, comparative, socio-legal research in the field of food crime.

In short, by adopting a comparative criminal justice and criminology perspective, in this study, I analyse the conceptualisation of harmful and criminal practices in the food sector formulated by public institutions in England and Italy. In doing so, I also focus on the side of the criminal actors to understand the official perspectives regarding the involvement of organised crime in food crime and, in light of this, as reflected in the title of this thesis, I reflect upon the formulation of a new socio-legal conceptual category: ‘*organised food crime*’. Embracing a comparative approach that analyses convergences and divergences in how two criminal justice systems tackle food crime, enables the nature of the food crime phenomenon

to be revealed, and unpacks the complexities and pitfalls of the modern food supply chains. In this sense, this study is not interested only in the measures taken by the English and Italian jurisdictions, but also on the analysis of food crime itself.

Since ancient times, the food sector has been subject to different types of illegal and morally dubious practices such as food adulterations or exploitation of labour in the food supply chain (Jack, 2018; Lawrence, 2013a; Paulus, 1974; Shears, 2010; Sumar and Ismail, 1995; Wilson, 2008). Worldwide, the media often report food scandals such as food adulterations, illegal use of chemicals and pesticides in the food chain or practices of illegal exploitation of labour perpetrated by different forms of organised criminals in the agri-food sector (Anesi and Rubino, 2018; Roberts, 2018). During the 20<sup>th</sup> century, these scandals have gained greater policy attention, and food crime is now in the international policy agenda (Council of European Union, 2019). From a law enforcement perspective, since 2011 the many Europol and Interpol investigative operations – called Opson – have discovered and removed from the market vast quantities of counterfeit food and drinks products, by dismantling vast criminal networks involved<sup>1</sup>. Stressing food fraud as the main focus of institutional responses against food crime, the European Parliament has set the fight against food fraudulent activities as an EU policy priority and pointed out that the increase of food scandals might suggest a structural weakness of the food supply chain (European Parliament, 2013).

Considering the significance of food crime in the political agenda, the amount of recurring scandals taking place in the food sector, the internal fragilities of the food system, and the social issues that food crime might raise (such as threats to food security and food safety), food crime is a topic worth studying in criminology. As said, food is subject to morally dubious, deviant and criminal forms of abuse and exploitation (South, 2010) and, in the context

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<sup>1</sup> The details of Operation Opson IX about the dismantling of several organised crime networks involved in food fraud practices have been released in July 2020.

of globalised food systems, criminal activities in the food sector develop local, global and also ‘*glocal*’ dimensions (Croall, 2013). However, food crime has often been mostly depicted as consumer issues and food scares, rather than as a form of crime worth analysing under the criminological lens (Croall, 2007). Despite significant academic contributions (Cheng, 2012; Croall, 2013; Gray, 2018; Walters, 2011), food crime is a relatively recent and still under-researched field of inquiry in criminology. Furthermore, criminological research carried out to investigate the institutional perception and the policy response to food crime activities has been scant. This research aims to fill this gap and continue the academic contribution in the field of food crime, widening the debate with specific focus on the ways food crimes are perceived, conceptualised, and tackled in the criminal justice systems of England and Italy. This study provides an original contribution to the literature since it is – to date – the first research that, by adopting a comparative perspective, specifically focuses and provides insights on the way food crime is institutionally challenged.

Moreover, by drawing upon the examples of the English and Italian jurisdictional responses against food crime, this research unpacks the narratives on the perceptions and the actual infiltrations of organised crime in food crime. The framework of comparative criminal justice and criminology represents both the overarching theoretical framework and the primary methodological approach of the research. It helps to examine how the institutional perceptions have been translated into the law and, following the stages of criminal justice system, how such conceptualisations of food crime and the corresponding legislative tools police and prosecute these crimes.

The final aim of this study is twofold: 1) drawing on original empirical data, it attempts to provide an innovative theoretical contribution that, by embracing the concept of food crime from a green criminological perspective, compares and analyses two national institutional responses to food crime, in terms of perceptions, definitions, and conceptualisations adopted

by the criminal justice system and by food authorities; 2) moreover, by looking at the types of actors involved and by considering the actual involvements and interests of organised crime, it reflects upon the formulation of the socio-legal conceptual category of '*organised food crime*'. In doing so, this study provides innovative theoretical contributions and insights for policy outcomes. Eventually, looking at this cross-border issue through the lenses of a comparative criminal justice approach reveals the necessity of an increase in international cooperation throughout the different domestic jurisdictions.

For clarity, the research does not focus on a specific criminal activity or a particular stage of the food supply chain, since it aims to unpack the several types of food scandals, to investigate the phenomenon of '*agromafie*' and to unveil the actual nexus between organised crime and the food system. This research focusses on the way institutions in England and Italy perceive, conceptualise and, ultimately, fight against illicit practices taking place across the food supply chain. For these purposes (aligning with green criminological standpoints that shall be reviewed in chapter 3 (Croall, 2007, 2013; Tourangeau and Fitzgerald, 2020) I consider '*food crime*' as an all-encompassing term that covers a broad cluster of both harmful and criminal acts that affect the food chain, from food fraud to misleading food labelling, from the exploitation of labour in the food sector to cruelty to animals. In this thesis, the terms '*food crime*', '*food crimes*', '*food-related crimes*', '*food offences*', and '*illicit food-related practice*'s will be used in order to indicate this wide range of practices. As the study will show, this conceptualisation of food crime is different from the official narratives according to which food crime is mostly formulated in terms of a policy response against food fraud, to the extent that generally food crime is constructed as a type of serious food fraud (England) or coincides with food fraud (Italy).

Following up on this background that has provided the contextualisation and the starting point of the study, this first chapter shall now introduce a detailed overview of the

thesis. By briefly highlighting how the research has developed and which arguments have been formulated and discussed, section 2 will provide the research questions and the thesis outline. Moreover, section 3 shall justify the country selection; afterwards, even if this research does not aim to look at the European response towards food crime, section 4 will briefly position this study in the context of the European Union. Even though Brexit has not been fully concluded by the time this study is finalised<sup>2</sup>, this first chapter will briefly detail how the exit of the UK (and England) from the European Union has clearly posed challenges and inevitably influenced the analysis in this study. Finally, section 5 will conclude this first chapter with final remarks and will introduce chapter 2 on the methodology and the methods adopted in this research.

## **2. Research questions and thesis outline**

This research aims to answer to four questions – two main questions (n. 1 and 2) and two sub-questions (n. 1a and 2b) – that have been formulated while framing the research design and modified during the literature review and fieldwork. Moreover, these research questions have guided and shaped the analysis that, in turn, has contributed to developing a better formulation of the questions in their final version.

This study shall be read and interpreted as an exploratory, socio-legal, comparative study on the official conceptualisations of food crime in institutional responses in England and Italy, with a particular focus on the involvements of organised crime in the food sector. In short, its core findings are: 1) the narrow convergent conceptualisations adopted by both jurisdictions that do not look at food harms beyond (food) crime; 2) the centrality of food fraud in both approaches and, accordingly, the centrality of specific public interests protected by the law such as public health and market reputation; 3) the divergent ways in which food crime is policed in the two countries, with the intervention of local authorities in the English system in

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<sup>2</sup> The time of writing and first submission of this thesis coincides with the Brexit transition period.

opposition to the police involvement in the Italian system; 4) the convergence regarding the fact that, in both approaches, food crime is essentially perceived and classified as an economic crime perpetrated by corporate actors; 5) little but evident involvement of organised crime in food crime as conceptualised in the view of both countries' institutions and, instead, conspicuous involvements of organised crime in the food sector beyond food crimes.

Based on the findings, according to the working definition adopted in this research, this thesis shall push for the adoption of a broader conceptualisation of food crime capable of including both crimes and harms happening in food systems beyond legalistic definitions of crimes. Such a conceptualisation is fundamental because it enables to address public interests such as environmental sustainability, protection of food security, improvement of food workers' rights and labour conditions, which the institutions currently do not address in terms of food crime. Further, this research will challenge the current perspectives on food crime (on both academic and policy levels), working towards the formulation of the new conceptual category of '*organised food crime*'. This category will seek to frame food crime as a form of organised, business crime where organised criminal actors behave like legitimate economic actors as well as legitimate corporate actors behaving like organised crime.

Aiming to carry out a socio-legal comparison between the jurisdictional approaches to food crime in England and Italy and, in this context, to find out the perception of actual involvements of organised crime in the food sector, the research questions are formulated as follows:

- (1) How is food crime perceived and conceptualised in the English and Italian legal systems and institutions?
  - (1a) How do English and Italian institutions tackle food crime? Which actors are (perceived to be) involved? How do the two approaches differ?

(2) The question of organised crime in food crime: Are there involvements of organised crime groups and mafia-type groups in food crime according to institutions' perceptions and perspectives in England and Italy?

(2b) How are the relevant institutions approaching the question of organised crime in food crime in England and Italy? Is it possible to conceptualise a socio-legal typology or category of '*organised food crime*'?

Under the theoretical and methodological framework of comparative criminal justice and criminology (see Beirne and Nelken, 1997; Nelken, 2009, 2010) and by embracing the perspective on food crime formulated in green criminology (see Croall, 2013), the research questions have been developed and answered throughout the different chapters. Even if each empirical and analytical chapter needs to be read in conjunction with the following chapter in a logical sequence, the research questions are not answered sequentially. More precisely, excluding chapter 2 that outlines the methodology and chapter 3 discussing the theoretical framework, the thesis proceeds as follows: starting with a brief historical background and overview of the legislative frameworks applied, both chapters 4 and 5 will be focusing on research questions n. 1, 1a (partially) and 2. Chapter 4 will specifically focus on England by presenting data from both documentary sources and interviews. It will describe and provide the first stage of explanation of the response to food crime in English institutions – in terms of legislative frameworks, conceptualisations, definitions, public interest to be protected by law, factors that incentivise criminal practices in the food sector and perceptions of criminal actors involved. Mirroring this structure, chapter 5 will focus on the way food crimes are conceptualised and tackled in Italian institutions.

Moreover, in order to expose how the institutional responses work 'in action', by presenting data from juridical documents (three first grade sentences and a preventive custody order) and interviews of four legal case studies (Operation Boddy & Moss and Operation

Boldo<sup>3</sup> in England, and Operation Arbequino and Operation Provvidenza<sup>4</sup> in Italy), chapter 6 will explore the way famous cases of food crime have been prosecuted and sentenced in both jurisdictions. In doing so, chapter 6 shall answer to research questions 1, 1a and 2. Moving on towards the analytical part of this study, chapter 7 will go deeper into the comparison and answer to research questions n. 1 and 1a. Through the findings that have emerged from the analysis, it shall conduct the second stage of comparative analysis by mirroring and comparing the two jurisdictional approaches along with the different phases of the criminal justice system, i.e. conceptualising the criminal behaviours labelled as food crime, policing or investigating, and prosecuting and sentencing. Furthermore, in line with the aims of comparative criminal justice, the chapter will also highlight the strengths and weaknesses of both approaches to see what one system can learn from the other. Following up, chapter 8 will focus on research questions n. 2 and 2b with the final aim of constructing the socio-legal category of ‘*organised food crime*’ and identifying the corresponding legal tool that can be applied. More precisely, this chapter will unpack the involvement of organised crime in food crime by focusing on activities and actors of food crime: briefly, it will show that, from both an institutional perspective that focuses on food crime as a serious food fraud as well as from a broader perspective that considers all the crimes happening in the food sector, organised crime is involved in food crime. In other words, through a green criminological lens and drawing upon the enterprise theory, it will argue that food crime is essentially a form of economic or corporate crime, and the line between corporate and organised crime is blurry in food crime. Concerning this, the chapter will reflect upon the conceptual typology of ‘*organised food crime*’ and list the possible benefits that such a typology could have in terms of policy outcomes.

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<sup>3</sup> Operation Boldo, n. T20167392, n. T20167397, n. T20167401.

<sup>4</sup> Operation Arbequino, Tribunale di Siena, n. 41/2012, RGNR GIP; Operation Provvidenza, Tribunale di Reggio Calabria, n. 206/2017 RGNR DDA.

Lastly, chapter 9 will sum up the main results presented in the thesis in order to provide final considerations on the research and its objectives. Furthermore, considering the discussions formulated in chapters 7 and 8, it shall suggest theoretical and policy reflections and contributions. Finally, the concluding chapter will also indicate new avenues of research in the field of food crime as they have emerged while conducting this study.

### **3. Comparing England and Italy: A challenging but fitting comparison**

Food crime is often a cross-border phenomenon. Criminal justice systems face similar challenges regarding how to tackle, from both legal and policing perspectives, food-related harms and criminal practices. In order to be undertaken, every comparison needs its reasons and justifications. Moreover, for the comparison to take place, it is also necessary to have both similarities and differences between systems. That said, a transnational comparative analysis between the institutional approaches of England and Italy to food crime seems relevant and, as highlighted, represents an original and noteworthy study for criminology. It has also posed difficult challenges since, undeniably, the two countries embrace differences that have made the selection and the comparison extremely stimulating and data-enriching, yet, at the same time, very challenging.

First and foremost, my Italian nationality and law background played an essential role in the choice of the first country. This choice has not been a matter of convenience, but the natural consequence of my personal and pre-doctoral academic background. Both these dimensions have triggered my initial interest towards the topic of food crime, the starting point and primary concern of this research being the analysis of the umbrella-concept and umbrella-label '*agromafie*' – which, to remind the reader, is specifically used to refer to illicit practices and criminal actors active in the food supply chain in Italy. Within a process of continuous questioning and reflecting, I have acknowledged continuously, put under examination, criticised, and expanded this starting point and the related cultural assumptions that my

background has carried while conducting the research. Inevitably, “*our starting points play a vital role in what we set out to discover and our own cultural assumptions continue to shape the questions we ask or the answers we find convincing*” (Nelken, 2007: 152). In this sense, the starting point of ‘*agromafie*’ clearly reflects my personal biases and cultural assumptions on the way I think of mafia-type organised crime and its infiltration in the food system.

Second, since at the time of writing both jurisdictions under analysis are part of the European Union, domestic legislation in both countries applies and implements EU food law, which stands for an overarching legal framework in the analysis of food regulation in England and Italy. However, in terms of legal differences, being part of the UK, England adopts a legal system of common law, unlike the Italian system that belongs to civil law legacy. Apart from the different legal structures and jurisdictional approaches, the difference is also reflected in the way crimes and illicit phenomena such as food crime are conceptualised by different criminal justice perspectives and differently tackled by law enforcement agencies. In relation to this, as chapter 2 shall explain further, this study shares the typical approach of comparative criminal justice that argues that analysing jurisdictions with different legal systems represents a challenging way of investigating the institutional response to offences and crimes (Nelken, 2010).

Third, both countries have been exposed to relevant and well-known food scandals that represent the public manifestations of harmful and criminal food-related practices and shape the way food crime is perceived and tackled (see for instance Lawrence, 2013a; Vettori, 2016). Moreover, being a cross-border issue of international concern, food crime is likely to pose similar risks and challenges to different states (Pakes, 2003).

Fourth, I have chosen Italy also due to the reputation of its globally known food production and for the economic significance of its agri-food sector in the Italian economy: being one of the largest net-exporters of national cuisine in terms of the volume of food exports

from Italy, this value counted for more than 42 billion Euros in 2018 (Ministero delle Politiche Agricole, Alimentari, Forestali e del Turismo, 2018); whilst, on the contrary, the UK (England being part of the UK, the jurisdiction of England and Wales) is one of the largest net importers of food in the world (Waldfogel, 2020).

Fifth, comparing two countries which have different cultural approaches to food, divergent food traditions and eating habits is extremely challenging and can represent a reasonable comparison from a sociological and anthropological view (Douglas, 2002, 2003). Indeed, culture is often the factor that distinguishes systems and, thus, is used to explain differences (Hofstede, 2001).

Lastly, regarding the criminal actors involved and, more specifically, concerning the role of organised crime in food crime activities, the two jurisdictions have historically experienced different manifestations of organised crime, embraced different conceptual constructions and, subsequently, adopted different legislative tools against organised crime. This is a relevant difference that could raise questions about the suitability of such a comparison. On the contrary, this divergence enriches the analysis, offers fascinating perspectives and might suggest the need for more practical international cooperation, which is one of the purposes of a comparative criminal justice perspective (Nelken, 2010).

To further clarify, the comparison is between the criminal justice systems of England and Italy. The reasons behind the choice of the English jurisdiction and not the whole UK are multiple: a) some of the most relevant food scandals (e.g. the horsemeat scandal) that played a relevant role in the analysis of the legal case studies of this research, took place in England; b) the first authority expressly established in order to tackle food crime (National Food Crime Unit) has been created in England in 2015 and it only covers the jurisdictions of England, Wales and Northern Ireland (Scotland has its own Food Crime Unit); c) specific safety and security functions are exercised differently by different public bodies in the UK, hence, for

time constraint I focused only on England (for instance, labelling checks are the responsibility of local authorities in England, whereas the same checks are conducted by the national Food Standards Agency in Wales and Northern Ireland); d) the Scottish criminal justice system is different from the English one so analysing the UK would have required a further comparison within the comparison (Newburn, 2017); e) lastly, amongst the different UK jurisdictions, England represents the most interesting as it is the largest and, to date, the most problematic in terms of tackling food crime. Considering this, I focussed exclusively on England in order to have a complete overview of a least one of the UK jurisdictions. Nevertheless, some general analytical considerations can also be applied to Wales and Northern Ireland.

#### **4. The EU context and the challenges of Brexit**

This project does not aim to examine the European legislative framework and EU policy interventions against food crime. However, being both state members of the EU at the time of writing, England and Italy apply EU law. In brief, in the European context, there are different regulatory, juridical and law enforcement agencies that, within their expertise, police and investigate food crime (for instance, the Food Fraud Network, Europol, Eurojust, and Directorate-General for Health and Food Safety). In terms of regulation, the European food law (n. 178/2002) provides a robust legal framework by providing strict food safety standards. However, at the EU level, there is no legal definition nor any institutional conceptualisation of food crime but only a general guideline on food fraud. The study will briefly consider the EU framework and background when contextualising the English and Italian legislative framework fight against food crime. Additionally, when analysing the conceptualisations, definitions, and regulatory framework in England, the thesis will take into consideration the issue of Brexit every time this is mentioned in the documentary sources or interviews. However, even if some interviewees in England have partially covered the topic of Brexit, this study cannot fully tackle it.

When referring to England and the European Union context, reflecting upon the consequences of Brexit seems unavoidable. However, in its very first formulation, I designed and structured this project without taking account of Brexit. Even if the starting date of the project (October 2016) followed the Brexit referendum (June 2016), the first research proposal was formulated and submitted in January 2016. The results of the referendum have made me rethink the initial research idea to include this scenario. Considering this, I have collected the data and analysed the findings with Brexit in mind. However – as often highlighted by the interviewees – it is still too early to describe how the exit from the EU will reshape British responses to food crimes.

The exit from the EU will have several political, social, and economic consequences that, at this stage, can only be postulated. For instance, different and (possibly) slower border checks might slow down the UK-EU trades and increase the volatility of financial markets. Moreover, as predicted by experts, there might be potential consumer panic and food shortages in the weeks before and immediately after 31 December 2020 (the date when the UK will officially leave the EU) (O’Carroll, 2019). Furthermore, as UK food legislation relies heavily on EU food law and food safety standards, the lack (to date) of a clear regulatory framework to adopt post-Brexit and/or the possible adoption of softer regulations (for instance, in relation to a trade agreement with the US) could create legal loopholes and gaps that can create criminal opportunities (Carter and Boren, 2019; Kahya et al., 2019). The risk of a hard Brexit<sup>5</sup> seems serious and poses relevant threats as it will make the UK food market more vulnerable and open to criminal actors (Grant, 2019). For example, increase of tariffs might lead to a rise in prices of food products with criminal actors starting to sell fraudulent goods at lower prices to hold down production costs. Moreover, food security might also be endangered by a no-deal

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<sup>5</sup> As mentioned, I submitted the thesis before Brexit was finalised and a trade and cooperation deal with the EU was signed.

or hard Brexit. Considering these socioeconomic and political changes that Brexit is likely to create in the food sector, this research appears now more urgent than ever.

## **5. Conclusions**

This introductory chapter has outlined the research by positioning it into the context of food crime, announcing the overarching comparative framework and highlighting the relevance of conducting this analysis from a criminological angle. Moreover, this chapter has indicated the research questions and objectives of the study, and it has also provided reasons to justify this specific country selection. Indeed, by explaining the justification of the country selection, this first chapter has briefly covered aspects concerning the comparative methodology adopted in this research. Furthermore, the introduction has clarified how the EU framework has been considered throughout the study and how the dynamics of Brexit have been addressed.

To follow up, chapter 2 shall discuss the methodology of this research and provide details of the methods used to collect the data.

## **Chapter 2 – Methodology and Comparative Framework**

- 1. Introduction**
- 2. Doing comparative research in criminology**
- 3. Research questions and methods**
- 4. Data sample, access, and data collection**
- 5. Data analysis and reflexivity**
- 6. Limitations and ethics**
- 7. Conclusions**

### **Objective of the chapter**

To provide a detailed description and justification of the methodological approach used in relation to the research questions; to inform about the methods applied and their reasoning; to highlight the way the data has been analysed; to briefly discuss questions of access, ethics, and limitations of the study.

## **1. Introduction**

As described in the introductory chapter, this thesis presents an exploratory, qualitative study of the perceptions, conceptualisations, and fight against harmful and criminal activities in the food sector in the English and Italian jurisdictions. Aligning with studies of comparative criminal justice and comparative criminology (Beirne and Nelken, 1997; Brants, 2011; Dammer et al., 2013; Fields and Moore, 1995; Legrand, 1995; Nelken, 1996, 2010, 2012; Pakes, 2003), I have conducted this research as a practical exercise of comparative legal analysis and comparative criminology with the aim of catching the legal, social, economic and also, inevitably, cultural dimensions of food crime. Through this a comparative lens, I will present and analyse the data collected during the fieldwork conducted in England and in Italy, in order to detect, highlight and analytically compare the similarities and differences in perceptions of crime, conceptualisations and legal definitions of food crime across the two systems. This qualitative comparative approach allows me to discuss if and how, crime theories and conceptual models apply to different countries and criminal justice systems in relation to the conceptualisation and definition of food crime.

For the purposes of this socio-legal research, qualitative methodology seemed the most appropriate approach to adopt (Blaikie, 2010; Marshall and Rossman, 2010; Silverman, 2010). Such a methodological approach allowed me to successfully capture the perceptions and opinions of representatives of institutions and provides a thick, meaningful description, using both documentary sources and semi-structured interviews as in this study (Mason, 2002; Patton, 2002). Furthermore, by considering the researcher as a participant observer (Hodgson, 2000), the qualitative perspective goes beyond mere descriptions of legal and criminal justice systems in order to unveil the actual meanings and senses of legal choices and procedures in different legal contexts and cultures. In qualitative research, the process of reflexivity assumes a central role in the data analysis. In this sense, my personal and academic background – as

Italian researcher with a legal training – clearly influenced the way I first looked at the two legislations, bearing in mind the context of the EU legal framework that, as said, is still applied in both countries.

In brief, chapter 2 shall focus on the relevance of doing comparative research in the specific field of food crime and explain why I chose this specific country selection (England and Italy). Moreover, by linking the research questions to the methods, in order to provide methodological rationales, this chapter will present and explain the methods applied in this study. Furthermore, the chapter shall also focus on the methodology used to code and analyse the data. Ethical profiles, issues of access and the process of self-reflection or reflexivity in doing research shall be discussed. Lastly, before the conclusions, one final section will highlight the ethical profiles and the limitations of the study, by explaining why and how, in spite of these limits, it is still valid.

## **2. Doing comparative research in criminology**

As highlighted by Nelken (2010), all social sciences are interested in explaining variations and differences (see also Feeley, 1997). Similarly, Durkheim states that sociology *is* comparative (Durkheim, 1982: 157). In these perspectives, the essence of social studies seems to rest upon a comparative perspective. According to Ragin (1994), qualitative comparative research mainly concerns the diversities that exist across a number of cases. The mission of comparative criminal justice is to “*compare and contrast our ways of responding to crime with those practised elsewhere*” (Nelken, 2009: 291). Truly, adopting a comparative lens that aims to understand one jurisdiction through a comparison with one another, allows us to reach a more comprehensive picture of criminal phenomena across jurisdictional boundaries. Moreover, embracing a comparative criminal justice perspective overcomes the risk of ethnocentrism (the idea that some domestic or national traditions are better than others) as well as the one of relativism (the belief that it is not possible to grasp and properly evaluate others’ choices)

(Nelken, 2009; Pakes, 2003). As pointed out by Beirne and Nelken, comparative criminology shows the “*systematic and theoretically-oriented comparison of crime in two or more cultures*” (1997: 5). In other words, through the support of theory and methodological analysis, it unveils the rationales for different crime perceptions, legal choices, and practical responses. The reasoning behind this idea is that crime, justice, responses to crime and legal cultures are necessarily intertwined and interconnected: for example, one legal or policy solution that works in one country might not be ideal in another country that has a different socio-legal or economic context. In this sense, the cultural significance often existing in contents of criminological research makes a comparative approach essential when studying criminology, especially in the context of a globalised world (Hardie-Bick et al., 2005; Nelken, 2011). The real benefit of this approach is that it provides the tools to clearly see how practices of criminal justice work and, more generally, how legal choices are appropriate to specific socio-cultural contexts. In fact, criminal justice is not just a set of norms or actions to describe and explain, it is rather part of broader cultural ways of thinking (Nelken, 2010: 88). In brief, comparative perspectives highlight decisions, analyse definitions, conceptualisations and responses, and flaws /or absences in different criminal justice systems. Furthermore, the comparison is not an end in itself as the main goal is to allow one criminal justice system to learn from another (Nelken, 2009).

Socio-legal comparative research can relate to three different theoretical dimensions: 1) criminal law (i.e. the body of law related to crime), 2) criminal justice (i.e. the delivery of justice, which is the way the law is practically applied through police, courts, prisons), and 3) criminology (i.e. the sociological debate around crime, its nature, extent and control). In the context of this specific research, I have mostly considered aspects of criminal law and criminal justice, such as the analysis of national regulatory frameworks as well as the way a criminal phenomenon like food crime is policed. In addition, I have also included more socio-

criminologically oriented considerations regarding the socio-cultural dimensions of food crime and how this is tackled. In fact, the legislative framework of both countries has been the starting point of the analysis. Following up, in order to look at the perception and consequent conceptualisation of food crime, I have used a socio-criminological-angled lens to code and analyse the findings. Furthermore, for the analysis of the judicial case studies and for the comparison of the practical and conceptual convergences and divergences, the study embraces a criminal justice perspective to find out how the law in books works in practice from the perspective of the institutional experts.

Like traditional research conducted with a comparative criminal justice framework (Hodgson, 2000; Nelken, 2009; Rogowski, 1996), this study is structurally organised into two phases: 1) the first stage where, through mirroring techniques, I will present the data collected during the fieldwork by describing and highlighting the findings – categorised under themes and subthemes between England and Italy (chapters 4, 5 and 6); 2) and the second stage of reflections where, by focusing on both similarities and differences, I will analyse the reasons behind conceptual and practical differences and similarities, trying to identify new meanings and interpretations (chapter 7), and where, in relation to the findings, I will attempt to formulate the conceptual category of '*organised food crime*' (chapter 8).

### **3. Research questions and methods**

As typical in qualitative research, this study has been conducted flexible, data-driven, context-sensitive and (self)reflexive (Braun and Clarke, 2013; Kumar, 2019; Mason, 2002). However, since a strategic research design is necessary, it is important to link the research questions and subject of social inquiry to appropriate methods that need to be justified and to be fitting the study (Flick, 2018). The inductive reasoning of qualitative methodology is reflected in the fact that, although the research problem has remained the same since the start, yet I have reformulated it several times into different research questions once the data collection started.

In other words, by adopting a discovery-based approach, maintaining its main research scope, eventually I have narrowed down the study in accordance to the data and the analysis.

For the purposes of social research, as argued by Mason, social investigation should be expressed as an “*intellectual puzzle with a clearly formulated set of research questions*” (2002: 21). Clearly, the choice of the research methods must be justified in relation to the research questions the study aims to answer (Mason, 2002; Punch, 2014). Furthermore, as argued by Holloway and Wheeler (2010), providing a clear view or audit trail of the methods applied contributes to the credibility of the data. In order to provide this justification, the table n. 1 below – adapted from Mason (2002) – links the research questions to the methods chosen and their rationales.

**Table n. 1 – Research questions, methods, and justifications**

<b>Research question</b>	<b>Data sources and methods</b>	<b>Justification</b>
<b><i>(1) How is food crime perceived and conceptualised in the English and Italian legal systems and institutions?</i></b>	Analysis of the English, Italian and European legal frameworks; collection and analysis of official documents published at the institutional level	The socio-legal analysis of legislative tools and judicial documents is the necessary first analytical step to gain a first insight into the way food crime is conceptualised in the two jurisdictions
	In-depth semi-structured interviews with prosecutors, law enforcement officers, politicians, members of public authorities and experts	Interviews with criminal justice representatives and other experts allow essential insights and deeper understandings of the perceptions and conceptualisations of food crime
<b><i>(1a) How do English and Italian institutions tackle food crime? Which actors are (perceived to be) involved? How</i></b>	Collection and analysis of the national and European legal frameworks and documents published at the institutional level; selection of case law studies (through court	Approaches of comparative criminal justice and criminology address the comparison of convergences and divergences between different legal systems

<i>do the two approaches differ?</i>	decisions and judicial documents)	and jurisdictions through documental analysis
	In-depth semi-structured interviews with prosecutors, law enforcement officers, politicians, members of public authorities and experts	As explained above, interviews with different categories of expert practitioners allow a clear understanding on which practices are conceptualised as food crime, which criminal actors are involved and how the two systems might converge or differ in their strategies against food crime
	Analysis of the data collected for the previous question in the frames of comparative studies in criminal justice	
<b>(2) <i>The question of organised crime in food crime: Are there involvements of organised crime and mafia-type groups in food crime according to institutions' perceptions and perspectives in England and Italy?</i></b>	Analysis of the data collected for the previous questions through the lenses of comparative criminal justice and comparative criminology studies and, furthermore, through organised crime, corporate crime, and green criminology conceptual approaches	The analysis of the documentary sources and interviews with experts supported by relevant theoretical frameworks enables to conduct a comparison between the two jurisdictions regarding their perspectives on the presence of organised crime actors in food crime and in the food sector
<b>(2b) <i>How are the relevant institutions approaching the question of organised crime in food crime in England and Italy? Is it possible to conceptualise a socio-legal typology or category of 'organised food crime'?</i></b>	Comparative analysis of the data collected for the previous questions and review of the academic literature in the fields of criminology, with specific attention to organised crime and corporate crime	In connection to the analytical comparison undertaken for research question n. 2, it is possible to reflect upon a new conceptual typology – ‘ <i>organised food crime</i> ’ – by selecting the relevant literature on organised crime studies and green criminology

As shown in the table above, this study heavily relies on documentary sources published by official institutions, both private and public, active in the field of food crime. Moreover, I also conducted semi-structured interviews with experts in the field. This combination of sources has been effective in unpacking how food crime is perceived and conceptually constructed by institutional actors. Furthermore, it also considers how civil society actors such as cooperative institutions (see, for instance, the agricultural association Coldiretti in Italy) are necessarily involved in the political and institutional perspectives and responses.

First, I studied the relevant regulations and legal frameworks in order to grasp a comprehensive legal overview and to back up the socio-legal analysis of food crime in the two jurisdictions. Second, I gathered official documents and reports (i.e. grey literature) published by the relevant public and private expert authorities in England and Italy over the last six years. I chose this timeframe in relation to data accessibility and to the public and institutional sensitivity concerning the most recent cases of food scandals that took place in both countries. To unveil and analyse procedural legal choices, I also collected relevant case law studies (two for England and two for Italy). The documentary material is interpreted alongside and in support of the findings resulted from the interviews: both primary (interviews) and secondary (documents) sources have constantly reinforced and completed each other by adding validity and deeper comprehension of the phenomenon. This methodology has helped me to explore perceptions, understandings, and conceptualisations of food crime and how these are put into practice (Braun and Clarke, 2013; Mason, 2002).

Following up, the next section shall justify the sample and explain the data collection. Using further tables, it will provide a detailed outline of the documents collected and the interviewees' institutional affiliation and expertise.

#### **4. Data sample, access, and data collection**

Thanks to interviews with experts in the field, I have examined the concept of food crime through the experiences and lenses of expert representatives of an institutional level (Mason, 2002; Rubin and Rubin, 2011). According to this idea, the sample of this research is purposive (or expert), strategic (or convenient), and representative (Bryman, 2016; Patton, 2002). I have shaped the sample in order to: 1) to gain valuable insights, aiming at selecting participants under specific criteria in relation to their expertise and competencies; 2) to be strategic as the sample has been reframed and adjusted according to new themes and arguments emerging from the research; 3) to be representative in order to match the characteristics of the population relevant to the study (i.e. institutional experts); 4) to be flexible in order to face potential challenges arising during data collection.

More specifically, I conducted twenty-seven in-depth, semi-structured interviews with public officers and experts in the field of food crime in both countries (see Table 2 and Table 3 below). Fourteen interviews were conducted in England and thirteen in Italy. The interviews took place between July 2017 and June 2018. Being UK based, I conducted the first interviews in England and, in January 2018, I conducted the first round of interviewees in Italy. The sampling technique has been a combination of snowballing and pure purposive sampling. More precisely, I recruited the first interviewees in both countries through academic networks. Then, the first participants being “*strategically important contacts*” (Henn et al., 2009: 337), I contacted other representatives of public agencies and other experts through snowball technique, which has proven to be very useful when looking for interviewees with specific expertise. In addition, I also drafted a list of authorities with relevant roles and knowledge in the field and, through purposive sampling, I checked the official websites to select potential participants who, according to their expert knowledge, would have likely offered valuable insights (Bryman, 2016). As shown on the tables n. 2 and 3, I drafted the list through a

mirroring technique in order to match agencies with similar competencies and areas of responsibility in England and Italy. Except for a few cases where the participant did not reply or decided not to take part in the study, this combination of techniques was equally successful in relation to both country experiences.

The target population of this study is hard-to-reach. This has clearly contributed to the relatively small sample of participants that, considering the comparative nature and purpose of this study, is appropriate. Access dynamics have been problematic from time to time, mostly depending on the agency (e.g. with Trading Standards in England and the Parliamentary Commission on Fraud in Italy). Often, persistence in recruiting potential participants and negotiating access has been crucial (Monahan and Fisher, 2015). As noted, academic contacts have been essential key informants to access participants in both England and Italy. More specifically, through an academic event, I met the first UK gate keeper (an academic with contacts inside the Food Standards Agency in London). In a similar way, I gained relevant access to local authorities that, in England, have been the most difficult institutions to reach. Similarly, in Italy, academic and family contacts proved to be essential, especially at the start of the fieldwork. Some high-positioned participants could not be reached and there were two refusals in each country. Indeed, often individuals in power-positions are likelier to refuse to participate in research (Berg, 2009; Cochrane, 1998; Hertz and Imber, 1995; Monahan and Fisher, 2015). However, despite this difficulty, the sample perfectly reflects the general expertise of the agencies involved in food crime and, in this sense, has been very representative and specific.

Regarding the practicalities of how I gained access, both the participants recruited through snowballing technique and those selected through institutional websites were first approached via email in order to introduce myself and the research. In the email, I attached an information sheet with an overview of the research and its aims (see Appendix B). When

specifically asked by the interviewees, I also sent a loose unstructured interview guide with a list of topics and aspects related to the research questions that I wished to cover during the interview. Considering the nature of qualitative interviews – which are “*professional conversations*” (Kvale, 1996: 5) “*with a purpose*” (Burgess, 1984: 102) – and the different expertise of the participants, the interview guide with general topics did not contain specific questions. Considering the role and/or in accordance to the personality of the participant, I used the guide only at the very start of the interview and dismissed afterwards. In England, I conducted interviews in person at times and places convenient for the participants (usually the participant’s office spaces or a public café). In Italy, I conducted nine interviews with participants via Skype (one) and on the phone (eight). Being UK based, I found the virtual interviews extremely useful and convenient. As argued by Deakin and Wakefield (2014), Braun and Clark (2013), and Hay-Gibson (2009) virtual interviews conducted via internet or on the phone are now seen as data generation tools capable of producing qualitative data as effectively as traditional in-person interviews. On a few occasions (four in England and six in Italy) the interviews were followed by follow-up emails in order to ask for other contacts mentioned during the interviews; in four cases (two in England and two in Italy) the interviewees themselves emailed to put me in contact with other potential participants and to provide documentary sources. The two tables (n. 2 and 3) below offer further details regarding the agencies contacted, their expertise, the duration and location of the interviews.

**Table n. 2 – England: Interviewee, authority, expertise, date, location, and duration of the interview**

<b>Interviewee</b>	<b>Expertise</b>	<b>Date, location, duration</b>
FE – National Food Crime Unit	Law enforcement agency that, within the Food Standard Agency, provides criminal	2 July 2017, London – 50’ (recorded)

	intelligence and leadership on food crime issues	
ER, WT – Trading Standards	Local authorities that enforce consumer protection legislation on the safety and quality of products and services	16 April 2018, Buckinghamshire – 1h40’ (recorded)  8 May 2018, London – 1h (recorded)
RG – Environmental Health Department	Local authorities that enforce legislation related to environmental health and the prevention and administration of health and safety hazards	6 November 2017, East Anglia – 1h30’
NP, EP – Environment, Food and Rural Affairs Committee	UK Parliamentary Committee that checks upon the safeguard of natural environment and food production and farming industry and sector	1 May 2018, London – 45’ and 30’ (recorded)
CE, GC – Team of Experts of the Elliot Review into the Integrity and Assurance of Food Supply Networks – Final Report	Team of experts appointed by the Government after the 2013 horsemeat scandal in order to conduct a review into the integrity and assurance of food supply networks	21 May 2018 skype videocall – 55’ (recorded)  14 June 2018, Chelmsford – 1h (recorded)
JP – Crown Prosecution Office	Prosecutors in charge of food crime cases	17 April 2018, London – 50’ (recorded)
SB – City of London Police	National police force active in anti-fraud investigation	1 September, London – 1h30’ (recorded)
GT, KL – Kent County Council Laboratory	Public analysts, analytical scientific services	2 February, Kent – 2h15’ (recorded)
ED – Accountancy and consultancy firm	Food fraud expert	23 November 2017, London – 1h (recorded)
PM – London Gateway	Port health authority	17 November 2017, Tilbury – 2h30’ (recorded)

**Table n. 3 – Italy: Interviewee, authority, expertise, date, location, and duration of the interview**

<b>Interviewee</b>	<b>Expertise</b>	<b>Date, location, duration</b>
LC – Carabinieri NAC	Police force active in the protection of the agri-food sector	17 January 2018, Rome – 1h (recorded)
GL – Carabinieri ROS	Police task force active against organized crime and terrorism	23 January 2018, Rome – 1h30’ (recorded)
RP – Direzione Nazionale Antimafia	National Prosecution office active in the fight against mafia-type groups	23 January 2018, Rome – 50’ (recorded)
AP – Legambiente	Environmental NGO	22 January 2018, Rome – 1h10’ (recorded)
DP – Carabinieri NAS	Police force active in the protection of health and environment	5 March 2018, phone call – 50’
FM – Guardia di Finanza	Fiscal Police	14 April 2018 skype videocall – 1h20’
MM - Guardia di Finanza	Fiscal Police	23 April 2018, Palermo – 1h15’
RT – Ispettorato centrale della tutela della qualità e della repressione frodi dei prodotti agroalimentari	Ministerial Department active for the protection of food products in the fight against food frauds	5 June 2018, phone call – 20’ (recorded)
NG – Osservatorio sulla Criminalità in Agricoltura e sul Sistema Agroalimentare and Coldiretti	National observatory on crimes in agriculture and in the agri-food system, and agricultural and farmers’ organisation	6 June 2018, phone call – 30’

AS – Investigative journalist	Investigative Agency with expertise on organised crime and food fraud	Journalism on	21 July 2018, phone call – 1h10’ (recorded)
LF – ICQRF Palermo	Ministerial Department for the protection of food products in the fight against food frauds	active in the	18 September 2018, phone call – 1h30’ (recorded)
MT – Carabinieri NAS Palermo	Police force active in the protection of health and environment	in the	18 October 2018, phone call – 25’ (recorded)
TP – Agenzia delle Dogane e dei Monopoli	Customs		1 November 2018, phone call – 40’ (recorded)

As shown in the tables, even though national agencies and institutions are clearly different, their functions and expertise are similar. In Italy, there is a higher presence of participants from law enforcement bodies such as Carabinieri, as police force are often in charge of conducting food safety and quality checks and, even more important, they have power of investigations (together with ICQRF that holds judicial powers). On the contrary, in England, police departments are not much present in the sample as checking, investigating, and prosecuting food crime is in the remit of local authorities such as Trading Standards and Environmental Health Departments. The Italian national Antimafia Prosecution Office (Direzione Nazionale Antimafia) was contacted for two reasons: this research being interested in potential involvements and interests of organised crime actors (of the specific mafia-type in the case of Italy) in food crime, it appeared necessary to contact this special prosecution office. Besides, inside the national prosecution office there is a special Unit active in intelligence and fight against ‘*agromafie*’ and, more broadly, against mafia and organised crime in the environmental sector. In three cases, I interviewed two participants coming from the same

agency in Italy (NAS, Fiscal Police and ICRQF) due to the important remits of these specific institutions in the Italian context.

Regarding the desk-based data collection, once I had identified the relevant public and private institutions, I collected the official documents on food crime published by the same agencies I intended to interview. I selected reports, studies, bulletins, inquiries, and parliamentary reports using institutional websites and online engines such as google, Lexis Nexis (for England) and DeJure (for Italy). Additionally, I analysed the documents provided by the participants (four in England and six in Italy); moreover, one interviewee in Italy and one interviewee in England provided me with the relevant court decisions that I analysed in the legal case studies (see chapter 6). This study being of socio-legal nature, to start the analysis I looked at the most relevant body of regulations and laws in the field of food safety and food crime in both jurisdictions (see sections 3 of chapters 4 and 5). Overall, I collected, read, and analysed 2281 pages. To explore the content, I read the documents throughout the fieldwork and re-checked each institutional text before meeting each institution's representative. To systematically synthesise the data, I manually highlighted and coded the texts. Later, I extracted the codes and the related quotations that I copied in a Word document used for the analysis. The documentary sources proved valuable to stimulate paths of inquiry that were further pursued through interviews (Patton, 2002). Often, the documents provided background information on the agency and a first broad coverage of the institutional perspective on the issue of food crime. In this sense, the texts helped me to contextualise the findings in the analysis. A list indicating the title, the source and the year of publication of the documentary material can be found in Appendix A. Clearly, this list is not exhaustive and could be enlarged with further documents published by official and semi-official or private sources. However, this specific selection matched the interviewees' institutions of affiliation and, in certain cases

such as with the Italian Parliamentary Commission on Fraud where no contact could be made, it compensated the lack of access to the institutional organisation.

Lastly, for the duration of the whole research, I set up a Google alert with specific keywords – such as ‘*organised crime in food sector*’ or ‘*food crime*’ or ‘*food fraud*’ – in order to gather relevant media outputs. Although this study is not framed as a media analysis of food crime, this material has been important to gather journalistic and anecdotal data, often in relation to the legal case studies (for instance with the horsemeat scandal) and, more in general, to widen the horizon of the research and trigger new hints and perspectives.

To sum up, this research benefits from the participation of experts in different positions inside the most important agencies active in the field of food crime in both jurisdictions. All the participants own the most up-to-date expertise and knowledge of the legal and criminal justice systems. They unpacked the rationales behind certain conceptualisations, legal and practical choices in relation to food crime. Not only did they share with me the knowledge and understanding of the institution to which they are affiliated, they also provided their personal views and perceptions. The documentary materials integrate and strengthen the analysis, especially for those agencies that I did not contact for time management and difficulties of access. Considering this, the sampling seems justified and perfectly fits with the research questions and objectives.

## **5. Data analysis and reflexivity**

Considering the exploratory character of this study and the aim to reach conceptual understandings of food crime and the involvements of organised crime, data analysis and data collection have often overlapped. I started the analysis of the findings after conducting the first cluster of interviews in England. This was followed by a second stage of collection with interviews conducted and analysed in Italy. At the third stage of fieldwork, being UK based, I was able to conduct in person interviews with English participants and virtual interviews with

Italian interviewees. A final stage of analysis highlighted that data saturation was reached and that new data would have been redundant (Patton, 2002).

From a practical perspective, after the interviews, I always took notes or voice recorded the first thoughts, impressions, and insights triggered by the conversations. All the interviews have been transcribed, coded, and analysed through the software NVivo and, lastly, anonymised at the stage of writing up. I transcribed in Italian all the interviews conducted in Italy and translated into English only the selected quotations. In order to keep the original terminology of '*food crime*', I used this word in the interviews carried out in Italian and I also provided the corresponding Italian translation (i.e. '*crimine alimentare*').

To proceed with the analysis of the data, it is important to establish what counts as data and how to read and interpret this data. As suggested by Mason (2002), in qualitative research it is useful to think about data in theoretically and conceptually inspired ways, and to reflect upon the theory according to the data. Considering the exploratory aim of this study and the attempt to formulate the socio-legal category of '*organised food crime*', a quasi-grounded theory approach has guided certain aspects of the research. The theoretical and methodological approach of grounded theory relies on the exemplification of both descriptive and more conceptual or theoretical ideas linked to one or more aspects of a document or an interview in relation to the analytical codes. In addition, grounded theory is a theoretical and methodological perspective that allows the researcher to develop a theory out of data as data analysis and data collection are conducted in tandem and constantly refer to each other (Patton, 2002). The reformulation of research questions of exploratory nature, and the intertwining of the stages of data collection and analysis as "*interrelated processes*" (Strauss and Corbin, 1990:419), which are typical of grounded theory, have often occurred in this study. However, grounded theory culminates in the generation of a theory, which has not been the final aim of this study. In constructing the category of '*organised food crime*', this study stopped at the

stage before the creation of a new theory. In fact, as the rest of the thesis will develop, ‘*organised food crime*’ is supported by already-existent theories on organised crime (i.e., the enterprise theory) and approaches of green criminology. Furthermore, grounded theory approaches are usually employed since the start of the research and emphasise “*systematic rigor and thoroughness from initial design, through data collection and analysis*” (Patton, 2002: 489). In relation to these aspects, even if principles of grounded theory apply to some of the theoretical features of this study, grounded theory did not practically provide a set of coding procedures and protocols to analyse the data (e.g., the use of memos). Instead, I used techniques of thematic analysis.

Thematic analysis is a qualitative analytical method that, following inductive analysis, allows identification of patterns and themes of meanings across a specific dataset – in my case documentary sources and interviews – in relation to the research question(s) (Braun and Clarke, 2013). The analysis is generated bottom (data) – up (theory) and is influenced and shaped by the researcher’s standpoint. The themes emerge from the data and the aspects of their divergence or convergence allow the researcher to conduct a reflexive analysis, which is typical of comparative criminal justice approaches (Nelken, 2000). Doing the analysis within multiple phases has produced different themes and subthemes that, as it will become clear in chapters 4, 5 and 6, are at the basis of the comparison. I ran different levels of thematic analysis, both descriptive and interpretive (Braun and Clarke, 2013): first, I did a literal reading and analysis of the relevant regulations and legal frameworks for both jurisdictions; second, I undertook a more interpretive analysis while taking notes, conducting, and transcribing the interviews; lastly, I read and coded the transcripts and the documentary sources in a more analytical way. In order to proceed to the second stage of comparative analysis, I created a table with the main patterns and their manifestations in relation to England and Italy by pointing out conceptual and practical convergences and divergences in the criminal justice systems (see chapter 7). In

relation to the investigation of the labels '*food crime*' and '*food fraud*', I used a particular type of thematic analysis, i.e. thematic discourse analysis, as this "*identifies discursive themes and patterns in data and applies the tools of discourse analysis 'lightly' to explore how themes construct reality (...) a more detailed focus on discursive feature of language than other forms of thematic analysis*" (Braun and Clarke, 2013: 177). In other words, as the empirical chapters will further discuss, food fraud being at the very centre of the concept of food crime, I had to carefully reflect upon the meanings of these labels and analyse their significance in relation to both interviews and official documents.

Regarding the analysis of secondary data such as official documents and policy reports, in line with what suggested by Block, Hallowell, and Inciardi (1979: 25), while analysing this type of data I particularly reflected upon the following questions: "*What is the source? What does it state? Who is the author? What do we know about the author and are they a credible source? How do the author's assertions compare with those of others on the same point? Are the author's statements logical and possible? What is the relationship in time and space between the author and his observations?*". As the sources were public authorities and other expert bodies, I felt confident to trust them and rely upon their credibility. Moreover, this research being comparative across two jurisdictions, it has been especially useful for the purposes of the analysis to contextualise the content of the specific source in relation to space and time (for example when analysing the expert Review published in the aftermath of the horsemeat scandal in 2013).

As typical in qualitative research, the reflexivity of the researcher emphasises the importance of self-awareness, political-cultural consciousness, and personal background (Patton, 2002). Clearly, the investigator's perspective and how this reveals in the analysis is something to consider for the findings. In relation to this, as already noted, my Italian citizenship and academic background (as law student and legal trainee) influenced the way I

first approached the study, especially regarding how I read and analysed the regulatory and the judicial material. For this reason, I constantly questioned my initial standpoints. Being more familiar with the Italian legal system and considering the starting point of '*agromafia*', I decided to first look at the English literature (both academic and non-academic). My law background allowed me to strengthen my legitimacy as researcher and to develop trust between me and the institutional participants. Interestingly, this feeling of being perceived as a legitimate researcher in the field is something that I experienced more in England than in Italy. Carrying out cross-country and cross-cultural interviews in two different languages and in two different socio-legal contexts has been challenging, as words can take different meaning in different cultures (Patton, 2002). However, being fluent in English, the language difference did not pose any problem. On the other hand, the different cultural perspectives probably opened further questions and created more doubts than providing answers, especially during the fieldwork and at the analytical stage. Yet, as mentioned above, this is one of the main points of comparative criminal justice and criminology studies, which is going beyond ethnocentric and relativistic perspectives. Further, the cross-cultural scenario improved my sensitivity as a socio-legal researcher and constantly challenged my starting points. Finally, since conducting interviews with people who occupy powerful institutional positions (so-called 'elites') is something that can condition the researcher's attitude and the power dynamic between the interviewee and the interviewer (Braun and Clarke, 2013; Monahan and Fisher, 2015), especially at the start of the fieldwork and in relation to certain participants, a constant reference to the documentary sources enabled me to overcome this issue.

## **6. Limitations and ethics**

Institutional public bodies such as police and prosecutor offices are considered hard-to-access populations. This is clearly reflected in the size of the sample and in certain difficulties I encountered in access, as already mentioned in section 4. Moreover, time management and

restricted financial resources played a role in shaping the sample and narrowing down the research field. However, since this study compares two different jurisdictions by analysing the conceptualisations of a criminal phenomenon, the sample is fully justified and appears appropriate for the purposes of the study. Even if the sample of interviewees was convenient (Patton, 2002), it is clearly not possible to deduce general assumptions on food crime from the findings of this study. Yet, as stated above, the scope of qualitative research is to get thick and rich descriptions of the social world (Braun and Clarke, 2013). In this sense, this research aimed to gain insights over the experts' opinions and perspectives on the concept of food crime and the way this is jurisdictionally tackled. Hence, the sample proved to be sufficient and rich enough.

As recommended in the 2015 ESRC Research Ethics Framework, participation to social research should be voluntary and appropriately informed (Boddy, 2016). According to this principle, I provided an information sheet containing a general overview of the study and a consent form (see Appendix B). The two forms were first drafted in English and then, after the ethical approval had been granted, translated in Italian for the Italian participants. Both documents complied with ethical standards and were provided official approval by the Faculty of Social Sciences Ethics Sub-Committee at the University of Essex before the start of the interviews. More specifically, the consent form informed the participants regarding their right to withdraw from the study at any time without justification; furthermore, I also asked the participants the permission to audio-record (four in Italy and three in England did not provide consent) and informed them of the possibility of maintaining anonymity. Even if only six participants opted for the clause of confidentiality, I still preferred to anonymise the names as, for the purposes of this study, what matters is not the identity of the participants but rather their affiliations to a specific institutional body and their unique expertise and knowledge. Eight interviewees in Italy preferred not to sign the consent form and gave oral consent to participate

in the study. Generally, participants in England showed more carefulness and interests towards the ethical profiles. Lastly, for the whole duration of the research, data have been stored in my personal laptop under password protection and shared only with my supervisory board.

## **7. Conclusions**

This chapter has provided an overview of the methodological approach embraced in this study. It has detailed the methods adopted to collect and analyse the data – i.e. semi-structured interviews and documentary archival sources analysed through thematic analysis, with themes and patterns emerging from the data. Moreover, chapter 2 has also briefly discussed the project's limitations and ethical profiles. In brief, I consider the theoretical frame of comparative criminal justice and comparative criminology as the overarching methodological (and theoretical) approach that allowed me to conduct a constructive and critical comparison between the two countries with different juridical experiences and legal systems. The next chapter will outline the theoretically-oriented literature review. More specifically, it will indicate the conceptual tool box with the main concepts I have used to support the analysis. More importantly, chapter 3 will explain the conceptualisation of food crime as formulated in green criminology that, as announced in chapter 1, represents the theoretical backbone of this study.

## **Chapter 3 – Theoretical Framework and Conceptual Toolbox**

### **1. Introduction**

### **2. From food security to food safety: An overview of the food crime-related conceptual dimensions**

### **3. Food crime in the criminological literature**

#### **3.1. Organisational aspects of food crime and food fraud**

#### **3.2. Food crime in green criminology**

### **4. The conceptualisation of organised crime**

#### **4.1. Legal definitions and juridical instruments**

### **5. Conclusions**

### **Objective of the chapter**

To provide an outline of the theories and concepts that underpin the findings of this study; to briefly explain the academic conceptualisation and definition of food crime, and the related concepts such as food safety and food security; to present and discuss the relevant literature on crimes and harms from a green criminology perspective; to discuss the concepts of organised crime and mafia as they will be needed in relation to their manifestations in food crime according to the English and Italian experiences.

## **1. Introduction**

Chapter 3 will present the theoretical framework that supports this research and offer the conceptual toolbox used for the analytical process. This chapter provides only a bird's eye overview of the theoretical and conceptual frames that characterise this study. In the analytical chapters (chapters 7 and 8) certain concepts will be reconsidered and discussed further in relation to the data. After the presentation of the findings, other theoretical approaches – such as reflections on corporate crime and enterprise crime theory – that are needed to analyse the data and to construct the category of '*organised food crime*', shall be highlighted and further examined. As specified in the introductory chapter, by focusing on the spectrum of illicit practices happening in the food sector, while consulting the academic literature I came across the concept of '*food crime*', which is an under-investigated and under-theorised field of research. Yet, criminological literature has analysed this issue and formulated the first conceptualisations before food crime became a policy issue. More precisely, food crime was first considered a matter of offences against consumers (Croall, 1987, 1988). Later, it became object of inquiry in the field of green criminology (Croall, 2013), in relation to the organisational characteristics of food fraud (Lord et al., 2017a; Lord et al 2017b), in connection to discourses around food safety (Manning and Soon, 2016) and, lastly, regarding food security and the use of technology in the production of GM food in the context of state, corporate and transnational crime (Walters, 2004, 2006, 2007, 2011).

Being naturally connected to different aspects of everyday life, such as socio-economic and health or dietary facets, food can be studied from several angles. In this sense, food study is necessarily multidisciplinary and multi-oriented (Gray, 2018). Indeed, apart from being the object of investigation in food science, food is typically explored in anthropological (Dirks and Hunter, 2013), historical and cultural studies (Douglas, 2003) as well as in the sociology of legislation (Paulus, 1974) and in relation to policy choices (Lang and Heasman, 2004). For

reasons of conciseness and since this study is neither anthropological nor strictly legal, these approaches will not be considered. Nevertheless, adopting a multifaceted perspective has been the idea at the basis of this study and the reason why different bodies of literature – such as green criminology and organised crime studies – will be used to analyse the findings and, overall, to back up the study<sup>6</sup>. For the purposes of this research, I adopt a green criminology perspective as the main theoretical background in formulating the study's working definition of food crime (Croall, 2007, 2009, 2013). Furthermore, two of the research questions of this study aim to unveil if and to what extent organised crime is involved in the food chain, studies on organised crime and mafias are considered in section 4 as they are necessary to answer the research questions n. 2 and 2a.

This chapter is structured as follows: the first section shall present relevant concepts connected to food with specific attention towards food security and food safety, which are considered the backbones of the concept of food crime; the second section shall specifically address the conceptualisation of food crime by pointing out two main strands of criminological literature that focus respectively on organisational aspects of food crime (and food fraud) and on wider discourses on harms and crimes in connection to food scarcity, social inequalities, sustainability and environment (i.e. green criminology); the third section shall briefly flesh out

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<sup>6</sup> The topic of food crime involves a wide spectrum of literatures such as food and regulatory capture (on how regulated monopolies such as the agri-food market influence the state agencies that are controlling them (Dal Bò, 2006)); food governance and sovereignty (on how food economy is regulated, and how food policy choices are made and implemented in relation to the collective right of people to produce food and land sovereignty (Borras and Franco, 2012; Claeys 2013; Lang & Heasman, 2004; Patel, 2009)); and, food and capitalism (on how the conditions of modern neoliberal markets might affect the dynamics around the demand and offer of food, facilitating practices such as the exploitation of labour (see Cheng, 2012)). For the purposes of this study, I consulted these bodies of literature however, expect for references concerning '*cheap capitalism*' (Cheng, 2012), I did not engage with them as research theoretical framework. While being of undoubted importance in the analysis of the food crime phenomenon and how the food sector is regulated, these literatures do not strictly encompass the aspects under investigation in this research (i.e., the ways in which food and criminal justice system institutions conceptualise, police, prosecute, and sentence food crime). Drawing upon this study's findings, further research should focus on the role played by corporate actors in influencing the state intervention against food crime.

the most relevant conceptualisations of organised crime and mafia; finally, the conclusions will sum up and pinpoint why this study represents an original contribution to the literature.

## **2. From food security to food safety: An overview of the food crime-related conceptual dimensions**

Clearly, the central conceptualisation of this study concerns food crime. This concept intersects with other related constructions, often presented as policy responses and indicating regulatory actions that are pertinent to this study. First of all, being studied as a boundary object<sup>7</sup> that allows transdisciplinary studies (Gray, 2018), food represents a polymorphous issue that can be analysed from many aspects (Albala, 2013; Ashley, 2004; Smith et al., 2010; Williams-Forson and Wilkerson, 2011). Lang and Heasman use the expression '*food paradigm*' in order to indicate "*a set of shared understandings, common rules and ways of conceiving problems and solutions about food*" (2004: 36). From '*food poverty*' to '*food sovereignty*', from '*food governance*' to '*food democracy*', from '*food ethics*' to '*food citizenship*' and '*food trust*' (Booth and Coveney, 2015; Caraher and Coveney, 2016; Dawson, 2018; Lang and Heasman, 2004; Wilson et al., 2013), there is a plethora of conceptualisations connected to food which are relevant from a criminological perspective (Spink et al., 2019)<sup>8</sup>. For the specific purposes of this study, it is worth briefly mentioning the following: '*food integrity*' that refers to the risks of producing food products that do not fully adhere to regulatory requirements, both in terms of safety and authenticity (Ali et al., 2014; Kendall et al., 2018), and that undermine the integrity and solidity of local and global food systems (Lord, et al., 2017b); '*food defense*' seen as a set of policies and practices adopted against activities intended to harm consumers (Kastner et al., 2014; Manning, 2019; Manning and Soon, 2016; Smith et al., 2017); '*food authenticity*'

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<sup>7</sup> By 'boundary object', Gray (2018) refers to a conceptual tool that, to overcome disciplinary segregation, holds a common identity and overlaps social worlds through communicative channels of translation (see Star, 2010).

<sup>8</sup> As mentioned above, although these concepts are related to the study of food crime and the social problems around food, for the exploratory purposes of this study and for the nature of the research questions that were posed, the thesis does not engage with such conceptualisations.

and, in connection, *'food traceability'* that raise questions of genuineness of food products, also in regarding food quality (Manning, 2016). Amongst these notions, there are two central conceptualisations: *'food security'* and *'food safety'*. The first represents the ideal precursor of the academic conceptualisation of food crime towards which both scientific and institutional perspectives should turn back, moving on from the traditional frame of food crime as offences against consumers (Rizzuti, 2020). The second is the main policy aspect considered by institutional responses to food crime, precisely in relation to the protection of public health from the risks created by illicit practices of the food sector.

The food supply chain has often been studied and linked to the issue of food security (Ingram, 2011). Like many of the food-related constructs, food security as a concept was first institutionally-formulated in the 1974 World Food Conference that, at both national and international level, referred to the availability and price stability of food stuffs (FAO, 2006). However, only at the end of the 1990s the UN Food and Agricultural Organisation (FAO) provided a more precise conceptualisation of food security by considering it as *"physical, social, and economic access to sufficient, safe and nutritious food to meet (...) dietary needs and food preferences for an active and healthy life"* (FAO, 2006: 1). This concept is the focus of several reports and policy briefs on the state of food security and nutrition in the world annually published by FAO (for instance, see FAO et al., 2019). Moreover, food security is explicitly addressed in international declarations and documents. First, it is linked to the right to food, which is protected by article 25 of the UN Declaration of Human Rights (1948) that considers the right to food in connection to the right of a standard of living adequate for health and well-being. Second, the UN International Covenant on Economic, Social and Cultural Rights (UN, 1976) recognises the right of everyone to adequate food and pushes states to improve methods of production, conservation and distribution of food, with the aim of ensuring an equitable distribution of world food supplies. Furthermore, the UN Committee on

Economic, Social and Cultural Rights (1999) identifies the human right to adequate food as essential for the enjoyment of all human rights, links this right to the fulfilment of human dignity and stresses that it is the duty of states to guarantee access to food and, in the context of social justice, to adopt specific economic, social and environmental policies to protect the right to adequate food. Interestingly, this latter document suggests the adoption of international and national strategies that could address critical issues of food security by taking into consideration all aspects and stages of the food system including “*the production, processing, distribution, marketing and consumption of safe food, as well as parallel measures in the fields of health, education, employment and social security*”(CESCR, 1999: 6). Following these perspectives, in the literature food security has been advocated in relation to increased rural deprivation and social inequalities responsible for unequal distribution of food and access issues (Johnson and Walters, 2014; Slater, R., Sharp, K. and Wiggins, S., 2008; Tiffin, 2014). Green criminology authors analyse access to food in the context of global conflicts (Brisman and South, 2017) and describe how the stability-of and access-to food can be endangered by factors such as climate change and related natural disasters as well as changes in economic, political and social situations (Johnson and Walters, 2014). Interestingly, Stack et al (2013) argue that for global food security, food must be available and accessible as well as safe, i.e. food safety should also be assured.

Many of the food scandals that took place over the last thirty years, such as the European madcow epidemic or the Chinese baby milk-powder scandal, have often raised concerns around the safety of the global food supply chain<sup>9</sup>. Identically to food security, food safety has first been considered as a policy and regulatory priority at a supranational level. Precisely, the UN World Health Organisation defines food safety as “*all the hazards, whether*

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<sup>9</sup> Chapter 4 and 5 shall present two brief excursus of the food scandals that are specifically relevant in the analysis of institutional responses to food crime in England and Italy; moreover, chapter 6 will especially focus on the horsemeat scandal and olive oil frauds.

*chronic or acute, that may make food injurious to consumer's health*”(World Health Organization, 2015). The general EU food law (EC n. 178/2002) contains a general definition of food safety: article 14 states that it is necessary to adopt measures aimed at guaranteeing that unsafe food is not placed on the market and at ensuring that adequate systems exist in order to identify and respond to food safety problems, to ensure the proper functioning of the internal market and to protect human health. This regulation considers all the stages of the food supply chain including production, manufacture, transport and distribution of food and feed, by addressing all those (also fraudulent) practices that could endanger the safety of the food system.

Food safety has been studied in the literature from different angles. In relation to public health, it is investigated from a legalistic perspective (Pointing, 2005) and framed as a policy priority to implement by monitoring the food supply chain in order to prevent any health risk (Manacorda, 2016; Manning, 2016; Manning and Soon, 2016; Moyer et al., 2017: 1; Smith et al., 2017; Spink et al., 2015; Spink and Moyer, 2011, 2013). Furthermore, green criminology scholars indirectly examine food safety in relation to the use of chemicals in agriculture and intensive farming and to the abuse of genetically modified (GM) food, which are considered to pose a threat to public health, food security and biodiversity (Johnson and Walters, 2014; Walters, 2011).

As said, food security and food safety are central in the analysis of food crime. Yet, if, on the one hand, food crime is rooted into the concept of food safety that, as the findings will show, represents the main juridical value or public interest in anti-food crime responses; on the other hand, the concept of food security is not sufficiently reflected in the institutional conceptualisations of food crime (Rizzuti, 2020). By adopting a “*green criminology perspective*” (South, 1998: 212), one of the purposes of this research is to draw attention to the

importance of food security, especially in the current times characterised by increasing issues of food scarcity and food access in the global food systems.

Briefly, by focusing on the interactions between corporate and individual perpetrators, victims<sup>10</sup> (e.g. food consumers and food companies), and criminal justice responses, green criminology explores global and local crimes against the environment (Beirne and South, 2007; White, 2008, 2010). According to Beirne and South, the green criminology agenda includes “*the study of those harms against humanity, against the environment and against non-human animals committed both by powerful institutions and ordinary people*” (2020:205). By going beyond legal definitions of crime, green criminology focuses on the nature and dynamics of environmental harms, and on the environmental laws and regulations established by state authorities to protect the environment. Being embedded in discourses of power, harm, and justice, green criminology is a branch of criminology that, drawing upon “*interdisciplinary engagements*” (Brisman, 2014:23), interrogates the actions and omissions that destroy, damage, harm, and exploit the environment and its natural resources. This green perspective provides a conceptual approach based on notions of justice and moral frameworks such as environmental or species justice (White and Heckenberg, 2014). Its origins can be found in critical criminology. However, the areas of inquiry considered by green criminologists often intersect with other fields such as corporate crime, state-corporate crime and organised crime. Green criminology investigates issues such as air pollution, water access, water pollution and water scarcity, animal rights and welfare, environmental justice and the impact of environmental harms on marginalised and indigenous populations, agri-food crimes, harms caused by climate change, harms caused by electronic waste, illegal disposal of toxic waste,

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<sup>10</sup> Environmental victimology is the body of literature that concerns the study of the social processes and institutional responses pertaining to victims of environmental crime (White, 2015). Despite being relevant in the study of food crime, I did not cover this branch of literature as this research aims to unveil the institutional responses against food crime focusing on the dimension of activities and actors of food crime rather than on the dimension of the victims.

and wildlife crime. Green criminology studies are methodologically varied as they employ the use of qualitative (e.g. ethnography, interviews, text analysis), quantitative (e.g. analysis of datasets from environmental agencies) and mixed methods as well as methods of visual green criminology (Natali, 2016). Not only does this theoretical standpoint help to address illicit food practices criminalised by the law, it also interrogates harmful practices that, even if not legally prohibited, are detrimental to consumers, animals, workers and, more broadly, to the environment.

### **3. Food crime in the criminological literature**

Historically, food crime has been first investigated and theoretically framed in the context of trading offences against consumers by Hazell Croall in 1987. Croall looks at food crime in the context of consumer crimes (Croall, 1987, 1988), in connection to corporate and white-collar crime (Croall, 1989, 1992, 2001, 2005, 2009, 2010), and in the area of green criminology (Croall, 2007, 2013). Within the latter, without being expressly labelled as '*food crime*', food crime has been analysed as form of eco-crime in relation to genetically modified (GM) food production (Walters, 2004, 2006, 2007, 2011) and in connection to food security and technology (Johnson and Walters, 2014). Food crime has been studied while investigating the legal protection of food safety (Pointing, 2005). Moreover, in relation to what is labelled as '*cheap capitalism*', it has been described as a wide set of practices that break laws, regulations and customs of the food industry by Asomah and Cheng (2018; Cheng, 2012). Despite these important studies, as highlighted by Croall (2013), criminological attention towards food crime has been scant. Only in recent times, scholars have started to analyse the many aspects of the food industry that can be examined under the lens of criminality and deviance (Gray and Hinch, 2018; Lord et al., 2017; Tourangeau, 2016; Tourangeau and Fitzgerald, 2020).

Currently, it is possible to distinguish two main standpoints in the academic study of food crime. First, there are authors who mainly focus on food fraud (comprehended as a sub-

type of food crime) on the organisational aspects of fraudulent activities in the food sector and on the policy measures taken in the prevention of these illicit practices (Curll, 2015; Lord et al., 2017a; Moyer et al., 2017; Spink and Moyer, 2013). Secondly, there are other authors who, by adopting critical approaches within green criminology, are interested in discourses around social and environmental harms and crimes, as well as social (in)justice debates surrounding access to food as already highlighted in the previous section (Croall, 2013; Gray, 2018; Tourangeau and Fitzgerald, 2020).

### **3.1. Organisational aspects of food crime and food fraud**

The first strand of these academic discourses analyses the fraudulent activities and their organisational features committed inside the food sector that are labelled as '*food fraud*'. According to this literature, food fraud is a form of food crime. More precisely, food fraud is a criminal act that takes place outside of the legitimate food sector and that encompasses "*the deliberate and intentional substitution, addition, tampering or misrepresentation of food, food ingredients or food packaging; or false or misleading statements made about a product for economic gain*" (Spink and Moyer, 2011: 158). In approaches of organisational criminology, Lord et al. (2017a) analyse the nature and organisation of the practices that constitute food fraud. More specifically, in this approach food fraud is conceptualised as "*an endogenous phenomenon of the food system that consists of the abuse or misuse of an otherwise legitimate transaction in which the actor undertakes practices of deception or dishonesty in order to avoid legal procedures and to gain profits or cause harm*" (Lord et al., 2017a: 10). These authors suggest that more attention should be dedicated to the nature of food fraud, the factors and conditions of its organisations and the dysfunctionalities of the food market that facilitate the perpetration of food fraud (Lord et al., 2017a)<sup>11</sup>. In the same perspective, food fraud is analysed

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<sup>11</sup> In relation to corporate and organisational crime, further theoretical background is considered in the analytical chapters 7 and 8. In the formulation of '*organised food crime*', this thesis engages with the enterprise theory that can be positioned across corporate and organised crime (Smith, 1975). Having established that food crime primary actors are corporate and business entities active in the food sector, future research should engage further with

through the lens of situational crime prevention and routine activity theory with the aim of identifying criminal opportunities, offenders' motivations and absences of capable guardianship (Lord et al., 2017b). Lastly, food fraud has been analysed in criminal law as a criminal offence that breaks food safety regulations (Pointing, 2005; Tumminello, 2013) and in relation to domestic and European legal anti-food fraud framework (Flores Elizondo et al., 2019; Jack, 2018).

### **3.2. Food crime in green criminology**

The second group of authors analyse this issue by embracing a broader perspective that, under the table of food crime, includes, criminal acts as well as harmful but legal(ised) or quasi-criminal practices (Cheng, 2012; Croall, 2013; Gray, 2018; Tourangeau and Fitzgerald, 2020). Typically, these scholars adopt views of green criminology that, as seen above, by questioning the traditional legal definitions of crime, advocating for a social harm-oriented approach, and drawing on discourses on harm, power, and justice, offers the ideal lens to look at the food crime issue. By pushing the analysis beyond the boundaries of law, as argued by Tourangeau and Fitzgerald, green criminology “*enables an exploration where no laws are broken but environmental, physical and social harm result nonetheless*” (2020: 205). This critical framework investigates breaches of law as well as “*lawful but awful*” (Passas, 2005), legal, immoral and unjust practices (Bavinck et al., 2014; Beirne and South, 2007; Brisman and South, 2020; Hall, 2015; Hillyard, 2004; Hillyard et al., 2004; Lynch and Stretesky, 2014, 2014; Sollund, 2015; Westerhuis et al., 2013; White, 2008, 2010, 2018; White and Heckenberg, 2014). Within this standpoint, food crime has been conceptualised as serious harms and crimes that need to be addressed beyond traditional legal definitions of crime, allowing the consideration of wider socio-political sources of harm (Sollund, 2015). A conceptual framework of food crime that draws upon green criminology can address several forms of

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corporate crime theories (e.g., Friedrichs, 2010) and, for example, investigate the role played by private business actors in preventing and detecting food crime.

harmful practices happening in local and global food trades that victimise consumers physically (by harming their health), psychologically (by eroding their trust) and/or financially (by causing monetary loss). Moreover, this perspective includes illicit behaviours that cause harms to non-humans and to the environment. Put differently, food crime is conceptualised as a type of environmental harm that affects food as a natural resource and that raises issues of social (in)justice. In this way, food crime is clearly linked to food security, to the necessity of equal access to sufficient food and to the concept of food safety (Rizzuti, 2020). These scholars analyse the criminological dimensions of food crime by investigating the criminogenic factors and the complexity of the contemporary globalised food systems (Gray and Hinch, 2015; McDowell, 2017). If Croall (2013) questions cultural factors such as unethical production of unhealthy food that involves the exploitation of workers and environmental harms, and organisational factors such as competition and corporate power, Cheng (2012) refers to the socio-economic context that makes food crime possible. More precisely, by ‘*cheap capitalism*’ Cheng refers to a “*trade condition 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*” (2012: 255).

The following – not exhaustive – list provides practical examples of activities encapsulated by the wide concept of food crime according to a ‘*green food crime perspective*’: food fraud (e.g. intentional adulteration of food, counterfeiting, watering down), food poisoning (e.g. neglecting safety and handling food regulations, engaging in regulatory non-compliance), addition of chemicals (e.g. causing obesity through the use of chemicals added to boost the taste of food and drink products), unproven scientific manipulation of food (e.g. production of GM food), food labelling (e.g. disregarding standards or adopting deceptive marketing tactics), non-criminalised food trade practices (e.g. anti-competition industry cartels and targeted food marketing), pricing (e.g. suspicious bargain offers aimed at deceiving the

consumers), exploitation of labour in the agri-food sector (so-called ‘*modern slavery*’), financial crimes (e.g. tax and subsidy frauds, fraudulent handling of food paperwork), cruelty to animals and environmental harm due to food industry practices (e.g. overuse of antibiotics, pesticides and fertilisers) (Gray, 2018; Lang and Heasman, 2004; Leon and Ken, 2017; McDowell, 2017; South, 2010; Tourangeau and Fitzgerald, 2020; Walters, 2004, 2006, 2007, 2011).

In questioning the suitability and significance of food crime as a research topic worth of criminological attention, Croall (2007) follows the stages of the food chain and acknowledges a spectrum of practices in connection to the production, manufacture, distribution, preparation, sale and marketing of foodstuffs. As highlighted, Croall is the first author who gives a definition of food crime as “*the 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*” (2013: 167). Following this idea, she contemplates a wide range of offences that involve economic and physical harm, issues of safety and health, and many kinds of fraud, from evasion of subsidies to food adulteration and mis-presentation of quality and contents of food (Croall, 2007, 2013). Aligning with green criminology discourses, many of these acts lie on the fringes of legality and illegality raising issues about the definition of fraud and deception and the political use of scientific knowledge in relation to food (Croall, 2007; Walters, 2018). Along the same conceptual path, Gray (2018: 30) reaffirms the necessity of a “*food crime perspective*” that, drawing upon theoretical positions on social harms, questions the concepts of crime and harm concerning food issues. The scholar highlights that, at a global level, the neoliberal industrial food system creates food alienation and depersonalisation as people do not know what they eat or how and where the food has been produced and processed. This insufficient knowledge is often solved by providing more label information to rational consumers. Yet, this solution puts individuals in the dangerous positions of being subject to

the bias of what big food corporations decide to declare on the label. In this way, if food is equated and framed as a market commodity, the risks of producing social harms are high. According to this, moving on from mainstream criminological discourses that mostly embrace legalistic conceptualisation of crime in social harm-oriented debates (Hillyard et al., 2004), a food crime perspective should include notions of welfare and social justice by recognising the food issues connected to a vast series of illegal, criminal, harmful, unjust, unethical or immoral food-related practices with consequence to humans and non-humans as well as to the environment. The benefits of this approach are to recognise harm over time; to include unintentional activities and moral indifference; and, in relation to the purposes of this study, to conduct cross-national and cross-cultural comparative research (Gray and Hinch, 2018). Similarly, Tourengau and Fitzgerald stress that analysing food crime offers an ideal perspective “*to observe the limitations and contradictions of social and legal constructions of crime*” (2020: 205). By providing an interesting categorisation of food crime typologies (against consumers, food producers, animals and environment) classified by legal standards and by violation of moral standards, the authors argue that this green perspective criticises narrow legalistic definitions of harm in order to explore situations where the law is not broken, yet there are environmental, physical and social harms. Drawing on this idea, they suggest a shift in the terminology as the label ‘*food offences*’ would better succeed in encompassing both food crimes under legalistic terms and food-related harms not proscribed by law but violating social norms and/or inflict harms.

Indeed, there are limits in restricting a food crime study on mere legalistic definitions. Yet, focusing on institutional conceptualisations and definitions of food crime, this research shall also consider the legal perspective. By encompassing a green criminological perspective, this study does not intend to exclude legal definitions as it is still in the role of law and official authorities to tackle food crimes and harms, by combining forms of governance to control and

manage food systems (Gray, 2018). Moreover, in the aim of going beyond mere descriptions, it is clearly important to unpack which “*behaviours become the focus of law and why*” (Lynch and Stretesky, 2003: 228).

In sum, this section has discussed two tendencies of the literature on food crime: one first group of authors (see Lord et al., 2017a; Lord et al., 2017b; Manning and Soon, 2016; Spink and Moyer, 2011; van Ruth et al., 2018) who acknowledge the wider harm of food crime activities and the role of corporate power by focusing mainly on the organisational dimension of food fraud considered under the broader umbrella of food crime; and a second group of scholars who, by embracing a social harm approach that addresses a wide variety of criminal and quasi-criminal, harmful practices in the food sector (Asomah and Cheng, 2018; Cheng, 2012; Croall, 2007, 2013; Fitzgerald and Tourangeau, 2018; Gray and Hinch, 2018; McDowell, 2017; Tourangeau and Fitzgerald, 2020; Walters, 2004, 2006, 2007, 2011) confronts legal definitions of crime and poses questions around the concept of harm itself. As mentioned, this study adopts the theoretical perspective of the second strand of literature and embraces a socio-legal or social harm approach. This view allows to take critical assumptions about what constitutes food crime. However, acknowledging the significance of the organisational studies in the field of food fraud, the study will consider them in analysing the findings of the research (see chapters 7 and 8).

Since one of the aims of this research is to unveil involvements of organised crime in the food sector, by briefly reviewing the core relevant literature, the next section shall discuss the working definition and conceptualisation of organised crime and mafia relevant for this study.

#### **4. The conceptualisation of organised crime**

Organised crime is a major security concern (Council of European Union, 2010; EUROPOL, 2017; UNODC, 2010). Consequently, it has been object of important academic research

(Fijnaut and Paoli, 2004, 2004; von Lampe, 2016; Wright, 2006). Nonetheless, there is no consensus about how to conceptualise organised crime (Campbell, 2013; Paoli and Vander Beken, 2014; Sergi, 2017; Zoutendijk, 2010). Indeed, the complex and controversial conceptualisation of organised crime reflects the essence of the corresponding phenomenon, which is multifaceted, dis-homogeneous in its activities and structures, and manifesting differently across countries. In the socio-criminological academic debate '*organised crime*' is considered as a fuzzy umbrella concept (Paoli and Vander Beken, 2014; von Lampe, 2016) that refers to a wide variety of criminal phenomena and that is influenced by different national perceptions, interpretations, and constructions (Hobbs, 2013). Typically, organised crime is analysed as a) a cluster of serious criminal practices mostly carried out for economic profits (such as drug trafficking or extortion) and b) as a set of durable and (generally) stable unlawful organisations or networks whose members systematically engage in crime (Block and Chambliss, 1981; Cressey, 1967, 1969; Fijnaut and Paoli, 2004; Finckenaue, 2005; Kleemans, 2014; Morselli, 2010; Paoli, 2002, 2003, 2014; Paoli and Vander Beken, 2014; Reuter, 1983; von Lampe, 2016; Woodiwiss, 2001). If, according to Edwards and Levi (2008) and Levi (2008), the term '*organised crime*' should be avoided and instead research should focus only on the organisation of crimes for monetary gain, Reuter (1983) coined the paradigm of '*disorganised crime*' to argue that, while providing goods and services, organised crime networks are actually disorganised.

On the side of the activities, Von Lampe (2016) distinguishes market-based crimes (which involve the provision of illegal goods and services), predatory crimes (with clear links between offender and victim), and governance crimes (concerning the enforcement of rules and the settling of disputes in absence of a legitimate governance). For other authors who focus on the structures, by providing illegal goods and services, organised crime groups mostly aim to either get monetary gain – i.e. behaving as enterprise syndicate – or to acquire power or

sovereignty over territories and markets – i.e. behaving as power syndicate (Block, 1980; Varese, 2011). In this idea, mafia-type groups are considered the manifestation of both power syndicates and enterprise syndicates, as they aim to gain control over territory and over illicit markets (Block, 1980; Sciarrone, 2011) . For example, considering the goal of exercising territorial power through the perpetration of extortion, mafia is framed as “*industry of private protection*” (Gambetta, 1993).

Being framed as a specification of the genus organised crime, mafia possesses special features (Fulvetti, 2004; Varese, 2011) such as the collusion with political power and the use of cultural codes (Sergi, 2017). In relation to the latter, Sergi (2017) argues that the concept of mafia encapsulates a cultural dimension that normal type of organised crime does not contain. In order to sociologically construct the typology of mafia-groups, Sciarrone and Storti (2014) list the following characteristics: connivance, secrecy, loyalty, hierarchy of control (mainly for certain types of Italian mafias, e.g. Cosa Nostra), exercise of violence or threat of violence, high capacity of accumulating social capital, and practice of protection-extortion. In Italy, organised crime has traditionally and historically overlapped with mafia<sup>12</sup> (Lavorogna and Sergi, 2014).

In relation to the twofold essence of organised crime conceptualisations (as crimes – emphasis on the plural – and as organisations), while analysing systems and strategies adopted to tackle organised crime, Sergi (2014, 2015, 2017) identifies a spectrum of different policing models<sup>13</sup>. Referring to England and Italy, she labels the respective systems as ‘*activity*’ model and ‘*structure*’ model. In this theorisation, the first model focuses on the criminal groups’ organised crimes that are serious and, hence, pose a threat to national security; whilst, in the

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<sup>12</sup> For terminological purposes, in this study I choose not to use the label of ‘*Italian mafias*’ and, instead, I interchangeably adopt the terms mafia(s) or mafia-type groups to refer to the way organised crime takes place and is policed in Italy.

<sup>13</sup> By policing models, the author refers to “*the set of institutional responses, from investigation to prosecution and trial, set up within a criminal justice system to counteract a specific threat*” (Sergi, 2015: 660).

second model, the focus is on the criminal groups' structures rooted in the society and perceived as a threat to public order (Sergi, 2015). This differentiation will be further recalled in chapter 8 when discussing the involvements of organised crime and mafia in food crime from both activity and actor perspectives.

Lastly, as argued by Savona (2010: 133), since the conceptualisation of organised crime reflects the corresponding criminal phenomenon that, as seen, manifests differently in different contexts, the task of defining organised crime faces a “*cultural difficulty*”. In a similar way, according to Von Lampe (2016), academic research cannot have a clear coherent definition of organised crime as starting point as this definition is more an outcome of research rather than a pre-existing condition to study the issue. Organised crime is what is being labelled as such or, in other words, the label of organised crime is a “*denominator of a mixed basket of phenomena previously denominated as organised crime*” (von Lampe, 2016: 14). Yet, being a criminal phenomenon, there is the need of some legal definitions of organised crime that reflect conceptualisations and understandings of institutions of criminal justice systems.

#### **4.1. Legal definitions and juridical instruments**

At an international level, the most relevant definition of organised crime is offered by the 2000 Convention against Transnational Organized Crime established by the United Nations, which defines an organised crime group as:

A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit (art. 2, lett. a).

At domestic level, the legal conceptualisations and definitions of organised crime vary between England and Italy. Briefly, in England organised crime is framed as serious crime planned, coordinated and conducted by people working together on a continuing basis, whose motivation is to get financial gain (NCA, 2017). In this perspective, a central role is played by

applying the paradigm of seriousness, which is what upgrades a ‘serious’ crime to the category of organised crime (Sergi, 2015). In a very circular way, this paradigm allows us to label as organised crimes only those criminal acts that are serious and sophisticated enough to gain the label of organised. Practically, organised crime is typically charged under the common law offence of conspiracy to defraud and under Section 45 of the Serious Crime Act that tackles the participation in criminal activities of organised crime.

In Italy, on the other hand, since the concepts of organised crime and mafia overlap and since Italy embraces a civil law system, the institutional conceptualisation of organised crime typically matches the legal definition provided under the offence of membership of mafia-like association at the article 416bis of the penal code<sup>14</sup>. Yet, as pointed out by Sergi (2015), Italian institutions generally perceive that the essence of Italian organised crime is more varied than the one identified under criminal law. In short, the offence of mafia-like membership requires the presence of the following elements: *affectio societatis* or associative bond among the individuals who are willing to merge in a group and cooperate to reach the final aim of the group; power of intimidation; use of violence and threat; and *omertà* or condition of subjection and silence. To add, the Italian criminal law also establishes the offence of unlawful association at the article 416 of the penal code that is applied to non-mafia-type organised crime<sup>15</sup>. Further particularities of both domestic legal definitions and juridical instruments shall be discussed when analysing food crime prosecutions in connection to the legal case studies in chapters 6, 7 and 8.

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<sup>14</sup> Article 416-bis states that: A mafia-type delinquent association consists of three or more persons, and those who belong to it make use of the power of intimidation afforded by the associative bond and the state of subjugation and criminal silence (*omertà*) which derives from it to commit crimes, to acquire directly or indirectly the management or control of economic activities, concessions, authorisations or public contracts and services, either to gain unjust profits or advantages for themselves or for others, or to prevent or obstruct the free exercise of the vote, or to procure votes for themselves or for others at a time of electoral consultation.

<sup>15</sup> Article 416 states that: When two or three people associate in order to commit several crimes, those that promote or establish or organise the association are punished, only for this, with imprisonment from three to seven years. For the mere membership of the association, the penalty is from one to five years.

Considering the complexity of the organised crime phenomenon, I have embraced an all-encompassing conceptualisation of organised crime that refers to the commission of illegal practices, and the provision illegal commodities for the purposes of illegal profits, eventually committed by illegal actors. In the data analysis, I have engaged with several theories of organised crime that contribute to the creation of the theoretical pathway towards the category of '*organised food crime*'. First, drawing upon the theoretical positions that refer to clusters of activities and actors of organised crime (Block and Chambliss, 1981; Cressey, 1967, 1969; Fijnaut and Paoli, 2004; Finckenauer, 2005; Kleemans, 2014; Morselli, 2010; Paoli, 2002, 2014; Paoli and Vander Beken, 2014; Sergi, 2017; Reuter, 1983; von Lampe, 2016; Woodiwiss, 2001), I have analysed activities and actors of food crime, finding out that the theoretical positions that refer to organised crime can be applied to food crime. Second, to expand and consider harmful and criminal practices taking place in the food sector beyond institutional narratives, I have adopted a green criminology perspective (Croall, 2013; Lang and Heasman, 2004; Leon and Ken, 2017; McDowell, 2017; South, 2010; Tourangeau and Fitzgerald, 2020; Walters, 2004, 201) to construct the food crime side of the category '*organised food crime*'. As chapters 7 and 8 will further discuss, the primary actors of food crime are food businesses that are (or at least can be) prosecuted as organised conspirators; in addition, organised crime groups are active in food crime and in the food sector by acting like legitimate corporate actors. Considering this, in constructing the category of '*organised food crime*', I have referred to organised crime groups as organised enterprises that aim to supply (legal and illegal) goods and services to control the market and make profits (Schelling, 1967, 1984; Smith, 1980). Moreover, by framing food crime as an economic or business crime (Lord et al, 2017a), and recognising the professional and corporate nature of organised crime in food crime (Hobbs, 2013), I have aligned corporate and organised crime actors and constructed the final category supported by the enterprise theory (Smith, 1980). Unlike theories that focus

merely on power syndicate (Varese, 2011), the enterprise theory allows the construction of '*organised food crime*' as organised corporate food crime committed by a large spectrum of actors from illegal organised crime groups to legitimate businesses. Lastly, for upgraded resource allocations and access to increased investigative tools, I have advanced the label '*organised food crime*', which recalls organised crime as its primary dimension<sup>16</sup>.

In conclusion, this section has provided a concise overview over the concepts of organised crime and mafia, also by referring to policy and legal definitions. Further theoretical discussions and clarifications shall be provided in connection to the analysis of the findings.

## **5. Conclusions**

This chapter has succinctly described the conceptual toolbox and the main theoretical discourses which this research builds upon. Moreover, it has presented the main theoretical approach that, within the overarching methodologically-oriented approach of comparative criminal justice and criminology, informs and characterises this work.

Interestingly, as already highlighted in the introductory chapter, in the different strands of the literature on food crime –in both the green criminologically-oriented viewpoints and in the organisational studies – there is a gap regarding the study of the involvement of organised crime in the food sector and, specifically, in food crime. Moreover, excluding important exceptions (Walters, 2006, 2011), often research on food crime has been conducted drawing on secondary sources, such as relevant investigative media outputs (Lawrence, 2013d), or based mainly on archival analysis of public documents and case law studies (Fitzgerald and Tourangeau, 2018). This source of data is highly rich, yet it fails to investigate the institutional perceptions of the food crime issue through the experiences and opinions of official experts. Furthermore, to my knowledge, a comparative cross-country socio-legal analysis on food crime

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<sup>16</sup> Chapter 8 will further explain the theoretical pathway towards '*organised food crime*' by connecting the theories to the findings.

has never been conducted before. Therefore, this study represents an original contribution that aims to expand the literature with the support of original empirical and comparative data.

## **Chapter 4 - Food Crime in English Institutions**

### **1. Introduction**

### **2. Historical background**

### **3. Legal framework**

#### **3.1. Public authorities involved in the fight against food crime**

#### **4. The concept of food crime in the official documents and through the perspectives of experts**

##### **4.1. Centrality of food fraud**

##### **4.2. Conceptual narrowness**

##### **4.3. Label efficacy**

#### **5. Public interests and juridical values protected by the law**

#### **6. Factors that incentivise and facilitate food crime**

#### **7. Food crime actors**

### **8. Conclusions**

### **Objective of the chapter**

To contextualise the study with a brief overview on the historical relevance of food crimes cases in England; to consider the legislation used to protect the food sector from illicit practices; to present the most important findings regarding the perception, conceptualisation, and definition of food crime from the perspective of institutions in the criminal justice system in England; to discuss activities and actors of food crime; to highlight juridical values and public interests protected by the law and to argue around possible incentives and facilitators of food crime.

## **1. Introduction**

After presenting the methodological tools used for this study and discussing the relevant literature, this chapter shall now explore the institutional approach towards food crime in England. More precisely, it shall answer to research question n. (1) *How is food crime perceived and conceptualised in the English and Italian legal systems and institutions?* and, partially, to research question n. (1a) *How do English institutions tackle food crime? Which actors are (perceived to be) involved?* As already explained, this research investigates the conceptualisations of food crime formulated by institutions such as prosecutors, law enforcement, regulatory bodies and, more broadly, public authorities active in the field of food in the criminal justice system. The aim is to find out: 1) which activities are institutionally classified as food crimes; 2) which values and interests are protected by the law; 3) and, which criminal actors are involved in food crime and to what extent there are involvements of organised crime in food crime practices and, broadly, in the food sector. This chapter shall investigate these three aspects by analysing fourteen interviews conducted in England with experts and representatives of public authorities and relevant private agencies. To do so, it will also consider public reports and documents published by NGOs and other private agencies that research the food sector. This chapter will examine the perspectives of experts who, despite not being representatives of public authorities, have been involved directly and indirectly in the analysis of the food crime phenomenon.

The chapter will be structured to describe and analyse the data gathered in the fieldwork by highlighting the main themes that have emerged during the analysis and are considered relevant for answering the research questions. First, the historical background on the issue of food crime in England will be provided. Second, since this study represents a socio-legal research study, the chapter will provide the legislative framework in order to contextualise the issue from a legal perspective by referring to the law, legal standards and regulation that, within

the context of England, regulates the sector (i.e., general food law). Third, the chapter will continue by presenting the documentary sources where food crime is conceptualised and defined and expert interviews. Four sections (4, 5, 6 and 7) shall outline the documents' main contents and official sources included in the documentary analysis. By going through the themes that emerged from the coding process, this material will be further interpreted alongside the interviews' findings. More precisely, section 4 shall focus on the conceptualisation of food crime by highlighting its nexus with the conceptualisation of food fraud and, hence, its narrowness.

Moreover, it will also argue around the efficacy of the label '*food crime*'. To continue, section 5 shall discuss the public interests and juridical values protected by anti-food crime responses, whilst section 6 shall refer to the factors that incentivise and facilitate illicit food-related practices. Section 7 will present a concise outlook on the criminal actors involved in food crime. Finally, concluding remarks will summarise the content of this chapter and introduce the following chapter that, similarly, will focus on the institutional response towards food crime in Italy.

## **2. Historical Background**

As already highlighted in the introduction of this thesis, food crime is not a new phenomenon (Sumar and Ismail, 1995). Like many other countries, England (and the UK) has faced many food scandals, or food scares, such as the Bradford arsenic poisoned sweets in the 19<sup>th</sup> century or, more recently, the salmonella contaminated chocolate bars in 2006 (Tran, 2006). Historically, the first regulation adopted to address food contaminations was the Food Adulteration Act published in 1860. This regulation was introduced after the publication of the famous 'Treatise on Adulterations of Food and Culinary Poisons' by Frederick Carl Accum in 1820. In this book, the author criticised the use of chemicals and adulterants in the food industry, a practice that was already commonly used at the time of ancient Rome (Shears,

2010). This critique triggered social awareness for the necessity of a regulatory and political reaction towards this kind of adulteration practice and led to the adoption of the Act mentioned above. In 1872, the Adulteration of Food and Drugs Act strengthened the enforcement powers by prescribing public analysts 'checks and empowering local enforcement authorities' officers to take samples and conduct investigations and prosecutions (interestingly, today local authorities maintain the same powers). The Sale of Food and Drugs Act adopted in 1875 completed the legal framework by introducing two specific adulteration offences: 1) the mixing of injurious ingredients; 2) the selling to the prejudice of the purchaser a food not of the nature, substance or quality demanded (Shears, 2010). In the late 19<sup>th</sup> century and the first half of the 20<sup>th</sup> century, the focus moved towards the scarcity of food resources and related food security issues, which were matters of main relevance, especially during wartime.

In 1988, the shock caused by the salmonella epidemic as announced by the Minister of Health, Edwina Currie, brought the attention back to food safety and, possibly, influenced the adoption of a new Food Safety Act in 1990 (Paul, 2009). Later, the 'Mad cow disease' or BSE-Bovine Spongiform Encephalopathy epidemic started to spread across Europe between the end of the 1980s and the beginning of the 1990s. England was considered the first infected and infecting country. This contamination led to the commission of an inquiry conducted in 1997 and the publication of the so-called 'James Report'. The results of this investigation are encapsulated in a White Paper titled 'The Food Standards Agency – A Force for Change' and presented to Parliament by the Minister of Agriculture, Fisheries and Food in 1998. In this context, the government decided to set up an independent body to deal with food safety and standards to protect the public and consumers' interest. The Food Standards Agency (FSA) was afterwards established in 2002. Ten years later, the horsemeat scandal occurred and, once again, a food scare gained media and political attention (Lawrence, 2013b). This striking case of beef processed products adulterated with horse meat and sold all over Europe by the main

food supermarket chains gained media attention and made people aware of the dimensions and possible outcomes of a food-related criminal incident. Similar to what happened with BSE, the government commissioned a special inquiry to investigate the extent to which the British food system was safe and secure from criminal activities. In 2014, this investigation produced the Elliot Review into the Integrity and Assurance of Food Supply Networks. The Final Report recommended ‘A National Food Crime Prevention Framework’ and advised the introduction of a special Unit within the FSA dedicated to tackling criminal activities in the food sector to protect the industry and consumers. As the following sections will show, this report introduced the expression ‘*food crime*’ that was soon adopted in the English food policy and regulatory context. If BSE has shifted attention towards the concept of food safety and the way this is policed in England, the Horsemeat scandal has triggered more visibility to the potential criminal side of food scares. If during the BSE spread the alarm was caused by the great public health risk caused by the epidemic (since 1995, 178 deaths have been attributed to a human variant of the BSE virus), in 2012/2013, as argued by expert interviewees<sup>17</sup>, consumers were concerned for the fact they were unknowingly eating horse meat. Thus, public attention moved from food safety (that is still at the centre of food regulations) towards the fraudulent (and criminal) dimension of activities that might endanger food systems’ authenticity. In this sense, these two food scandals represent both, in a different but to a certain extent complementary way, the two turning points in the history of institutional responses to criminal activities in the food sector in England.

In conclusion, it appears clear that food scandals in England have mostly concerned different forms of food adulterations or other types of food fraud. It is worth mentioning only one other scandal that shook public attention: the 2004 Morecambe Bay cockling disaster that

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<sup>17</sup> Interviews with WT, SB, ER, and EP.

took place when undocumented immigrants, employed as cockle pickers, lost their lives being drowned by a tide while working in unsafe conditions.

### **3. Legal framework**

As highlighted, to analyse how the English criminal justice system perceives and tackles food crime issues, it is necessary to start by looking at the laws and the regulations that rule the field of food and, more specifically, concerning food-related illicit activities. First, the English food regulatory system supports the globally recognised Codex Alimentarius, a collection of standards, practices and requirements for food and agricultural products. The Codex was established by FAO and sponsored by the UN World Health Organisation (WHO) to protect public health by guaranteeing the safety of food and agricultural products at an international level. Second, the UK general food law refers to the collection of domestic legislation on food imports and exports, safety, traceability, labelling, product recalls and withdrawals. England being still part of the European Union during the current transition period, the English regulatory framework is primarily based on European regulation. UK Food Law and Regulation are based on the European Regulation EC n. 178/2002 that prescribes the general principles, requirements of food law and food safety standards and procedures to apply in the states that are members of the European Union. This set of norms is directly applicable in England and is enforced explicitly by the 2013 UK Food Safety and Hygiene Regulations 2013/2996, mainly focusing on the UK food supply chain's safety.

Moreover, the EU legislation on animal feed and food controls (Reg. 882/2004) is enforced by regulation SI 2009/3255; whereas regulation on food information to consumers is ruled by the FIC Reg. 1169/2011 and applied in the UK through the Food Information Regulations 2014 that enable local authorities to enforce EU labelling regulation in the UK jurisdictions. The domestic regulation enforced by local authorities such as Trading Standards and Environmental Health Departments (i.e., the agencies in charge of investigating and

tackling food crime activities) is primarily based on the Food Safety Act 1990 and the Fraud Act 2006. As ruled by the Food Law Code of Practice (2017), food crime is typically prosecuted under the Fraud Act 2006 or as conspiracy to defraud under Common Law. However, other food regulations, such as the Food Safety Act, can also be applied.

The Food Safety Act 1990 is the primary domestic regulation on food and, more specifically, food safety<sup>18</sup>. It provides the framework for UK domestic food law to implement and apply EU legislation, also determining and regulating the official authorities active in food safety enforcement. The Act starts by recalling the European definition of food contained in the Reg. EC 178/2002 and provides definitions for businesses and other economic operators and other basic definitions and concepts relevant in the field (Part I). Moreover, the Act lists the main provisions regarding violations of food safety requirements to protect consumers' health (Part II). For example, section 7 establishes the offence of 'Rendering food injurious to health' by stating that:

(1) Any person who renders any food injurious to health by means of any of the following operations, namely— (a) adding any article or substance to the food; (b) using any article or substance as an ingredient in the preparation of the food; c) abstracting any constituent from the food; and (d) subjecting the food to any other process or treatment, with intent that it shall be sold for human consumption, shall be guilty of an offence (Section 7).

According to this regulation, every food business must assure not to include anything in food, remove anything from food or treat food in any way that can harm consumer's health. In this sense, public health appears to be the leading public interest protected through the guarantee of food safety. Indeed, the Act also aims to protect the safety of food goods and covers the offence of selling food that is not of the nature or substance or quality expected by

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<sup>18</sup> On a side note, other relevant UK regulations affecting the production, sale and marketing of food are: the 1981 Animal Health Act, the 1987 Consumer Protection Act, and the 2015 consumers rights 2015.

the purchaser (section 14); moreover, the regulation protects consumers from offences of falsely or misleadingly described or presented food (section 15).

The other regulation indicated in the Food Law Code of Practice and essential for analysing the institutional response to food crimes – and, more precisely, food frauds - is the Fraud Act 2006. After giving a general definition of fraud in section 1<sup>19</sup>, this Act punishes a specific offence of fraud by false representation. According to this charge, a person is guilty of fraud by false representation if:

- (a) Dishonestly makes a false representation, and (b)intends, by making the representation— (i) to make a gain for himself or another, or (ii) to cause loss to another or to expose another to a risk of loss (Section 2).

Despite not referring exclusively to food products, this offence punishes all those cases where someone dishonestly knows that the product representation is or might be untrue or misleading, with the specific intent to make a gain for themselves or another, to cause loss to another or to expose another to the risk of loss. Despite being designated as the central regulation under which prosecute food crime, the Fraud Act is not much used to prosecute food crime cases (Flores Elizondo et al., 2019). Nevertheless, its relevance for the analysis of food crime in the English institutional view seems central, as it will become more apparent in the following section and, principally, in chapter 7.

Finally, as stated in the Food Law Code of Practice, the other regulation to apply to prosecute and punish food crime cases is the common law charge of conspiracy to defraud. This charge will be further discussed in chapter 6 concerning the legal case study (Operation Boldo<sup>20</sup>) where conspiracy to defraud was explicitly used to prosecute a case of food fraud instead of other relevant charges and regulations such as the Fraud Act.

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<sup>19</sup> (1) A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).

<sup>20</sup> Operation Boldo, n. T20167392, n. T20167397, n. T20167401.

This brief outline of English food regulation shows that the English regulation does not provide any specific charge or legal definition of food crime as in the EU legislative framework. Moreover, at first glance, much focus seems to be given to food safety and, hence, to protect the consumer’s health and, more broadly, to public health. However, like the rest of the chapter will show, some other juridical dimensions or values are considered when conceptualising illicit activities perpetrated inside the food sector.

### 3.1. Public authorities involved in the fight against food crime

In England, there are multiple public bodies, directly and indirectly, active in the fight against food crimes. These agencies reflect the different public interests to protect by law – as the following section will show. The table (n.1) below briefly explains their role within the food regulatory enforcement system.

**Table n. 1 – Public authority involved in food issues and their expertise**

<b>Authority</b>	<b>Expertise</b>
<b>Food Standards Agency</b>	A non-ministerial governmental <sup>21</sup> body that works for the protection of public health and consumers’ interests in the food area; officers have power of enforcement of food safety and hygiene law
<b>National Food Crime Unit</b>	Law enforcement agency that, within the FSA, provides criminal intelligence and leadership on food crime issues <sup>22</sup> ; officers have power of investigation
<b>Trading Standards</b>	Local authorities that enforce consumer protection legislation on the safety and quality of products and services; officers have power of enforcement, investigation, and prosecution
<b>Environmental Health Departments</b>	Local authorities that enforce legislation related to environmental health and prevention and administration of

<sup>21</sup> A non-ministerial government body is a type of UK government department that deals with matters for which direct political oversight is considered unnecessary.

<sup>22</sup> After its second-stage increase, the National Food Crime Unit has now full powers of investigation and works closely with the police and the other relevant local authorities that, to date, are still the only institutions able to prosecute food crime cases.

	health and safety hazards; officers have power of enforcement, investigation, and prosecution
<b>Department for Environment, Food and Rural Affairs</b>	UK National governmental department responsible for the safeguard of the natural environment and food production and farming industry and sector; officers have power of enforcement
<b>Public and Agricultural Analysts and Food Examiners</b>	Microbiology laboratories that undertake official food and feed controls for local authorities according to the National Control plan

After this brief overview of the food regulation and the agencies active against food crime, the next section will focus on the conceptualisation of food crime in England as it is encapsulated in the official documents and reports published by some of the just-mentioned relevant public authorities. These sources will be examined along with the interviews to find out the perspectives and opinions of public officials who, under different roles and within the different agencies, have specific expertise in food and food crime. The analysis will be conducted in line with the main themes or patterns within the documentary sources' coding and the fourteen interviews conducted in England.

#### **4. The concept of food crime in the official documents and through the perspectives of experts**

To analyse how harmful and criminal practices in the food sector are conceptualised and juridically tackled, the first question to address is a simple and clear one: what is food crime and how is it defined from an institutional perspective? Indeed, to have a clear view on how the food crime phenomenon is constructed and policed in England – and, for this study, the same will be done with Italy – it is first of all necessary to pay attention to the level of conceptual clarity of the definitions and the terminological labels adopted by the policy and regulatory agencies that deal with food crime and with the related issues. This section is structured in three sub-sections that highlight different dimensions considered relevant during the data analysis. More precisely, it focuses on the pure definition of food crime as it has been

adopted by the public institutions, with attention to the activities categorised under the food crime label, that contribute to shaping the umbrella concept of food crime. Within this section, three main patterns are discussed: 1) the centrality of food fraud within the conceptualisation of food crime, 2) the narrowness of such a conceptualisation, and 3) the efficacy of the label '*food crime*'. These patterns or aspects constitute the first stages of the analysis. Indeed, this preliminary analysis's main result will show that the conceptualisation of food crime is narrow to the extent that it practically coincides with a more nuanced and articulated conceptualisation of serious food fraud.

#### **4.1. Centrality of food fraud**

Food crime is a serious criminal threat to the UK food system. Nevertheless, as highlighted, there is currently no definition of food crime at a legal and regulatory level in England. After the horsemeat scandal, official documents and public reports have started to provide some working definitions of the food crime issue. In doing so, these documents directly refer to the types of criminal activities committed in the food sector by providing practical examples and referring to how these are perpetrated.

The Elliott Review into the Integrity and Assurance of Food Supply Networks – Final Report - A National Food Crime Prevention Framework (Elliott et al., 2014) (henceforth referred to as the Review or the Elliot Report), drafted by a committee appointed by the UK government and created ad hoc after the exposure of the horsemeat scandal in 2013, is the first official document to legitimately use the expression '*food crime*' and to give a definition for this phenomenon in England. According to the Review, food crime is "*An organised activity perpetrated by groups who knowingly set out to deceive, and or injure, those purchasing a food product*" (2014: 6). More specifically, this document treats food crime as a serious form of food fraud, defined as:

*“An act of deliberately placing food on the market, for financial gain, with the intention of deceiving the consumer and includes deliberate and intentional substitution, addition, tampering, or misrepresentation of food, food ingredients, or food packaging; or false or misleading statements made about a product for economic gain” (2014: 7).*

Moreover, the Report argues that food fraud transforms into food crime *“When it no longer involves random acts by rogues within the food industry but becomes an organised activity perpetrated by groups”* (2014: 11). The Review specifies that food crime is often used interchangeably with food fraud, and the two phenomena have distinct characteristics which are not specified. Nevertheless, by closely looking at the Review’s definitions, the defining feature of food crime seems to be the level of seriousness and the extent to which serious fraudulent activity is organised. To analyse the UK food system’s safety and integrity, the Review considers seven types of fraud - adulteration, tampering, product overrun<sup>23</sup>, theft, diversion, simulation, and counterfeiting. Furthermore, it specifically addresses the three following fraudulent practices:

*“1) The sale of food which is unfit and potentially harmful (for example, recycling of animal by-products back into the food chain -packing and selling of beef and poultry with an unknown origin -knowingly selling goods which are past their’ use by’ date); 2) The deliberate mis-description of food (for instance, products substituted with a cheaper alternative, for example farmed salmon sold as wild, and Basmati rice adulterated with cheaper varieties, making false statements about the source of ingredients, i.e., their geographic, plant or animal origin); and 3) The sale of meat from animals that have been stolen and/or illegally slaughtered, as well as wild game animals like deer that may have been poached”* (Elliott et al., 2014: 84).

As noticed in section 2 of this chapter, in the context of the alarm triggered by the horsemeat case between 2012 and 2013, the Review suggested the creation of a National Food Crime Unit (henceforth the NFCU) in charge of investigating and fighting against criminal

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<sup>23</sup> By product overrun the Review refers to the practice of increasing the volume of a food product through the inclusion of water or other substances.

activities committed along the different stages of the food supply chain. This special unit was established within the UK Food Standards Agency in 2015. In 2016 the NFCU released the annual strategic assessment where food crime is vaguely defined as<sup>24</sup>:

*“Dishonesty related to the production or supply of food, drink or animal feed which is either complex or likely to result in serious detriment to consumers, businesses or the overall public interest”* (National Food Crime Unit, 2016a: 5).

Food crime is further framed as:

*“Serious or complex fraud or serious and dishonest regulatory non-compliance in relation to food, drink and animal feed”* (National Food Crime Unit, 2016a: 55).

Moreover, the NFCU also defines food fraud by referring to:

*“Any dishonest act or omission, relating to the sale or preparation of food, which is intended for personal gain or to cause loss to another party”* (2016a: 55).

By suggesting that food crime is a form of serious food fraud and that the two phenomena are interconnected with food fraud often being an early indicator of food crime, the NFCU explicitly adopts the Elliot Review perspective (Elliott et al., 2014). By highlighting thin edges in the terminology, the NFCU clarifies that, where it is unhelpful or impractical to distinguish between food crime and food fraud, the expression *“food related criminality”* should be used instead (National Food Crime Unit, 2016a: 9). Since 2016, the NFCU has not published any new assessment. However, an updated definition of food crime is now available on the NFCU official website page, which states that *“food crime involves serious and intentional dishonesty that impacts detrimentally on the safety or authenticity of food, drink or animal feed”*<sup>25</sup>.

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<sup>24</sup> In September 2020, after the submission of this thesis, the NFCU published a new assessment report containing clarifications on the terminology used for food crime and the approaches against organised crime in the food sector.

<sup>25</sup> Available at <https://www.food.gov.uk/safety-hygiene/food-crime>

Intending to define the remit of the NFCU, the 2017 Food Law Code of Practice provides a (non-legal) definition of food crime as a “*food fraud of serious scale and serious potential impact of the activity*” (Food Standards Agency, 2017: 28): this document highlights that this type of dishonesty generally involves intentional deception, forgery or misrepresentation, that it can have cross-national extent, and that it can cause important risks to public safety and relevant economic losses to both consumers and businesses. Interestingly, neither the 2017 Food Law Code of Practice nor the updated definition of food crime contains indications of the necessary organisational features of food crime (i.e., there is no mention of food crime being an ‘organised’ fraud). Nonetheless, similar to what was stated in the Review, the degree of seriousness seems to be the distinctive factor that differentiates food crime from a ‘less-serious’ fraud.

Regarding the activities that the NFCU specifically classifies as food crime, the following seven types – or *techniques* – are included: 1) diversion of waste products (using animal waste meant for disposal in products for human consumption by diverting them back into the supply chain); 2) adulteration (adding extraneous substance to food or drink products to reduce the quality of food or fake a higher quality and increase the prices); 3) misrepresentation of provenance, origin, quality or benefits (false declaration of geographic origin) and/or ) misrepresentation of durability date (changing the label to sell expired products); 4) substitution (replacing the whole product or parts of it with another substance that is similar but inferior without changing the overall characteristic); 5) unlawful processing (using unapproved premises or unauthorised techniques to slaughter or prepare meat and related products); 6) theft (dishonestly appropriating food in order to make profits from their use or sale); 7) document fraud (fraudulently using false product paperwork and documents to sell, market or otherwise vouch for a fraudulent or substandard product) (National Food Crime Unit, 2016a). In addition to this, the NFCU provides a further classification of food crime types

that distinguishes amongst pure, indirect, and cyber-enabled practices that might impact the food system’s authenticity and safety. The table (n. 2) below – adapted from the NFCU Annual Strategic Assessment (2016a) – provides additional details.

**Table n. 2 – Food crime types, threat and explanation provided by the NFCU (National Food Crime Unit, 2016a)**

<b>Food crime type</b>	<b>Threat</b>	<b>Meaning</b>
<b>Pure</b>  <i>Serious criminal activity in which the intention is to compromise the authenticity or safety of food</i>	<b>Adulteration</b>	Rendering food more inferior in quality by adding an extraneous substance
	<b>Substitution</b>	Replacing all or part of a foodstuff with another substance of a similar kind without altering its overall characteristics
	<b>Diversion</b>	Turning a foodstuff or another substance away from its intended course or purpose
	<b>Misrepresentation</b>	Selling a product as something it is not (whether in terms of origin, quality, safety for consumption or nutritional benefits)
<b>Indirect</b>  <i>Detrimental impact on the safety or authenticity of food because of other criminal activity</i>	<b>Identity theft</b>	Fraudulently using the identity of a legitimate business for financial gain
<b>Cyber-enabled</b>  <i>Serious criminal activity facilitated or enabled by the internet</i>	<b>Misrepresentation</b>	Selling a product as something it is not (whether in terms of origin, quality, safety for consumption or nutritional benefits)

According to this table, the NFCU seems to stress that food crime is more widespread than food fraud and that it can encompass forms of crime that have indirect impacts on the safety and authenticity of food products. The NFCU annual strategic assessment also mentions practices of modern slavery and exploitation of labour: more precisely, it acknowledges apparent opportunities for the use of illegal and migrant labour within food production, such as exploitative labour practices on shipping vessels or in shellfish harvesting (National Food Crime Unit, 2016a). In the NFCU’s view, these practices are associated with immigration

issues and the presence of criminals who, by facilitating illicit movements of people across borders, indirectly contribute to endangering the food system. More precisely, the illegal migration associated with the exploitation of labour in the food system “*can delay trade and presents the risk of contamination of incoming food loads, owing to the presence of clandestine migrants within freight vehicles*” (National Food Crime Unit, 2016a: 28) and, hence, contaminated containers might cause health risks to final consumers. In other words, as confirmed by one of the local authorities’ officers, these activities are conceptualised as criminal practices that are linked to and/or facilitate food crime, but not as food crime themselves<sup>26</sup>.

Similarly, in a report on how to protect food and drink from deliberate attacks, the FSA and the Department for Environment, Food and Rural Affairs (Defra) affirm that deliberate acts that endanger the food supply chain can take different forms (British Standards Institution et al., 2017). Without explicitly mentioning food crime, this Report addresses threats that directly endanger the safety and authenticity of food products such as what they call economically motivated adulteration (EMA) and malicious contamination (both fraudulent practices), as well as other activities that indirectly attack the food system (especially, private companies), such as extortion (e.g. threatening contamination of food products), espionage (e.g. competitors that seek commercial advantage by illegitimately accessing intellectual property), and cybercrime (e.g. credit card fraud in restaurants or hacking of agricultural technology) (British Standards Institution et al., 2017).

#### **4.2. Conceptual narrowness**

When looking at the conceptualisation of food crime, the preliminary results of the analysis show that the concept of food crime is *de facto* a more nuanced conceptualisation of food fraud, where the first is a severe form of the second. As seen, the documents provide definitions of

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<sup>26</sup> Interview with RG.

food crime that appear to be broad, interconnected, and highly tangled to food fraud. Specifically, on the one hand, by adopting a broad perspective, these authorities seem to recognise under the same conceptual umbrella different types of activities that directly and indirectly affect the sector. In this sense, this view would match some branches of criminological literature (Cheng, 2012; Croall, 2013; Gray, 2018). However, on closer inspection, the activities considered under the official food crime label are mostly fraudulent activities related to the processing and the distribution or sale of foodstuffs; other activities such as the exploitation of labour in the food sector, which harmfully take place along the different stages of the food supply chain, are not fully perceived and tackled as a matter of food crime. In this sense, as confirmed by the interviewees<sup>27</sup>, the concept of food crime seems to almost overlap with the one of food fraud. Concerning this, one of the members of the panel of experts who wrote the Review<sup>28</sup> questions the use of the term '*food fraud*' since, as stressed in the Elliot Report, this term could indicate a "*lower grade of infraction of the law, of a harmless minor breach of technical regulations*" (Elliott et al., 2014: 11). Nevertheless, as highlighted by one of the expert authors of the Review, "*the term food crime is not a trivial act by one or two people, it is organised, well-orchestrated, and can often be multinational*" (House of Lords, 2016: 10).

Considering the previous classifications of practices of food crime, the difference between *food crime* and *food fraud* is hazy when it comes to the actual activities categorised as food crime: the main (and only) characteristic that distinguishes the two phenomena seems to be the level of seriousness of the effects and the degree of organisation of the criminal activities. Following the documents, this idea is supported by the interview with the NFCU officer who frames as food crimes:

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<sup>27</sup> Interviews with FE, ED, GC, and RG.

<sup>28</sup> Interview with GC.

*“All those practices that affect foodstuff itself rather than other activities (such as, for instance, the exploitation of labour) that, despite being harmful and illegitimate, happen before food is actually being processed”<sup>29</sup>.*

The NFCU officer continues underlining the centrality of the concept of food fraud and its relevance for the NFCU working definition of food crime by saying that:

*“Food crime is actually serious fraud (...) It’s not a legal definition, but how we define it. Food crime is the pinnacle of food fraud”.*

Similarly, representatives from Trading Standards in charge of investigating and prosecuting food offences, argue that the two concepts overlap and are perceived as very wide by arguing that *“within Trading Standards, food crime or food fraud are viewed quite widely”<sup>30</sup>*. Here, by food crimes, the Trading Standards refer to:

*“All the fraudulent activities which are misleading for consumers, which directly affect the food product, and that are perpetrated by opportunistic criminal actors in order to make profits”<sup>31</sup>.*

A similar idea is conveyed by the Environment, Food and Rural Affairs Committee (Efra) that scrutinises the work of Defra. According to them, food crime only refers to the intentional substitution of a food product or parts of a food product for another one with the aim of making a profit and the consequence of misleading consumers<sup>32</sup>. The concept of food crime highly intertwines with food fraud and, in addition to this, in these views illicit activities such as the exploitation of illegal labour in the food sector or other practices that might endanger the integrity and stability of the food system are not framed as food crime. A different perspective is offered by other experts from local authorities, law enforcement and regulatory bodies who stress the lack of conceptual clarity of the current conceptualisation of food crime and the need for a broader perspective that would embrace every kind of illicit act committed

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<sup>29</sup> Interview with FE.

<sup>30</sup> Interview with ER.

<sup>31</sup> Interview with ER and WT.

<sup>32</sup> Interview with NP.

at any stage of the chain<sup>33</sup>. They stress that official definitions of food crime should include every activity that endangers the food sector, not only addressing those practices that directly affect food safety but including other practices such as illegal exploitation of labour<sup>34</sup>. One of the experts of the Report highlights the necessity of a broader perspective by recalling the criminal opportunities caused by the complexity of the food supply chain, by saying that:

*“Often if an actor commits a crime at the beginning of the chain (e.g., exploiting labour in terms of workforce), they will be likely to commit other crimes in the following stages of the chain (e.g., adulterating the products)”<sup>35</sup>.*

Similarly, the detective responsible for one of horsemeat scandal argues that:

*“Both the NFCU and the National Crime Agency should investigate activities which are not just fraud in a narrow sense. Because the food crime team does not have capacity to look at the human trafficking side and equally to look at the food side of the issue (...) Probably if you see people exploited in a food sector, you can probably assume that the stuff they produce is not safe”<sup>36</sup>.*

Here, the police representative highlights the lack of resources as a potential reason for this narrow conceptualisation that mainly embraces fraudulent activities. However, even when acknowledging the urge of a broader conceptualisation, the focus mostly lies on the risks these practices might pose to foodstuffs’ safety.

### **4.3. Label efficacy**

Interestingly, the efficacy of the label ‘*food crime*’ has also been debated. For example, a past member of the Chartered Institute of Environmental Standards and expert on food fraud argues that both the terms ‘food crime’ and ‘food fraud’ are vague and pointless labels, by saying that:

*“I’m struggling to understand why criminality in the food sector is different to criminality anywhere else. Because you don’t go into a food business, you go into a*

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<sup>33</sup> Interviews with RG, EP, and SB.

<sup>34</sup> Interview with CE.

<sup>35</sup> Interview with CE.

<sup>36</sup> Interview with SB.

*business, to make some money doing stuff with food (...). So maybe food fraud is not really a useful definition (...). I disagree fundamentally with the separation between food crime and food fraud and even the label food fraud I would have a problem with it because it is not a special category of fraud. It's just that the food is the mechanism thorough which the fraud is perpetrated''<sup>37</sup>.*

On the contrary, according to other interviewees, using the label 'food crime' is extremely useful as it helps to emphasise and consider the specific characteristics of the food sector. The term 'food crime' is essential from an investigational point of view as it allows a more appropriate organisational response conducted by a competent Unit specialised in investigating criminal activities committed inside the food supply chain. For instance, embracing this perspective, one of the prosecutors of the horsemeat scandal argues that:

*"The label makes sense as much as it needs an organisational response. There's a need for a national food crime unit. Because the investigations are different. For example, it needs forensics (...). It's very specialist, food crime (...). It's virtually always cross-border, which makes it very, very hard to investigate, too''<sup>38</sup>.*

Moreover, according to other participants the use of the label 'food fraud' is needed to differentiate cases of fraudulent acts in the food sector from other cases of fraud<sup>39</sup>, to highlight the potential seriousness of it<sup>40</sup> and, in this sense, to hypothesise or upgrade a specific (more serious) case of food crime.

In short, this section has considered three main dimensions that have arisen in analysing the concept of food crime as framed in the official documents and from the experts' perspectives and opinions. First, in connection to the activities labelled as food crimes, the first two dimensions regard the narrowness of the conceptualisation of food crime concerning this concept's closeness to the conceptualisation of food fraud. Documents and interviews highlight

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<sup>37</sup> Interview with ED.

<sup>38</sup> Interview with JP.

<sup>39</sup> Interview with WM.

<sup>40</sup> Interview with JP.

that institutions mostly refer to fraudulent activities in certain stages of the chain by food crime. To be precise, the official reports claim that food crime and food fraud are two different phenomena that, as acknowledged, tend to overlap, and whose differentiating factors seem to be the level of seriousness and organisation of the criminal activity. Of course, there are other documents that, at first glance, support a broader conceptualisation of food crime per the literature.

Nevertheless, at a closer look, they consider practices beyond food fraud (and food crime) merely as criminal acts with direct and direct links to food crime that can pose a risk to food safety and authenticity, without paying attention to other issues such as the abuse of working conditions. In this sense, this conceptual narrowness creates a definitional issue that does not help prevent and tackle these harmful and criminal activities beyond food fraud. Second, concerning this conceptual and definitional narrowness between food crime and food fraud, the third dimension regards the actual efficacy of the terms ‘food crime’ and ‘food fraud’ labels. In light of these dimensions, the next section shall precisely focus on the public interests protected by the law when tackling food crime.

## **5. Public interests and juridical values protected by the law**

First, as seen, historically, the main concern around harmful activities committed in the food sector has been the protection of public health, which is typically guaranteed by protecting food safety<sup>41</sup>. Both interviewees and documentary sources confirm this idea. The NFCU representative, for example, argues that:

*“In the hierarchy of harms, the physical ones that affect public health are towards the top”<sup>42</sup>.*

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<sup>41</sup> Interview with PM.

<sup>42</sup> Interview with FE.

The same perspective comes from the Efra Committee representative who emphasises that the protection of public health has always been the primary concern of anti-food crime policies to the extent that the policies have mainly concentrated on food hygiene problems. They underline that the major media and public reaction concerning food crime activities happen when there are risks – sometimes lethal – to human health, by saying:

*“Why do you care about food crime? The answer is ultimately public health”<sup>43</sup>.*

Similarly, one of the Trading Standards officers states that:

*“It all just seems to have concentrated on the food hygiene problem”<sup>44</sup>.*

Interestingly, the local authorities emphasise the tradition of pursuing public health by mentioning the procedural, practical choices of prosecuting. More precisely, in fraudulent activities, Trading Standards and Environmental Health Departments tend always to apply the Food Safety Act rather than the Fraud Act to prosecute food crime cases. To explain this, one of the Trading Standards representatives describes it as follows:

*“Because you’ve got the Food Safety Act, which is a very specific offence around descriptions and misleading, we tend to take it under that rather than fraud (...), And I think traditionally because we’ve tended to think it’s Food Safety Act, even if it is fraud. Whereas with food (...) unless you can really paint a picture of why it’s really serious, and this is the amount of money they’ve made from it (...), So if you can prove the amount of loss or the amount of profit, that’s really helpful. But again, because traditionally we’ve gone Food Safety Act, the investigation tends not to involve a financial investigator, so we haven’t had that financial part of it”<sup>45</sup>.*

Apart from the centrality of public health as juridical value to pursue by law, it seems that, especially in terms of burden of proof (also of the seriousness of the practice), prosecuting under the Food Safety Act is procedurally easier than prosecuting under the Fraud Act. Along

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<sup>43</sup> Interview with EP.

<sup>44</sup> Interview with ER.

<sup>45</sup> Interview with ER.

the same line, the detective responsible for the horsemeat scandal investigation argues that referring to public health as the main interest to protect represents an “*old-fashioned way*” of conceptualising food crime that mainly belongs to local authorities that look at the food safety side of activities, without seeking to look at the crime side of food crimes and considering the financial side of the issue<sup>46</sup>.

Second, the documentary analysis and the interviews have revealed other interests beyond public health that institutions protect by tackling food crime activities. These values are mostly interconnected to the concepts of food safety and traceability. When the NFCU claims that criminal food activities can be harmful to consumers and individual businesses, it also addresses food crime as a problem for the national economy and UK’s reputation abroad (National Food Crime Unit, 2016b). Moreover, according to FSA and Defra deliberate criminal acts committed in the food sector may have food safety implications but “*can also harm organisations in other way, such as damaging business reputation or extorting money*” (British Standards Institution et al., 2017: 15). Similarly, the National Trading Standard Annual Report affirms that regulators, law enforcement agencies and industry are now aware that “*potential risk of food crime for economic damage is far greater than that of food safety, which has been the main focus in recent decades*” (National Trading Standards, 2017: 4).

Similarly, according to the Elliott Review, food crime activities can negatively impact consumers’ confidence, reputation, and food businesses’ finances. For example, the Review highlights that, over the last twenty years, after the BSE epidemic disease, most attention has been directed to guaranteeing safe food free from chemical and biological contamination; at the same time, less interest has been dedicated to the issue of food authenticity, by embracing a broader concern for criminal and, more specifically, fraudulent activities (Elliott et al., 2014).

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<sup>46</sup> Interview with SB.

From the same perspective, the NFCU officer confirms that food crime policy should consider two sides of criminality: food products' safety and authenticity. If the first refers to public health, the latter refers to the harms caused to the authenticity of products when these are sold adulterated or counterfeited by causing a lack or decrease of consumers' trust<sup>47</sup>. Precisely, they highlight that:

*“The NFCU think of the food crime problem broadly focusing not only on the health of the consumer but also on the reputation of the UK food sector as a whole”<sup>48</sup>.*

Considering this, public health seems to be the centre of institutional policies against food crime in England. Public authorities, especially locally, assure that no health risk is posed to consumers by applying food safety standards and regulations. This significance of public health is probably reflected in how food crime has been conceptually constructed, starting from the concept of food safety, as seen in chapter 3. However, this perspective is broadened by policies that aim to target other interests as well: according to interviews and documentary analysis, beyond food safety, there are the dimensions of authenticity and traceability that must be protected to defend national economy and, more specifically, the reputation of the food market. Moreover, anti-food crime policies also aim to prevent economic losses for legitimate food companies and reinforce the consumers' confidence and trust.

This section has confirmed the presence of an overlapping line that stretches across food crime, food fraud, food safety and authenticity and that, eventually, highlights diverging protected values. More specifically, food fraud seems to be the primary driver of anti-food crime responses and this significance might eventually lead to confusion over the principal juridical value or public interest being prioritised and protected by (criminal) law. It can be argued that the law aims to protect public health and public trust when protecting food safety

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<sup>47</sup> Interviews with GC and JP.

<sup>48</sup> Interview with FE.

by targeting food fraud, but the law is also protecting consumers' trust, market competition and the financial wellbeing of the food economy when targeting food crime as serious food fraud.

## **6. Factors that incentivise and facilitate food crime**

Following up, the documentary analysis and the interviews have also unveiled factors that might incentivise and facilitate criminal activities in the food sector. First, it is often highlighted that, despite recurring economic crisis, the food sector is always active, economically profitable and offers incentives for criminal actors seeking profits (British Standards Institution et al., 2017)<sup>49</sup>. For example, as one of the interviewees argues, food is a market that will always be profitable and, clearly, “*the foodstuffs where you can make a high profit are more likely to be targeted*”<sup>50</sup>. Second, beyond easy monetary gains, the facilitating factors that have emerged in the findings are 1) the length and extreme complexity of the modern food supply chain; 2) the concentration of retailers into few multinational groups that have strong buying power that pushes the costs down the chain and puts pressures on final prices; and 3) long term storage of large quantities of perishable goods (see British Standards Institution et al., 2017; NSF, 2014). Four interviewees specifically stress the complex shape and the length of food supply chains as central factors that allow and incentivise the commission of illicit activities<sup>51</sup>. One of the authors of the Elliott Review explicitly refers to the attractiveness that a complex supply chain unveils to criminal actors by saying that:

*“The more complex the supply chain is, the more opportunities there are to cheat”*<sup>52</sup>.

From a policing or investigative perspective, some interviewees also highlight that the absence of appropriate guardianship and the difficulty in detecting and proving the adulteration of food are great incentives<sup>53</sup>. Furthermore, the low level of deterrence and the

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<sup>49</sup> Interview with WT, RG, JP, and CG.

<sup>50</sup> Interview with ER.

<sup>51</sup> Interview with GT.

<sup>52</sup> Interview with CE.

<sup>53</sup> Interview with CE, GT, RG, and FE.

modest penalties, further increase the attractiveness for committing food crimes. Indeed, as seen in the previous section, concerning this aspect, local authorities tend to apply food safety regulation, i.e., Food Safety Act, rather than the Fraud Act or other criminal law, as the first is simpler to apply since, from a procedural perspective, the burden of proof is lower. However, on the other hand, the Food Safety Act contains lower penalties than, for instance, the Fraud Act. Moreover, as argued by one representative from local authorities:

*“In the food sector there are huge opportunities of profit and almost no risks and no guardianship - there is no custodial incarceration, unlike drug market”<sup>54</sup>.*

Another participant pushes it further by arguing that:

*“The food market is so appealing that if you could go and rob a bank, or you could adulterate food, and you make ten times as much money from adulterating food as from robbing a bank, what do you think you are going to do? (...) Rather than single instances of very high valued fraud, there are lots of thousands of frauds of low value but very much spread since easier to commit and also more difficult to find and investigate”<sup>55</sup>.*

Another factor perceived as facilitator and incentive to the commission of food crime activities is the transnationality of food crime practices that makes investigations and prosecutions more difficult (British Standards Institution et al., 2017) <sup>56</sup>. Specifically, the Crown Prosecutor from the horsemeat scandal argues that generally, food fraud is cross-border, making any investigation and prosecution challenging<sup>57</sup>. Moreover, as it is challenging to identify and apply the right charge, especially concerning the victims of fraudulent activity, food crime investigations and prosecutions are usually very time-consuming<sup>58</sup>. Regarding these aspects, chapter 6 and 7 will flesh out other data and reflect further upon investigating and prosecuting food crime.

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<sup>54</sup> Interview with GR.

<sup>55</sup> Interview with CG.

<sup>56</sup> Interview with JP and CG.

<sup>57</sup> Interview with JP.

<sup>58</sup> Interview with JP and DP.

Finally, interviewees also highlight insufficient resources for proper controls and investigations in tackling food crimes<sup>59</sup>. More precisely, the lack of enough resources for *ad hoc* specialised investigations within local authorities is often expressly mentioned as one of the main incentives to commit food crime (British Standards Institution et al., 2017; Elliott et al., 2014). Indeed, local authority officers underline that, by mostly looking at hygiene and safety regulations and without a police background, local authorities – such as Environmental Health departments and Trading Standards – are not adequately trained to search for criminal practices such as fraud or other illicit practices happening within a food business<sup>60</sup>.

## **7. Food crime actors**

As per research question n. 2 on the involvement of organised crime in food crime, this study is specifically interested in the possible interests and infiltration of organised crime in food crime. Hence, this section will focus on the criminal actors practising food crime and, precisely, on the perception of English institutions regarding organised crime groups in the food sector. In doing so, it will highlight that the actors labelled as food crime criminals are mostly corporate actors; furthermore, it will point out that, despite being more complex, organised crime is involved in the food sector.

First, the authors of the Elliot Review, as well as the NFUC officer, argue that:

*“Food crime is committed by food people”*<sup>61</sup>.

Similarly, other interviewees stress that food crime practices are mainly perpetrated by legitimate actors, often actual corporations, inside the food industry. They refer to both individual and corporate entrepreneurs, active in processing or logistics, motivated by greed to boost profits by committing unlawful practices<sup>62</sup>. Moreover, by pointing out that food crime is

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<sup>59</sup> Interview with GT, GT, KL, SB, and GC.

<sup>60</sup> Interview with DP.

<sup>61</sup> Interviews with CE, CG, and FE.

<sup>62</sup> Interviews with ED, CG, WT, and SB.

typically committed by food business, one of the authors of the Elliot Report participant claims that, in order to conduct activities such as adulteration or counterfeiting, it is essential to have specific know-how and knowledge of the internal dynamics of the food sector<sup>63</sup>. Hence, legitimate actors active in the food sector are likelier to commit food crime practices.

The involvement of legitimate actors can be linked to the above-discussed incentivising and facilitating factors of food crime. Furthermore, the consequences of the participation of food legitimate companies in criminal practices pose risks to the public interests protected by the regulation as these practices notably cause damages to market competition. As often emphasised by the experts, by cutting production costs through illegal means, illegitimate food actors can sell their products at low prices in detriment to the legitimate competitors within the market<sup>64</sup>. Indeed, as chapter 6 will develop, this harmful dynamic of market distortion took place in the context of the horsemeat scandal.

If the involvement of corporate food actors seems evident, organised crime is perceived as more problematic. When it comes to discussing the potential participation of organised crime groups, the NFCU officer claims that:

*“There is no clear evidence that organised crime has infiltrated the sector”*<sup>65</sup>.

Nevertheless, they also add that food crime is committed by criminals who get themselves organised and work within networks which are getting more established across the UK and abroad<sup>66</sup>. Moreover, the NFCU official position about the presence of organised crime in food crime is formulated as follows:

*“Food crime can range from isolated acts of dishonesty by individual offenders to organised illegal activity co-ordinated by criminal networks”*<sup>67</sup>.

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<sup>63</sup> Interview with CE.

<sup>64</sup> Interview with CG.

<sup>65</sup> Interview with FE.

<sup>66</sup> Interview with FE.

<sup>67</sup> From the official NFCU website available at <https://www.food.gov.uk/safety-hygiene/food-crime>

Here, the NFCU refers to criminal networks without specifying about the type, structure and aim of such networks or as coordinators of activities which are committed in an organised way. Furthermore, concerning food fraud (again, conceptualised as a type of food crime), one expert emphasises that:

*“Although the majority of food fraud is perpetrated by individuals and organisations within the food industry, organised crime might still be active in the food sector”*<sup>68</sup>.

Indeed, one of the Elliot Review authors highlights a possible link between food crime and organised crime by referring to the horsemeat scandal as a case with *“clear evidence of organised criminal activity”*<sup>69</sup>.

The local authority representative and the food fraud expert highlight that, when looking at the whole food sector (beyond fraudulent activities of food crime), organised crime groups are active in money laundering practices committed by running legitimate food businesses restaurants and other food services<sup>70</sup>. Indeed, there have been cases of mafia-type groups that were laundering illegitimate money and criminal profits through their legitimately owned restaurants (Campana, 2011).

Interestingly, when debating the role of food corporations, one of the interviewees questions the actual difference between corporations and organised criminals by highlighting the difficulty to distinguish between the two typologies of actors clearly<sup>71</sup>.

For this study and the structure of this thesis, the analysis of the expansion, meaning, and shape of organised crime in food crime shall be undertaken in chapter 8.

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<sup>68</sup> Interview with ED.

<sup>69</sup> Interview with CE.

<sup>70</sup> Interview with ER and ED.

<sup>71</sup> Interview with CG.

## **8. Conclusions**

This chapter has presented and discussed how food crime is conceptualised and defined in the relevant English institutions and authorities of the field. Starting from a historical background over the most significant food scandals that have shaped the English reaction and response towards food crime, a brief outline of the legal framework has provided the legislative handhold to analyse the perceptions and conceptualisations of the illicit activities committed along the food supply chain. Furthermore, the chapter has analysed three main aspects that, concerning the illicit activities labelled as food crimes, show the conceptual narrowness of the conceptualisation of food crime that seems to be mostly rooted in the conceptualisation of food fraud. Connecting to this, the actual efficacy of the labels ‘food crime’ and ‘food fraud’ has also been questioned. Later, the chapter has debated the juridical values and interests covered by the anti-food crime policies and (criminal) law, and the factors that might indicate and facilitate criminal activities’ perpetration along the food supply chain. Lastly, it has presented the data on the typologies of actors involved in food crime and, more specifically, on the perception of organised crime presence. In brief, interviews and documents have highlighted that food criminals are considered to be mostly white-collar and business actors active in the food sector. However, as it will be further discussed later in this thesis, the definition of food crime does refer to organised crime and, besides, there is evidence of organised crime involvement in food-related criminal activities.

To conclude, by following the same structure and empirical framework adopted in chapter 4, chapter 5 will focus on the different aspects of the perception and conceptualisation of food crime in Italian institutions.

## **Chapter 5 – Food Crime in Italian Institutions**

### **1. Introduction**

### **2. Historical background**

### **3. Legal framework**

#### **3.1. Public authorities involved in the fight against food crime**

#### **4. The concept of food crime in the official documents and through the perspectives of experts**

##### **4.1. Centrality of food fraud**

##### **4.2. Relevance of counterfeiting detrimental to the national food brand**

##### **4.3. The narrative of ‘agromafie’**

### **5. Public interests and juridical values protected by the law**

### **6. Factors that incentivise and facilitate food crime**

### **7. Food crime actors**

### **8. Conclusions**

#### **Objective of the chapter**

To contextualise the study with a brief overview on the historical relevance of food crimes scandals and crimes in Italy; to analyse the regulatory frame adopted in Italy in order to protect the food sector from food crime practices; to disclose the findings regarding the perception, conceptualisation and definition of food crime from the perspective of public authorities in Italy; to discuss activities and actors of food crime; to highlight juridical values protected by the law and to argue around possible incentives and facilitators of food crime.

## 1. Introduction

The previous chapter has explored the institutional approach towards food crime in England, aiming to describe the official perception and conceptualisation of criminal activities committed in the food sector. This chapter will attempt to do the same regarding how Italian institutions and authorities tackle food crime in conceptualisations and definitions. The chapter will be structured in order to match the structure of the previous chapter. This thesis being a comparative study between two jurisdictions, despite the different legal and criminal justice systems, it is essential to mirror the themes or patterns as they have emerged from the coding of documents and interviews transcripts. In other words, as highlighted in chapter 2, in order to identify and compare similarities and differences between the English and Italian systems, these two institutional experiences should ideally be analysed from the same perspective and through the same thematic frame (Sergi, 2014).

To briefly remind the reader, in replying to research questions n. (1) and (1a)<sup>72</sup>, this chapter shall point out which activities are labelled as food crime, which public interests are protected under the law, which factors incentivise illicit acts in the food sector, and ultimately which actors are involved in food crime, with particular attention for the possible presence of organised crime actors. It will also consider public reports, documents, and other sources published by NGOs and other private agencies that have conducted research in the field and thirteen expert interviews. Moreover, it shall explore the experts 'perspectives in the analysis of the food crime phenomenon. In Italy's case, investigative journalists and environmental activists' point of view will also be considered.

Chapter 5 will be organised around the description and the primary analysis of Italy's data to match the structure of chapter 4. It unfolds in six sections as follows: section 2 will

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<sup>72</sup> (1) *How is food crime perceived and conceptualised in the Italian legal systems and institutions?* and, partially, to n. (1a) *How do Italian institutions tackle food crime? Which actors are (perceived to be) involved?*.

provide a short historical background on the food scandals that have characterised the Italian scenario; section 3 will give a concise overview over the Italian legislative framework in order to contextualise the issue of the institutional response to food crime also from a legal perspective; section 4 shall present the findings regarding the way food crime is conceptualised from the perspective of official documents and institutional experts in Italy by focusing on the main aspects or patterns emerged from the analysis – the lack of a working definition of food crime, the relevance of food fraud in the context of the activities labelled as food crime, the centrality of the protection of the food brand nationality and the conceptual confusion generated by the use of the label ‘*agromafie*’; furthermore, section 5 shall focus on the juridical values protected by the regulation and by anti-food crime policies; section 6 will discuss the facilitating factors that incentivise food crimes as discussed in the documents and interviews; section 7 shall highlight criminal actors involved in food crime; lastly, a conclusive section shall sum up and briefly introduce the case study chapter (6).

## **2. Historical background**

As well as England, Italy has also experienced numerous food scandals that attracted the public discourse and triggered the media’s attention. These scandals have modelled the Italian reaction towards unlawful practices perpetrated along the food supply chain. More specifically, in Italy food scandals have increased after the 2<sup>nd</sup> World War as the post-war economic boom, the use of chemicals, such as pesticides or additives, and other new technologies in the agri-food system have created the perfect conditions for the adulteration and modification of food products. The first food scare that shook the Italian public opinion was the so-called ‘bottled donkey’ scandal (Corbi and Zanetti, 1958). In short, to industrially increase the production of oil and boost the profits, an olive oil maker was caught while mixing olive oil with slaughterhouse bone waste from donkeys and horses and with further addition of hydrocarbons

through the chemical process of esterification<sup>73</sup>. This scandal was discovered by consumers' associations and stimulated the first institutional, official reaction that, in 1962, led to the establishment of a specific police force, i.e., NAS or Health and Anti-sophistication Unit of Carabinieri (Corbi, 1997). The new – still operating – Unit was created to run health checks of food products and, later, medications. In this context, for the first time in history, the Italian regulatory authorities specifically introduced a law – Legge n. 283/1962 – that focused on the protection of food and drink safety and hygiene. Although this regulation aimed to improve the hygiene standards required by restaurants, bars and food sellers, it was fully applied only in 1980 with the regulation DPR n. 327/1980. However, only a few years after, a new scandal took place. In 1986, poor-quality wine was tainted with methanol to boost the alcohol content and sell the wine at higher prices. This practice had lethal consequences – 23 deaths and several injuries (Vettori, 2016) – and, as the tainted wine was also sold abroad, the scandal endangered the global reputation of the Italian wine market (Suro, 1986). This episode highlighted the lack of efficient safety controls over the food supply chain and, once again, prompted the adoption of new regulation. In fact, in 1986, the law n. 426/1986 was then adopted to enforce urgent measures regarding the prevention and repression of food sophistication and adulterations by the specialised police force NAS Carabinieri, local health authorities and the newly founded Central Inspectorate for Fraud Repression and Quality Protection of the Agri-food Products and Foodstuffs (henceforth ICQRF). This regulation also improved the pre-existent regulation on food safety and introduced the adoption of a unique public list of food businesses and producers convicted for food fraud to strengthen the regulatory framework. At the beginning of the 1990s, the BSE epidemic also hit Italy. As Italy was not directly involved with the meat

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<sup>73</sup> Briefly, the process of esterification is a chemical reaction between an alcohol and a carboxylic acid. This reaction leads to the creation of another organic compound called ester. In wine processing, the esterification naturally takes place while the wine is fermenting. In olive oil making, this reaction can be used in order to either increase the amount of oil production by mixing olive oil to 'esterified oil', i.e., oil created through this reaction, or to add specific animal fats to make the oil look like extra virgin. In Italy, this type of production has been illegal since 1960, after the 'bottled donkey' scandal took place (Gómez-Coca et al., 2016).

processing, the consequences were less severe, and the public and the institutional reaction were less intense than in other countries such as the UK.

Similarly, public responses toward the 2003 bird flu spread and the 2013 horsemeat scandal were not perceived as relevant. On the contrary, a scandal that triggered a visceral reaction was the case of the so-called blue mozzarella: in 2010, mozzarella products made in Germany and sold in Italy through well-known discount supermarket chains were found poisoned by bacteria used to prolong the shelf-life of the product and that changed cheese pigmentation (Martinenghi, 2017). However, no health risk was caused, like with the methanol-tainted-wine in 1986, mozzarella being one of the most famous Italian food products, there was fear that the scandal might have endangered the Italian food market reputation. Indeed, along the same line, over the last ten years, several cases of adulterations of extra virgin olive oil have compromised the status of the ‘*made in Italy*’ brand. More specifically, in 2012, the Italian fiscal police – Guardia di Finanza – discovered cases of extra-virgin olive oil labelled as Italian but adulterated with low qualities oils coming from other countries such as Spain or Greece. This scandal, also known as Operation Arbequino or Valpesana Case<sup>74</sup>, is significant since for the first time the actors responsible for the fraudulent activity were charged under criminal association (article 416 of the Italian penal code) for committing a commercial food fraud. The specificity of this scandal and another famous olive oil fraud case – Operation Provvidenza<sup>75</sup> – will be further discussed and analysed as legal case studies in chapter 6.

To conclude, food is frequently at the centre of scandals and criminal investigations (for instance, Tòth, 2019). However, the most famous food scandals taking place in Italy have all been cases of various types of food fraud that have often led to the introduction of a specific

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<sup>74</sup> Operation Arbequino, Tribunale di Siena, n. 41/2012, RGNR GIP.

<sup>75</sup> Operation Provvidenza, Tribunale di Reggio Calabria, n. 206/2017 RGNR DDA.

regulatory framework and/or specialised authorities. Following this, the next section will briefly overview the primary law and regulations applied in Italy's fight against food crime.

### **3. Legal framework**

For the analysis conducted in chapter 4, the study of the Italian institutional perception and reaction towards food crimes along the food supply chain shall start by examining the legal and regulatory framework that rules the field.

First of all, as well as England, the Italian food regulatory system supports the Codex Alimentarius adoption as a set of internationally recognised food standards and practices that State members voluntarily choose to follow. Italy precisely applies these criteria and principles in framing national food safety legislation.

Second of all, Italy being a member of the European Union, the European food law is the primary law applied and contributes to shaping the domestic legislation. More precisely, Italian Food Law is directly grounded on the European food legislation. As already noticed, the primary general EU regulation that rules the food sector is Reg. EC n. 178/2002 on food and food safety and the other related regulations on food hygiene (EC n. 852/2004; EC 853/2004; EC 854/2004; and EC 882/2004) aims to protect the EU food systems. In Italy, this set of rules, which aims to protect both public health and consumer's interest, is implemented by a broad spectrum of regulations that cover all the stages of the food supply chain, from production to distribution. As the labelling stage is believed to be particularly subject to fraudulent practices, this stage is regulated explicitly by Food Information for Consumer Reg. n. 1169/2011 which, in Italy, is implemented by law n. 4/2011 (later, modified under law n. 12/2019). In particular, this domestic regulation forces businesses to always clearly indicate the place of origin in the label (see articles 4 and 5 of Law n. 4/2011). There are further specific regulations that, by enforcing and expanding the EU framework, control specific categories of products such as, for example, milk, oil or tomato, which are considered more vulnerable to

frauds. For example, olive oil is specifically protected by the law n. 9/2013 or ‘Legge Salva Olio’ (literally translated as ‘Saving oil law’).

Moreover, to strengthen the protection, regulation n. 231/2017 and law n. 127/2019 introduced further restrictions and sanctions regarding labelling requirements, such as the indication of the place of origins, the shelf date and allergens, or the display of misleading information on the label.

Focusing specifically on criminal law, the legal framework appears vast as it embraces criminal regulations ‘*extracodicem*’ (external to the penal code) as well as specific charges – so-called ‘*delitti alimentari*’ that directly translates into food crimes – established by the penal code. Within the first category, the most important is the already mentioned regulation law n. 283/1962 on protecting hygiene and safety food standards from harmful activities, whose offences were de-criminalised in 1999 and transformed into simple torts. Furthermore, the Italian penal code contains several offences that tackle food breaches that have not been de-criminalised. More precisely, the food regulation placed in the penal code is twofold: 1) on the one hand, there are the charges that target practices against public health (articles 439, 440, 442, 444 of the penal code; 2) on the other hand, there are charges that tackle counterfeiting and fraudulent activities committed against the market, industry, and trade (sale of counterfeited products at articles 473, 474, and commercial frauds at articles 515, 516, 517, 517 quater of the penal code). Regarding the first category, the penal code expressly criminalises so-called ‘*sanitary frauds*’: article 439 punishes whoever poisons food substances; article 440 tackles practices of adulteration and/or counterfeiting of waters and food products making them dangerous for public health; article 442 penalises the sale of waters and other food substances which are poisoned, adulterated and/or counterfeited with danger for public health; finally, article 444 criminalises the sale of food products which are in other ways dangerous to public health. Regarding the second category, the penal code addresses fraudulent

practices – also known as ‘*commercial frauds*’ – that represent a danger for the national economy and the food) industry. More specifically, article 515 (trade fraud) punishes misleading fraudulent practices perpetrated in trade, without explicitly referring to activities involving the production, processing and/or distribution of foods; whereas, article 516 establishes the offence of sale of fake food substances, which criminalises whoever sells or in any other way trades non-genuine food products as genuine. Furthermore, article 517 punishes the sale of industrial products containing mendacious signs, and article 517-*quater* defines the offence of counterfeiting PDO and PGI products<sup>76</sup>. As the following sections will show, this charge is very relevant to the Italian perspective; it states explicitly:

Whoever counterfeits or in other ways modifies geographical indications or designations of origins of food products is punished (...) The same penalty is applied to whoever, with the aim of making profit, introduces into the territory of the State, owns to sell, directly sells to consumers or in other ways circulate the same products with the counterfeited indications or designations (...) The crimes mentioned in section first and second are punishable under the condition of having respected domestic regulations, European regulations and international conventions on the protection of food products geographical indications and designation of origin (...) (article 517-*quater*)

As argued by one of the representatives of ICQRF, labelling and quality protection of the agri-food products and foodstuffs, the Italian food legal framework is complex<sup>77</sup>. According to the European framework, there is no general charge or legal definition of food crime; furthermore, the legislative focus is mainly directed to fraudulent practices. In 2015, a special parliamentary commission of experts (known as Commissione Caselli) had been established to draft a law to revise the regulation against crimes in the agri-food sector to make it more coherent and add new charges. More specifically, the draft proposes some changes regarding the structure and wording of the current offences to improve the penalty system’s deterrence,

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<sup>76</sup> PDO stands for protected designation of origins, PGI indicates products of protected geographical indication.

<sup>77</sup> Interview with LF.

especially against food frauds. Interestingly, this draft law has planned to introduce the charge of ‘*agropirateria*’<sup>78</sup>, which would criminalise fraudulent activities committed in the food sector by complex and organised food businesses and consider the different level of seriousness of the offence. In other words, this new offence would tackle systematic and organised food frauds perpetrated through organised criminal activities (Commissione per l’elaborazione di proposte di intervento sulla riforma dei reati in materia agroalimentare, 2015). Although suggesting an improvement with the existing regulatory criminal framework, this draft law has not been approved yet.

### 3.1. Public authorities involved in the fight against food crime

The Italian anti-food crime system encompasses several agencies, also beyond the criminal justice system, that operate to defend the food sector. These institutions oversee different aspects of the fight against food crime and, similarly to what described the English approach, their functions reflect the values and interests that the system aims to protect. The following table provides a concise overview of the agencies active in the field and their role or expertise.

**Table n. 1 – Public authority involved in food issues and their expertise**

<b>Authority</b>	<b>Expertise</b>
<b>Ispettorato Centrale della tutela della qualità e della repressione frodi dei prodotti agroalimentari (or ICQRF)</b>	Central Inspectorate for fraud repression, labelling and quality protection of the agri-food products and foodstuffs – Department of the Ministry of Agricultural, Food and Forestry Policies, active for the protection of food products in the fight against food frauds; it is the Italian Food Fraud contact point within the EU; officers have law enforcement powers and investigative functions
<b>Direzione Generale per la Tutela della Proprietà Industriale, Ufficio brevetti e Marchi</b>	Ministerial department of the Ministry of Economic Development active in the protection of intellectual and industrial property against counterfeiting

<sup>78</sup> The term ‘*pirateria*’ or piracy specifically indicates fraudulent practices of plagiarism and fraudulence.

<b>Carabinieri Unità per la tutela forestale ambientale e agroalimentare (or NAC)</b>	The police force for the protection of the agri-food sector employed by the Ministry of Agricultural, Food and Forestry Policies; officers have power of enforcement
<b>Carabinieri Unità per la tutela della salute (or NAS)</b>	The police force for the protection of health and food safety employed by the Ministry of Public Health; officers have power of enforcement
<b>Dipartimento per la sanità pubblica, nutrizione e sicurezza degli alimenti</b>	Ministerial department for protecting public health, nutrition, and food safety
<b>Ispezione frontaliere, uffici di sanità marittima, aerea e di frontiera</b>	Local border check authorities for the protection of public health
<b>Guardia di Finanza</b>	Police fiscal force employed by the Ministry of Economy and Finance; officers have power of enforcement
<b>Agenzia delle Dogane</b>	Customs
<b>Consiglio Nazionale per la Lotta alla Contraffazione e all'Italian Sounding</b>	National ministerial authority for the fight against counterfeiting and the fraudulent practice of <i>Italian sounding</i>
<b>Autorità Garante della Concorrenza e del Mercato</b>	Independent national authority for the protection of market, competition and consumers' trust

Mirroring the presentation of the findings unfolded in chapter 4, the next section shall now focus on the way illicit practices in the food sector have been framed and tackled by the relevant Italian public authorities. Hence, section 4 will be structured around the themes emerging from the analysis of the official documents and the opinions and perceptions of the thirteen public officers and other experts, including environmental activists and investigative journalists with specific expertise in the field.

#### **4. The concept of food crime in the official documents and through the perspectives of experts**

To study how food crime is perceived and confronted in Italy, the analysis shall focus on the official conceptualisation of food crime adopted by Italian authorities. As argued in chapter 4, it is crucial to investigate the conceptualisations' level of clarity and definitional and terminological dimensions. In unpacking the official Italian conceptualisation of food crime, this section shall analyse the definitions adopted by the Italian authorities and, hence, the activities which are labelled and categorised as food crime. In doing so, it highlights three main patterns: 1) the centrality of food fraud since by 'food crime' Italian institutions only refer to offences established by law, which contributes to the creation of a conceptually law-centred overlap between food crime and food fraud that excludes harmful and criminal food-related activities beyond food fraud; 2) the relevance of the practice of counterfeiting, considered as particularly detrimental to '*made in Italy*' brand and reputation of the food market, which in its turn highlights the centrality of the nationality within food crime institutional policies and official debates; 3) the conceptual confusion caused by the label '*agromafie*' as an umbrella-term created by NGOs and trade associations.

##### **4.1. Centrality of food fraud**

Food crime can be translated into Italian with the expression '*crimine alimentare*'. In the Italian approach, this term specifically refers to the illicit activities criminalised by the penal code and the other regulations listed in the previous section. In fact, in both documentary sources and interviews, it is clear that, in the conceptualisation of food crime phenomenon, Italian authorities address only the criminal activities proscribed by law that, more specifically, mainly criminalises various types of fraudulent practices. For example, the representative of Customs refers to food frauds by affirming that:

*“Food crimes indicate practices criminally relevant that deal with agri-food products, these are violations of the charges at the articles 515, 517, bis, ter, and quater and 474<sup>79</sup> of the penal code”<sup>80</sup>.*

Other participants share this opinion<sup>81</sup>. For example, the Central Inspectorate representative for fraud repression and quality protection of the agri-food products argues that *“from a legal perspective, the only possible definition of food crime coincides with food fraud”<sup>82</sup>*. More precisely, he argues that:

*“Only by looking at the penalty (hence, at the legal framework), it is clear if the specific practice is a (food) crime, punished under criminal law, or a tort, usually punished with an administrative sanction or fine and mainly charged under de-criminalised legislation”<sup>83</sup>.*

Moreover, the National Antimafia prosecutor who investigates and gathers intelligence on environmental and food crimes also confirms a conceptualisation of food crime according to which food crime is:

*“A criminal practice proscribed by criminal law, happening along the food supply chain and endangering food products through fraudulent techniques”<sup>84</sup>.*

In these perspectives, the conceptualisation of food crime mostly refers to the criminal framework that protects the food chain from criminal activities. Thus, since the law only charges different forms of food fraud, the conceptualisation of food crime seems to overlap with food fraud. Indeed, this idea is confirmed by the documentary analysis. One parliamentary report and one report published by ICQRF provide a classification of the illegal acts taking place in the agri-food sector by mentioning the following practices: 1) alteration (modification of the composition and/or of the organoleptic characteristics of the food products, mainly

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<sup>79</sup> Article 474 penal code punishes the introduction within the State and trade of products with fake or mendacious signs.

<sup>80</sup> Interview with RB.

<sup>81</sup> Interviews with LC, DP, and FM.

<sup>82</sup> Interview with SV.

<sup>83</sup> Interview with SV.

<sup>84</sup> Interview with RP.

caused by degenerative processes due to inadequate and long conservation/preservation); 2) adulteration (addition or deduction of some product components that change the quality of the food product); 3) sophistication (addition of components and substances external of the natural food composition in order to improve the appearance and quality of the product, and/or to cover its flaws); 4) falsification (substitution of a food product with another); 5) counterfeiting (illegal copy of a commercial brand and/or use of fake indications of geographical indication or designation of origin of products made in order to exploit the quality and popularity of national food supply chains) (Ministero dello Sviluppo Economico, 2014; Senato della Repubblica, 2017). Thus, it seems that, from an institutional point of view, by food crime institutions indicate different types of food frauds and that illegal activities beyond fraud are not considered as a matter of food crime in Italy. However, the above-mentioned parliamentary report, in the context of scanning multiple forms of counterfeiting practices happening in the food context, also mentions a broader series of illicit such as “*exploitation of labour, irregular migration, money laundering, tax evasion and illegal trade*” (Senato della Repubblica, 2017: 22). In doing so, the report seems to address activities that go beyond food fraud. However, these violations are interpreted as indirect criminal links to food-related crimes and believed to facilitate the sale and distribution of counterfeited products. Hence, as confirmed by both the ICQRF officer and the Antimafia prosecutor, more than food crimes, these illegal practices are categorised as offences against workers or the economy as, not being specific of the food sector, they can be perpetrated in other economic sectors as well<sup>85</sup>.

#### **4.2. Relevance of counterfeiting detrimental to the national food brand**

Under the category food crime, one of the most recurring food fraudulent practices mentioned in interviews and documents is counterfeiting, i.e., the illicit reproduction of a specific good and the related trade conducted in violation of a right of intellectual and/or industrial property

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<sup>85</sup> Interview with RT and RP.

(Senato della Repubblica, 2017). A report published by Carabinieri NAS identifies two types of counterfeiting: an ‘*ordinary counterfeiting*’ happening with low-quality products without traceability of origins; and a ‘*more sophisticated form of counterfeiting*’ that might also see the use of chemical processes in order to modify its low-quality and the adoption of technological tools to facilitate the sale (Carabinieri NAS, 2017: 20). In exploring this practice, the document highlights a strong perception of the relevance of the Italian agri-food sector internationally. Similarly, the annual ICQRF report focuses on counterfeiting practices perpetrated outside of Italy, with fake made in Italy products to be sold abroad in detriment of the ‘*made in Italy*’ (Ministero delle Politiche Agricole, Alimentari, Forestali e del Turismo, 2018). This type of practice is usually committed by falsely recalling a specific brand or its distinctive signs and features, a particular geographical production (in this case, made in Italy) and protected products, the geographical indication or designation of origins.

The interviewees highly stress the centrality of this type of counterfeiting practices within the Italian response against food crime<sup>86</sup>. The prosecutor from Direzione Nazionale Antimafia claims that food crime mainly refers to selling products that are deceptively branded and sold as Italian, by stating that:

*“Anti-food crime responses particularly protect the origin of products especially since, within the European legislative framework, due to the different economic interests of the State members, there is no regulation that specifically punishes misleading practices that ‘mock’ typical Italian products such as PDO wine or PGI cheese”<sup>87</sup>.*

The Customs representative further stresses this dynamic of exploitation of the ‘*made in Italy*’ brand by arguing that:

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<sup>86</sup> Interviews with LC, DP, MM, MF, RP, TP, and AS.

<sup>87</sup> Interview with RP.

*“In order to make the most of the Italian brand, food resources are bought abroad, processed in Italy, labelled as Italian and then exported to other countries”<sup>88</sup>.*

Interestingly, the process through which a food product produced abroad imitates a made in Italy product is often followed by tax evasion. More precisely, profits gained by the sale of Italian branded products are taxed in countries where fiscal regulations are less strict and where the food company is usually based. Furthermore, a report published by the National Observatory against criminality in the agri-food sector highlights how the CETA economic agreement between the EU and Canada would endanger genuinely made in Italy products by guarantying less protection to PDO and PGI productions, as this agreement fails to recognise Italy’s PGI products (Eurispes et al., 2019). Once again, the protection of ‘*made in Italy*’ against counterfeiting seems relevant in anti-food crime debates.

Moreover, except for fake PDO and PGI products that are tackled by criminal law (see article 517 quater of the penal code), counterfeiting phenomena are usually known as ‘*Italian sounding*’. In official papers, this expression is used to refer to the production and distribution of foodstuffs that possess names, colours, images, and symbols that, by sounding Italian, recall Italy as the country of origin of the products (Ministero dello Sviluppo Economico, 2014; Procura della Repubblica presso il Tribunale di Siena, 2015). The so-called ‘*Italian sounding*’ practice is a form of counterfeiting that exploits the nationality of the brand ‘*made in Italy*’ to sell fake Italian products at higher prices (Mongiello, 2015). The ‘*Italian sounding*’ phenomenon is often mentioned as a significant threat to the Italian food sector and, in this sense, is central in discourses about food crime. Nevertheless, except for PDO and PGI products, legally it is not a crime. Concerning this, by pointing out towards some haziness of the food crime terminology, the ICQRF officer highlights that:

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<sup>88</sup> Interview with RB.

*“The phenomenon of Italian sounding is often wrongly considered as a food crime, whereas it is instead a matter of violation of civil law”<sup>89</sup>.*

The fact that counterfeiting activities are generally considered within discourses around food crime points out two main findings: 1) since, with the only exception of counterfeiting of PDO and PGI product charged by criminal law, these practices are mostly violations of civil law, it seems that the official conceptualisation of food crime embraces not only crimes expressly criminalised by law but also harmful activities that break the law (despite not being formally labelled as crimes); 2) the official conceptualisation of food crime encapsulates harmful, non-criminalised activities only if these are detrimental to the national economy, market reputation and image of the Italian food production, without considering other issues such as exploitative working conditions or environmental sustainability.

#### **4.3. The narrative of ‘agromafie’**

When looking at the criminal activities committed in the Italian food sector, the public discourse and the media adopt the expression ‘*agromafie*’ (Walters, 2013; Ziniti, 2019). Indeed, as stated in the introduction of this thesis, unpacking the ‘*agromafie*’ phenomenon has been the first starting point of this research. According to the documentary sources, ‘*agromafie*’ is an umbrella-term that vaguely indicates illegitimate practices perpetrated along the food supply chain (Eurispes et al., 2019; Legambiente, 2016; Osservatorio Placido Rizzotto, 2016). Specifically, the narrative underneath this expression broadly connects the commission of food offences to the involvement of organised crime of mafia-type in Italy. In this sense, ‘*agromafie*’ broadly refers to both food-related criminal activities and criminal actors of mafia-type, who are considered active in the food supply chain. Unlike official perspective and conceptualisations on food crime, the label (and concept) of ‘*agromafie*’ is vast and embraces practices happening at the stage production, at the stage of transformation or processing and

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<sup>89</sup> Interview with RT.

the stage of transport and sale such as counterfeiting or adulteration; control of the wholesale distribution; rustling and smuggling of animals; frauds committed to obtain EU agricultural subsidies; and exploitation of illegal workers in agri-food (Eurispes et al., 2019; Legambiente, 2016; Osservatorio Placido Rizzotto, 2016; SOS Impresa, 2011).

The broad perspective on food crime adopted under the label ‘*agromafia*’ is confirmed by one of the representatives of Coldiretti (an agricultural association that, together with Eurispes and the National observatory on crimes in agriculture and the agri-food system), by claiming that:

*“Agromafia is a term created to referring to everything (harmful and criminal) that has to be tackled in the food sector, both with mafia involvement or not”*<sup>90</sup>.

Interestingly, this conceptual construction seems to match the strand of (green) criminological literature that, under the conceptualisation of food crime, broadly incorporates harmful and criminal activities happening along the different stages of the food supply chain (Cheng, 2012; Croall, 2013; Gray, 2018; Tourangeau and Fitzgerald, 2020). On the contrary, this standpoint is not shared by policymakers and institutions who, as seen, adopt a narrower, legalistic conceptualisation of food crimes that, eventually, coincides with the different types of food fraud criminalised by law. Furthermore, in the institutional experts’ eyes, the label ‘*agromafia*’ is opaque, legally meaningless and misleading as it diverts from the real actors that commit crimes in the food sector<sup>91</sup>. In brief, the umbrella-label ‘*agromafia*’ is highly criticised and critically unpacked by public authorities and law enforcement for two main reasons: 1) for the type of illicit activities categorised as food crime; 2) for the evidence of the actual involvement of mafia-types groups in food crime and, broadly, in the food sector. The

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<sup>90</sup> Interview with NG.

<sup>91</sup> Interviews with RP, AS, DP, TP, and RT.

presence and interests of organised crime and mafia in food crime will be further discussed in the analysis in chapter 8.

In summary, section 4 has analysed three main patterns that have emerged from the analysis. The first pattern regards the lack of a working definition of food crime adopted by the Italian institutions that merely refer to the legal definitions encapsulated in the criminal law and the other relevant regulations. In this perspective, by adopting a normative, law-centred perspective, the concept of food crime completely overlaps with the concept of food fraud. According to this perspective, other criminal practices beyond fraud are considered only as forms of criminality that facilitate or that are connected to food fraud. Second, within the broad range of relevance to food fraud, the practice of counterfeiting has emerged, especially in the form of '*Italian sounding*' goods (i.e., selling foreign products with marks, brands and names that recall an Italian origin). This practice causes risks to the '*made in Italy*' brand and, more broadly, to the reputation of the Italian food sector. Third, the label of '*agromafie*' has also been analysed in light of its centrality in the media and public discourse on food crime in Italy. This label has contributed to creating terminological and conceptual confusion concerning the criminal actors involved in food crime activities and so is particularly important.

## **5. Juridical values and public interests protected by the law**

The emergency regulations adopted in the aftermath of scandals such as the 'bottled donkey' or methanol-tainted wine in the 1960s and the 1980s, highlight the centrality of public health as the main public interest protected by law in the institutional fight against food crimes. As seen, some of food crime criminal offences in the penal code (see articles 439, 440, 442, 444 on the so-called sanitary frauds) are situated explicitly in the section protecting public health. The documentary analysis and the interviews confirm this significance of public health. Relevant authorities stress the risks and dangers that criminal activities such as food fraud can pose to food safety and, subsequently, to the health of the consumers (Carabinieri NAS, 2017;

Ministero delle Politiche Agricole, Alimentari, Forestali e del Turismo, 2018; Ministero dello Sviluppo Economico, 2014; Senato della Repubblica, 2017). Along the same line, one expert interviewee argues that:

*“Potential threats to public health such as food crime always attract attention and, ultimately, this is the reason why certain food scandals create alarm even without no real harm to health”<sup>92</sup>.*

Consumers ‘trust regarding the safety of what they eat is also considered a central juridical value<sup>93</sup>. Moreover, connected to food safety, there is the juridical interest of protecting food traceability to detect eventual flaws within the different supply chain stages<sup>94</sup>.

Furthermore, in the penal code (see articles 515, 516, 517, 517–quater on the trade frauds), there are two further interests that the institutions must protect when tackling food crime: national economy and the well-functioning of the Italian food market<sup>95</sup> (Senato della Repubblica, 2017). First, this is justified because the food sector is one of the most profitable Italian economic sectors (Cappellini, 2018). Second, these interests are also connected to the protection of the made in Italy brand and the safety of the food market reputation that, as seen in the previous section, are central aspects of the official discourse on food crime. In this sense, the protection of the brand ‘*made in Italy*’ is a juridical value to protect against criminal activities in the food sector. Public authorities dedicate specific attention to the phenomenon of ‘*Italian sounding*’ and other fraudulent practices to protect the “*excellence of the Italian brand*”<sup>96</sup>. As highlighted in a report published by Ministero dello Sviluppo Economico, practices that mislead the consumers regarding the actual origin of food products might cause:

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<sup>92</sup> Interview with AS.

<sup>93</sup> Interview with RP, RT, DP, and LC.

<sup>94</sup> Interviews with RT, LF, RP, and GL.

<sup>95</sup> Interview with RP.

<sup>96</sup> Interview with RT, MF, AS, LC, and FM.

*“A distortion of the concept of Italian product, Italian cuisine and, more in general, of the ‘Italiannes’ of the products, in detriment of the image of our wine-gastronomic culture” (Ministero dello Sviluppo Economico, 2014: 24).*

According to this perspective, not only do fraudulent practices cause economic losses for the Italian economy as a whole and, specifically, for the Italian food exports, they also create a detriment to the national food identity and Italian food cultural heritage. It seems that food culture and food tradition are considered juridical values protected by anti-food crime responses. The interviewees confirm this, emphasising the significance of food in Italian society beyond discourses of food access and food security. For example, the ICQRF representative affirms that:

*“In Italy, we consider food as something more than a mix of sugars and proteins. This is something important to consider since, in the Carta di Milano<sup>97</sup>, we have discussed the right of food as the right to have real food, that shapes identity and that embraces values that go beyond nutrition”<sup>98</sup>.*

Interestingly, by embracing this idea of food as cultural heritage, the interviewee continues, stressing that the danger to food culture is why PDO and PGI counterfeiting in Italy is a dangerous form of food crime. These products are typical of certain Italian regions whose identities are shaped by their food products and, by endangering these products, the whole cultural identity of such regions would be harmed<sup>99</sup>. This view is shared by the representative of Customs who links institutional responses towards food crime to the relevance of food within Italian society and the necessity to protect food from illicit practices globally. More precisely, he argues that *“if we consider the globalised world we live in, food protection is of both national and international interest”<sup>100</sup>.*

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<sup>97</sup> The ‘Carta di Milano’ is a declaration signed during the Universal EXPO that took place in Milan in 2015; this document highlights the importance of the right to food within the context of human rights, nutrition, and environmental sustainability.

<sup>98</sup> Interview with RT.

<sup>99</sup> Interview with RT.

<sup>100</sup> Interview with TP.

In sum, this section has shown that public health holds a central place in responses against food crime in Italy. Moreover, protecting consumers from economic losses and shielding the national economy and the Italian food market's reputation are also fundamental juridical interests in the Italian criminal justice system's anti-food crime approach. Further, food culture, food identity, and food traditions are also essential; in this perspective, food is framed as "*cultural heritage*"<sup>101</sup> and is considered a juridical and cultural value to protect from food crime<sup>102</sup>.

## **6. Factors that incentivise and facilitate food crime**

Factors that facilitate and encourage the perpetration of criminal activities in the food sector have emerged from the data analysis. First, the findings highlight the attractiveness of the food sector in terms of high profits gained by enacting food crime practices<sup>103</sup> (Senato della Repubblica, 2017). Second, the food sector is perceived of high criminal interest because of the low level of deterrence of charges to apply against food crimes: criminal actors are interested in the food market since, as food is an under-investigated field, there are few risks to get caught and, even when caught, the penalties are low compared to other markets such as drugs<sup>104</sup>. Lastly, food crime charges have short limitation periods<sup>105</sup>. In the opinion of one of the ICQRF representatives, the low level of criminal deterrence and the short limitation period for food offences are the reasons why, after the process of decriminalisation, prosecutors have started to charge food crimes as under torts that, unlike criminal offences, local authorities and police forces are in charge to apply, that are faster to enforce and that impose higher fines<sup>106</sup>.

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<sup>101</sup> Interview with RT.

<sup>102</sup> See also interviews with DP, GL, LC, and MF.

<sup>103</sup> Interviews with RP, AS, DP and FM.

<sup>104</sup> Interview with AS.

<sup>105</sup> Interview with AS and TP.

<sup>106</sup> Interview with LF.

On the one hand, penalties are believed to be ineffective, and on the other hand, the experts stress the remarkable efficiency of investigations and cooperation amongst the relevant national authorities<sup>107</sup>. For example, one of the experts of ICQRF declares as follows:

*“The majority of investigations conducted by ICQRF are done in cooperation with the Fiscal Police as we always connect the agricultural and traceability side of the product to the fiscal side (...) Combining the scientific competencies and investigative functions of ICQRF with the competencies of fiscal analysis owned of the Fiscal Police provide excellent investigative results”*<sup>108</sup>.

Nevertheless, documentary sources also show that there are many difficulties in investigating food offences<sup>109</sup>. First, food crimes are often committed across borders, investigations are complicated, especially when cooperating with authorities in other countries with different regulatory systems and legislative frameworks<sup>110</sup>. Second, the high level of know-how applied in certain fraudulent practices often requires introducing technologically advanced tools for detecting and investigating<sup>111</sup>. Concerning this, one interviewee suggests that:

*“The criminal law should focus on safety checks and investigations at the start of the food chain, as it is often too complicated to discover high-technological frauds by checking the final product sold in the market”*<sup>112</sup>.

The complexity and weak structure of the food supply chain are also highlighted as factors that may facilitate and incentivise criminal food practices. The food supply chain structure reveals gaps between the different stages that facilitate the infiltration of criminal

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<sup>107</sup> Interviews with RT and MT.

<sup>108</sup> Interview with RT.

<sup>109</sup> Interestingly, the law drafted by the specialised committee (Commissione Caselli) proposes to introduce the mean of pre-trial hearing in order to facilitate the investigations and gather evidence of food crime.

<sup>110</sup> Interview with FM.

<sup>111</sup> Interview with AS.

<sup>112</sup> Interview with RP.

actors, especially between production and retail. Providing the example of olive oil frauds, one participant stresses that:

*“The wholesale structure allows for reducing costs for homemade products that would usually be more expensive (...). There is clearly some form of fraud if I sell this kind of products at such low prices”*<sup>113</sup>.

Furthermore, it is also highlighted that certain food products, such as oil or honey or wine, can easily be adulterated or counterfeited, as the consumers would not easily spot such modification. In this sense, it is underlined that food fraud occurs especially if, with low fluctuations of the price, food products tend to be sold for their brand (i.e., made in Italy) rather than for their quality and taste<sup>114</sup>.

Finally, as the following section will further point out about the criminal actors perpetrating food crimes, the food sector is attractive as it eases to perform other crimes such as money laundering or drug trafficking (Senato della Repubblica, 2017). Regarding this dynamic, the ICQRF representative explains how the agri-food sector eases money laundering by saying that:

*“A company active in agriculture can buy resources cash with dirty money, sell the processed food products and finally invoice clean money obtained from the sale of those products (...) because often, in the agri-food system, businesses do not have accounting”*<sup>115</sup>.

From this viewpoint, food crimes are conceptually constructed as the means through which committing other crimes. Interestingly, this idea can be linked to the perspectives mentioned above that seem to embrace a more comprehensive conceptualisation of food crime beyond food fraud.

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<sup>113</sup> Interview with AS.

<sup>114</sup> Interview with AS.

<sup>115</sup> Interview with LF.

## 7. Food crime actors

As per section 5 of chapter 4, this section will focus on the actors perceived to be involved in food crime activities by Italy's relevant public bodies. As said, since one of the leading research questions of this study interrogates the institutional opinion regarding the interests of organised crime in food crime, and since organised crime in Italy typically coincides with mafia (both in terms of phenomena and in terms of institutional narrative), this section shall specifically look at the data regarding the perception of mafia-type groups in food crime.

A report published by the ICQRF (Ministero delle Politiche Agricole, Alimentari, Forestali e del Turismo, 2018: 72) highlights that, when it comes to criminal responsibility for food crime acts, the Italian regulation stresses the “*entrepreneurial character of criminal methods*” used in committing food crimes and, specifically, commercial food frauds. Besides, interviewees from police forces and ICQRF claim that in the case of food frauds – for example, in mixing olive oils coming from foreign countries but branded as Italian<sup>116</sup> – are committed by medium-sized food companies<sup>117</sup>. In fact, according to the interviewees, to reply to the high demand for Italian products, entrepreneurs often adopt illicit means of production intending to increase the profits. In this sense, the National Antimafia Prosecutor argues that:

*“Food criminality is a non-mafia-type organised crime that has typical characters of economic or business crime usually perpetrated by agri-food criminal centres”<sup>118</sup>.*

Similarly, the ICQRF and police officers argue that food criminals are business-organised actors as very often food crime investigations end up applying the charge of unlawful association (see article 416 of the penal code) that specifically tackles non-mafia-type organised crime<sup>119</sup>.

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<sup>116</sup> This type of olive oil frauds will be further presented and discussed in chapter 6 in the context of the legal case studies.

<sup>117</sup> Interview with LF and DP.

<sup>118</sup> Interview with RP.

<sup>119</sup> Interviews with RT, LF, and DP.

In highlighting the tendency of the food sector to favour and incentivise criminal contexts, the report published by Senato della Repubblica pinpoints indirect links between the commission of counterfeiting practises and “*infiltrations of organised crime*” (2017: 22). However, when discussing possible involvement of mafias in food crime, the experts argue that mafia-type organised crime is not active in the commission of food frauds that, as mentioned above, are meant as the only food crimes criminalised by law<sup>120</sup>. For instance, the police officer from the special police task force against organised crime (Carabinieri ROS) claims that mafias are not active in food frauds as usually they do not possess the know-how necessary to commit sophisticated food frauds. Furthermore, the interviewee adds that as the profits achievable in the food market are not as high as those coming from other markets such as drugs, mafia-type organised crime does not put much effort in committing food frauds<sup>121</sup>.

From an investigative perspective, the National Antimafia Prosecutor and the ICQRF expert claim that, when investigating food crime, it is not possible to verify the legal requirements established by article 416-bis of the penal code (i.e., the offence of membership in mafia-type association), such as the use of violence and power of intimidation<sup>122</sup>.

In light of the findings, it can be argued that there is no clear evidence nor a strong perception of mafia involvement in food crime from an institutional, investigative perspective. However, as chapter 6 and 8 will further explore and discuss, there is the relevant exception of the well-known Operation Provvidenza that, to date, represents the only case of infiltration of mafia-type crime in food crime (as conceptualised by the institutions) since the criminal actors have been charged under membership in mafia-type association for the commission of food fraudulent trade practices.

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<sup>120</sup> Interview with RP, DP, RT, TP, and AS.

<sup>121</sup> Interview with GL.

<sup>122</sup> Interview with SV and RP.

As already emphasised in section 4.3 of this chapter, the Italian public discourse and media generally use the label ‘*agromafie*’ to refer to illicit activities committed in the food sector. In short, according to these perspectives, mafia-type groups are active throughout the whole food supply chain (for instance, see Eurispes et al., 2019; Osservatorio Placido Rizzotto, 2016). According to the official institutional narrative, mafias are not involved in food crime. Nonetheless, the same institutional perspective acknowledges mafia-type organised crime along the food supply chain active in the commission of activities beyond food crime<sup>123</sup>. Mafia-type groups are considered widely active in the stages of logistics and transportation where, through the use of violence and intimidation, they create monopolies (or cartels) with direct impacts on the wholesale and on the final prices of food products<sup>124</sup>. There have been several cases in which the competition in food transport has been illegally disrupted to the advantage of transport companies belonging to mafia-type groups (Sasso and Tizian, 2012). Similarly, disruptions of the market competition have happened with the management and control of fruit and vegetable markets by mafia clans: as remembered by the Customs expert, multiple times *camorra* clan (i.e., Campanian mafia) have been caught controlling fruit and veg markets – for instance, in Operation Aleppo2 (Pistilli, 2018); whereas *ndrangheta* clans (i.e., Calabrian mafia) have been involved in the trade of oranges<sup>125</sup> – for instance, in Operation Provvidenza.

The experts recall the many distribution and foodservice companies owned or controlled by mafia groups for money laundering purposes to highlight the links between the food sector and mafias. As seen in the previous section, according to one of the ICQRF officials, concerning the agri-food system, this can be explained with the fact that agri-food companies are not legally obliged to keep fiscal documents in accordance to ordinary fiscal

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<sup>123</sup> Interview with AP, GL, and TP.

<sup>124</sup> Interview with TP and GL.

<sup>125</sup> Interview with TP.

accounting regulation<sup>126</sup>. Hence, it becomes easier to wash dirty criminal proceeds through agri-food companies. More specifically, the interviewee provides the following example:

*“A legitimate agri-food retailer company controlled by mafia buys products such as grapes by using dirty money without the necessity to get invoices (...). Then, the same company produces wine to sell and, afterwards, releases invoices by receiving clean money”*<sup>127</sup>.

Another connection between mafia-type organised crime and the food supply chain is found in the use of food trucks and containers to hide drugs and weapons. According to the experts, mafias are not interested in the food market for the profits they could make with food crimes, but rather for the criminogenic opportunities that the food sector offers to facilitate the commission of other (more profitable) crimes such drug smuggling or weapon trafficking<sup>128</sup>. In this sense, through the words of the National Antimafia Prosecutor, it can be said that:

*“Mafia is interested in the food sector only for instrumental purposes”*<sup>129</sup>.

It is also argued that investigating food crime by looking at the whole supply chain is essential since, as emphasised by the Customs representative:

*“Spotting food crimes such as commercial frauds might help to identify other criminal conducts, such as money laundering, which could signal the presence of organised crime, especially of mafia-type, with its capability to control economic sectors”*<sup>130</sup>.

Interestingly, documents and interviewees also highlight historical and cultural links between mafias and agricultural land (Eurispes et al., 2019; Osservatorio Placido Rizzotto, 2016). These sources label this phenomenon as ‘*rural mafia*’ that is believed to exploit agri-food lands and the organisation and management of cooperatives of illegal workers<sup>131</sup>. In detail,

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<sup>126</sup> Interview with LF.

<sup>127</sup> Interview with LF.

<sup>128</sup> Interview with TP, GL, and AP.

<sup>129</sup> Interview with RP.

<sup>130</sup> Interview with TP.

<sup>131</sup> Interviews with GL and AP.

by controlling the agricultural land, mafia-type groups are believed to exploit all the resources connected to the land such as fruit harvesting, management of land day-labourers, cultivation pruning and other land-connected practices that might procure profits<sup>132</sup>. In this view, criminal conducts that are placed beyond the institutional conceptualisation of food crime (that, once again, coincides with food fraud) but that have an impact on food and, more broadly, on the food system, should be re-conceptualised as food-related criminal targets of larger associative and organised criminal systems.

Moreover, concerning land use, another type of food-related offence committed by mafias is the practice of subsidies fraud that concerns the illegitimate allocation of (usually European) agri-farm aids to mafia-linked companies<sup>133</sup>. For instance, a recent investigation discovered that, since 2010, Sicilian clans had fraudulently received millions of euros in agricultural aid to cultivate hectares of farmland that was either non-existent or owned by the State – for instance, Operation Nebrodi<sup>134</sup> (Palazzolo, 2020; Tondo, 2020).

Lastly, on a side note, from a cultural perspective, interviewees highlight historical uses of restaurants and other food catering services as mafia meeting points<sup>135</sup>. For example, the famous 1980s Operation Pizza Connection – on the distribution and sale of vast quantities of heroin and cocaine in the US market run by Sicilian mafia clans and their Italian-American contacts – discovered that pizza restaurants were used as hubs for heroin and strategic meeting points (Lubasch, 1987).

## **8. Conclusions**

This chapter has underpinned details regarding the legal definitions, official conceptualisations of food crime and investigative strategies adopted by Italian public bodies active in the field.

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<sup>132</sup> Interview with GL.

<sup>133</sup> Interviews with LF and GL.

<sup>134</sup> *providenza*

<sup>135</sup> Interviews with GL and AP.

After a historical background on the food scandals that have shaped the Italian legislative reaction towards food crime, the chapter has provided a brief description of the regulatory framework applied against offences committed in the food sector. Furthermore, drawing upon documentary analysis and interviews conducted with public officers, prosecutors, law enforcement and other experts, the chapter has highlighted some central aspects: 1) the lack of a working definition of food crime whose conceptualisation matches the legal definitions of food fraud; 2) subsequently, the centrality of food fraud, especially in the shape of counterfeiting, in the official narrative; 3) the significance of the nationality of food brand (i.e., ‘made in Italy’) and its protection in the context of fake, counterfeited products illegally sold as Italian; 4) the label confusion or unclarity caused by the media terminology of ‘*agromafie*’. Concerning this, the study has pinpointed the juridical interests protected by law such as public health, market reputation and food culture. Furthermore, the chapter has discussed the factors that might incentivise and/or facilitate the commission of food crimes. Lastly, it has focused on the criminal actors active in food crime by highlighting the presence of corporate actors and mafia-type criminality. Chapter 8 will further discuss the latter while, adopting a comparative analytical frame, chapter 7 will further explore the patterns presented in this chapter.

To further the analysis and see how the law in books translate into law in practice, chapter 6 shall now focus on four legal case studies – two in England and two in Italy – which will provide an overview of how food crime is prosecuted and charged in these two jurisdictions.

# **Chapter 6 - Legal Case Studies: The horsemeat scandal and the extra-virgin olive oil frauds**

## **1. Introduction**

### **2. Focus on England: The horsemeat scandal**

#### **2.1.1. Case study n.1: Operation Boddy & Moss**

#### **2.1.2. Case study n. 2: Operation Boldo**

### **3. Focus on Italy: The extra-virgin olive oil frauds**

#### **3.1.1. Case study n. 3 Operation Arbequino**

#### **3.1.2. Case study n. 4: Operation Provvidenza**

## **4. Conclusions**

### **Objective of the chapter**

To highlight how food crimes are prosecuted, charged, and sentenced in England and Italy; by presenting and discussing four relevant legal case studies, this chapter aims to analyse how the *law in books* is transformed into *law in action* in the fight against food crime in both jurisdictions.

## **1. Introduction**

This chapter shall introduce and discuss four legal case studies (two in England and two in Italy) to see how food crime activities have been prosecuted, charged and sentenced by the national juridical authorities. By drawing upon court decisions and by referring to the regulation, this chapter will present the details of some relevant judicial cases of food crime and highlights the relevant findings, which will be further analysed in chapter 7 when discussing the conceptual and practical divergences and convergences in the English and Italian institutional approaches towards food crime. More specifically, this chapter will identify how the two jurisdictions prosecute food crimes and the type of criminal actors involved in these cases. For these purposes, I selected and thematically analysed judicial documents and court decisions (first-grade sentences and one preventive custody order), together with other informative materials such as official reports published by the authorities involved in both countries. In addition, I considered data that emerged from the interviews and related to the four case studies.

The specific case studies provide a precise picture of how food crime is prosecuted and sentenced in English and Italian criminal justice systems. First, these cases align with the charges that are commonly applied in food crime cases in England and Italy. More specifically, I selected two cases in which the defendants have been convicted, respectively, for regulatory breaches and commercial fraud (Operations Boddy & Moss and Provvidenza). In Italy, food crime being legally treated as tort as well as commercial fraud, I selected this specific case since, to date, it provides the only involvement of a mafia-type group in food crime. Moreover, together with Operation Boldo, Operation Boddy & Moss is one of the horsemeat scandal trials that, as seen, generated significant media reaction and contributed to the first UK institutional definition of food crime. Second, I selected two further cases (Operations Boldo and Arbequino) that provide a unique example of how associative charges such as conspiracy to

defraud and membership in unlawful association are applied to food crime practices. These cases highlight how corporate food actors are practically and legally treated as organised crime conspirators. Moreover, Operation Arbequino represents a stepping-stone case in prosecuting and sentencing organised food fraud in Italy as, for the first time in Italian courts, the defendants have been convicted for membership in unlawful association to commit a commercial food fraud. Lastly, as highlighted by Gerring (2009), pragmatic considerations are often crucial in the case-selection process. Here, this has been direct access to case files provided by research participants.

Regarding the structure, section 2 shall focus on England by discussing the two branches of investigation of the well-known horsemeat scandal (Operation Boddy & Moss<sup>136</sup> and Operation Boldo<sup>137</sup>). As already highlighted, this scandal embodies a case law milestone in the study of the food crime conceptualisation in England. The investigation took place across different jurisdictions; however, I considered only the investigations, allegations, and trials in England for this research.

Section 3 shall focus on two famous cases of extra-virgin olive oil frauds discovered in Italy. The first case (Operation Arbequino<sup>138</sup>) is relevant since for the first time the criminal actors involved (legitimate food entrepreneurs) have been charged under article 416 of the Italian penal code (i.e. membership in criminal association) for committing commercial food frauds. The second case (Operation Provvidenza<sup>139</sup>) demonstrates the only example to date of involvement of a mafia-type group in the commission of food crimes, according to the institutional conceptualisation.

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<sup>136</sup> Operation Boddy & Moss.

<sup>137</sup> Operation Boldo, n. T20167392, n. T20167397, n. T20167401

<sup>138</sup> Operation Arbequino, Tribunale di Siena, n. 41/2012 RGNR GIP.

<sup>139</sup> Operation Provvidenza, Tribunale di Reggio Calabria, n. 206/2017 RGNR DDA.

## 2. Focus on England: The horsemeat scandal

As already highlighted in this thesis, the horsemeat scandal results from a series of criminal incidents discovered across Europe in 2012. It has been considered the “*biggest fraud of the 21<sup>st</sup> century*” (Lawrence, 2013a), and it has seen the involvement of different types of food companies, amongst slaughterhouses and producers, across up to thirteen countries in Europe. In the UK, the public reaction caused by the scandal has been so strong that, unlike other relevant food scandals, the Prime Minister of the time, David Cameron, framed the horsemeat case as “*a very shocking crime*” (Lawrence, 2013c).

In brief, for the very first time in history, European countries were simultaneously exposed to a large-scale scandal that exposed the health risks and the economic losses potentially caused by criminal activities committed in the food sector<sup>140</sup>. Indeed, while analysing the impact of such a scandal in the European context and while evaluating the issues regarding the domestic applications of the EU General Food Law, the European Parliament (2014) referred to the case as “*the symptom of an uncontrollable globalised supply system, cut-price agri-food productivism and an incomplete labelling system*” (2013: 2).

Among the different EU jurisdictions involved, the UK and Ireland were hit the most. As seen in chapters 3 and 4, in England food crime has historically been constructed as a matter of food safety. More precisely, food safety is one of the public interests protected by anti-food crime regulations and, concerning the UK, is considered as the predecessor of the concept of food fraud that, as highlighted, contributes to the concept of food crime (conceptualised as serious food fraud) (Rizzuti, 2020). This narrative has often influenced the way food scares have been investigated, prosecuted, and charged. Indeed, the 2013 scandal is not the first scandal related to horsemeat happening England: for example, in 1998, while investigating the

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<sup>140</sup> To clarify, the other famous and widely-spread food scandal that gathered general attention and led the creation of the FSA and the adoption of a UK Food Safety Act (1990) – i.e., the BSE epidemic or madcow disease was not caused by intentional activities committed by criminal actors.

sale of poultry unfit for human consumption sold in the supply chain, environmental health officers discovered vast quantities of frozen pony-meat coming from China and entering British ports in order to get defrosted, reprocessed, re-labelled, and sold to the public (Lawrence, 2014). Due to lack of resources, the case was not treated as a crime and the actors were charged only for selling unfit poultry for human consumption under safety regulations. Here, the pattern was similar to the 2013 case, with the criminal network involved putting up a similar conspiracy to the one of the horsemeat. However, with the 2013 horsemeat scandal, the dimension of fraudulent practices has started to be considered criminal beyond the food safety violation from the institutional perspective.

Concerning the investigations of the horsemeat scandal, the new narrative of considering food scandals as potential food frauds or crimes has been embraced by the European Commission that, in a press release, has stated:

*“The findings have confirmed that this is a matter of food fraud and not of food safety. Restoring the trust and confidence of European consumers and trading partners in our food chain following this fraudulent labelling scandal is now of vital importance for the European economy”* (2013: 3).

Considering these premises, the analysis of two legal case studies of the horsemeat scandal seems to be of great relevance for this study: as already mentioned in chapter 4, the horsemeat scandal led to the creation of the first working definition – constructed for policy purposes – of food crime in the UK.

In short, the scandal exploded in late 2012 after the discovery by Food Safety Authority of Ireland of undeclared traces of horsemeat hidden inside products advertised, labelled, and sold as beef processed foods such as burgers or beef-lasagne by some leading supermarket chains. After this discovery, a safety alert regarding the risk of chemical contaminated meat – the horses slaughtered for the food products had been found fed with chemicals and other

medications such as phenylbutazone – was sent across Europe. Only later, safety checks proved the absence of risks for human health. Nevertheless, the checks confirmed that large percentages of foods had been sold fraudulently. As highlighted by prosecutors and law enforcement, consumers’ trust and confidence were betrayed from both an economic and a ‘sentimental’ perspective because they were eating horses instead of beef<sup>141</sup>. The investigations conducted across Europe<sup>142</sup> discovered a cross-border criminal conspiracy involving different economic actors along the food supply chain such as slaughterhouses, traders, and retailers; eventually, some of these actors were sent to trial in the different jurisdictions involved (e.g. the UK, the Netherlands and France). A brief overview with further anecdotal details of the scandal can be found in Appendix C.

Thus, the horsemeat scandal was legally treated and can be criminologically constructed as a form of international criminal conspiracy perpetrated along the food sector across different jurisdictions. The two legal case studies below offer a perfect example to depict how food crime practices practically occur and highlight how English institutions tackled these activities. The two cases selected are connected because of their relevance in the spread of the horsemeat scandal; however, the dynamics of the two cases and the investigations and prosecutions’ specificities vary interestingly. In brief: on the one hand, in the case study n. 1 (Boddy & Moss case) the actors are guilty of breaching traceability obligations under the General EU Food Law Reg. 178/2002, accordingly the food-related offence is treated as an administrative violation (Elizondo at al., 2019); on the other hand, in case study n. 2 (Operation Boldo) the prosecution office applies the charge of conspiracy to defraud committed in order to breach adulterating and labelling regulations. Apart from the different legal charges and procedural choices, from an investigative perspective, in the Boddy & Moss case, the FSA and

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<sup>141</sup> Interview with JP and SB.

<sup>142</sup> Europol, the European law enforcement agency, was in charge of coordinating the intelligence across the jurisdictions involved (Bartunek, 2017).

the local county councils' Environmental Health departments have been the only law enforcement bodies responsible for the investigations and prosecutions. As mentioned by the detective in charge of Operation Boldo:

*“Only in Operation Boldo – and in one other branch of the horsemeat cases – police forces have been directly involved in investigations”*<sup>143</sup>.

Section 2.1. will focus on the Boddy & Moss case, whilst section 2.2. shall highlight the particularities of the most relevant UK horsemeat scandal investigation, Operation Boldo. These cases being of public domain, the names of the defendants, the companies involved, the prosecutors, and the judges have not been anonymised. The two sections will proceed as follows: first, a brief overview of the events, followed by an indication of the indictment, and the result of the conviction; second, the charge applied to each case will be discussed. Special attention for the types of actors involved, especially concerning the legal charges, will be considered.

### **2.1. Case study n. 1: Operation Boddy & Moss**

Boddy & Moss is the first case to see convictions related to the horsemeat scandal investigations. After the horsemeat scandal outbreak in 2012, Food Standards Agency officials started to conduct food safety and food traceability checks at abattoirs and slaughterhouses. The first checks ended with the investigations, and subsequent prosecutions terminated with the convictions of Peter Boddy, abattoir owner, and David Moss, abattoir manager in West Yorkshire, England. The two were caught for both being highly involved in the horsemeat case; they slaughtered and sold horse carcasses, cash in hand, without keeping adequate paperwork as a record of sale. They were accused of not ensuring the so-called ‘one step back’ and ‘one step forward’ traceability policy that allows the authorities to identify the food source to recall

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<sup>143</sup> Interview with SB; truly, police were involved in other case – i.e., Operation Dafydd Raw-Rees’s – however, that case was ‘self-contained’ (interview with SB) and did not address cross-border dynamics in relation to the commission of the criminal activities.

in case of discovery of unsafe products<sup>144</sup>. After the investigations, the defendants were charged under two offences, forgery under section 1 of the Forgery and Counterfeiting Act 1981 and failing to comply with food traceability requirements in breach of Regulation 4 of the UK General Food Regulations 2004 and Article 18(2) and 18(3) of Reg. EC 178/2002.

In this case, the centrality of public health in the English conceptualisation of food crime emerges clearly. Indeed, the judge appointed to the case emphasises the importance of documenting food transactions correctly for health and safety reasons, saying that:

*“People do care for a good reason. The traceability of food products is of critical importance in relation to public health (...). Those who keep poor record frustrate that very important public interest which touches on public health and public safety”* (Crown Prosecution Service, 2015).

Along the same line, the specialist Crown Prosecutor stresses the importance of food traceability for food safety reasons, by affirming:

*“The absence of proper records means that it is not possible to identify whether the horsemeat may have entered the human food chain. It also means that if there was a problem with the horsemeat it would not be possible to recall it”* (Crown Prosecution Service, 2015).

Regarding the legal charges, as there is no specific evidence of the actors' role in passing off horsemeat as beef and, therefore, being impossible to apply broader criminal charges, the defendants were only charged under food regulations breaches. Interestingly, although the 2017 Food Law Code of Practice prescribes that cases of food crime should typically be prosecuted under charges of the Fraud Act 2006 or as conspiracy to defraud, in the Boddy & Moss case the food offence perpetrated by the criminal actors is perceived and treated as a mere regulatory violation of food safety and fiscal regulations connected to food traceability.

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<sup>144</sup> See article 18 of the 2002 EC Regulation N. 178.

## 2.2. Case study n. 2: Operation Boldo

The most famous branch of investigations and prosecutions in the height of the horsemeat scandal is Operation Boldo. Unlike the previous case, following the 2017 Food Law Code of Practice's proscription, in this Operation, the defendants were prosecuted and convicted under the common law charge of conspiracy to defraud for the commission of fraudulent food adulteration. In 2013, in the context of the investigations conducted to discover the dimensions and networks of the horsemeat case, the City of London Police (National Policing lead force for Economic Crime and, specifically, fraud) arrested three men in consideration of the role they played in the international horsemeat conspiracy perpetrated between January 2012 and November 2012. In brief, this criminal scheme saw a Danish meat-trading firm's involvement in shipping loads of horsemeat to an English meat processing plant based in London, where the horse was mixed with beef, repackaged, and re-labelled in order to be sold as beef meat. For this conspiracy, Ulrich Nielsen (case n. T20167397) and Alex Beech (case n. T20167401), respectively FlexiFoods's owner and manager responsible for the shipments and the accounting, and Andronicos Sideras (case n. T20167392), owner of the meat processing plant, were investigated, prosecuted, and charged for conspiracy to defraud at the Inner Crown Court in London in 2017. They were convicted and imprisoned, and, to date, they are still facing a confiscation trial under Proceeds of Crime Act 2002<sup>145</sup>.

Regarding the relevance of this case for the analysis of food crime in England, the City of London Police detective in charge of the investigations argues that:

*“Operation Boldo is the ideal example to get a good overlook of what is happening in England in terms of food crime”<sup>146</sup>.*

Indeed, the analysis of the findings show several distinguishable features of the way the case has been prosecuted. First of all, this case shows a shift in the way food crime is usually

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<sup>145</sup> In 2018 this side of the trial regarding the confiscation was still ongoing.

<sup>146</sup> Interview with SB.

charged in the English criminal justice system. In fact, unlike the Boddy & Moss where food crime practices were charged as food safety and traceability violations, in Operation Boldo the defendants have been incriminated for offence of conspiracy to defraud (Flores Elizondo et al., 2019). Second, regarding the public interests protected under this charge, apart from the potential public health risks, the judge states that the general public's confidence and trust in the integrity of the food supply chain have been affected concerning the type of meat that the customers were sold, in light of the cultural importance that horses hold in the English society. In this sense, as stressed by the prosecutor, the NFCU representative and the Trading Standards officer<sup>147</sup>, Operation Boldo (and the horsemeat scandal more broadly) is the most significant food scandal in terms of public and media perception in England, not merely because of the harms procured to public health but also because of the fraudulent rupture of the sentimental bond between UK individuals and horses (Kersche Risch, 2017).

On the side of the investigations, the judge highlights that due to the high level of transnationality of the criminal activities, investigations have been particularly incredibly complex, stating that *"the case was not confined to this country or to the firms involved"* (Inner London Crown Court, 2017). To add, the prosecutor stresses that the methodology used in the horsemeat case has reflected such difficulties by claiming that:

*"Food crime is virtually always cross-border, which makes it difficult to investigate and prosecute it"*<sup>148</sup>.

On the side of the prosecution, regarding the charge of conspiracy to defraud, judicial documents and the interviews stress that the prosecution office has applied this specific offence for two main reasons: first, the type of victims who have suffered from the adulteration, and

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<sup>147</sup> Interviews with FE, JP, and WT.

<sup>148</sup> Interview with JP.

second, in relation the transnational dimension of the criminal dynamics and the number of actors involved<sup>149</sup>. Concerning the first aspect, the judge identifies the victims by stating that:

*“The victims in question were customers, either wholesalers or the customers of the markets and supermarkets who bought an item that was not as it said it was”* (Inner London Crown Court, 2017).

Moreover, the Crown Prosecutor highlights two classes of victims: first, the final consumers who have been financially deceived as they paid for beef and instead received horsemeat that is considered emotionally detrimental to eat – as said, in England horses are considered *“more like pets rather than food”*<sup>150</sup>; second, the processors who have been financially defrauded and who would suffer reputational damage and further economic loss for future business regarding the cost spent for cleaning the meat plants<sup>151</sup>. In the prosecutor’s view, these two classes of victims make it very complicated to choose which charge to apply as it is difficult to distinguish between the *“real victims and guilty parties”* properly<sup>152</sup>. To add to this, as stated by the detective in charge of the investigations:

*“In applying the offence of conspiracy to defraud, the intention of the perpetrators has been considered to generally deceive no specific party but somebody such as a commercial enterprise, a person, a (general) population”*<sup>153</sup>.

In this sense, the common law charge of conspiracy to defraud has been chosen as it covers all unknown fraud victims. According to the prosecutor, conspiracy to defraud is an ancient, inchoate<sup>154</sup> charge of common law applied when there is prejudice to someone else’s financial interest and when, by exclusion, there is no other criminal charge that can be enforced<sup>155</sup>. Hence, this juridical tool has clear benefits in the prosecution of significant frauds

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<sup>149</sup> Interview with JP and SB.

<sup>150</sup> Interview with JP.

<sup>151</sup> Interview with JP.

<sup>152</sup> Interview with JP.

<sup>153</sup> Interview with SB.

<sup>154</sup> An inchoate offence is a crime that is committed even though the planned or actual crime is not completed.

<sup>155</sup> Interview with JP.

– such as the horsemeat adulteration – as it allows the competent authorities to look at the whole spectrum of illicit acts perpetrated. Moreover, it facilitates all the actors’ prosecutions by highlighting the relevance of the ‘conspiracy’, instead of separately prosecuting each separate fraud and each perpetrator under the Fraud Act 2006<sup>156</sup>.

There is no reference to organised crime involvement in Operation Boldo in the official documents regarding the criminal actors involved. However, the case shows some similarities with transnational organised crime concerning the cross-border criminal dynamics and the involvement of different criminal actors active across different countries and stages of the market. Moreover, the defendants have been charged with an order of confiscation of assets<sup>157</sup>, which is a judicial measure that, in criminal lifestyle offences such as conspiracy to defraud, is used to hit the proceeds of crime and is applied explicitly against organised criminal networks (POCA, 2002).

Although conspiracy to defraud is a charge typically used to tackle organised crime offences, the interviews with the Crown Prosecutor and the City of London Police Detective exclude the presence of organised crime in the horsemeat scandal acts and, specifically, in Operation Boldo. In fact, both participants acknowledge the involvement of “*legitimate businesses*” rather than organised crime networks. When it comes to explaining food fraud like the one of horsemeat and the possible role of organised crime, the prosecutor stresses that:

*“What distinguishes food fraud is that many, if not all, of the people, are also involved in legitimate business. They have legitimate food companies, but they do dishonest things. I think that’s an important distinction with other organised crime groups (...). When I think organised crime networks, I think of them as groups of people who are purposely dedicated to dishonesty’* <sup>158</sup>.

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<sup>156</sup> Interview with JP.

<sup>157</sup> A confiscation order is an order made against a defendant who has been convicted in order to make the defendant pay the amount of benefits from crime.

<sup>158</sup> Interview with JP.

Along the same lines, the detective argues that in food fraud cases like Operation Boldo:

*“In most of the times, people who have legitimate food businesses, such as slaughter, food processors, and retailers, are involved in doing some illegal activities besides the legal ones (...). Whereas, on the contrary, in organised crime networks, the illegitimate are always involved in illicit practices”*<sup>159</sup>.

To conclude, in a nutshell, the two horsemeat scandal investigations highlight a shift in the way food crime cases are legally prosecuted and charged. Suppose the first case (Operation Boddy & Moss) confirms the tendency of English institutions to conceptualise food-related offences as breaches of safety and traceability regulation matching the centrality of public health as judicial values to pursue, the second case (Operation Boldo) underlines the use of criminal conspiracy to defraud for cases perceived as serious food fraud. Further analysis of the prosecution and charges applied to food crime shall be undertaken in chapter 7, and in chapter 8 the links between conspiracy and organised crime will be discussed.

### **3. Focus on Italy: The extra-virgin olive oil frauds**

The two legal case studies analysed on the Italian side relate the famous cases of extra virgin olive oil adulterations. Olive oil is used daily in Italian cuisine, and it is proudly considered *“one of the most well-known symbols of Italian food productions with an incomparable reputation amongst the global audience”* (Mongiello, 2015: 33). Italy is the first European country for several PDO and PGI extra virgin olive oils and one of the world’s primary producers and exporters of olive oil. In light of this cultural and economic importance, several regulations and political documents have addressed olive oil protection from fraudulent practices. Parliamentary documents state that protecting the identity of Italian food products such as olive oil is a duty of the State, necessary in order to assure the competitiveness and distinctiveness of Italian food companies (Mongiello, 2015). Despite this protective regulatory

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<sup>159</sup> Interview with SB.

framework, olive oil has often been at the centre of many relevant food scandals in Italy (see for instance Operation Oro Giallo, Operation Bottled Donkey, Operation Aliud Pro Alio, Operation Olio di Carta, Operation Olio alla Clorofilla, Operation Fuente) and abroad (Tòth, 2019). According to statistics, olive oil is one of Italy's most counterfeited food products (Ministero dello Sviluppo Economico, 2014). There are different possible explanations behind this. First, because of its fame, Italian olive oil is usually costly and, for this reason, the practise of branding a blend of oil as Italian is often committed in order to sell the oil at higher prices. Second, as Italian production does not use machines to pick the olives, olive oil producers often rely upon cheaper blends to compensate for the costs of harvesting. Third, as mentioned by the interviewees, olive oil is a product whose adulteration is not easily spotted by consumers – in fact, the more difficult it is to spot that a product has been adulterated by looking at its characteristics such as colour or density, the likelier it is that this product might be the target of food fraud<sup>160</sup>. Lastly, the 2008 economic downturn and the frequent emergencies caused by the deadly olive tree disease known as Xylella have probably further boosted the incentives to commit olive oil frauds (Lotta and Bogue, 2015; McGrath, 2020). In light of this significance and centrality of the brand '*made in Italy*', the olive oil sector represents an ideal example to reveal how Italian authorities practically tackle food crime. More precisely, after providing a brief overview of the legislative framework that regulates the olive oil sector and an outline of the main types of frauds discovered by law enforcement agencies, the next section shall focus on two specific legal cases. Similarly to what was highlighted with the horsemeat scandal cases in section 2, by drawing upon court decisions (specifically, a preventive custody order and a first-grade sentence), parliamentary reports, other public documents and interviews, this section aims to unpack how the actors responsible for the olive oil frauds have been prosecuted and charged.

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<sup>160</sup> Interview with AS.

As mentioned, there is vast legislation ruling the stages of production, processing, and olive oil trade in Italy. The table (n. 1) below highlights some of the most relevant domestic regulation; further EU regulation can be found in Appendix D.

**Table n. 1 – Italian olive oil regulation**

<p><b>Governmental regulation</b> <b>Decreto Ministeriale n. 09/10/2007</b></p>	<p>On the compulsory indication of origin, in terms of cultivation and processing of the olives, for both virgin and extra virgin oil</p>
<p><b>Legge Salva Olio - Law n. 9/2013</b></p>	<p>On the quality and transparency of the Italian olive oil chain; particularly relevant for the protection of the Italian olive oil sector since, for the first time, the use of wiretaps has been extended to investigations on sanitary and commercial food frauds</p>
<p><b>Governmental regulation</b> <b>Decreto Ministeriale n. 16059/2013</b></p>	<p>On the institution of a computerised register of oil (so-called ‘Registro Telematico Olio’) that protects and guarantees the oil traceability by enabling the official control bodies to check individual online movements of olives, olive oil, pomace oil and pomace for each plant and warehouse</p>

This regulation’s reasoning seems to pay specific attention to the food traceability to protect the made in Italy olive oil productions without violating European law principles such as non-discrimination. Particularly noteworthy is the introduction of wiretapping as an investigative method to spot food frauds.

The Parliamentary Commission on counterfeiting that focuses on the olive oil frauds in terms of health risks and economic harms (Mongiello, 2015), identifies the following types of fraudulent techniques:

- 1) ‘paper oil’ fraud, the production and use of fake receipts invoiced for non-existent products or lower quantities, commonly used to introduce foreign oils into the Italian production;

- 2) ‘deodorised oil’, highest and most complex form of olive oil processing technique; used in Operation Arbequino, it is the mixing of oils produced outside of Italy with Italian blends, frequently adopted in order to create a fake extra virgin blend;
- 3) the mix of different oils in the production of extra virgin oil; this practice is legal unless it mixes oils of different categories, such as virgin and pomace oil;
- 4) the illicit use of denominations of origins, which refers to the offence prescribed at the article 517-quater of the Italian criminal code regarding the counterfeiting of PDO and PGI food products (see chapter 5); and
- 5) ‘Italian sounding’, which refers to techniques of trading olive oils produced outside of Italy but sold with labels that, by using names, symbols, pictures and other signs and marks of protected Italian products, are meant to deceive the consumers regarding the origins of the oil (see chapter 5).

After this *excursus* over the most relevant regulation and categories of olive oil fraud, the next section will focus on two operations that are examples of the illegal blending of Italian olive oil with non-Italian olive oils. These cases have been selected for their significance in the fight against food crime in Italy and, more precisely, the criminal charges that have been applied. In short, the first case (Operation Arbequino) represents a milestone in the Italian response against food crimes since, for the very first time, the charge of membership in criminal association has been applied in a case of food crime. According to the institutional perspective, the second case (Operation Provvidenza) represents the only actual involvement of mafia-type groups in food crime activities. Both legal cases being at the stage of appeal, I have gathered the judicial documents released in the first stage of the trial. For the same reason, despite both cases being of public domain, I will avoid mentioning the defendants’ and companies’ names.

### 3.1. Case study n. 3: Operation Arbequino

In 2011, Operation Arbequino unveiled a massive case of olive oil fraud committed by a well-known olive oil firm in Italy. In brief, while conducting usual fiscal checks, a local department of the Fiscal Police discovered dubious documents containing an indication of types of oils different from the extra virgin oils officially sold by the company (Ministero dello Sviluppo Economico, 2014). The documentation also showed chemical parameters outside the levels required under EU regulation to sell extra virgin olive oil. With the involvement of both the Central Inspectorate Against Food Frauds (ICQRF) and the Fiscal Police, the detectives discovered two types of practices committed by mixing different types and ‘categories’ of oils. One practice uses low-quality oils, such as deodorised and so-called ‘lamp oil’, that decreases the levels of acidity and enables extra virgin oils to sell at higher prices<sup>161</sup>. The second type of practice uses different oils from different countries such as Spain, Greece, and Tunisia to mix with Italian blends and produce fake, 100% extra-virgin Italian oil. As per wiretap, in stressing fraudulent character of the practices, one of the defendants declares: “*We invoiced everything, as a figure of speech, as Italian oil and actually there was Spanish oil*”. The final unbottled blend, illegally obtained through this mixing process, was then sold to other companies to be bottled and resold to retailers in the wholesale. The CEO and other company representatives were charged for membership in unlawful association (article 416 of the Italian criminal code) established to commit commercial fraud (articles 515 and 517-bis of the criminal code). The company was also charged as a legal entity under the same offences according to the Italian legislation (law n. 231/2001) that regulates the corporal criminal liability. The first trial started in 2014 and ended in 2017 with several convictions for both criminal association and fraud.

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<sup>161</sup> Briefly, according to the EU regulation n. 61/2011, in order to classify and label blends as extra virgin the olive oil must possess specific parameters of acidity and other components that identify specific qualities that are exclusive to the product.

As said, to date, Operation Arbequino is the only case where the prosecution has decided to charge a practice of food fraud under the offence of unlawful association. However, adopting this specific charge of unlawful association is argued to be highly beneficial in the fight against food crime. In the parliamentary reports published concerning this investigation, when referring to the juridical, procedural approach to cases of food fraud (and, by extension, food crime), the prosecutor of Operation Arbequino criticises the current legislative tools that can be used to tackle these phenomena (Mongiello, 2015; Procura della Repubblica presso il Tribunale di Siena, 2015). According to him, criminal association can be applied according to the degree of the seriousness of the practices. Nevertheless, the charge of commercial fraud does not take into consideration the systematic and organised dimension of food frauds, as the charge of trade fraud only focusses on the sale of the final product without paying attention to the previous stages of the supply chain (between ‘the farm and the fork’).

Interestingly, this rationale recalls the already mentioned draft proposal (see Commissione Caselli) that aims to introduce the charge of ‘*agropirateria*’ by re-organising the criminal regulation on food crime. In cases of procedural inapplicability of criminal association, this offence could tackle all the organised and systematic form of food fraudulent practices (Procura della Repubblica presso il Tribunale di Siena, 2015). In other words, such a charge could enable the prosecution of illegitimate agreements (or conspiracies) set up in order to perpetrate activities that, within the context of ‘*economic organised crime*’, violate regulations against food fraud without having the characteristics of criminal associations in terms of stability and durability.

Applying the charge of criminal association to food fraud encompasses several investigative benefits. By using telephone wiretaps, IT wiretaps (e.g. checking emails), and other surveillance tools, investigators and prosecutors have discovered the fraudulent system

at the stage of production at the beginning of the supply chain, instead of discovering it through final checks at the end. As specified in the first court decision:

*“Choosing to prosecute for unlawful association has enabled to unveil the “modus operandi” of the company”*<sup>162</sup> (Tribunale di Siena, 2017).

Furthermore, as highlighted by the prosecutor:

*“The investigative techniques that can be applied in this type of charge allows the investigation to tackle the high level of know-how often used in this form of frauds”*<sup>163</sup> (Tribunale di Siena, 2017).

Additionally, applying the charge of membership in unlawful association establishes higher criminal penalties than the application of commercial or trade fraud charges. Hence, according to experts, it could be a better criminal deterrent in the commission of systematic frauds<sup>164</sup>.

Regarding the public interests protected by law in this prosecution, the authorities have supported market reputation, protecting the national brand and public trust. The final product was an extra virgin olive oil with no risk posed to public health and produced within parameters of acidity required by law<sup>165</sup>; yet, as argued by the prosecutor, the mixing techniques not being allowed by law, and more specifically, the oil being fraudulently labelled and sold as 100% Italian, the consumers and retailers *“trust was betrayed and harmed”*<sup>166</sup>. By applying commercial fraud and unlawful association offences, the judge protected both the consumers’ and business competitors’ trust in legitimate commercial trades inside the food system.

Lastly, concerning the type of actors involved, Operation Arbequino is typically framed as an example of a *‘transnational cartel’* that follows this scheme: a foreign company produces

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<sup>162</sup> Tribunale di Siena, court decision n. 173/2017

<sup>163</sup> Tribunale di Siena, court decision n. 173/2017.

<sup>164</sup> Interview with AS.

<sup>165</sup> Interview with AS.

<sup>166</sup> Tribunale di Siena, court decision n. 173/2017.

olive oil at cheaper costs, this oil is then bought by an Italian company that adds other ingredients in order to improve the quality of the product and, afterwards, sells retailers the final, adulterated production by falsely labelling it as ‘*made in Italy*’<sup>167</sup>.

### **3.2. Case study n. 4: Operation Provvidenza**

Operation Provvidenza is a broad anti-mafia investigation that has unveiled the vast network of activities carried out by relevant members of a well-known mafia-type group (more specifically, *ndrangheta*) that was aiming to control entire production chains in different sectors such as food, textile, and construction. Concerning the specific branch of investigation that regards oil – in the preventive custodial order<sup>168</sup> one of the defendants specifically names this practice as ‘*the oil forgery*’ – some production companies controlled by mafia members were caught mixing different blends of refined and pomace oils from Greece, Turkey, and Syria, about to resell them to US retailers as pure extra-virgin Italian olive oil. The companies controlled by mafia were buying pomace oils from Italian producers to filter and colour it to make it look like extra virgin oil and re-label the bottles to change expiry dates and batch numbers. Afterwards, to deceive the Customs checks through complicated techniques aimed at concealing the true origins of the oil, the same companies were exporting to the US market through an intermediary company under their control. Eleven defendants were convicted in 2018, and the trial is currently at the stage of appeal.

The criminal actors of this Operation being members of a well-known mafia group, the prosecution applied the offence for membership in mafia-type association (article 416-bis of the criminal code). However, since the defendants have committed practices criminalised as food fraud offences, the prosecution also applied the charges of commercial or trade fraud (articles 515 and 517 of the penal code). According to the judge, this mafia group (clan

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<sup>167</sup> Interview with AS.

<sup>168</sup> Tribunale di Reggio Calabria, n. 206/2017 RGNR DDA.

Piromalli) has entered several profitable markets such as food (with olive oil and oranges), clothing, and construction, to invest their criminal proceeds in legitimate markets. The defendants are believed to run a multi-marketed-oriented holding through which dirty money is laundered by investing in the olive oil market, amongst others. As they control companies at the production stage, the prosecutors claim that they have been able to fix the final prices to maximise profits.

As stated, this trial represents the only case of mafia involvement in food fraud to date. According to the Customs officer, Operation Provvidenza highlights a specific type of interest of mafia more towards the food sector and the criminogenic opportunities to commit other relevant crimes rather than towards food crimes. The interviewee argues as follows:

*“Illegal practices such as commercial frauds are not committed by mafia, yet they must be considered as ‘spy-crimes’ that signal the capability of a mafia-type group to infiltrate and influence a whole economic sector (like the food one), also in order to commit or ease the commission of other crimes such as money laundering”<sup>169</sup>.*

On the one hand, according to the police member from the task force against organised crime (Carabinieri ROS), fraudulent practices conducted by mafia-type groups are to be considered in the context of the entrepreneurial dynamics of the criminal mafia-type association. For instance, the same interviewee stresses that, as in Operation Provvidenza, mafia-type groups often have access to natural resources such as land and olive and orange trees. On the other hand, the food sector and, more specifically, food frauds are mostly perceived as means to pursue a larger scheme of mafia association (i.e., committing other ‘more typical mafia crimes’) such as money laundering or extortion<sup>170</sup>. In this sense, it can be argued that mafia groups are usually involved in the food sector for two main reasons: the penalties

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<sup>169</sup> Interview with TP.

<sup>170</sup> Interview with GL.

for commercial food frauds are lower than, for instance, those for drug trafficking, and as the food system is perceived to be under-investigated, the risks of being caught are minimal.

The national Antimafia prosecutor highlights the general lack of interest of mafia in food crime (as conceptualised by the institutions) by arguing that:

*“In Operation Provvidenza, the clan Piromalli was acting like a normal commercial company (...). The ndrangheta group was actually imitating an operative system which is typical of other non-mafia criminal actors, that often are not even criminal but rather well-established agri-food companies”<sup>171</sup>.*

When involved in food crime, mafia members are believed to be exploiting a criminal system that is already criminally “*well-oiled and functioning*”<sup>172</sup> without using the typical mafia methods of intimidation or violence.

To sum up, both legal cases show how the charge of membership in criminal association (both mafia and non-mafia type) are used to tackle food fraud cases in the Italian criminal justice system. Moreover, the case studies highlight two typologies of actors: in Operation Provvidenza criminal mafia-type actors behaved like legitimate companies, while in Operation Arbequino legitimate actors functioned criminally. In both cases, the actors are framed as entrepreneurial and organised criminal networks active in the commission of food fraud (as a type of food crime). Further analysis regarding this similarity and the use of membership in the criminal association shall follow in chapters 7 and 8.

#### **4. Conclusions**

To conclude, the four legal case studies presented in this chapter have underpinned four different ways of investigating, prosecuting, and charging criminal phenomena, more precisely food frauds, taking place in the food sector. In short, the first two cases have highlighted the way food frauds are charged in England: in Operation Boddy & Moss under forgery and

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<sup>171</sup> Interview with RP.

<sup>172</sup> Interview with RP.

violation of traceability regulations, whereas in Operation Boldo under conspiracy to defraud. If similar juridical values such as public health and consumer trust are protected in both cases, the second case is specifically interesting as it highlights the network of actors, or conspiracy, beyond the food fraud. The other two cases, Operation Arbequino and Operation Provvidenza, show the use of the charge of membership in criminal association in Italy's commercial food fraud. More precisely, Operation Arbequino represents landmark case law, as for the first time corporate actors have been charged as members of a criminal organisation in the commission of food fraud. In contrast, Operation Provvidenza, so far, represents the only verified involvement of mafia in food crime practices institutionally constructed as food fraud activities.

In light of this, the following questions might arise: do these different jurisdictional approaches have something in common? What do these legal case studies say about practical convergences, divergences, and intersections in the English and Italian perceptions and responses to food crime activities? Undoubtedly, at first glance, there seem to be clear divergences, which highlight conceptual, procedural, legal, and cultural differences. However, at a closer look, the findings show interesting convergences. Drawing upon the data presented in this chapter as well as upon the findings unveiled in chapters 4 and 5, the similarities and differences of the two national systems will be further discussed and analysed in the next chapter through the lenses of comparative criminal justice and comparative criminology (second level of comparative analysis).

# **Chapter 7 - Food crimes vs Crimini Alimentari: Conceptual and practical convergences and divergences between England and Italy's criminal justice systems**

- 1. Introduction: Convergences, divergences, and interconnections of the two systems**
- 2. Conceptualising food crime**
  - 2.1. Narrow conceptualisations of food crime**
  - 2.2. Juridical values underneath anti-food crime responses**
- 3. Investigating food crime**
  - 3.1. Great profits, low risks: Dysfunctionalities and structural issues of the food supply chain**
  - 3.4. Food crime as business crime**
- 4. Prosecuting food crime**
  - 4.1. Food offences as regulatory breaches**
  - 4.2. Food offences under conspiracy and membership in unlawful association**
- 5. Strengths and weaknesses of the two approaches: Common problems, common conceptualisations, (dis)similar approaches?**
- 6. Conclusions**

## **Objective of the chapter**

To answer from a comparative perspective the research question (1a): How do English and Italian institutions perceive and conceptualise food crime? Which actors are (perceived to be) involved in food crime? How do the two approaches of criminal justice systems differ?; to analyse from a comparative lens, the findings presented in chapters 4, 5, and 6 along the different dimensions of the criminal justice system (conceptualisation, investigation or policing, prosecution); to discuss convergences, divergences and how both similarities and differences can be explained concerning relevant socio-criminological theories; to highlight

strengths and weaknesses of both national approaches from the perspective of transnational cooperation and, in this sense, to see what one system can learn from another.

## **1. Introduction: Convergences, divergences, and interconnections of the two systems**

So far, this thesis has presented the findings of the institutional perceptions and related conceptualisations of food crime in England and Italy. More specifically, chapters 4 and 5 have focussed on the national manifestations of food crime in terms of the legal framework, definitions adopted by the relevant authorities, public interests protected by law, factors that are believed to incentivise food crimes, and criminal actors perceived to be involved in food offences, through an exercise that has attempted to align the results of both countries. Moreover, to provide practical examples of how illicit practices committed in the food system are policed, prosecuted, and charged in both jurisdictions. Chapter 6 has presented four legal case studies (two each for England and Italy).

Drawing upon these findings and moving onto the second stage of comparative analysis, this chapter shall now analyse convergences and divergences of the two systems through the lens of comparative criminal justice (Nelken, 1996, 2007, 2009, 2010) and comparative criminology (Beirne and Nelken, 1997; Sheptycki and Wardak, 2012). By adopting such a comparative perspective, this chapter shall answer the first two research questions n. (1) *How is food crime perceived and conceptualised in the English and Italian legal systems and institutions?* and n. (1a) *How do English and Italian institutions tackle food crime? Which actors are (perceived to be) involved? How do the two approaches differ?* In doing so, the chapter will be structured around three dimensions of the criminal justice system (conceptualisation, investigation, and prosecution). It will analyse the differences and similarities of English and Italian approaches as they have emerged from the findings. In highlighting convergences and divergences, chapter 7 will also consider if, how and to what extent the two systems intertwine.

The search for similarities represents the second stage of the comparative analyses in criminal justice (Hodgson, 2000; Nelken, 2009; Puchalska-Tych and Salter, 1996). Beyond

crucial differences in the two legal systems (see chapter 1 for the country selection reasoning), the findings show fascinating points of convergence and intersection where the two countries' food crime perceptions meet in three different dimensions of the criminal justice systems. These are in the conceptualisation of offending activities and harms associated to the threats of food crime, in the investigation (or policing), and in the prosecution of food-related criminal practices. To provide a quick overview of these dimensions' findings, the table (n.1) below visualises the main convergences, divergences and, eventually, points of intersection as they have emerged from the data.

**Table n.1 – Comparison of tackling food crime across the criminal justice stages in**

**England and Italy**

<b>CJS stages in tackling food crime</b>	<b>English approach</b>	<b>Italian approach</b>
<b>Conceptualisation</b>	Food crime is <i>serious</i> food fraud Policy definition Protection by law of juridical values such as public health and market reputation	Food crime <i>is</i> food fraud Legal definition (of food fraud) Protection by law of juridical values such as public health, market reputation and food culture
<b>Investigation</b>	Local authorities (diffuse approach) NFCU (intelligence-led function) Low investigative resources Focus on transnationality	Police (centralised approach) High level of cooperation amongst authorities Attention for fiscal dimensions of food crime Focus on transnationality
<b>Prosecution</b>	Administrative food regulations; Fraud Act;  Conspiracy to defraud  Low deterrence	' <i>De-criminalised</i> ' regulatory charges; Criminal charges of commercial and sanitary fraud (in the penal code); Membership in criminal association (simple and mafia-type); Low deterrence

Considering what the table above demonstrates, the main findings can be briefly summarised as follows. In relation to the conceptualisation, there are significant convergences and interesting divergences regarding both the way food crime is conceptualised and the public interests protected by the law: 1) when conceptualising illicit practices taking place across the food sector, regulatory and policy bodies in both England and Italy embrace a narrow conceptualisation according to which food crime *de facto* coincides with food fraud; 2) in the case of England, according to a policy-constructed conceptualisation, food crime is defined as a form of *serious* food fraud, whilst, in the case of Italy, according to a conceptualisation that refers only to what is proscribed by the criminal law, food crime overlaps with food fraud; 3) in both approaches, public health, consumers' trust and market reputation (in relation to the broader protection of the national economy) are the public interests protected by legal responses against food crime; and 4) England prioritises public health, whilst in Italy food market reputation is the principal juridical value to protect against food crime, along with the protection of food culture as one of the main aims of responses to food crime.

The investigation of food crime conducted by law enforcement bodies is the criminal justice dimension where the two systems differ most. In both approaches food crime actors are perceived to be mainly corporate businesses and entrepreneurs, yet the function of policing is exercised differently: 1) if England adopts a localised approach with local authorities in charge of investigating and prosecuting food crimes, in Italy most of the investigation is centralised and then conducted locally by specialised police forces and other expert officers with powers of enforcement; 2) in this context, in Italy there seems to be an higher level of cooperation amongst authorities and a broader use of investigative tools such as telephone wiretaps; 3) both jurisdictions identify similar factors as potential incentives or spy indicators of food crime practices, such as the length and complexity of the food supply chain; 4) in Italy there is attention for the fiscal benefits that the agri-food sector offers to criminals and, hence, there is

vast involvement of fiscal police in investigation of food crimes; and 5) eventually, in both countries, the food sector is perceived to be under-investigated and, hence, highly attractive.

Concerning the prosecution and sentencing dimension, the two systems embrace different approaches; the English jurisdiction is based in a tradition of common law and adversarial approaches, whereas the Italian jurisdiction embraces a civil law system and mixed (adversarial and inquisitorial) approach. Despite these divergences, there are relevant convergences in this dimension: 1) both jurisdictions charge under regulatory breaches rather than criminal offences. In England, local authorities tend to apply the Food Safety Act instead of the Fraud Act, whilst in Italy prosecutors often charge under torts instead of criminal offences; 2) however, under specific conditions, both jurisdictions can employ criminal charges such as conspiracy to defraud (England) and membership in criminal association (Italy).

This chapter is accordingly structured. Section 2 will examine how English and Italian institutions conceptualise and define food crime concerning the activities labelled as food crime and, more specifically, how the pattern of the seriousness of food fraud characterises the English approach compared to the Italian approach's reliance on the written body of law. Furthermore, the section will continue by highlighting the public interests protected by the law, focusing on public health's relevance in the English approach and market reputation and food culture in the Italian approach. Section 3 shall focus on how food crime is policed and investigated in the two systems by emphasising the different policing approaches related to both factors considered indicators of food crime and how food crime is practically policed as a form of economic or business crime. Section 4 will then discuss the ways food crime is prosecuted and the rationales behind the legal charges adopted in both jurisdictions by highlighting interesting similarities in framing food crimes as administrative breaches. Considering the previous sections, section 5 will critically discuss the two approaches'

strengths and weaknesses to see what each jurisdiction can learn from the other. Lastly, conclusions will follow and briefly introduce chapter 8.

## **2. Conceptualising food crime**

A comparative criminal justice and criminology perspective considers differences in the areas or topic of inquiry and the analysis of the differences in such areas' conceptual constructions (Nelken, 2010). Since the start of this research, the importance of unpacking reasoning behind how food crime has been conceptually constructed by institutions has been evident. Thus, it is possible to learn and critically analyse the choices adopted in one jurisdiction and see if it is possible to transfer these choices to another jurisdiction and investigate what one jurisdiction can learn from the other, bearing in mind the specific socio-economic and legal context.

As frequently highlighted in this thesis, the perception of English and Italian public institutions towards food crime activities is reflected in the way food crimes are conceptualised by policy and regulatory bodies, in the definitions adopted in the criminal justice system, in the type of illicit activities labelled as food crimes, and in the spectrum of public interests protected by the law. These dimensions are highly intertwined, as the conceptualisation embraces reflections regarding the activities and, in turn, mirrored in the definitions. By drawing upon the relevant literature, this section will discuss the convergences and divergences emerging from the findings as set out above. In brief, both English and Italian criminal justice systems' institutional narrative adopts a narrow conceptualisation of food crime, where the latter is either a serious type of food fraud (England) or coincides with food fraud (Italy). Eventually, the two national approaches align as food crime is essentially constructed as food fraud, yet they differ regarding this alignment's conceptual paths.

Furthermore, England and Italy share important convergences on the public interests (public health and national economy) considered within the conceptualisation of food crime and protected by the law accordingly. However, they also differ since, if public health (in terms

of protection of food safety) is the juridical interest at the backbone of the English conceptualisation, in the Italian approach, food authenticity (in terms of protection of origins and quality of food products and, eventually, of the reputation of the Italian food sector) seems to be the primary driver of policies and regulations against food-related crimes. Moreover, the Italian approach addresses specific importance to protecting food culture, which is perceived as a separate juridical value protected by law.

### **2.1. Narrow conceptualisations of food crime**

Interestingly, despite the different legal systems and the diverse legal (and food) cultures, the institutional perceptions and, subsequently, the conceptualisations of food crime of two very different jurisdictions such as England and Italy *de facto* converge regarding the activities conceptualised and labelled as food crime. Put briefly; the findings show that in either jurisdiction there is no legal definition of food crime that is narrowly conceptualised as food fraud.

On the one side, according to the English institutions, food crime is a serious and organised type of food fraud as clearly argued by the NFCU officer who claims that “*food crime is actually serious fraud (...). Food crime is the pinnacle of food fraud*”<sup>173</sup>. On the other side, according to the Italian institutions, food crime overlaps with food fraud as this is established under criminal law; as argued by the ICQRF representative, “*from a legal perspective, the only possible definition of food crime coincides with food fraud*”<sup>174</sup>.

Eventually, both institutional approaches adopt a narrow conceptualisation of food crime according to which the concept of food crime is strictly intertwined and rooted in the concept of food fraud. As seen in the literature review (chapter 3), food fraud is framed as a sub-type of food crime in academic debates (Lord et al., 2017a)<sup>175</sup>. Another strand of the

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<sup>173</sup> Interview with FE.

<sup>174</sup> Interview with RT.

<sup>175</sup> To highlight it again, this is also the reasoning at the basis of this thesis that, accordingly, embraces a broader conceptualisation of food crime.

academic literature theorises a *broad* conceptualisation of the food crime issue that, by embracing a social harm oriented approach, refers to both harmful yet legal(ised) practices and criminal activities perpetrated along the different stages of the food supply chain (Asomah and Cheng, 2018; Cheng, 2012; Croall, 2007, 2013; Tourangeau and Fitzgerald, 2020). In this view, food crime is a broad umbrella-concept under which it is possible to categorise several forms of practices that negatively affect the food system, even those that are “*lawful but awful*” (Passas, 2005).

In truth, the two national approaches recognise the existence of food crime practices beyond food fraud. More precisely, in Italy, food crime practices are indirectly linked to a series of criminal activities such as exploitation of labour, irregular migration, money laundering, and tax evasion (Senato della Repubblica, 2017). Similarly, in England, public bodies such as the NFCU, Defra, and the FSA (British Standards Institution et al., 2017; National Food Crime Unit, 2016a) acknowledge that food crime indirectly encompasses other forms of criminal acts and practices that attack the food system such as extortion, espionage, and cybercrime<sup>176</sup> as well as the use of illegal labour in the food sector. There could be a partial alignment with the strand of academic debate that offers a *broad* conceptualisation of food crime involving both harmful and criminal practices happening inside the food supply chain (Cheng, 2012; Croall, 2013; Gray, 2018). However, at a closer look, both jurisdictions converge in denying this broad conceptualisation in two ways. First, as highlighted, under the label ‘*food crime*’ institutions only consider criminal acts explicitly criminalised by the criminal law (Italy) or by policy-constructed definitions (England). Put differently, there is no institutional attention for those harmful acts that do not violate the law despite being detrimental to the food system. Such institutional views oppose the perspective that, going

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<sup>176</sup> To remind the reader: extortion (e.g., threatening contamination of food products), espionage (e.g., competitors that search commercial advantage by illegitimately accessing intellectual property), and cybercrime (e.g., credit card fraud in restaurants or hacking of agricultural technology).

beyond legalistic definitions, theorises food crime as a threat to food that, for example, can generate issues of social injustice concerning food access or, practices of exploitation of labour, denies just working conditions inside the food supply chain (Gray and Hinch, 2015; Tourangeau and Fitzgerald, 2020). Institutional approaches need to refer to the law and, in this sense, even without a specific legal definition of food crime, they need to look at illicit food practices from a legally defined perspective. However, in doing so, they refuse institutional interventions against activities that are merely unjust or immoral (Gray, 2018) and that, in the end, cause issues of social injustice. Second, even when institutional discourses of food crime broadly refer to *other* food-related practices, such practices are considered only as collateral to food crime practices. For example, when public agencies refer to the exploitation of labour in the food sector, they do so in the context of illegal migration or by considering such practice as a serious crime that, only indirectly, impacts the food system. Further, authorities seem to lack the capability of conceptualising or policy-constructing food crime as a multi-faceted form of both harmful and criminal practices that threaten the whole food system. Indeed, adopting a broader conceptualisation of food crime could enable the authorities to identify pitfalls in the food system better and consider social justice issues and social harms in the food sector.

Concerning the Italian approach, there is one specific case where the narrow conceptualisation of food crime that coincides with food fraud as prescribed by the criminal law sets aside this legalistic perspective in order to include a type of practice (the so-called '*Italian sounding*'), which violates the civil law by causing detriment to the reputation of the Italian food sector. In this case, according to Italian institutions, food crime is what the law says (i.e., food fraud), however, on the other side, it is possible to include under the food crime label a specific type of counterfeiting (that is, selling fake Italian products by using marks and symbols that falsely denote Italian origin) that is a breach of civil law. One of the experts argued, "*anti-food crime responses particularly protect the origin of products especially since,*

*within the European legislative framework, there is no regulation that specifically punishes misleading practices that ‘mock’ typical Italian products*”<sup>177</sup>. In other words, despite not being a violation of the criminal law and, hence, not being a food crime according to the institutional conceptualisation, the practice of ‘*Italian sounding*’ is considered within discourses of food crime and, eventually, elevated to the category of food crime because of the relevance of the juridical values protected by the law, i.e., the brand ‘made in Italy’ and the reputation of the Italian food market. In this sense, from the perspective of Italian authorities, unlike the case of issues of social justice (e.g., access to food), the protection of food market reputation is a public interest that is important enough to justify an expansion of the narrow conceptualisation of food crime in order to include a non-criminal practice.

Despite the convergences regarding the lack of legal definitions and the shared *narrow* conceptualisation of food crime formulated by the institutions, the findings show a clear divergence between the English and Italian approaches regarding the conceptual avenues adopted to construct the conceptualisation of food crime.

In England, food crime is a serious food fraud because food crime is *incrementally* constructed as an ‘upgraded type’ of a fraudulent food practice that is serious. Indeed, the expression ‘*food crime*’ is often used interchangeably with the expression ‘food fraud’ in the relevant English institutions (British Standards Institution et al., 2017; National Food Crime unit, 2016a). Moreover, beyond the academic literature (Croall, 2007, 2009, 2013), England has been the first country whose official institutions formulated and adopted a working, policy-constructed definition of food crime: from the Committee appointed by the government in order to investigate the consequences of the horsemeat scandal to the Food Standards Agency and the National Food Crime Unit, public institutions refer to food crime as a serious and organised form of food fraud, which is detrimental to the safety and authenticity of food

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<sup>177</sup> Interview with RP.

products (British Standards Institution et al., 2017; Elliott et al., 2014; National Food Crime Unit, 2016a). For instance, the Food Law Code of Practice defines food crime as “*serious food fraud of serious scale (...). The food crime is more likely to have cross-regional, national or international reach, that there is significant risk to public safety, or that there is a substantial financial loss to consumers or businesses*” (Food Standards Agency, 2017: 28). Put differently, according to this official standpoint; food fraud transforms into the sub-type of food crime when it becomes a serious and organised practice that is perpetrated by groups with the specific aim of deceiving or injuring consumers. In light of this, if the efficacy of the label ‘*food crime*’ is questioned by the fraud expert who argues that, in the end, food crime is not different from a simple fraud committed in the food sector<sup>178</sup>, this label is in fact welcomed by the prosecutor who underlines the critical role played in stressing the seriousness of a specific (food) fraud that, because of its seriousness, is upgraded to the level of (food) crime<sup>179</sup>.

According to Croall (1988, 2009), an offence must be serious and blameworthy enough to be prosecuted in criminal justice systems. Every jurisdiction embraces its own ‘*paradigm of seriousness*’, intending to justify intelligence-led policing, which identifies serious crime related to the law, the law parameters, high bar levels, and the punishability level of the crime (Lavorigna and Sergi, 2016). Moreover, the seriousness of wrong activities is linked to how criminal justice systems tackle crime (O’Connell and Whelan, 1996) and the amount of harm caused by criminal acts threatening public values such as public health or consumers’ trust (Edwards and Levi, 2008). It can be argued that every criminal justice system develops different perceptions regarding the seriousness of what is considered wrong. These perceptions might vary from one criminal justice system to another per the cultural features and historical events that characterise the system (Nelken, 1996). Regarding food crime, the English criminal

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<sup>178</sup> Interview with ED, see chapter 4 section 4.3.

<sup>179</sup> Interview with JP.

justice system uses the *seriousness* of fraudulent food-related practices to upgrade to the level of (food) crime a threat (fraud) otherwise perceived not so ‘seriously’.

In Italy, the concepts of food crime and food fraud overlap through an approach that labels as food crime only those activities that fall under the postulate of criminal law. As identified, Italian institutions do not embrace any policy definition of food crime; instead, the label ‘food crime’ encapsulates only the different forms of fraud criminalised by law as crimes against public health and the economy. This approach is probably more typical of civil law legacies where legal principles and juridical values are transferred into a written body of law. In this sense, this is a very norm-centred view that contrasts with the vagueness caused using the media label ‘*agromafie*’ that, as chapter 8 will discuss, creates terminological and conceptual confusion concerning the type of criminal actors involved in food crime.

To conclude, one final reflection must be made. Either in a policy-constructed approach that upgrades food fraud to food crime through the seriousness of the practice or in a law-centred approach that labels as food crime only what is criminalised under criminal law, relevant institutions in charge of fighting food crime need operational and regulatory definitions when it comes to tackling offences committed in the food sector. Official views on food crime are narrower than the academic view that embraces all those harmful and criminal practices in the food sector. Indeed, to be effective, official approaches need to be more practical (also investigation-wise) and, in this sense, need narrower conceptualisations and operational definitions. However, the conceptual and definitional choices made in both the Italian and English perspectives seem underdeveloped as, practically, they frame food-related offences only as crimes against consumers and economy. Other factors should be considered when tackling illicit activities in the food sector: food crime is not only a matter of fraud, food safety, and authenticity but also an issue of environmental sustainability, just access to food, ethical consumption, and animal protection.

## 2.2. Juridical values underneath anti-food crime responses

After analysing the rationales behind English and Italian official approaches in conceptualising food crime activities, this section shall now consider the similarities and differences in public interests and judicial values protected under such official conceptualisations. In brief, these are the main juridical drivers behind institutional responses against food crime: 1) public health that is protected by the protection of food safety, food integrity, food traceability; 2) consumer's trust that is protected by covering food authenticity; 3) market reputation concerning the protection of national economy and, in the case of Italy; 4) food culture. The divergences between the two approaches mostly lie in public health's relevance in England and the primacy of market reputation and food culture in Italy. Suppose public health is the juridical interest at the backbone of the English approach. In that case, the protection of origins and quality of food products and, eventually, the Italian food sector's reputation are the main juridical interests and principal drivers of policies and regulations against food-related crimes in the Italian approach. Moreover, in the latter, specific importance is dedicated to protecting food culture, which is considered a separate juridical value that must be protected under the law.

First, concerning public health, the two countries share convergences to the extent that food crime is, at first, conceptualised as detrimental to food safety and, in connection, harmful to public health. Indeed, public health protection has traditionally been the first target of national responses against food crime (British Standards Institution et al., 2017; Elliott et al., 2014; National Food Crime Unit, 2016a). The *excursus* on the regulatory framework of both countries shows that, after the outbreaks of food scandals, jurisdictions often introduce emergency regulations to protect the public health (see for instance the 1990 Food Safety Act in England and the establishment of the Food Standards Agency after the BSE epidemic in England, or the adoption of law n. 283/1962 on public hygiene and food safety and creating the specialised Carabinieri NAS unit after the 'bottled-donkey' scandal in Italy).

In England, the whole concept of food crime as a serious type of food fraud has been created around the concept of food safety that is formulated as a tool to protect public health, as in the words of one of the EFRA parliamentary experts: “*Why do you care about food crime? The answer is ultimately public health*”<sup>180</sup>. Indeed, in the official approach, the distinction between food fraud and food crime lies on the level of seriousness of harm eventually caused to public health: concerning the juridical values underneath the conceptualisation of food crime, food fraud is a matter of food safety that, when serious, becomes a problem of public health (i.e., food crime). Thus, public health seems to be the first and most central public interest considered in England’s institutional response against food crime.

In Italy, the protection of public health and food safety are also juridical values protected by the law in the fight against food crime (Ministero delle Politiche Agricole, Alimentari, Forestali e del Turismo, 2018; Ministero dello Sviluppo Economico, 2014). In fact, some of the food crime charges (more specifically, the so-called ‘*sanitary frauds*’ charged at articles 439, 440, 442, 444 of the penal code) are situated in the section of the penal code that specifically addresses the protection of public health. Nevertheless, in the Italian approach, public health does not seem to be as central as in the English approach.

Second, since food offences have been traditionally framed as crimes against consumers (Croall, 1988; Pointing, 2005), consumers’ trust and, accordingly, food authenticity and food quality are the other juridical values protected in both English and Italian approaches. The protection of consumers’ trust is related to protecting the national economy and, ultimately, protecting the food sector’s reputation. This happens in both national experiences but is particularly evident in the Italian approach. Despite the food market’s reputation as a juridical interest supported in both approaches, the food market reputation encompasses more considerable relevance in Italy for two main reasons. On the one hand, the market’s centrality

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<sup>180</sup> Interview with EP.

can be linked to the economic profitability of the Italian economy's food sector, especially when it comes to food exports (Cappellini, 2018). On the other hand, it can also be associated to the relevance of the national brand '*made in Italy*' as becomes apparent when looking at the interviews that stress the significance of the '*made in Italy*' brand, especially when this is harmed or endangered by the so-called practice of '*Italian sounding*'. For example, a report published by the ICQRF frames this practice as the "*distortion of the concept of Italian product, Italian cuisine and, more in general, of the 'Italianness' of the products, in detriment of the image of our wine-gastronomic culture*" (Ministero delle Politiche Agricole, Alimentari, Forestali e del Turismo, 2018: 48). In this case, the importance attributed to the reputation of the '*made in Italy*' brand and, by extension, to the Italian food market is so vital that, as seen above, despite not being a crime punished under criminal law but a violation of civil law (more precisely, of the regulation on intellectual property), '*Italian sounding*' is the only harmful, non-criminal practice that the institutions frame as food crime. Interestingly, despite the many PDO and PGI English products<sup>181</sup>, the protection of the '*made in England*' food brand and, more broadly, the market reputation did not emerge as strongly from the findings. This could be explained by referring to the lower volume of English food exports<sup>182</sup>.

Third, as aforementioned, in the Italian approach food culture is another central juridical interest protected by anti-food crime responses. More precisely, in the experts' perspective, food culture is a public interest that, when threatened by food crime activities, is particularly protected by the law because it is "*part of the Italian cultural heritage*"<sup>183</sup>. In this sense, institutions seem to tackle food crime to defend the Italian food culture as juridical with cultural value to protect. Moreover, by claiming that food must be protected since the

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<sup>181</sup> A complete list of the UK PDO and PGI products is accessible at <https://www.gov.uk/government/collections/protected-food-name-scheme-uk-registered-products>.

<sup>182</sup> As mentioned in chapter 2, Italy is one of the countries with the largest volume of food export, while the whole UK is one of the largest food importers in the world.

<sup>183</sup> Interview with RT.

traditional Italian food culture needs to be safeguarded from criminal practices, public authorities consider food culture as a driver that justifies regulatory and policy responses towards food crime. Besides, when considering food as cultural heritage to protect from crime, the institutions consider food a cultural and juridical value that must be supported and protected by the law beyond the juridical values of public health, national economy, or market reputation.

Interestingly, food has often been intertwined with culture in socio-anthropological literature. Food contributes to defining and developing the cultural and social identity of a particular society (Coveney, 2014) and food products are shaped by cultures that use food as an essential part of rituals, symbolising specific values where food is encumbered with various social and cultural significance (Douglas, 2003). In addition to this, criminological literature has analysed the relationship between culture and crime and how these are often intertwined in criminal justice (Nelken, 1996, 2010). According to studies of cultural criminology, culture contributes to shaping and constructing responses to criminal phenomena perceptions (Ferrell, 2004). These perspectives might explain why socio-legal cultures (like Italy) where a culturally-embedded object – such as food – assumes such a central position in institutional responses against criminal phenomena such as food crime. Clearly, in other societies (like England), such cultural embeddedness might be less evident or absent in the perspective of law enforcement. Indeed, if in the English approach, the protection of food culture did not emerge as a juridical value underneath anti-food crime responses, it must be highlighted that a reference to culture in the English perspective has also appeared in the data. More precisely, interviewees argue that the reaction triggered by the horsemeat scandal in England has been so crucial as in the English society eating horsemeat is repugnant because of the cultural attachment to horses (Croall, 2007). This is seen as the cultural element that has generated and directed media and public attention towards the food crime activities perpetrated in the horsemeat scandal (Barnard and O'Connor, 2017). In this case, culture might explain the public reaction and the

classification of the horsemeat fraud as a serious food crime, yet, in the English approach, culture is not explicitly framed as a public interest that shapes the institutional perception and response against food crime.

To sum up, this section has confirmed the adoption of a narrow conceptualisation of food crime and the presence of an overlapping line that stretches across food crime, food fraud, food safety, and food authenticity. Despite adopting divergent conceptual paths, when England and Italy's criminal justice systems conceptualise food crime, they both embrace a narrow perspective according to which, respectively, food crime is either a form of serious food fraud or overlaps with food fraud. Moreover, in both approaches, the conceptual overlap between food crime and food fraud leads to the inclusion of different public interests protected by criminal law. The law aims to protect public health and public (consumers') trust when protecting food safety and food integrity by targeting food fraud and it also supports the national economy and financial wellbeing by protecting food quality and authenticity. Furthermore, in Italy, the protection of the Italian food sector's reputation and Italian food culture assumes particular importance in tackling food crime. In line with the *narrow* conceptualisation of food crime that excludes criminal and harmful practices that go beyond food fraud, when identifying the juridical interest to be protected by the law, both jurisdictions fail to consider values such as fair and equal access to food, food security, protection of the environment, environmental sustainability (also concerning food waste), protection of labour conditions, and social and dietary norms and beliefs.

### **3. Investigating food crime**

After analysing the conceptualisation of criminal offending as encapsulated by the law and formulated by regulatory bodies, one of the aims of comparative criminal justice is to shed light on the convergences and divergences of the different policing approaches across different jurisdictions (Nelken, 2010). Therefore, this section will focus on the way law enforcement

investigates food crime in England and Italy. As outlined, this is the criminal justice dimension, where more divergences between the two approaches are revealed.

First and foremost, as visible from the roles and institutional affiliations of this research's participants (see chapter 2), the two jurisdictions adopt different policing systems in terms of law enforcement bodies involved in investigating food crime. On one side, the English approach entails a localised policing model where investigating and prosecuting food crimes is in the remit of local authorities responsible for law enforcement to protect the central juridical values protected by the law. Environmental health departments oversee the enforcement of public health and food safety regulation, while Trading Standards are responsible for quality and consumers' trust. Since 2019, the National Food Crime Unit is also in charge of investigating as the central intelligence force for food crime. However, to date, it does not have powers of enforcement; in this sense, the NFCU exercises an intelligence-led function rather than policing and prosecution. On the other side, in the Italian approach, most of the investigations and enforcements are conducted by several national police forces (i.e., Departments of Carabinieri, Fiscal Police and ICQRF expert officers) in charge of protecting the juridical interests covered by the law. From food safety to food traceability checks, these forces investigate and tackle the different issues related to food crime. According to the experts, the Italian system shows good cooperation among law enforcement authorities.

The localised approach adopted in England highlights two aspects: 1) since the local authorities are under-resourced (Croall, 2009) and often under-trained to tackle food crimes, there is a high chance of not addressing illicit practices as issues of food crimes and, as the following section will discuss, this further results in applying safety regulations such as the Food Safety Act instead of the Fraud Act or other criminal charges; and 2) in light of this lack of resources, there is the perception of a lack of appropriate guardianship according to which food crimes are often under-investigated that translates into a lower chance for criminal actors

to be caught that, in turn, represents an incentive for criminals to enter the market. It can therefore be argued that, in the English approach, the way food crime is policed does not match the conceptualised seriousness of food crime – indeed, Operation Boldo has been one of the few cases where a police force (City of London Police) has been practically involved in tackling food crime as a serious crime. In other words, the *incremental* conceptual approach, according to which food fraud upgrades to food crime when serious and organised, should have consequences in policing criminal food practices. If local authorities oversee investigating food fraud, police are usually involved in policing food crimes as has happened in the horsemeat scandal. Thus, in this approach, the conceptualisation of food crime has consequences also from an investigational point of view as it allows (rather, should allow) law enforcement bodies to adopt more proper operational responses conducted by a competent law enforcement unit specialised in investigating criminal activities committed inside the food supply chain. Instead, it seems that the seriousness of food crime at a conceptual level is not followed by a policing model that treats cases of food crimes as serious crimes. In fact, if food crime practices are tackled by local authorities that enforce the Food Safety Act and, in doing so, treat criminal practices as regulatory violations, this means that, from a policing perspective, food crime is not as serious as in its official conceptualisation. Indeed, as argued in the literature, the success of food fraud investigations (and prosecutions) depends on the resources and expertise of law enforcement bodies to investigate food fraud and, also, on “*cultural preferences within policing authorities as cops are unlikely to view food fraud, especially if complex and time-consuming, as a real policing priority*” (Flores Elizondo et al., 2019: 56). Furthermore, by focusing on safety and quality checks, local authorities do not focus on possible fiscal consequences of food crime, as argued by one of the Trading Standards’ officers who

highlights that: “*because traditionally we’ve gone Food Safety Act, the investigation tends not to involve a financial investigator*”<sup>184</sup>.

Considering this, in the English approach, food crime can be generally associated with a low level of deterrence in policing and, as the following section will discuss, in terms of sentencing. Indeed, the food field is typically believed to have low deterrence levels (Pointing, 2005). Moreover, investigations are lengthy and complicated due to the transnational character of food crime practices that are often committed across borders and the high level of technological and scientific know-how needed to tackle highly sophisticated frauds. In this sense, a better harmonisation of legal frameworks at European and international level (especially, in the perspective of Brexit) and increased cooperation amongst law enforcement bodies regarding the knowledge and investigative techniques would be highly beneficial in the fight against food crimes.

On the other hand, in the Italian approach, police forces and ICQRF officers with judiciary powers are always involved in food crime investigations. There seems to be a higher level of cooperation amongst authorities and access to a broader spectrum of investigative knowledge and operational tools in this context. More precisely, the fact that many departments of police specialise in different sectors such as food safety and public health (Carabinieri NAS), food quality and traceability (Carabinieri NAC), potential involvements of organised crime in food crime (Carabinieri ROS), and fiscal irregularities (Fiscal Police), all widen the range of policing investigative strategies against food crime practices (e.g., telephone and environmental wiretaps). In this way, involving different police forces allows the examination of several dimensions and consequences that a food crime practice could entail. Moreover, investigating the whole food supply chain can allow law enforcement to find out further crimes (e.g., money laundering) and discover the nature of the criminal actors involved and the extent

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<sup>184</sup> Interview with ER.

of the criminal networks (see Operation Arbequino and Provvidenza). For example, the process through which foreign-produced food products imitate ‘*made in Italy*’ food products (*‘Italian sounding’*) is often followed by tax evasion, as the profits gained from the sale of the fake product are taxed in countries where fiscal regulations are lenient. In this sense, the narrow conceptualisation of food crime that overlaps with the fraudulent practices criminalised by the law does not seem to be reflected in policing food crime where, instead, a broader perspective that considers a broader scale of crimes happening along the food chain is adopted.

### **3.1. Great profits, low risks: Dysfunctionalities and structural issues of the food supply chain**

Regarding the practicalities of food crime investigations, in both countries, the relevant authorities identify specific factors that, from the experts’ perspectives, are considered to incentivise the commission of food crime or to signal the presence of such food-related criminality concerning: a) the high attractiveness of the food market and its economic profitability; and b) the dysfunctionalities of the food system such as the length of the food chain and the presence of intermediaries and brokerage stages where there are plenty of opportunities for criminal actors to enter the market.

First, as the food sector is typically considered safe from economic shocks, economic-oriented literature has often argued that criminals can make high profits in this sector (Moyer et al., 2017). Moreover, studies show that the agri-food sector hardly suffers from microeconomic shocks and macroeconomic crises (Crescimanno et al., 2014) and can reach high volumes and consistent margins of profit, especially when food products enter the wholesale. Second, in both the English and Italian perspectives, the food sector’s economic profitability and the length and complexity of the food supply chain are considered facilitating factors that lead to the commission of food crime. In fact, the food system structure reveals pitfalls and gaps between the stages of the supply chain that facilitate the infiltration of criminal actors, mostly between production and retail phases.

The structural weaknesses of the food system have often been analysed and debated in the context of European policies and strategies (European Parliament, 2013) and the criminological and sociological literature (Barnard and O'Connor, 2017; Lang and Heasman, 2004; McDowell, 2017). As cited in chapter 3, some scholars have identified dysfunctionalities and criminogenic factors<sup>185</sup> of the food market that ease the perpetration of criminal activities such as food fraud and exploitation of labour (Croall, 2013; Davies, 2018, 2020; Flores Elizondo et al., 2019; Lord et al., 2017a). Despite acknowledging that this is not restricted to the food sector, Cheng and Asomah (2018) use the theoretical concept of '*cheap capitalism*' when referring to the economic context in which illegitimate production and sale of unsafe food develop. In this analysis, the authors refer to an economic system characterised by low prices, inferior qualities, unsafe conditions of goods and services where morality is degraded, and criminal activities are facilitated (Cheng, 2012). Likewise, Lord et al (2017a) argue that several endogenous, cultural, and structural conditions of the food system lead to the commission of food fraud (intended as a type of food crime).

Moreover, concerning theories and principles of routine activity theory, these scholars adopt the situational prevention theory in order to spot and analyse the circumstances and opportunities of the food sector that ease the commission of crimes that are the absence of capable guardianship (as it matches with the above-discussed findings), the presence of a motivated offender and a suitable target (Lord et al., 2017a; Lord et al., 2017b; McElwee et al., 2017; van Ruth et al., 2018). Interestingly, Bellotti et al. (2017) also identify the pressures and drivers of food systems that influence food fraud criminality: on the side of the supply, market volatility and economic stress can lead to increase and decrease of supply and prices; while, on

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<sup>185</sup> By criminogenic, I refer to the structural and quality conditions of the modern food system that favour the commission of food crimes (Croall, 2013).

the side of the demand, facilitative environments and ineffective monitoring of movements of goods could mean that customers can be defrauded; moreover, concerning the market competition, dis-functional markets can distort competition opportunities and normalise cultures of non-compliance and deviance; lastly, confirming that highlighted above, fragmented regulatory frameworks, inadequate enforcement resources, lack of capable guardianship and jurisdictional difficulties due to the often transnational dimension of food frauds enhance the opportunities to commit food crime. The conditions and factors mentioned in the literature coincide with those mentioned by interviewees, and that emerged from the documentary sources. More specifically, in the Italian approach, there is attention to the gaps between the different stages of the food supply chain and how these gaps can facilitate food crimes. Here, the focus is more on intermediaries or brokerage stages between production and distribution, creating opportunities to commit adulterations and mislabelling practices. Similarly, in England, the complex structures of the food supply chain and the high level of market power concentration on a few corporate actors are the main food crime facilitators. Interestingly, according to (Regan et al., 2015), in the context of the horsemeat scandal, UK consumers – considered the final victims of the scandal – believed that the food system's complexity had facilitated those actions responsible for the horsemeat contamination.

In short, both countries' perspectives converge with the food market as the ideal economic environment for the commission of crimes because of its dynamics, structures, organisations, and cultural behaviours that push the actors to access the market and commit crimes. From a policing point of view, investigators should look closely at how the food systems work to prevent and tackle criminal practices and, moreover, should adopt a broader perspective on the issue of food crime to be able to spot illicit practices at every stage of the food supply chain.

### 3.2. Food crime as business crime

Lastly, another similarity between the English and Italian approaches in policing food crime lies in the perception and related treatment of food crime as a form of economic or business crime. In fact, both jurisdictions recognise the entrepreneurial typology of the actors who commit food crime. More precisely, in the view of English and Italian institutions, food crime is a form of business crime, perpetrated by legitimate individual and corporate food businesses who, from production to distribution, act criminally to make profits<sup>186</sup>. In the words of one of the experts of the Elliot Review, “*food crime is committed by food people*”<sup>187</sup> and, similarly, according to the Italian Antimafia national Prosecutor for environmental and agri-food crimes, “*food criminality has the typical characters of economic or business crime usually perpetrated by agri-food criminal centres*”<sup>188</sup>. These perspectives converge with the literature according to which the role of different types of corporate criminal actors (pure corporate, state-corporate, and white-collar) in the food system has often been critically discussed (Bleakley, 2019; Croall, 1989, 1992, 2009; Friedrichs, 2010; Lord et al., 2017a; Lord et al., 2017b; Bellotti et al., 2017; Newman, 1957; Walters, 2007). From these standpoints, it is possible to conceptualise food crime as a form of corporate or white-collar crime and shed light on the role of private industry practises concerning food harms and, broadly, transnational relevance corporations in the global food system. Debating how the organisation of legitimate corporate players such as food companies, is structurally criminogenic and ontologically leads to criminal acts, Tombs and Whyte (2015) essentially argue that profit-seeking corporations are the actors who commit food-related crimes.

Similarly, when framing food fraud as a type of food crime, Lord et al. define it as a “*commercial enterprise crime*”<sup>189</sup> performed by “*legitimate occupational actors for some*

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<sup>186</sup> Interviews with CE, FE, SB, JP, DP, RT, NG, and TP.

<sup>187</sup> Interview with CE.

<sup>188</sup> Interview with RP.

<sup>189</sup> By enterprise, the authors refer to a set of economic and market processes (Bellotti et al., 2017).

*form of profit or advantage in the food system*” (2017: 5). Moreover, Croall (2010) refers to mid-range businesses in farming and food production as food crime actors, whilst, looking at agri-food crime as a specie of rural crimes, Smith (2004) identifies rogues placed at the rural side of the food market and, more widely, rogue-entrepreneurs and food-industry-insiders performing illicitly (Smith et al., 2017). Indeed, the increasing globalisation and the concentration of the food market in the hands of a few companies have created an oligopolistic system controlled by multinational corporations that can dictate cheap and dangerous conditions for production (Tombs and Whyte, 2015). Indeed, studies have often identified four major transnational corporations that rule the market of wheat (the so-called ABCD companies), are involved in the selling, production, and processing stages and have strategic alliances with seed and agrochemicals businesses, such as Monsanto, Dupont, Syngenta and Limagrain (Clapp, 2015). Considering the power of big agri-food corporations, Leon and Ken (2017) claim that it is statistically inevitable that the commission of food crimes will be strictly linked to the corporate power and De Waal (2002) uses the label *'famine crimes'* to describe the immoral activities committed by Western corporations to exploit global hunger and control food networks. Undoubtedly, business mergers and corporate power create concern regarding many issues such as food security, food safety, and food integrity. Not only do these theoretical reflections and studies upon the entrepreneurial, business-shaped, and corporate nature of food crime actors match the institutional perceptions in both England and Italy, but they also reinforce the aforementioned dysfunctionalities of the food system that facilitate and incentivise the commission of food crimes and that, ultimately, attract criminals to enter the food market. Put differently, policing food crime as a form of economic crime is undoubtedly beneficial as it allows the law enforcement to clearly identify the criminal actors involved in food crime activities as it also concentrates the investigative efforts inside the food system that, as seen, is highly criminogenic (Croall, 2009).

Interestingly, the Italian approach acknowledges that food crime is a form of economic crime perpetrated by corporate actors. However, it also considers the infiltration of mafia groups inside the legitimate food sector. In short, when looking at investigations of food crime, if an activity involves a mafia group, this criminal practice will be investigated by anti-mafia police (i.e., the local sections of *Direzione Investigativa Antimafia*) and by an anti-mafia prosecutor in the context of investigating the dynamics and involvements of the mafia-type group. Indeed, organised crime also plays a role in food crime, and, eventually, this finding matches the idea that economic globalisation has created new chances for both corporate and organised crime to expand their activities and business in multiple markets such as the food sector (Ruggiero, 1996).

Finally, one might ask why, with relevant exceptions (see the horsemeat scandal), the English approach does not entail police investigation of food crime. One might wonder if there is an actual interest in policing food crime or, in other words, in investigating food crime as a form of serious crime rather than fraud. It can be argued that other crimes are investigators' priorities (see the NCA list of serious crimes). This approach could change if the NFCU gains powers of enforcement and prosecution: in fact, the NFCU has entered the second phase of its establishment and so should eventually gain more powers, hopefully before the end of the Brexit transition period when even more criminal opportunities to commit food crimes might arise<sup>190</sup>.

In short, as for the conceptualising dimension, in policing food crime, there are both points of convergence and divergence between the two approaches. Briefly, in both countries, the institutional perception believes that food crime actors are corporate businesses and entrepreneurs who are incentivised and facilitated to commit food crimes by the structural

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<sup>190</sup> As mentioned, I submitted this thesis during the Brexit transition period and before the release of the 2020 NFCU Strategic Assessment. The NFCU is now considered as the law enforcement capability within the FSA.

flaws and complexities of the food supply chain. Nevertheless, due to different traditions in policing, the practical way criminal justice is delivered through the law enforcement takes divergent paths: a localised approach associated with the intervention of under-resourced local authorities in England, corresponds to a centralised approach where investigating food crime is the remit of police forces who collaborate with other expert authorities with the function of Italian judiciary police.

Lastly, it could be interesting to broadly consider the interests beyond policing food crime as an aside. In Italy, law enforcement might fear the reputational risk of food frauds. However, if, for instance, an Italian food company sells adulterated olive oils by mixing Italian and foreign blends, the reputational risk would translate into actual harm (i.e., harm to the national economy because of the reputational loss) only if the final consumers can spot the differences in the oil blends. In this sense, one might say that in Italy, the reputational risk is high (because the protection of the market is the essential juridical interest) and therefore food crime is ‘seriously’ investigated by the police, i.e., with appropriate investigative tools and resources. Along the same line of reasoning, in the English approach, food crime should be seriously policed when there is a public health risk and thus, since adulterations usually do not have lethal consequences, eventually, it is policed by under-resourced local authorities.

#### **4. Prosecuting food crime**

By mostly drawing upon the legal case studies presented in chapter 6, the final stage of analysis of the convergences and divergences between the English and Italian institutional approaches to food crime will focus on the practical and procedural differences in prosecuting and sentencing food crime – i.e., how food crime is prosecuted in courts, which charges are applied and what are their rationales. First, it is worth repeating that there are significant legal and cultural differences regarding the prosecutorial systems of the two countries (Nelken, 2010). England is a jurisdiction of common law legacy that adopts an adversarial prosecution system

that develops around the contest between the accuser (the state) and the accused, and where investigation and prosecution are strictly separated. At the same time, Italy embraces a civil law system with a mixed prosecution system of both adversarial and inquisitorial, where prosecutors are actual magistrates who can direct the judiciary police for the requirements of prosecution and evidence. Considering these divergences, prosecution is the area of comparison where one could expect the most evident and relevant differences between the two jurisdictions.

Nevertheless, the findings show fascinating similarities in how food crime is practically prosecuted and sentenced in court. In both jurisdictions, food crimes are typically charged as simple torts or administrative breaches. Per the legal case studies, despite the conceptual divergences, in the case of collective actors, the charges of conspiracy to defraud in England (see Operation Boldo) and membership in criminal association in Italy (see Operation Arbequino) eventually converge.

#### **4.1. Food offences as regulatory breaches**

In line with the official conceptualisation of food crime as a type of criminal behaviour related to food fraud, both jurisdictions endorse the application of specific criminal regulation to tackle food crime. These are the Fraud Act or the common law charge of conspiracy to defraud in England (Food Standards Agency, 2017), and the offences of the penal code that punish fraud in Italy (see articles 515, 516, 517, 517 quater on the different forms of commercial fraud). However, prosecutors tend not to apply these charges as administrative food regulations breaches are preferred. In fact, in England, the NFCU annual assessment refers to food crime as “*dishonest regulatory non-compliance in relation to food, drink and animal feed*” (2016a: 55). Moreover, the English approach has historically addressed food crime as a matter of food safety (Rizzuti, 2020) and, as typical for environmental offences, it prescribes administrative breaches of food regulations such as the 2009 Food Safety Act (Pointing, 2005). This type of

food regulation comprises offences of strict liability and mainly provides a regulatory framework to food inspections and investigations in the context of food safety and traceability concerns.

Moreover, according to the experts, such an approach that frames food-related criminalities as regulatory breaches seems suitable in terms of procedural practicalities and assures more chances of conviction. However, it does not consider the criminal (or even fraudulent) dimension of the food crime issue. Moreover, as argued by Lord et al., prosecuting for an administrative offence – or, as the authors call it, adopting an “*Al Capone approach*” – might lack “*an adequate audit trail*” or might entail “*a failure to carry out minimum due diligence*” (Lord et al., 2017a: 617). Nevertheless, despite being useful, this type of regulatory offences does not reflect the other public interests and juridical values protected by the law beyond public health, food safety, and food traceability. Considering this, Flores Elizondo et al. (2019) acknowledge that the Fraud Act covers a broader range of judicial drives and enables more effective enforcement and prosecution of food fraud offences. However, data shows that prosecuting for breaches of safety and traceability regulations is preferred since regulatory acts such as the Food Safety Act are quicker to apply, require a lower burden of proof, involve less investigative effort for enforcement, and are employed by prosecutorial forces such as local authorities.

Prosecuting food crime acts as regulatory breaches of food safety regulation highlights two main issues concerning the English approach. First, it does not match the official narrative that conceptualises food crime as a serious food fraud that should be prosecuted accordingly. Second, the generally low level of deterrence of administrative breaches does not match food crime’s conceptualised seriousness. Put differently, conceptualising food crime as a serious form of food fraud by applying the ‘paradigm of seriousness’ (Sergi, 2016b, 2017) should result

in higher penalties as in the case of other serious crimes<sup>191</sup>. However, the conceptualised seriousness of food crime does not translate into a policing system that looks at criminal practices, also from a sentencing point of view, this conceptualisation of food crime as serious food fraud does not translate into higher sentences.

Similarly, in the Italian approach, food crime offences should be charged as frauds punished under criminal law (Mino, 2013). However, due to their low level of criminal deterrence (i.e., the low penalties imposed) and the short limitation period of such food criminal offences, after the legislative process that de-penalised several criminal offences in the 1990s, prosecutors tend to apply torts that can be quickly enforced by both police and ICQRF officers which, unlike English regulations, impose higher penalties in terms of financial fines and, thus, discourage the commission of such crimes.

#### **4.2. Food offences under conspiracy and membership in unlawful association**

Apart from regulatory breaches, the legal case studies presented in chapter 6 show that, under specific conditions, food crime can be charged under a conspiracy to defraud (in England) and membership in criminal association (in Italy).

In Operation Boldo, the English approach applied the common law charge of conspiracy to defraud, relating to the transnational nature of the activities, their seriousness, and the number of victims involved. Unlike the Fraud Act, by highlighting the conspiracy's relevance to commit fraud, this juridical tool represents an overarching charge applied when the criminal act that must be tackled is the agreement to commit such a crime, even if this crime is only attempted. Indeed, the 2007 Attorney General's Guidelines<sup>192</sup> establish that, in cases of fraud cases, the prosecutor should first evaluate whether it is possible to prosecute under

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<sup>191</sup> In the Serious Crime Act 2015, serious crime indicates an offence that is punishable with seven years of jail; whereas, for instance, regarding organised crime, the 2000 UN Convention against Transnational Organised Crime indicates serious crime as an offence that is punishable with four years of jail or a more serious penalty.

<sup>192</sup> It is interesting to note that, despite the more recent conceptualisation of food crime (2013) and the establishment of the National Food Crime Unit (2015), in cases of serious food fraud (i.e., food crime) prosecutors still refer to guidelines that date back to 2007.

statutory regulation (such as the Fraud Act) and, only afterwards, consider if the crime could be charged under a statutory conspiracy (such as the conspiracy to defraud) if the latter charge better reflects the gravity of the offence. Moreover, conspiracy should be used when the criminal activity occurs across several jurisdictions when different types of victims (such as individual customers or companies) are harmed and, lastly, when there is suspicion of organised crime networks. Indeed, prosecuting food crime as a conspiracy to defraud better embodies the seriousness of food crime as in the official conceptualisation.

On the side of the Italian approach, in Operation Arbequino prosecutors have applied the charge of membership in unlawful association (article 416 of the Italian criminal code) established to commit commercial fraud (articles 515 and 517-bis of the criminal code). They have chosen this specific charge by mostly looking at the criminal association's stable and systematic character, and, simultaneously, the organised, durable character of the criminal acts that simple charges of commercial fraud would not tackle. In fact, concerning this, the drafted offence of '*agropirateria*' (see Commissione Caselli) would allow prosecutors to specifically address those agreements that are set up to commit fraudulent practices but that, by being unsystematic, would not permit the application of membership in a criminal association (Procura della Repubblica presso il Tribunale di Siena, 2015). Moreover, employing the charge of criminal association to cases of food fraud encompasses several investigative benefits: in fact, using telephone wiretaps, IT wiretaps (e.g., emails), and other surveillance tools, investigators and prosecutors can discover the fraudulent system when this develops at the beginning of the supply chain, instead of discovering it at the final stage of distribution through simple safety and quality checks.

In summary, the findings show that, in the prosecution of food crime, the English and Italian approaches share fascinating convergences. In fact, despite the conceptualisation of food crime eventually matching food fraud, for procedural practicalities, both countries'

judicial authorities tend to prosecute and sentence under regulatory breaches rather than under criminal offences (such as food fraud in the Italian framework). Nevertheless, as seen in the legal case studies, prosecutors in both jurisdictions can also resort to criminal charges typically used for serious crimes such as conspiracy to defraud (in England) and membership in criminal association (in Italy) that better reflect the seriousness and systematic character of such practices.

### **5. Strengths and weaknesses of the two approaches: Common problems, similar conceptualisations, (dis)similar approaches?**

Through a comparative criminal justice and criminology approach (Nelken, 1996, 2010), by drawing upon the similarities, differences, and points of intersection between the two jurisdictions that this chapter has so far discussed, this section shall briefly summarise the most relevant aspects of perceptions and conceptualisations of food crime in the criminal justice systems of England and Italy. In doing so, it shall reflect upon both approaches' strengths and weaknesses to highlight what – especially in terms of investigating and prosecuting food crime – the two systems could learn from each other. In fact, as already emphasised in the methodology chapter, this is one of the central aims of comparative studies. In this sense, the reflections provided here aim to be read as constructive and functional to widen or strengthen the institutional cooperation and the discussion amongst the two jurisdictions, especially in the perspective of a forthcoming hard-Brexit. These considerations are summarised as follows:

1) In line with the EU regulation, both jurisdictions lack legal definitions of food crime and adopt institutional conceptualisations and policy-constructed definitions that essentially overlap with food fraud. In the English model, food crime is framed as a form of serious and organised corporate fraud. Considering the types of practices considered within this perspective and the public interests and juridical values protected by the law (public health, consumers' trust, and national economy), the concept of food crime is deeply rooted in the concept of food fraud and, to this, in concerns around food safety and authenticity. In this sense, the distinction

between food fraud and food crime rests only on the seriousness of the fraud being perpetrated. This perspective is indispensable in terms of protecting public health. However, it also has some relevant disadvantages. First, focusing on the fraudulent dimension of food crime means embracing a narrow perspective that looks only at the consequences of fraudulent practices in terms of safety and authenticity. Second, as the next chapter shall stress further, by defining food crime merely as serious food fraud, the institutional perspective does not correctly address the actors who perpetrated food-related criminal activities. In the Italian model, food crime matches a corporate form of food fraud through an overlap of the two phenomena considered food crime only at what is prohibited and punished by law. Thus, by encompassing commercial and sanitary frauds punished under the criminal law, the Italian official conceptualisation of food crime appears as narrow as the English model as, under the category of food crime, it does not embrace criminal practices such as modern slavery in the food sector or harmful practices detrimental to the environment or endangering food security. However, it must be highlighted that there is one non-criminal activity framed as food crime, this being the fraudulent practice of *'Italian sounding'*. By tackling this practice, the civil law that protects intellectual property tackles the fraudulent productions of non-genuine products carrying fake Italian origins. This activity is not a crime under legal terms, yet it is illegal and detrimental to the Italian food market's reputation and the *'made in Italy'* brand. According to this, if public health is at the backbone of the English conceptualisation, within the Italian approach, food authenticity – in terms of protection of origins and quality of food products – seems to be the main driver of policies and regulations against food-related crimes. Furthermore, another juridical value addressed by the Italian conceptualisation of food crime refers to the protection of food as part of the cultural inheritance that characterises the Italian society. This cultural-centred perspective differentiates the Italian model but could also be considered questionable. In fact, by mainly focusing on the Italian authenticity, quality, and protection of *'made in Italy'*, one

might wonder whether this label of *'Italianness'* might signal dubious responses according to which cultural differences justify the perception that the national approach is better and more efficient than the one adopted by other jurisdictions. In other words, this idea might represent a case of cultural ethnocentrism (Nelken, 2009).

2) Under the conceptual category of food crime in both jurisdictions, the official conceptualisations do not acknowledge or label practices such as the exploitation of labour and, accordingly, do not expressly entail values such as the protection of workers' conditions, which are considered issues of illegal immigration rather than endogenous dysfunctions of the modern, criminogenic food supply chains. Moreover, with the relevant exception of *'Italian sounding'* that, due to its detriment towards the Italian food market reputation, is considered food crime despite being a mere violation of civil law, food harms are not being addressed by official discourses on food crime. Clearly, operational and legalistic definitions and conceptualisations of food crime are necessary for the context of law enforcement policing and prosecuting. Nevertheless, often they do not enable a holistic comprehension of criminal phenomena that cause legalised social harms. In this sense, it is interesting that, in the Italian approach, the only non-criminal activity considered under the food crime label is the practice of *'Italian sounding'*. It seems that the Italian narrative encompasses one form of food harm only when this is detrimental to an economic interest such as the market reputation and not in those cases when the public interests involved are, for instance, the protection of the environment or food security. Criminal justice systems and, more broadly, state institutions should take into consideration unjust, immoral, or quasi-criminal practices such as, for example, the addition of chemicals, the use of questionable practices to boost food components (e.g., watering down meat or the use of additives) or the adoption of misleading packaging policies. As highlighted by green criminological approaches to food crime (Croall, 2013; Tourangeau and Fitzgerald, 2020), there are further factors to consider when tackling criminal

activities in the food sector. Food crime is a matter of fraud, safety, authenticity, and market reputation as well as environmental sustainability, equitable access to food, and ethical consumption, amongst the many other issues. Furthermore, as discussed above, a broader perspective of food crime that includes food harms beyond what is criminalised by law would help law enforcement bodies to investigate the whole spectrum of practices happening along the food supply chain and, ultimately, this would enable to identify food crime practices more effectively. To add to this, such a broad, harm-encompassing conceptualisation of food crime could also increase internal cooperation between the authorities active in the diverse fields, from food regulatory agencies to anti human trafficking law enforcement bodies.

3) Regarding the resources allocated to law enforcement to tackle food crime, the English approach seems underdeveloped. Despite the reshaped structure and improved intelligence and investigative functions of the NFCU, resources given to the law enforcement bodies (especially at the local level) for the fight against food crimes are too scarce. Moreover, devolving food crime investigations and prosecutions to local authorities focused on regulatory safety and quality check, might create difficulties and procedural boundaries to international cooperation in food crime cross-border investigations. Additionally, there is now the actual risk that the economic crisis triggered by the Covid-19 emergency might cause a further public funding restriction that will be mostly suffered by local authorities (Proctor, 2020). On the contrary, concerning the cultural factor and the different law enforcement structure, the Italian approach displays more public resources, especially policing, to protect the food supply chain.

4) Lastly, despite the divergences that emerge mostly in the policing dimension, the similarities in perceiving, conceptualising and prosecuting food crime in the English and Italian approaches open the possibility of creating a shared working definition or conceptualisation of food crime based on common conceptual grounds. Such a shared definition or conceptualisation would improve the international cooperation and the policy harmonisation

at the EU level and, after Brexit, in terms of states' bilateral cooperation. Indeed, a shared perspective seems urgent as a forthcoming no-deal Brexit – and the related withdrawal from the EU food regulations and policies – could pose a grave threat to the food system's security and integrity. In England, this could further worsen the current *status quo* of insufficient law enforcement resources and create new spaces for criminal actors to enter the food sector.

Overall, the comparative approach poses one main question: Is food crime tackled seriously in England and Italy? At the conceptualisation level, in English institutions, according to an intelligence-led definition, food crime is serious food fraud that endangers public health and national economy (in this order of importance); in Italian institutions, food crime is food fraud as criminal category that is detrimental to food authenticity (and market reputation), public health, and food culture. At this level, both jurisdictions recognise the seriousness of food crime. However, with the exception of the harmful practice of '*Italian sounding*' that endangers the '*made in Italy*' brand by causing harms to national economy, both approaches fail to include harmful practices that, despite being detrimental to relevant juridical values (e.g., food security), are not considered as food crime issues. At the investigative level, food crime is locally policed by English local authorities that, being under resourced and often under trained, conduct safety checks<sup>193</sup>; in Italy, police departments are highly involved in quality, authenticity and safety checks. In both cases, the food sector appears under investigated and, hence, attractive to criminals. Finally, at the prosecution level, food crime is not seriously tackled in either jurisdiction. In Italy, the current regulation is criticised for not appropriately addressing the organised character of food crimes that are often treated as (non-criminal) torts; similarly, in England, the centrality of public health is reflected in the application of regulatory breaches instead of the Fraud Act. In the end, the English and Italian approaches do not police

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<sup>193</sup> The NFCU has now centralised powers of investigation, which are justified by the definition of food crime as serious fraudulent wrongdoing.

and prosecute food crime seriously. Neither approach is better. Instead, each country can learn from the other and aim at increased investigative and juridical cooperation. Truly, food crime is not as serious as other criminal phenomena whose investigations are necessarily prioritised and whose prosecutions entail higher penalties. However, this study's comparison has proven the possibility of adopting common conceptualisations (that should include food harms) and highlighted the necessity to increase investigative and prosecution responses.

## **6. Conclusions**

In a nutshell, chapter 7 has conducted a comparative analysis by focusing on the conceptual, investigative, and juridical convergences, divergences, and intersections between the two criminal justice systems under analysis.

First, it has focused on the institutional conceptualisations and working definitions of food crime by highlighting an overarching perspective in both approaches, even if through divergent conceptual paths, any food-related wrongdoing eventually relates to food fraud. More precisely: in the English approach, according to a policy perspective in which food crime is not considered a legal term (Food Standards Agency, 2017), the conceptual category of food crime is *incrementally* formulated as a serious form of food fraud, i.e., food fraud is upgraded to food crime when serious enough to become a crime; in the Italian approach, food crime is precisely what is criminalised by the criminal law, i.e., food crime overlaps with (the different forms of) food fraud, which is tackled explicitly in the law. In both approaches, a whole spectrum of practices, criminal and harmful (e.g., exploitation of labour and legitimate addition of chemicals), are not labelled as food crime practices. Moreover, these narrow conceptualisations only address juridical values such as public health and food safety (especially in the case of England where public health is the backbone of anti-food crime responses) and protection of national economy and reputation of the food market (especially in the case of Italy with the centrality given to the '*made in Italy*' brand).

Second, this chapter has focused on the policing side of food crime, the criminal justice system stage, where the two national approaches practically diverge. On the one hand, in England, the investigative functions are the remit of local authorities as, at a central level, the NFCU mostly exercised functions of intelligence. However, in Italy, there is high police force and judiciary police function authority (e.g., ICQRF) involvement. Moreover, from an operational perspective, the food system appears dysfunctional and criminogenic to the extent that criminal practices are facilitated. Following up, section 3 has also discussed the criminal actors who are perceived to be involved in criminal activities in the food sector, by focusing on the relevant role of corporate actors involved in food crime. According to this perception, in both approaches, food crime is policed as a form of corporate, business, or economic crime, mostly perpetrated by actors already active in the food chain who aim to increase their profits greedily and dishonestly.

Third, by looking at the way criminal justice is practically exercised in court, section 4 has investigated the criminal charges applied to cases of food crime by highlighting the common tendency of charging food offences under regulatory, administrative breaches of safety and traceability regulations (in England) and under de-criminalised torts instead of penal code charges of food frauds (in Italy). Furthermore, the analysis has shown how both systems are equipped with legal tools such as the charges of conspiracy to defraud and membership in unlawful associations that can be applied in food crime cases and that better reflect the seriousness of the criminal act (Operation Boldo) and the associative structure of the criminal actors (Operation Arbequino).

Lastly, this chapter has pointed out how the English and Italian institutional approaches against food crime share positive and negative aspects and how, eventually, critiques could be moved to both models. Above everything, there is the general incapacity of policy and official conceptualisations of food crime to look at the spectrum of harmful and criminal activities

happening along the supply chain beyond the official, narrow conceptualisation of food crime and, in the case of England, the insufficient resources to tackle food crime issues effectively.

The next chapter will now reflect upon the involvement of organised crime in food crime and discuss the formulation of the category of '*organised food crime*'.

## **Chapter 8 – ‘Organised food crime’? Involvements and Interests of Organised Crime and Mafia-type Groups in Food Crime**

### **1. Introduction**

### **2. Organised crime in food crime**

#### **2.1. Activity perspective: The organised character of food crime activities**

#### **2.2. Actor perspective: Involvements of organised crime groups in food crime**

### **3. Involvements of organised crime and mafia-type groups in the food sector**

### **4. The socio-legal typology of ‘organised food crime’**

#### **4.1 Policy outcomes**

### **5. Conclusions**

### **Objective of the chapter**

To unpack and investigate the perception of organised crime involvement in food crime according to English and Italian institutional perceptions and experiences and, accordingly, to discuss if it is possible to formulate the socio-legal typology of ‘*organised food crime*’; to discuss which theoretical construction of organised crime and mafia could support this category and which other theories amongst organised crime, white-collar, and corporate crime, green criminological approaches, could help to reflect upon the utility of such conceptual categories and if there is a practical, legal corresponding treatment or policy correspondent to this conceptual category.

## 1. Introduction

As this thesis has emphasised, the food sector is continuously subject to illegal activities such as adulteration, counterfeiting or exploitation of labour as examples of illicit activities happening globally. In addition to these activities, there are harmful or quasi-criminal practices such as the addition of water, chemicals, and pesticides to food, which are important examples of licit but questionable and detrimental food practices. As seen in chapter 3, these practices are conceptualised in the literature as food crime. On the contrary, as seen in chapter 7, English and Italian institutions share narrower perceptions of food crime and adopt conceptualisations limited to illegal practices that essentially coincide with different types of food fraud. Both media and academic literature have often associated food and more specifically food crime to organised crime (for instance, see Booth et al., 2018; De Rosa and Trabalzi, 2016; Hauck and Sweijd, 1999; Perone, 2018; Pointing, 2005; Raemaekers et al., 2011; Roberts, 2018; Smith et al., 2017; Terazono and Webber, 2020). For example, in Italy, the origins of mafia have historically been linked to the production and sale of lemons since it is argued that, by acting as an “*industry of private protection*” (Gambetta, 1993), mafia provided protection from predation to citrus producers and acted as an intermediary between producers and exporters (Dimico et al., 2017). More recently, the label ‘*agromafie*’ has contributed to creating the public narrative according to which crimes committed in the food sector are unlawful food practices committed by criminal actors, mostly of mafia-type, active in the food sector (Eurispes et al., 2019; Legambiente, 2016; Osservatorio Placido Rizzotto, 2016).

Since the aim to unpack the involvement of organised crime in food crime has been the main starting point of this study, by drawing on the examples of the English and Italian criminal justice systems, the thesis shall now deconstruct the assumption regarding the presence of organised crime in the food sector by putting it under scrutiny. More precisely, in replying to research questions n. (2) *The question of organised crime in food crime: Are there involvements of organised crime and mafia-type groups in food crime according to institutions’ perceptions*

*and perspectives in England and Italy?* and n. (2b) *How are the relevant institutions approaching the question of organised crime in food crime in England and Italy? Is it possible to conceptualise a socio-legal typology or category of ‘organised food crime’?*, this chapter shall analyse the perception of organised crime and mafia-like groups’ infiltration into food crime under English and Italian jurisdictions. Considering the experiences of these two jurisdictions as an example, by embracing the comparison undertaken in chapter 7 and by drawing upon further findings, chapter 8 will argue that, when looking at criminal behaviours perpetrated in the food sector, food crime and organised crime are two concepts and phenomena that intertwine. In fact, by providing some examples of infiltration, data show that, at different levels, in different ways, and for different purposes, there is an involvement of organised crime in food crime. Considering this, chapter 8 will reflect upon the formulation of the conceptual category of ‘*organised food crime*’ and its practical convenience. In short, not only does this umbrella concept allow us to conceptualise food crime as a form of both corporate and organised crime, but it could also enable a review of the actual involvement of organised crime in the food sector by shifting from a narrow institutional conceptualisation of food crime towards a broader conceptualisation of food crimes (emphasis on the plural). In fact, by looking at the actor side of the issue, adopting the concept of ‘*organised food crime*’ could lead to more focus (academic and institutional) on the corporate actors involved in harmful and criminal practices in the food sector. In other words, this conceptual instrument could link the two spheres of criminal actors – corporate and organised – and push the remits of the institutional agencies to more collaboration and cooperation. For example, this socio-legal category could help food agencies (such as the FSA, NFCU, ICQRF or NAS) to tackle issues beyond food fraud (e.g., the case of exploitation of labour) and to detect crimes that are usually linked to food crime (e.g., the financial irregularities that revealed the food fraud in Operation Arbequino).

In brief, chapter 8 will have the following structure. Section 2 shall consider how, from an *activity perspective*, food crime is organised crime by definition; moreover, by drawing upon the legal case studies (Operations Boldo, Arbequino, and Provvidenza), section 2 will show that, from an *actor perspective*, food crime relates to organised crime also concerning the type of criminal actors involved. Section 3 shall widen the horizon by pushing the institutional conceptualisation of food crime towards the broader conceptualisation that considers the other food-related activities and where organised crime actors are significantly involved. Considering the previous two sections, section 4 shall formulate the socio-legal concept of *organised food crime*, and, by merging appropriate criminological literature, will reflect upon its meaning and utility. Finally, the last section will summarise the benefits that such a conceptual tool could provide to food agencies, including those external to criminal justice. Concerning the Italian jurisdiction, since organised crime has historically and culturally overlapped with mafia, the involvements of mafia-type groups (framed as a specific type of organised crime) will be primarily considered.

## **2. Organised crime in food crime**

This section aims to stress how, from the perspective of English and Italian institutions, the phenomena of food crime and organised crime are linked from both an activity and an actor perspective – i.e., by looking at both the criminal practices and the criminal actors involved in food crime. Briefly, by considering the English and Italian jurisdictional examples on the findings presented in previous chapters and by linking the analysis to criminological literature, this section argues that: a) the organisational character of food crime activities as well as the working definitions and conceptualisations adopted by the institutions shape food crime as a form of organised crime (*activity perspective*); and b) despite being mostly committed by corporate actors, there are apparent involvements of organised crime in food crime (*actor perspective*).

## 2.1. Activity perspective: The organised character of food crime activities

In both English and Italian criminal justice systems, food crime is conceptually constructed as a form of organised crime. In a nutshell, considering the official conceptualisations analysed in chapter 7, in the English approach, food crime is serious and organised food fraud, while in the Italian approach food crime overlaps with food fraud that is essentially treated as organised.

More precisely, in England, as pointed out throughout the findings, food crime is formulated as a serious and organised type of food fraud that endangers food safety and food authenticity or food integrity (British Standards Institution et al., 2017; Elliott et al., 2014; National Food Crime Unit, 2016a). To attract policy resources by stressing the threat of food crime, the Elliot Review builds explicitly upon the idea that food crime does not involve random acts committed to deceive but is instead *“an organised activity perpetrated to deceive, and or injure, those purchasing a food product”* (Elliott et al., 2014: 11). Indeed, to highlight the organisation of food crime, one of the Review’ authors refers to the horsemeat scandal as *“a case with clear evidence of organised criminal activity”*<sup>194</sup>. Furthermore, the NFCU argues that food crime is *“serious and complex food fraud”* (National Food Crime Unit, 2016a: 9) and, similarly, discusses the threats caused by food crime to the UK food system by referring to a range of practices that go *“from random acts of dishonesty by individual rogues to organised fraudulent activity by groups who knowingly set out to deceive consumers or expose them to harm”* (National Food Crime Unit, 2016b: 7). In line with the institutional definition and perspectives, the NFCU officer emphasises that *“food crime is about serious and organised criminality undertaken by people already within the food sector”*<sup>195</sup>. Furthermore, in preparation for the second phase of development of its functions, the work of the NFCU was set to be conducted in line with the government’s Serious and Organised Crime Strategy through the adoption of the so-called ‘4P’ approach that is based on preventing (food) offences,

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<sup>194</sup> Interview with CE.

<sup>195</sup> Interview with GC.

pursuing (food) offenders, protecting the (food) system, and preparing to mitigate the impact of (food) crime (Food Standards Agency, 2018a). This strategy draws a close connection between organised crime and food crime, at least regarding how the latter should be policed.

In the English approach, the feature of seriousness performs the essential function of upgrading food fraud to the category of food crime or, in other words, according to this perspective if a food fraud is serious, it is therefore organised. Moreover, as already discussed in chapter 7, the level of seriousness and the organisation of the fraudulent activity are the factors that distinguish food crime from food fraud: from a policing perspective, if an illicit food-related activity results in serious food fraud, then the activity is organised and sophisticated enough to be constructed as '*food crime*'. In the literature, the feature '*seriousness*', here used to upgrade serious food fraud into food crime, has been analysed in studies on trading offences against consumers (Croall, 1988). Interestingly, literature and policy discourses have often analysed the seriousness of criminal practices regarding organised crime constructed as complex and serious crimes (emphasis on the plural) through the "*paradigm of seriousness or wrongfulness*" (Lavorgna and Sergi, 2016; Sergi, 2016b). In the context of organised crime, this paradigm suggests a '*process of conceptualisation*' according to which, if a criminal practice is considered serious and sophisticated – i.e., if it creates serious and severe consequences to the victims or if it is punished by high penalties – then, by default, in order to protect national security, this criminal practice must be labelled and tackled as organised crime. This process of conceptualisation of criminal behaviour that, through the paradigm of seriousness, becomes organised seems to apply also to the case of serious and organised food fraud that, when becomes food crime, is constructed as a threat against public health (food safety) and the national economy (food authenticity and food quality). In food crime, the pattern of seriousness refers to the idea of sophisticated illicit practices that become organised crime to protect public interests such as public health and the national economy that,

eventually, are political interests relating to national security. Indeed, since these public interests refer to the protection of people's health and the country's economic stability and wellness, they contribute to the creation of legitimacy and consensus for the government and, in general, for public institutions.

As highlighted, in the Italian approach, food regulatory agencies and criminal justice authorities also embrace a narrow conceptualisation of food crime that, by only looking at the activities criminalised by the law, overlaps with food fraud that eventually is a criminal practice perpetrated in an organised way. The documentary sources show that food frauds are considered sophisticated, organised, and committed by using entrepreneurially-organised structured activities (Procura della Repubblica presso il Tribunale di Siena, 2015). Moreover, food crime practices are considered more serious and, therefore, punished with higher penalties when considered to be organised. In fact, by looking at the regulation, in the penal code (see for instance article 474 ter<sup>196</sup>), counterfeiting practices are charged with more severe penalties when they are organised and committed in a systematic, structured way. Interestingly, despite not explicitly framing food crime as serious food fraud, there is a trace of '*seriousness*' in relation to organised food fraud in the Italian approach. When discussing food crime and the potential infiltrations of mafia-type groups, the National Antimafia office argues that:

*“In relation to article 517-quater of the penal code that covers the criminal offence of trade of counterfeited PDO and PGI food products<sup>197</sup>(...) the criminal law does not provide higher penalties for organised activities that should be tackled specifically in relation to their seriousness”* (Direzione Nazionale Antimafia Polo Criminalità Ambientale, 2017: 3)

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<sup>196</sup> This article tackles the aggravating circumstances in the commission of the crime of trade of counterfeit products.

<sup>197</sup> To remind the reader, PDO stands for protected designation of origins, whilst PGI indicated products of protected geographical indication.

Here, organised practices of food fraud are considered to be serious. The current regulation is often criticised for not appropriately addressing the organised character of food crime (Tumminello, 2013). For this reason, as already seen, drawing upon the reports on criminal practices and mafia presence in the Italian food sector (for instance Osservatorio sulla Criminalità in Agricoltura e sul Sistema Agroalimentare et al., 2015), the 2015 specialised parliamentary commission (or Commissione Caselli) formulated a draft law to introduce the charge of ‘*agropirateria*’ or ‘*agro-piracy*’<sup>198</sup> at article 517-quater of the penal code. In short, by considering the different level of seriousness of the criminal offence, this draft – not yet approved by Parliament – aims to criminalise fraudulent activities committed in the food sector in an organised and systematic way by complex and organised food businesses. Moreover, this newly-formulated offence would encapsulate serious and organised food fraud practices perpetrated by organised groups in cases where the organisation of such activities is not stable and systemic enough to continue in time and is not perpetrated through violence, as in such cases the charges of ‘simple’ criminal association (article 416 of the penal code) or mafia-type association (article 416-bis of the penal code) would not be applicable (Quaranta, 2016).

The findings indicate that, through two different approaches that refer to the seriousness of the food fraud practice (England) or to what is criminalised by the law (Italy), food crime is perceived and conceptualised as organised food fraud in both jurisdictions. Moreover, it is possible to highlight a link between food crime and organised crime from an activity perspective. Indeed, both institutional conceptualisations of food crime are essentially constructed by looking at fraudulent activities perpetrated in the food sector and the ways such activities are put into practice (seriously and organised). This activity-driven mechanism of conceptualising and upgrading food crime as a criminal category (for intelligence purposes, in

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<sup>198</sup> The term ‘*agro-piracy*’ specifically indicates fraudulent practices of plagiarism and fraudulence committed in the agri-food sector.

the case of England) evokes a specific way of conceptualising organised crime as a cluster of serious criminal practices carried out for economic profits (e.g., drug trafficking or extortion) (Fijnaut and Paoli, 2004; Kleemans, 2014; Paoli, 2002, 2014; Paoli and Vander Beken, 2014; Sergi, 2017). Historically, in the US where the concept of organised crime was first formulated (Wright, 2006), by highlighting analogies with the gangs operating in the Prohibition era, in the 1950s the focus of investigations started to be on organised crime's illegal activities (e.g., gambling, extortion, loansharking) and not on the organisation or structure of organised crime (Reuter and Rubinstein, 1978; Smith, 1980). Typically, the UK focus has been on criminal activities, either predatory or entrepreneurial, as essential manifestations of organised crime as professional criminals (Hobbs, 1998, 2013). In the UK, the policy framework of organised crime is treated a national security threat that affects individuals, businesses, and the national economy. Regarding this, Sergi (2015, 2017) identifies one policing model, labelled as the '*activity model*', according to which, in the UK criminal justice system, organised crime is conceptualised as organised crimes (emphasis on the plural), which are either ontologically serious or a series of crimes that raise public concerns because, through a process of securitisation that relate to their seriousness, they threaten national security.

It must also be highlighted that not every crime committed in an '*organised way*' is organised crime (Schelling, 1984) and, in the same way, not every criminal association committing crime in an organised way is an organised crime group (Maltz, 1990). Indeed, some scholars argue that activities such as the illegal supply of goods (e.g., drug trafficking) and services (e.g., loan sharking) committed by organised crime groups may be very disorganised and committed through disorganised networks (Reuter, 1983; van Duyne, 1993). For instance, regarding drugs in the UK context, Dorn, Murji and South (1992) argue that the drug market in the UK is very much disorganised and that framing drug trafficking as a matter of organised crime has served the purpose of centralising policing since if a crime is labelled as '*organised*'

enforcement should be organised accordingly (on local, regional, national or international levels).

Lastly, the conceptual perspective that pinpoints organised crime activities as the backbone of the conceptualisation and resulting policing of organised crime can be conveyed in how food crime is conceptualised as a serious and organised food fraud in the English and Italian criminal justice systems.

In summary, this section has shown that, in the narrow conceptualisations of food crime adopted by both jurisdictions, from an activity perspective that focuses only on the criminal acts, food crime is *de facto* framed as a form of organised crime.

## **2.2. Actor Perspective: Involvements of organised crime in food crime**

By expanding the activity perspective, this section shall continue the analysis and embrace an *actor perspective* that focuses on the actors who commit food crime. The aim is to point out that there is an involvement of organised crime in food crime even when focusing on the actors. Chapters 4 and 5 have highlighted that, within narrow institutional standpoints on food crime, organised crime and mafia-type groups are hardly active in food crime practices; according to public officials and judicial documents, food criminals are mainly food business or corporate actors. The legal case studies presented in chapter 6 (Operations Boldo, Arbequino, and Provvidenza) and the analysis of how food crime is charged and prosecuted in both jurisdictions in chapter 7 show that organised crime groups are also involved in food crime practices. More precisely, drawing upon relevant findings, this section shall argue two main points: 1) corporate food actors committing food crime are usually tackled as organised criminal actors; and 2) in turn, organised criminal actors such as mafia-type groups in Italy often act as legitimate corporate food actors in order to commit food crimes. As highlighted in section 3.2 of chapter 7, in the official conceptualisation of food crime as corporate and organised food fraud, from a policing perspective, the main actors of food crime seem to be

corporate. In brief, in both England and Italy, public authorities' perception regarding the actors who perpetrated food crime is that the latter is committed by "*food people*"<sup>199</sup> and that "*there is not clear evidence that organised crime has infiltrated the sector*"<sup>200</sup>. Nevertheless, the findings also show that, from a policing and sentencing perspective, organised crime actors are involved in food crime.

In England, the updated NFCU website states that "*food crime can range from isolated acts of dishonesty by individual offenders to organised illegal activity co-ordinated by criminal networks*". In doing so, without specifying the type, structure, and aim, the NFCU refers to criminal networks as coordinators of activities committed in an organised system (National Food Crime Unit, 2016a). Similarly, the Elliott Review authors<sup>201</sup> claim that there is evidence of organised criminal activity in the horsemeat scandal. Similarly, they point out that "*food crime is committed by criminals who get organised and work within networks established at both national and international levels*"<sup>202</sup>. Indeed, Operation Boldo confirms the participation of business actors such as food processors and slaughterhouses and, as stated by the Crown Prosecutor and police detective involved in the case, in the horsemeat scandal operation there was no clear evidence of involvement of organised crime<sup>203</sup>.

Nevertheless, despite being legitimate food businesses, the horsemeat scandal's criminal actors undoubtedly share similarities with organised crime groups or organised networks. In fact, in Operation Boldo the defendants have been convicted under the offence of conspiracy to defraud, which is the common law charge usually applied to tackle cross-border networks of organised crime (Attorney's General Office, 2012). More specifically, this an inchoate offence of common law legacy that punishes the '*agreement where two or more*

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<sup>199</sup> Interview with CE.

<sup>200</sup> Interview with GC.

<sup>201</sup> Interview with CE and CG.

<sup>202</sup> Interview with CE.

<sup>203</sup> Interview with JP and SB.

*people agree to carry their criminal scheme into effect*' (Crown Prosecution Service, 2018). In other words, this offence refers to the complicity or agreement to commit an individual (serious) crime. Furthermore, not only have the defendants in Operation Boldo been charged under an offence typically used to tackle organised crime, in addition to this, they have been convicted with confiscation of assets, which is a measure that, in criminal lifestyle offences such as conspiracy to defraud, hits the proceeds of crime and is usually applied against organised criminal networks<sup>204</sup> (POCA, 2002). Hence, despite being policed as corporate actors, these criminal actors are effectively prosecuted as organised crime actors. Even if, as seen above, organised crime groups in England are typically associated with illicit actors providing illicit goods (e.g., drugs) in the illegal underworld, the case of food crime shows that there are also legitimate organised conspirators (or, more precisely, corporate actors) that commit criminal actions in the legitimate economy and that are prosecuted and sentenced as organised crime actors under the charge of conspiracy. Lastly, to add to this, authorities acknowledge the increasing interest of organised crime in food fraud (House of Lords, 2016).

In Italy, by stressing mafia groups' involvement in the food sector, the label '*agromafie*' creates terminological and conceptual ambiguity regarding the extent to which mafia-type groups are active in the food supply chain and, eventually, also regarding the true actors involved in food crime. As seen, by broadly pointing at criminal activities committed in the food sector, from adulteration to exploitation of labour, public debate and media suggest the involvement of organised, mafia-like actors (Eurispes et al., 2019; Osservatorio Placido Rizzotto, 2016; Perone, 2018; Ziniti, 2019). However, according to the institutional perceptions and the narrow conceptualisation of food crime as food fraud, the '*agromafie*' narrative is hazy since mafia-like groups are not involved in food crime as this is mainly perpetrated by non-

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<sup>204</sup> A confiscation order is an order made against convicted defendants to make them pay the amount of benefits from crime.

mafia type actors such as business and corporate players<sup>205</sup> (Procura della Repubblica presso il Tribunale di Siena, 2015). Indeed, the National Antimafia prosecutor argues that food criminality is often perpetrated by “*corporate criminal actors that dress up as legitimate entrepreneurs*”, making food crime more of an economic or business crime rather than a mafia-like crime<sup>206</sup>. Moreover, regarding the legal requirements needed to apply the charge of membership in a mafia-type association<sup>207</sup>, investigations on food crime usually find elements such as the use of violence or the power of intimidation<sup>208</sup>.

Furthermore, concerning the technology used in food crime, as argued by the officer from the special police task force against organised crime: “*Mafias are not active in food frauds as they usually do not have the necessary know-how to commit sophisticated food frauds*”<sup>209</sup>. Referring to Operation Provvidenza, to date the only evidenced case of mafia involvement in food crime, the prosecutor confirms that “*the mafia clan involved was only imitating criminal systems that are initiated by other non-mafia criminal actors such as business companies*”<sup>210</sup> when pointing out the business-oriented nature of the criminal activities perpetrated in this case. However, as shown with the same operation, food crime being a corporate or business crime can also mean that, in order to reinvest their money and enter the food market, mafia-linked companies might use intermediaries and other formally legitimate economic actors with specific know-how of the complexities of the food sector. In fact, in Operation Provvidenza, through several mafia-affiliated companies, a well-known mafia-type group (more precisely, the *ndrangheta* clan Piromalli) was involved in activities of olive oil adulteration and

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<sup>205</sup> Interview with RP, TP, RT, and DP.

<sup>206</sup> Interview with RP.

<sup>207</sup> To remind the reader, article 416bis states that : A mafia-type delinquent association consists of three or more persons, and those who belong to it make use of the power of intimidation afforded by the associative bond and the state of subjugation and criminal silence (*omertà*) which derives from it to commit crimes, to acquire directly or indirectly the management or control of economic activities, concessions, authorisations or public contracts and services, either to gain unjust profits or advantages for themselves or for others, or to prevent or obstruct the free exercise of the vote, or to procure votes for themselves or for others at a time of electoral consultation.

<sup>208</sup> Interview with RP and RT.

<sup>209</sup> Interview with GL.

<sup>210</sup> Interview with RP.

accordingly charged under commercial fraud and membership in a mafia-like criminal association. Further, in Operation Abequino, the defendants – legitimate olive oil producers – have been charged under membership in ‘simple’ unlawful association<sup>211</sup> that usually tackles forms of non-mafia-type organised crime groups and that, to be applied, requires an associative bond, an organised structure, and an indeterminate criminal product or unlawful purpose. In other words, it can be argued that, like in the English Operation Boldo, in this case, the defendants are legitimate business or corporate actors convicted for an offence (membership in unlawful association) that is usually used to tackle organised crime groups.

All in all, considering the findings, in both England and Italy, not only has organised crime (of mafia-type) been involved in one case of food crime but, more generally, corporate criminal actors are prosecuted as organised crime actors. Vice versa, one could argue that organised crime actors are policed as organised conspirators.

In short, this section has shown that, on the one side, business and legitimate corporate actors play a central role in food crime and are legally prosecuted and sentenced as organised crime networks or organised crime groups. On the other side, in the context of food crime as narrowly understood by the institutions, organised crime groups are also involved in food crime practices and, through intermediaries, tend to adopt structures and systems typical of corporate business actors. According to this, as section 4 of this chapter shall further argue, the presence of organised criminality – however one wants to construct or label it – in the food supply chain is plainly relevant. The next section will further push the view and argue that, beyond food crime, from a broader perspective on food crime, organised crime and mafia-like actors are active along the whole food supply chain.

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<sup>211</sup> As seen, article 416 states that: When two or three people associate in order to commit several crimes, those that promote or establish or organise the association are punished, only for this, with imprisonment from three to seven years. For the mere membership of the association, the penalty is from one to five years.

### 3. Involvements of organised crime and mafia-type groups in the food sector

Beyond the narrow institutional conceptualisation of food crime, matching the media and public debate about the conspicuous presence of organised crime in the food sector (Roberts, 2018), in both jurisdictions in analysis, expert documents and authorities agree that organised crime and mafia-like groups are involved in practices happening along the whole food supply chain such as food transport and distribution, food service or money laundering.

In England, as seen in the previous section, the institutions exclude the presence of organised crime actors in food crime. However, they identify the food supply chain as a vehicle for the commission of criminal activities perpetrated by organised crime beyond food crime as it is institutionally defined. For instance, by pinpointing more than twenty organised crime groups practising illicit acts with links to the food sector, the annual report published by the NFCU mentions links between *“food businesses and organised crime groups whose main activity is not in itself food crime”* (2016a: 5)<sup>212</sup>. Moreover, the NFCU points out that through the use of operating models typical of food businesses and structures of food systems, organised crime groups are believed to commit or support criminal activities such as money laundering committed in the foodservice industry or to cover the importation of contraband and illegal goods such as drugs in legitimate food consignments and shipping cargo. Anecdotally, it is possible to mention several cases of involvement of Italian mafias in money laundering activities perpetrated through legitimate food business such as restaurants, for instance in London and, beyond England but within the UK, in Scotland (Campana, 2011; Perry, 2018). It must be highlighted that, due to historical and cultural biases concerning Italian mafias, the traditional narrative on Italian mafia-type organised crime is not present in English law enforcement and institutional narrative on organised crime. In this sense, the different narrative could make English authorities unable to see that other types of organised crime

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<sup>212</sup> This is confirmed in the 2020 NFCU Strategic Assessment.

groups in the UK can have typical characteristics of mafias. This incapacity could be why English institutions tend to exclude mafia-type groups from narratives on food crime.

Interestingly, from a policy and law enforcement perspective, both money laundering and drug trafficking are organised crimes that are considered to be more serious than food crime<sup>213</sup> and, regarding this higher seriousness, policing these forms of criminality is usually prioritised<sup>214</sup>. Hence, it can be argued that associating crimes such as money laundering committed in the foodservice industry with the category of food crime through a broader perspective on food crime, might help to increase policing in the food sector, which could also help to identify further potential food crimes in an institutional sense.

In Italy, the perception of mafia infiltration in the food sector is complicated. On the one hand, there is the aforementioned ‘*agromafie*’ label (Eurispes et al., 2019; Legambiente, 2016; Osservatorio Placido Rizzotto, 2016). On the other hand, by mostly referring to criminal practices such as food fraud, there are official statements that claim that the so-called ‘*agropiracy criminality*’ is perpetrated by non-mafia-type organised crime actors (Procura della Repubblica presso il Tribunale di Siena, 2015). However, the institutions also acknowledge mafia infiltration in the food sector concerning typical mafia offences such as extortion, self-laundering, and illicit competition perpetrated through violence or threat. Along the same lines, a report published by the National Antimafia Prosecution office (Direzione Nazionale Antimafia Polo Criminalità Ambientale, 2017) identifies the many mafia-like infiltrations happening inside the agri-food sector in different stages of the food supply chain such as logistics, transport, and distribution of food products. Pertaining to this, as declared by the expert from Customs, “*organised crime is clearly active in the food sector in services related to food transport or in loan services or in the management of fruit and vegetable markets (...)*”.

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<sup>213</sup> Unlike food crime, both money laundering and drug trafficking are in the list of serious and organised crime tackled by the UK National Crime Agency.

<sup>214</sup> Interview with GT.

*They benefit from the sale and from the logistics*”<sup>215</sup>. In these cases, matching the ‘*agromafie*’ narrative, the institutions recognise the mafia’s presence in the food sector, even if they do not specifically label them as food crime. To provide some examples, first, there is a disruption of market competition at the stage of food transportation to benefit transport companies belonging to mafia groups (Sasso and Tizian, 2012). Second, the same dynamics of distortion of the market competition occur in food wholesale with examples of mafia-type groups in charge of managing entire vegetable and fruit markets. For instance, *camorra* (Neapolitan) clans have been caught controlling the fruit and vegetable market in Italy (Pistilli, 2018) and – to consider examples beyond Italy but concerning Italian mafias – mafia groups have been linked to control of Queen Victoria Market in Melbourne since the 1930s (Connaughton, 2016; Sergi, 2016a; Spagnolo, 2010). Third, to cite Operation Acero-Krupi<sup>216</sup>, mafia-type groups use food trucks and tinned foods to hide and transport drugs and weapons<sup>217</sup> (Anesi and Rubino, 2018). Fourth, to cite Operation Pollino<sup>218</sup>, mafias often use restaurants and other food catering services as places for money laundering. Fourth, to cite Operation Nebrodi<sup>219</sup>, mafias are also highly involved in EU farm subsidies frauds<sup>220</sup> (Palazzolo, 2020; Tondo, 2020).

Considering this, the aim of organised crime and mafias that infiltrate the food sector appears wide-ranging. First, as already addressed, the food sector is economically profitable, especially in times of economic crisis (Crescimanno et al., 2014; House of Lords, 2016; Moyer et al., 2017) and, in comparison to other sectors, appears under-investigated and with a lower level of deterrence (in terms of both policing and prosecuting). Second, considering the examples mentioned above of infiltration along the food supply chain, it can be highlighted that mafias and organised crime are interested in penetrating the food sector to commit and

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<sup>215</sup> Interview with TP.

<sup>216</sup> Operation Acero-Krupi, Tribunale di Reggio Calabria, n. 7428/2010 RGNR DDA.

<sup>217</sup> Interview with TP.

<sup>218</sup> Operation Pollino, n. 608/2015 RGNR DDA.

<sup>219</sup> Operation Nebrodi, Tribunale di Messina, n. 890/2016 RGNR GIP.

<sup>220</sup> Interview with LF and GL.

ease the commission of criminal activities such as money laundering or drug trafficking. Third, looking at restaurants and food catering services run by mafias, food could be a relevant resource through which mafia-type organised crime can establish businesses and control new markets and territories (De Biase, 2014). Concerning this aspect, on a side note, despite not being supported by the findings of this research, it could be interesting to analyse the element of food identity that can be connected to the cultural dimension of mafia-type groups and their bonds with the original territories and food cultures (Manfredi, 2012).

The lack of controls and checks at the start of the food chain, the widespread low level of investigative resources in England, soft and low-deterrent penalties, and light fiscal requirements (especially in the agri-food field in Italy) might contribute to increasing the attractiveness of the food sector in the eyes of organised crime and mafia groups. Concerning mafia, the criminological debate has often analysed the dynamics of infiltration in legal economies such as food: for instance, Sciarrone and Storti (2014) highlight that specific economic sectors (like food and agriculture) are more vulnerable to mafia infiltration as generally they are less technologically-driven and predominantly based on small-scale competition in the local market. Lastly, it can be hypothesised that in times of economic crisis like the one the Covid-19 pandemic is likely to pose, organised crime and mafias can typically provide quick money and financial resources to businesses under difficult economic conditions by schemes of loan sharking and money laundering.

To sum up, the spectrum of criminal food-related practices committed by organised crime and mafia-like groups in the food sector, such as money laundering through food services or agricultural subsidy frauds is vast. This shows that the involvement of organised crime groups in the food sector is real and that this type of actor is highly interested in food as a socio-economic resource. Considering this and what has been discussed in the previous sections, the next section shall now explore the possibility to formulate a conceptual category which can

consider the involvement of both corporate and organised crime actors in the food sector, by embracing a broad perspective on food crime that, moving on from the institutional conceptualisations, considers activities beyond food fraud.

#### **4. The socio-legal typology of ‘*organised food crime*’**

Considering what has been analysed in the previous sections and drawing on appropriate theoretical grounds, this section shall now conduct a conceptual exercise upon the formulation of the socio-legal conceptual typology or category of *organised food crime*. The section shall reflect upon its definition, meaning, and convenience in the practical fight against food crimes (emphasis on the plural). The backbone argument of this conceptual category is that food crime can be framed as an organised form of business crime where there are both involvements of organised criminal actors acting like legitimate economic actors and, at the same time, involvements of legitimate corporate actors acting like organised crime. In short, the label ‘*organised food crime*’ covers the whole spectrum of activities, both harmful and criminal, happening in the food sector, such as food fraud or exploitation of labour as well as misleading packaging practices or use of chemicals, which are committed by both corporate crime and organised crime actors. Often the difference between corporate and organised crime is blurry as, on the one hand, there are corporate actors adopting behaviours and dynamics that are typical of organised crime and, on the other hand, there are illegal organised crime groups (also of mafia-type) active in legitimate markets and performing like legitimate businesses. As food crime tends to be perpetrated by both categories through criminal networks, can these networks (of both activities and actors) be typified and classified together in criminological terms under the category of ‘*organised food crime*’?

More precisely, this section will merge the three perspectives discussed above: activity perspective and actor perspective in food crime and involvements of organised crime and mafia-type groups in the food sector. In doing so, different bodies of criminological literature

are needed such as corporate crime theories, organised crime studies and green criminology to support the conceptual construction of '*organised food crime*', formulated as an overarching concept based on the experiences of national law enforcement agencies and other institutions active in the fight against offences activities in the food sector. Put differently, drawing upon the three perspectives mentioned above that have highlighted the links between organised crime and food crime, this typology aims to theoretically align the two concepts of food crime and organised crime. Bearing in mind that the concept of organised crime is traditionally controversial as the corresponding criminal phenomenon is typically not homogeneous<sup>221</sup>, the category '*organised food crime*' aims to suggest a conceptual tool and the identification of corresponding legal instruments, which could help to tackle the involvement of organised crime in the food sector.

First, given that from an institutional perspective food crime is essentially a serious corporate food fraud, food crime can be categorised as an economic crime where there is little presence of organised crime and where, on the contrary, corporate actors are highly involved. However, at a closer analysis, focusing on the activity side, food crime seems to be ontologically organised. In this sense, from an activity-based perspective, because of its seriousness food crime could fall under the category of organised crime conceptualised as a set of serious criminal activities. Second, looking at the actors of food crime, the findings show that there is, even if scarce, evidence of organised crime involvement – of mafia-type (see Operation Provvidenza) in food crime practices. Additionally, the findings show that corporate actors active in food crime are effectively prosecuted and sentenced as organised criminals (see conspiracy to defraud in Operation Boldo and membership in unlawful association in Operation

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<sup>221</sup> As mentioned in chapter 3, for the purposes of this discussion, the term '*organised crime*' indicates an umbrella-all-encompassing concept that refers to the commission of illegal practices, the provision illegal commodities for the purposes of illegal profits, eventually committed by illegal actors.

Arbequino). Third, when expanding the conceptualisation of food crime to include harmful and criminal practices happening within the food sector beyond food fraud, organised crime and mafia-type groups are highly involved in food-related activities such as, for instance, money laundering in food services or drug trafficking in the context of food transport.

The findings highlight the following aspects: a) from an activity perspective as well as from an actor perspective, the concept of food crime is formulated in a similar way to the concept of organised crime, which in the literature and in policy discourses is often constructed as a set of both activities and structures or actors (Block and Chambliss, 1981; Cressey, 1967, 1969; Fijnaut and Paoli, 2004; Finckenauer, 2005; Kleemans, 2014; Morselli, 2010; Paoli, 2002, 2003, 2014; Paoli and Vander Beken, 2014; Reuter, 1983; Sergi, 2015; von Lampe, 2016; Woodiwiss, 2001); b) in food crime (as narrowly conceptualised by the institutions), there is involvement of both corporate and organised crime actors and the legal charges (conspiracy and membership in criminal association) typically used to tackle organised criminals are applied to food entrepreneurs acting illegitimately – hence, in food crime the borders between the two phenomena (corporate and organised crime) are blurry and the correspondent theoretical conceptualisations seem to overlap (Ruggiero, 1996); and c) lastly, by expanding the institutional perception of food crime towards an all-encompassing conceptualisation of food crimes (emphasis on the plural) that considers a broader range of both harmful and criminal activities happening in the food sector beyond food fraud, it becomes possible to detect several forms of organised crime and mafia-type infiltration as well as corporate crime. Eventually, the latter aspect is supported by a green criminological perspective that enables expansion of the institutional, legalistic conceptualisations to include food harms past legal definitions (Croall, 2013; Gray, 2018; Leon and Ken, 2017; McDowell, 2017; South, 2010; Tourangeau and Fitzgerald, 2020; Walters, 2011). Moreover, the first two points regarding the conceptual similarity of food crime and organised crime and the blurry conceptual edges

between organised and corporate crime in food crime, are further supported by theories of both corporate and organised crime that debate the boundaries between the two typologies of criminal actors. Accordingly, the conceptual category of '*organised food crime*' is constructed by referring to the theory of enterprise formulated by Dwight Smith (1975, 1980).

Criminological research has often reflected upon the differences among white-collar, corporate crime, fraud, and organised crime (for instance, see Croall, 1992, 2001; Hobbs, 2013; Ruggiero, 1996; Ruggiero and South, 2010) as well as their areas and points of intersections (Sciarrone and Storti, 2014). For instance, by arguing that law enforcement agencies see a blurry line between corporate and organised crime, Ruggiero (1996) argues that these phenomena must be analysed jointly as a clear difference between corporate crime and organised crime is challenging to make. According to Croall, food offences cross different areas of white-collar, corporate, and organised crime as there is a broad category of actors involved in food-related offences. She argues that: "*From some of the largest corporate giants involved in food manufacture, distribution and retailing to small individual businesses selling out-of-date food or failing to comply with hygiene regulations (...) farmers, fishing businesses, abattoirs and meat packers are all involved along with gang masters, organised criminals and opportunistic entrepreneurs*" (2007: 208). Moreover, the scholar continues by arguing how "*food crime demonstrates the limitations of fixed categories as it also involves more traditional organised criminals and provides an example of how both legitimate and illegitimate industries may collude or how organised crime may provide a service to legitimate industry*" (Croall, 2007: 224). Indeed, as shown through the findings, this conceptual ambiguity between organised and corporate crime is very visible in food crime. The globalisation of food systems contributes to increasing the similarity between legitimate enterprises and organised crime activities in the food marketplace (Hobbs, 1988; Ruggiero, 2000).

On the one hand, organised crime is interested in legitimate economies, such as the food industry, and, thus, often acts like business syndicates and shares the same incentives and organisational structures of legitimate business actors (Block, 1980; Cressey, 1967, 1969; Passas, 1998; Ruggiero and South, 2010; Wright, 2006). From this perspective, organised crime groups are to be framed as persistent clusters of firms with the internal organisation of large enterprise and the aim of supplying (both legal and illegal) goods and services in the effort to control the market to make profits (Chambliss, 1988; Clinard and Quinney, 1973; Schelling, 1967, 1984; Smith, 1980). On the other hand, legitimate economic actors are often attracted by criminal opportunities to make profits and act unlawfully in highly criminogenic sectors such as food (Croall, 2013; Lord et al., 2017a; Lord et al., 2017b). In this sense, the food system and its internal dysfunctionalities seem to be ideal for corporate crime phenomena to arise: as argued by Croall (1992), food offences can be typified as organisational crimes committed by corporations and business companies that behave criminally when performing illegal, unethical, and immoral practices in search of profits.

Moreover, criminal organisations committing cross-border crimes are very similar to transnational corporations' structure and operational scope (Williams and Florez, 1994). In the case of food crime, arguments on the transnational or cross-border dimension of criminal activities committed by both corporate actors and organised crime are supported by legal case evidence concerning criminal charges. This concept recalls the dynamic of the conspiracy at the basis of the horsemeat scandal or the olive oil frauds (see Operation Boldo and Operations Arbequino and Provvidenza) where legitimate food companies (meat slaughterers, meat processors, olive oil producers) were operating across Europe like criminal networks (organised or mafia type as per Operation Provvidenza). Thus, not only does corporate crime share structural and behavioural similarities with organised crime to the extent that their respective conceptualisations are often considered in joint analysis, but they are often legally

charged with the legal tools used to tackle organised crime phenomena (conspiracy to defraud and membership in unlawful association).

Formulating the category of ‘*organised food crime*’ represents a first attempt to mature the current conceptual and policy construction of food crime, to pose more attention, on the one side, to a broader category of both food crimes and harms and, on the other side, to the criminal actors involved with a cleared awareness that both corporate and organised crime actors are active in food crime. The overarching idea at the basis of such a conceptualisation is that organised crime in food crime is effectively professional crime (Hobbs, 1988, 2013) that, eventually, is the way organised crime has historically been conceptualised in the UK. Organised food crime is serious, professional (corporate) crime committed by a large spectrum of actors from the purely illegal organised crime groups to the legitimate business actors performing illegal acts. The enterprise theory of crime that focuses on the organisation of serious criminal behaviours in the context of specific market factors and how these factors influence the motivations of criminals (Smith, 1975, 1980) seems to offer the ideal theoretical ground to support this conceptualisation, and it has already been used in the context of food fraud (Bellotti et al., 2017).

In brief, according to this theory, organised crime is a form of enterprise that, as well as legitimate economic actors, exists along the enterprise spectrum because there is a demand for certain goods, low risk of detection, low deterrence, and high profits (Smith, 1975 and 1980). As highlighted in Liddick (1999), for Smith (1975: 336) “*an illicit enterprise is the extension of legitimate market activities into areas which are normally proscribed for the pursuit of profit and in response to latent illicit demand*”. In suggesting this new theoretical perspective for explaining the phenomenon of organised crime, the scholar suggests a paradigm shift that, by overtaking the alien conspiracy theory, within the spectrum of enterprise would consider the similarities between organised crime and white-collar or corporate crime.

Interestingly, Passas and Nelken (1993) apply this approach to the case of frauds committed against the EC's (European Community) financial interests by both legal and illegal firms. The scholars argue that the enterprise theory better describes the actions of both organised crime and white-collar actors as, in the case they analyse, the conceptual separation between organised crime and white-collar crime does not describe the situation. Through this theoretical lens, it becomes possible to consider the whole spectrum of illegitimate practices that take place across the food market and include both legitimate economic actors (acting illegally) and organised crime actors (performing as business actors) without the need to refer exclusively to organised crime or corporate crime.

Nevertheless, there is a risk that using the label '*organised food crime*' could pose conceptual and terminological unclarity. However, in the specific case of food crime, the expansion in the use of the organised crime label to include professional food crime would be highly beneficial from a series of perspectives, from upgraded resources to increased investigative tools, and it is probably the path to which policymakers and law enforcement are already heading. For instance, as mentioned above, the UK NFCU is set to operate in line with the government's Serious and Organised Crime Strategy through the adoption of the so-called '4P' approach (preparing, preventing, pursuing, and protecting) that is used to tackle organised crime (Food Standards Agency, 2018a).

Considering this, as the following section shall highlight, the criminological conceptual category of '*organised food crime*', supported by green criminological perspectives on food crime (Croall, 2013) and by the theory of enterprise concerning the criminal actors (Smith, 1980), could provide essential policy outcomes to tackle food crime in terms of conceptualisation, policing, prosecution, and sentencing.

#### **4.1. Policy outcomes**

There are several advantages of adopting the concept of '*organised food crime*' in terms of approaches to tackling food-criminality issues. First and foremost, pertaining to food crime activities, adopting a broader view that includes reflections on food-related harmful practices articulated through green criminological lenses is exceptionally beneficial. As often argued, a green criminological approach allows us to consider interests beyond economic market stability and public health such as food security, food sustainability, labour conditions in the food sector, and environmental impact of food supply chain practices. This conceptual expansion appears now more urgent than ever. The current times are characterised by socio-economic instability triggered by socio-economic events that could create an increase of criminal opportunities: for instance, a hard Brexit might open gaps in food safety legislation; moreover, the current status of global food systems is currently at risk under the Covid-19 health emergency that has caused economic shocks with a substantial impact on medium and small agri-food producers that, under the need of cash flow and financial liquidity, might recur to illegal loans.

Furthermore, such a broad perspective moves on from the traditional frame of food offences as crimes against consumers, towards a green criminology approach. This approach highlights the social harms caused by food crime practices, labels victims of food crimes more as food citizens and, concerning this, considers more extensive interests such as the defence of food culture, the respect of dietary choices, food democracy, and food sovereignty (Brisman and South, 2017; Croall, 2013; Gray, 2018; Gray and Hinch, 2015; Lang and Heasman, 2004; Leon and Ken, 2017; McDowell, 2017; South, 2010; Tourangeau and Fitzgerald, 2020; Walters, 2004, 2006, 2007, 2011). Second, from an operational policy perspective, adopting a broader view of food crimes (emphasis on the plural) that encompasses all stages of the food supply chain without focusing on the stages of production and processing where food frauds occur, could help to spot criminal actors at the start of the chain and detect the perpetration of

other ‘more serious’ crimes such as exploitation of labour or money laundering. In other words, detecting food crime by looking at the entire food system could work as an instrument to detect other crimes and, vice versa, other forms of violations such as fiscal irregularities or torts, could also allow the law enforcement agencies to detect food crimes (see Operations Arbequino and Provvidenza). Third, as highlighted by prosecutors in both jurisdictions, framing food crime as a matter of both corporate and organised crime would entail conceptualising it as serious and wrong enough to justify the monetary and human resources that jurisdictions such as England currently lack.

Moreover, as already argued, an explicit acknowledgement of the involvement of organised (corporate) crime in food crime could unfold more law enforcement possibilities. For instance, it could enable enlargement of the investigative toolbox typically adopted in food crime investigations to include instruments which, by law, are usually available only for organised crime investigations (especially in the case of Italy). For example, investigative techniques such as environmental or telephone wiretapping, as seen in Operation Arbequino, are often necessary to detect fraudulent high-technology practices or modern slavery dynamics at the beginning of the food chain.

Lastly, it must be highlighted that considering the different legal legacies and legal cultures, a common legal tool shaped around the concept of ‘*organised food crime*’ is not feasible and probably not necessary. Looking at England and Italy, this conceptual tool does not suggest introducing a new legal charge as both jurisdictions already employ appropriate legal infrastructures for organised food crime cases. More specifically, as evidenced through the legal case studies, beyond the food law framework, both jurisdictions can count on appropriate legal offences to apply to this socio-legal category: conspiracy to defraud in England and membership in unlawful association (also in mafia-type association) in Italy. To conclude, the adoption of a common, broad conceptualisation of ‘*organised food crime*’ based

on shared conceptual grounds would probably allow the implementation of increased cross-border police and criminal justice cooperation that, as seen in chapter 7, is desperately needed in the field of food crime.

## **5. Conclusions**

By recalling and analysing the findings that emerged from documentary analysis and interviews presented in the previous chapters, this chapter has examined the involvements of organised crime in food crime. More precisely it has shown that, from both a narrow institutional perspective that focuses on food crime as serious food fraud and from a broad perspective that encompasses crimes occurring in the food sector, organised crime is active in food crime, as is corporate crime. Moreover, as food crime is, in essence, a form of economic or corporate crime, the conceptual edges between corporate and organised crime are unclear.

Considering this, the chapter has first adopted an activity perspective to argue that, from an institutional side, food crime is eventually conceptualised as an organised crime activity. By adopting an actor perspective, the chapter has focussed on the involvement of corporate actors legally tackled as organised crime networks and on the involvement of organised crime (of mafia-type) acting like legitimate economic actors. Moreover, it has highlighted the evident presence of organised crime groups in the food sector concerning food-related practices such as money laundering committed in food service.

Finally, chapter 8 has embraced a multi-oriented approach that, by building on a green criminological perspective of food crime and a theoretical interpretation that positions both organised and corporate crime in the enterprise spectrum, has attempted to construct the socio-legal category of '*organised food crime*' conceptually. It has considered the benefits of such a category for policy and institutional responses towards food crime in terms of conceptualisation, policing, and prosecuting.

Considering the arguments raised in this chapter and by drawing upon the previous analysis, the following chapter will formulate the final conclusions of this study and reflect on further avenues of research in the field of food crime.

## **Chapter 9 – Conclusions**

- 1. General overview: Summary of the core findings and answers to the research questions**
- 2. Overall contribution of the research**
  - 2.1. Theoretical and empirical considerations**
  - 2.2. Policy considerations and outcomes**
- 3. New avenues of research**
- 4. Final remarks**

### **Objective of the chapter**

To provide a comprehensive outline of the study by referring to the aims of the research; to highlight the original contribution of the study, in terms of theoretical consideration and suggestions for policy development; in light of the findings and analysis, to highlight possible new paths of research in the field of food crime.

## **1. General overview: Summary of the core findings and answers to the research questions**

This thesis has presented and discussed the findings of the exploratory, socio-legal research study on the topic of food crime. Through an overarching comparative criminal justice and criminology approach, starting from the de-construction of the concept ‘*agromafia*’ (i.e., involvement of mafia groups in the food supply chain in Italy), this research has pursued two primary goals: 1) the analysis of the conceptualisations of food crime according to official narratives in English and Italian criminal justice system (i.e., which activities are committed in the food sector and labelled as food crime, which juridical interests are protected by law, which criminal actors are involved); and, 2) the investigation of the institutional perceptions on the organised crime involvement in food crimes and, as reflected in the title of the thesis, the formulation of the conceptual category of ‘*organised food crime*’.

Mirroring my academic background and personal interests, this study has unfolded throughout a multidisciplinary framework that has turned to legal and criminological studies. The analysis of English and Italian criminal justice systems has started from the regulations and has continued by drawing upon a criminologically-oriented perspective. The research has relied on different theoretical perspectives: first, it has adopted a green criminological viewpoint in the adoption of an all-encompassing working definition of food crime; second, it has considered organised crime and corporate crime literature; and, third, while describing the organised crime involvement in food crime, it has suggested the use of an enterprise-theory approach to formulate the category of ‘*organised food crime*’. In terms of methodology, this study has adopted a qualitative approach consisting of documentary analysis and semi-structured interviews.

This combination of methods has succeeded in grasping the experts’ opinions and experiences in the field of food crime that, together with official documents and reports, has

outlined the perceptions and responses to food crime in both jurisdictions and attempted to create a new conceptual category.

In this thesis, I have framed '*food crime*' as a wide umbrella term that covers a broad cluster of harmful and criminal acts that affect the food supply chain (e.g., food fraud, misleading food labelling, exploitation of labour in the food sector, cruelty toward animals, etc.). By contrast, as this research has revealed, official narratives in England and Italy draw upon narrow conceptualisations and, eventually, define food crime as a serious and organised food fraud: more precisely, in the English approach, food crime is a constructed serious type of food fraud, whilst in the Italian approach, food crime and food fraud overlap.

After the introductory chapter, this thesis has presented the qualitative-comparative methodology used in the research and highlighted the benefits of this approach to address the research questions. Chapter 2 has provided the details of the methods adopted (documentary sources and in-depth interviews), the techniques used for data collection concerning purposive sample, issues of access, coding and data-analysing strategies, reflexivity process and, finally, ethics and limitations of this study. Chapter 3 has offered a bird's eye overview of the theoretical framework under which I conducted this study. First, it has provided a brief outline of the conceptual toolbox with specific attention to the concepts of food security – the precursor of food crime – and food safety – the primary juridical interest considered by English anti-food crime responses. Second, it has reviewed the literature in the field of food crime, focussing on the organisational aspects of food fraud framed as a type of food crime. Furthermore, in line with the main theoretical perspective of this study, chapter 3 has reviewed the green criminology conceptualisations of food crime that, as mentioned, have influenced my working definition. Lastly, it has summarised the most relevant literature on organised crime (and mafia) to highlight how this phenomenon is perceived, conceptualised, criminalised, and policed.

Following up, five empirical-analytical chapters have tackled the research questions as follows. As the first step of comparative analysis requires the presentations of the two jurisdictional experiences that are being compared, in answering research questions n. 1 and 1a, the first three data-chapters (4, 5 and 6) have presented how food crime is conceptualised, defined, and prosecuted according to the law. Chapter 4 has engaged with the English approach; chapter 5 has charted the Italian approach; last, chapter 6 has presented four legal cases studies to look at how anti-food crime responses take shape in court. To historically contextualise the issue of food crime, in chapters 4 and 5, the analysis has started with a brief overview of the food scandals that have characterised the two jurisdictions. Furthermore, both chapters have introduced the legal frameworks and described the public authorities (also beyond the criminal justice system) that engage with the fight against food crime. In outlining the English approach to food crime, chapter 4 has highlighted that food crime is conceptualised as a more nuanced, serious form of food fraud. In other words, this English model adopts an intelligence-led definition of food crime where the central characteristics that distinguish food crime and food fraud are the level of seriousness and the degree of the organisation of the criminal activities. According to this perspective, a food crime practice is a serious, fraudulent activity that endangers the safety and authenticity of food products, which refer to the legal protection of public health, consumer's trust, and market reputation. This perspective is reflected in the fact that food crime is policed as a type of economic crime where the criminal actors are legitimate food businesses. This research argues that the operational definition of food crime that refers to the seriousness of wrongdoings is needed to legitimise the National Food Crime Unit as a specialised department that centrally investigates and gathers intelligence on the criminal practices committed in the food sector. Yet, this seriousness is not translated into a robust law enforcement apparatus. In the end, food crimes are investigated and prosecuted by the local authorities, which are under resourced and not properly equipped for

some types of food crime investigations. Matching the structure of chapter 4, chapter 5 has outlined the Italian approach against food offences. In this approach, food crime is conceptualised as a criminal category that overlaps with food fraud (i.e., the law criminalises different types of fraudulent practices as food crime). In this view, counterfeiting takes a central role as it harms the ‘*made in Italy*’ brand and endangers the reputation and authenticity of the Italian food sector. In line with this, the Italian law specially protects the market reputation and national economy and, to a lesser centrality, public health. To add, considering the role that food plays in Italian society, the Italian system is further characterised by the protection of food culture. Policing food crime as an economic crime committed by food actors, the Italian approach acknowledges, criticises, and engages with the media narrative on ‘*agromafie*’ regarding the presence of mafia-type groups across the food sector. Following up, through the analysis of four case law studies (Operation Boddy & Moss, Operation Boldo, Operation Arbequino and Operation Provvidenza), chapter 6 has charted the ways food crime is prosecuted, charged, and sentenced.

Drawing upon the findings presented in the empirical chapters, by answering research questions n. 1 and 1a, chapter 7 has critically analysed the two approaches in order to spot divergences and, most of all, convergences. This chapter has engaged with two dimensions. From a purely comparative perspective, it has compared how food crime is conceptualised in each country. The comparison has matured throughout the three dimensions of criminal justice systems: conceptualising what is legally wrong, policing and investigating, prosecuting and sentencing. For each stage, the chapter has highlighted and discussed the main similarities and differences in the two approaches.

When conceptualising the practices labelled as food crime, the two systems converge in adopting a narrow conceptualisation according to which food crimes are fraudulent practices mostly committed at the stage of production. However, England and Italy diverge regarding

the way the conceptualisation is constructed: as seen, if the English approach adopts an intelligence-led definition of food crime conceptualised as a serious form of food fraud, the Italian approach relies on the criminal categories of food crimes that, eventually, overlap with food fraud. In other words, even if the two systems embrace divergent conceptual paths to construct the concept of food crime, under the label '*food crime*' they encapsulate only practices that are criminalised by law. Accordingly, in both systems, the juridical interests protected by law are public health and food safety (central in the English approach), protection of the national economy and the reputation of the food market (central in the Italian approach). In these conceptualisations, both systems fail to recognise as issues of food crime a broad spectrum of harmful activities that endanger public interests such as right access to food, food security, protection of the environment, environmental sustainability, and protection of labour conditions.

When investigating food crime, England and Italy show the most relevant divergences. If, on the one side, they both tackle food crime as a business crime, on the other side, they police food crime differently: 1) the English approach is essentially localised as local authorities – Trading Standards and Environmental Health Departments – are primarily in charge of investigations, enforcing food law and prosecuting food crime; being under resourced and without sufficient investigative tools, they mostly conduct safety and quality checks; 2) the Italian approach is characterised by police involvement – specialised departments such as Carabinieri NAC and NAS – and food agencies – ICQRF that works as the judiciary police – exercising powers of enforcement and prosecution. Despite the differences, in both jurisdictional experiences, the food sector appears under investigated, which contributes to a low level of deterrence that, in turn, contributes to incentivising food crimes.

When prosecuting and sentencing food crime, the two approaches converge once again: food crime is generally prosecuted as administrative regulatory breach (in England) or tort (in

Italy). However, as shown through the legal case studies, there are cases where food crime practices are charged for conspiracy to defraud (England) and membership in unlawful association (Italy). In these cases, the prosecutors focus on aspects such as the type of criminal act (i.e., food adulterations), the stability of the agreements employed to commit the crime (i.e., conspiracy), the type of actors involved (i.e., criminal networks, also of mafia-type).

Lastly, in answering research questions n. 2 and 2a, chapter 8 has analysed the institutional perceptions of the involvements of organised crime and mafia-type groups in food crime. First, it has focused on the food crime activities and it has pointed out that, throughout different conceptual paths, in both jurisdictions, food crime is conceptualised as organised food fraud through a conceptualisation process that recalls the theoretical construction of organised crime as a set cluster of serious criminal practices carried out for economic profits. Second, focusing on food crime actors, chapter 8 has discussed how, by adopting structures and methodologies generally carried out by business actors, organised crime actors are involved in food crime, often through intermediaries of the legitimate food market. Illegitimate business actors active in food crime are prosecuted and sentenced as organised crime networks. Third, by considering practices happening in the food supply chain beyond food crime's institutional conceptualisations, the chapter has examined the spectrum of organised crime and mafia-like groups' infiltrations in activities connected to and/or facilitated by the food sector (e.g., control of food markets, money laundering through food services or agricultural subsidy frauds). Drawing upon the three dimensions, by embracing relevant literature on the conceptual edges between organised and corporate crime and, more precisely, by referring to the theory of enterprise (Smith, 1980), chapter 8 has formulated the socio-legal category '*organised food crime*'. In short, food crime can be framed as organised form of business crime where, throughout the enterprise spectrum, there are involvements of organised crime acting like

legitimate economic actors and involvements of legitimate corporate actors behaving like organised crime.

## **2. Overall contribution of the research**

Overall, this thesis represents an original contribution as it shares the results of the comparative, exploratory, social-legal study on food crime in English and Italian institutions. By drawing on original empirical data, this research questions official conceptualisations of illicit behaviours in the food sector and, concerning the presence of organised crime in food crime, reflects upon the conceptual formulation of the category of '*organised food crime*'. Not only does it provide significant outcomes in the academic and policy dimensions regarding the similarities and differences of two jurisdictional approaches to food crime but more broadly, it investigates the food crime issue and how this is tackled at institutional level.

### **2.1. Theoretical and empirical considerations**

As argued in the literature review (chapter 3), academic research in the field of food crime has been scant. Being first formulated in academia (Croall, 1988, 1992), only in the last ten years, food crime has been addressed as topic worth of criminological inquiry (see Cheng, 2012; Croall, 2013; Gray and Hinch, 2018; Lord et al., 2017a; Tourangeau and Fitzgerald, 2020; Walters, 2011, 2018). Despite relevant contributions, there is a gap regarding the study of how public institutions conceptualise and tackle food crime (in terms of activities, juridical interests to protect, and actors). By embracing different socio-legal dimensions, this study has filled this gap by conducting the first comparative, cross-jurisdictional research in the field, specifically aiming to investigate the involvement of organised crime in food crime.

In line with the two main aims of this research, the theoretical implications have also been twofold. First, by focussing on the analysis of the food crime's conceptualisation formulated by the institutions of two European jurisdictions, this study has confirmed that, in socio-economic and cultural contexts, the perception of social phenomena is reflected in

institutional responses, in official conceptualisations and/or definitions, and in juridical interests protected by the law. To add, despite clear differences between England and Italy (e.g., respectively, common law and civil law systems; adversarial criminal justice system and mixed adversarial-inquisitorial), the two countries converge in how food crime is conceptualised and prosecuted. Considering this, by analysing qualitative data from expert interviews, official documents, case law studies, and regulations, along the lines argued by authors such as Croall (2013) or Toureangeau and Fitzgerald (2020), this study confirms the need of a green criminologically oriented conceptualisation of food crime. According to this conceptualisation, food-related offences should be broadly conceptualised as criminal and harmful practices committed against people, animals and environment. In this sense, food crime activities should be interrogated and institutionally tackled beyond an economic perspective that sees food crime as crimes against consumers. In a food crime discourse, academic research (as well as institutions) should look at the several dimensions beyond public health (which, surely, remains essential) and national economy such as the protection of the environment and the fight against exploitation of labour. In line with the research findings, the study highlights the importance of a social-harm perspective positioned between criminology and zemiology. It would be beneficial to further address the difference between crimes of food crime and harms of food crime, especially in light of blind institutional views that, excluding specific cases (e.g., the concept of '*Italian sounding*' and the underneath economic interest to protect the Italian economic food sector), do not target harmful practices usually committed by relevant economic players. Such a perspective could address practices that are not covered by the realm of criminal law but that, nevertheless, are detrimental to people, non-human species, and environment (Hillyard et al., 2004; Ruggiero and South, 2010). Additionally, acknowledging these food harms and the tension between crimes and harms could help to build more effective responses to prevent food crime activities and to unveil food crime actors.

Second, when unpacking the involvement of organised crime in the food sector, the study supports a clear identification of the actors of food crime. When it comes to food crime, the border between organised crime and corporate crime has proven to be very unclear. By considering the whole spectrum of harmful and criminal practices happening in the food supply chain, the category of '*organised food crime*' suggests gathering under the same label both corporate crime actors and organised crime actors as they are both active across the enterprise spectrum. As argued in chapter 8, one could question the usefulness of the label '*organised food crime*', considering the complexity of the label '*organised crime*' that cannot fully encapsulate the complex phenomena of organised crime under a clear-cut category. Yet, by embracing a conceptualisation of organised crime as form of economic or enterprise crime, it becomes possible to recognise that food crime is committed by networks of organised criminals, also of corporate nature. Hence, the label '*organised food crime*' becomes essential to get a more effective intervention of law enforcement that, this way, would have access to a wider tool box of investigative tools used in organised crime such as telephone or environmental wiretapping (van Solinge et al., 2016).

## **2.2. Policy considerations and outcomes**

Academic reflections are followed by policy considerations and suggestions. In light of the empirical findings and their theoretical consequences, it can be argued that anti-food crime policies could be re-shaped starting from a broader perspective on food crime that allows law enforcement and public authorities to consider issues beyond food fraud that is the primary criminal practice tackled by institutional conceptualisations. In this sense, following up on the previous section, the conceptual category of '*organised food crime*' could enable to tackle of other aspects. In brief, these are the areas where policies could be improved:

- 1) Both English and Italian jurisdictions should expand their legalistic definitions of food crime – as both as criminal category (Italy) and as intelligence-led category (England) –

to include harmful practices that, despite being detrimental to juridical values, are not tackled by official responses;

2) Conceptual and terminological clarity should be improved: in the case of England, the difference between food crime and food fraud that draws on the feature ‘seriousness’ could be clarified, especially considering that it does not translate into a higher level of deterrence in policing and into higher sentences; in Italy, the official narrative should stop referring to the media label ‘*agromafie*’ as this can lead to confusion regarding the actors involved and the actual level and type of mafia’s infiltration in food crime;

3) Flexible and prompt national and international cooperation should be implemented, especially in England where maintaining access to EU intelligence networks (e.g. Europol or the EU Anti-fraud Office) seems to be of extreme importance after Brexit;

4) In England, more investigative resources should be allocated to local authorities and, at central level, the NFCU should gain power of enforcement and prosecution<sup>222</sup>; indeed, this is how the feature of seriousness in conceptualising food crime can translate into the feature of seriousness in policing food crime;

5) When looking at the criminal charges that can be applied against food crime, both countries could improve as follows: in England, regarding the prosecution of food frauds, a shift towards the use of the Fraud Act 2006 could be beneficial (Flores Elizondo et al., 2019); moreover, to match the feature of seriousness in conceptualising food crime, the charge of conspiracy to defraud should be applied to with evidence of organised crime networks active in serious food frauds (as per Operation Boldo). Similarly, leaving the ‘*agromafie*’ narrative, Italian institutions focus on the different forms of organised crime’s involvement in food crime (as per Operation Arbequino, which represents the beginning of using this approach) and

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<sup>222</sup> According to the FSA board meeting held on 14 March 2018, the NFCU will develop its counter fraud capability by 2021 (Food Standards Agency, 2018a, 2018b).

approve as soon as possible the draft law on ‘*agro-piracy*’ to tackle organised or systematic food frauds. At the same time, this new charge should be backed up by membership in unlawful association (also of mafia-type) in cases where the latter can be employed (as per Operations Arbequino and Provvidenza).

On a side note, there are also some ‘top-down’ policies or social measures of the food system that can be further implemented to prevent and protect the food sector from food crime, such as corporative responsibility and regulatory compliance from corporate companies, and transparency from associative trade and agricultural associations. Moreover, considering the European context, as per Europol-Interpol Operations Opson, the European Union provides a strong legal framework on food safety and food fraud. However, despite strict food safety standards, the EU regulation does not provide any legal or operational definition of food crime (and of food fraud) that can be shared amongst state members. Truly, having a common, overarching European regulation helps to overcome possible legal asymmetries and difficulties caused by divergent approaches and, eventually, to adopt shared collaborative strategies to tackle food crime across Europe. As argued by Corini and van der Muelen (2018), the different legal and food cultures of the twenty-eight EU state members differ too much to consider similar perspectives and approaches under the same denominators, making impossible to establish a set of common standards to protect food products. Considering this, the adoption of an operational definition of food fraud as “*the intentional violation of the rules covered by Reg. 882/2004 (official controls regulation) motivated by prospect of economic or financial gain*” (Garau, 2014:3 as cited in Corini and van der Meulen, 2018: 163) proposed by the European Commission has been rejected by the state members. On both European and domestic levels, one might wonder if the lack of a common definition of food crime could further contribute to create conceptual unclarity in what is food crime. Moreover, there is the risk that Brexit will further weaken international cooperation and, ultimately, increase criminal opportunities by

creating juridical gaps. Divergences in the way criminal justice systems tackle criminal phenomena such as food crime can create asymmetries in policies and legal frameworks and legal loopholes that can be exploited by criminals. By focusing on the examples of English and Italian approaches, this study has shown that, despite legal and cultural differences across jurisdictions, it is possible to find significant convergences (even at the stage of conceptualisation of wrong behaviours), which eventually allow cross-border legal harmonisation and institutional cooperation.

### **3. New avenues of research**

While conducting this study, I came across multiple themes highlighting interesting paths for future research in the field of food crime. In brief, they are strictly connected to the necessity to adopt a wider conceptualisation of food crime enabling both academics and policy makers to address the protection of interests beyond public health and, most of all, economic markets. First, it is extremely interesting to study of how new technologies might affect the food supply chain. For instance, the intensification of GM foods (for example, through the UK Agricultural Bill 2021 that allows the UK to grow GM crops currently banned under EU regulation) might affect plant biodiversity and, eventually, harm the ecosystem. Moreover, the use of nanotechnologies (or nanofood) to modify food production, food taste and nutrition, might involve issues regarding their safety and ethics (Cummings et al., 2018). Furthermore, not only does the trade of illegal pesticides (see Europol's Operation Silver Axe) endanger food safety, it also affects the environment and endangers important insect species such as bees that are essential in agriculture (Bagnoli and Brodero, 2020; EUROPOL, 2020b). Second, further research could investigate how many new nutritional trends created a vast range of criminal opportunities (e.g. practices of adulteration or misleading trade and advertising in gluten free and organic food) that can pose harm to both individuals 'trust and public health. Third, a better focus on food offences with consequences on animals and non-human species (e.g. rights of

animals in livestock transport) is central as it could lead to a critique and a reconstruction of the food system (Fitzgerald and Tourangeau, 2018; Young and Kevany, 2020). Lastly, the global events related to the Covid-19 pandemic highlight further issues that are worth analysing under the lens of criminology. In fact, the crisis triggered by the pandemic has further flagged the fragility of modern and globalised food systems that translates into several opportunities for crime. Some of the main issues are:

- a) As reported by Europol, the Covid-19 crisis might generate forms of counterfeit or substandard foods sold by criminal groups with the aim of exploiting the increased demand of food goods by consumers fearing food shortages (EUROPOL, 2020a);
- b) As highlighted in the many Covid-19 outbreaks exploded in meat plants across Germany, the US, Brazil, the Netherlands and the UK, the pandemic has finally uncovered the unsafe working and health conditions of agri-food employees who have been exposed to higher rate of contagion due to lack of effective personal protective equipment and, more in general, insufficient level of hygiene, social distance and, ultimately, safety (Phillips, 2020; van der Zee, 2020);
- c) As argued by the UN, the current crisis highlights the necessity of better focus on food security especially in relation to food poverty, social injustice, and access to food, which are further endangered by the pandemic (Butler, 2020; Harvey, 2020; UN, 2020).

These issues converge under one main aspect: the necessity to adopt a broader conceptualisation of food crime that shifts from food crime as crimes against consumers to food crime as food harms in order to support juridical interests such as food safety, food security, environmental sustainability, and workers' rights. As highlighted by the European Commission, "*workers' social protection, working and housing conditions as well as protection of health and safety must play a major role in building fair, strong and sustainable food systems*" (European Commission, 2020: 12). Lastly, the meat-plant outbreaks have been

linked to an increase in contagion rates that, eventually, further underline the importance of guarantying safe working conditions in protection of public health (Rawlison and McDonald, 2020). In this sense, one might ask if, states that allow meat companies to force workers to unsafe working spaces, might represent a form of state-harm to tackle under a wider critical lens on food crime.

#### **4. Final remarks**

In conclusion, like every social research, this study holds several strengths. The thesis has successfully and widely unpacked the phenomenon of food crime, how its corresponding concept is formulated at institutional level, and how the official conceptualisations differ from academic notions. In brief, this study has shown that the food system is extremely fragile and how food crime is attractive to criminals as organised crime groups and corporate actors.

This research has also its weaknesses, and, in retrospect, many things could have done differently. First, due to time management and access, it has focused only on England and, together with a relatively small sample, this has necessarily entailed some level of approximation and generalisation in the findings. Second, considering the extent of the study, certain data might have been interpreted and explained superficially. Yet, the aim of comparative research (to highlight complexities in similarities and differences across countries and jurisdictions) has been fully reached. Third, this research is neither legal nor socio-criminological. On the contrary, it touches upon different disciplines, which has enriched the analysis and offered a unique and valuable contribution to this field.

To conclude, this project started a few months after the results of the Brexit referendum. This did not change the purposes of the study, yet it has clearly influenced the analysis and my perspective on the English side of the comparison. Years after, this study has ended under the Covid-19 pandemic and the related socio-economic crisis has further pointed out the fragility of the food systems at global level. These two macro socio-political events have contributed to

highlight the necessity of studying food crime and, furthermore, the need of cross-national comparison that discusses convergences and divergences and eventually pushes for more legal and policy collaboration. Finally, this project has put under continuous scrutiny my biases regarding the involvement of mafia-type groups in the food sector and the ‘*agromafie*’ narrative, it has broadened my perspectives and, as visible in the avenues of future research, it has further developed my interest in the field of food crime.

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## Appendix A – Official documents and grey sources

**Table n. 1 – Documentary sources collected in England**

<b>AUTHOR(S)</b>	<b>TITLE</b>	<b>YEAR</b>
Chris Elliot et al. (Investigation Committee)	Elliott Review into the Integrity and Assurance of Food Supply Networks - Final Report	2014
Department of Environment, Food and Rural Affairs; Food Standards Agency; British Standards Institution	Guide to Protecting and Defending Food	2017
Food Standards Agency	The Food Safety Act 1990 - A Guide for the food business	2009
Food Standards Agency	Review of the National Food Crime Unit	2016
Food Standards Agency	Food Law – Code of Practice	2017
Food Standards Agency; National Food Crime Unit	Walking Together to Tackle the Threat from Food Crime (FSA) – A Guide for the Industry to Working with the National Food Crime Unit	2017
Food Standards Agency	The Development of the National Food Crime unit and the Decision to Proceed to Phase 2	2018
Food Standards Agency	FSA Food and Feed Law guide	2018
Food Standards Agency	The National Food Crime Unit – Update and Progress and Next Steps	2018

House of Lords - The Select Committee on the European Union Energy and Environment Sub-Committee	Inquiry on Food Fraud on the Integrity of the Food System – Transcript of the Evidence Taken Before the Select Committee on the European Union Energy and Environment Sub-Committee	2016
National Food Crime Unit	National Food Crime Unit Annual Strategic Assessment	2016
National Trading Standards	Annual Report	2017
National Trading Standards	Consumer Harm Report	2017
UK Agriculture and Health Ministers	Food Standards Agency – A Force for Change	1998

**Table n .2 – Documentary sources collected in Italy**

<b>AUTHOR(S)</b>	<b>TITLE</b>	<b>YEAR</b>
Carabinieri NAS	Illeciti nel settore della sicurezza alimentare - Il ruolo dei Carabinieri dei NAS	2018
Direzione Nazionale Antimafia e Antiterrorismo – Polo criminalità ambientale	L’esperienza delle direzioni distrettuali antimafia nel settore agroalimentare	2016
Eurispes – Coldiretti - Osservatorio sulla criminalità nell’agricoltura e sul Sistema agroalimentare	Agromafie – Rapporto sui crimini agroalimentari in Italia	2011, 2013, 2016 and 2019
FLAI CIGL - Osservatorio Placido Rizzotto	Agromafie e caporalato - Terzo Rapporto	2016
Impact assessment office – Senato della Repubblica Italiana	Lotta alla contraffazione e tutela del <i>made in Italy</i> – Documento di Analisi n. 5	2017
Legambiente	Rapporto Ecomafia	2016

Ministero dell giustizia	Commissione per l'elaborazione di proposte di intervento sulla riforma dei reati in materia agroalimentare	2015
Ministero della giustizia (Commissione caselli)	Linee guida per lo schema di disegno di legge recante "Nuove norme in materia di reati agroalimentari"	2015
Ministero delle politiche Agricole - ICQRF – Department of central inspectorate for fraud repression and quality protection of the agri-food products and foodstuffs	Reports ICQRF	2017, 2018
Ministero dello sviluppo economico	Rapporto Iperico – La lotta alla contraffazione in Italia nel settore agroalimentare	2014
Parliamentary Commission (Commissione Mongiello)	Commissione Parlamentare di inchiesta sui fenomeni della contraffazione, della pirateria in campo commerciale e del commercio abusivo	2015
SOS Impresa	13° Rapporto Le mani della criminalità sulle imprese	2016

# Appendix B – Information sheets and consent forms

## 1. Information sheet (English)



### INFORMATION SHEET

**Research project title:** 'ORGANISED FOOD CRIME – Examples from the UK and Italy'

**Research project funding:** ESRC and University of Essex - Department of Sociology

**Research investigator:** Ph.D. candidate Alice Rizzuti

**Other Researchers who are involved in this project and may be have access to the data:** Prof. Nigel South and Dr. Anna Sergi, project's supervisors

#### **RESEARCH TOPIC**

This research is an exploratory study on the issue of food crime. Its aim is to find examples of the crimes that this conceptualization embraces, the actors who perpetrate them, and how these offences are committed. The final aim of this study is to find out if and to what extent organised crime is involved in the food sector. The research represents an original contribution because, through a comparative analysis between the UK and Italy, it plans to focus on different stages of the food supply chain (production, processing and distribution) in order to find out if organised crime groups and mafia type groups are involved in criminal activities inside the food market.

The research questions that this project aims to answer are the following:

RQ1. What is food crime? How has it been conceptualized so far?

RQ2. The production stage: Activities and Actors – Is there any evidence of organised crime involved?

RQ3. The processing stage: Activities and Actors – Is there any evidence of organised crime involved?

RQ4. The distribution stage: Activities and Actors – Is there any evidence of organised crime involved?

RQ5. Towards the concept of '*organised food crime*': Can we say that it exists? How can it be conceptualized?

#### **METHODOLOGY**

The study will adopt a qualitative approach. The overall idea is to collect data on food crime across the U.K. and Italy and the sources analysed will be academic literature, media, public and private agencies websites and reports, criminal statistics, surveys and qualitative semi-structured interviews with experts, on the subject of food crime and criminal activities committed along the food supply chain, both in the UK and in Italy, prosecutors and law enforcement agents; National Trade Unions, NGOs and other public and private organizations, which operate in the food sector; and investigative journalists who work in the field.

#### **GENERAL INFORMATION**

Participating to this project is completely voluntary and no benefit will arise from it. You have the right to withdraw from the project at any time, for whatever reason and without explanation or penalty. In order to exercise the right of withdraw, you will just have to notify me (see contact details below). If any data have already been collected, upon withdrawal, the data will be destroyed, unless you expressly allow me to use them.

The data recorded from the interview will be stored under password protection and analysed during the research, as they will form the basis for the investigator's Ph.D. thesis. Only the investigator and her supervisors will have access to them. After the study ends, the data will be stored in the UK Data Archive. Parts of the study may also be submitted for publication.

### **INFORMED CONSENT**

Should you agree to take part in this study, you will be asked to sign a consent form before the interview. Signed consent forms will be kept separately from the rest of the data and password protected.

### **COMPLAINT**

If you have any concern about any aspect of this project, you should ask to speak to the principal investigator (see email below) in the first instance or her supervisors, Prof Nigel South (n.south@essex.ac.uk) or Dr. Anna Sergi (asergi@essex.ac.uk). If you remain unhappy and wish to complain formally, please contact Sarah Manning-Press, Research Governance and Planning Manager, University of Essex, Wivenhoe Park, Colchester, CO4 3SQ (sarahm@essex.ac.uk).

### **ETHICAL APPROVAL**

This project has been reviewed on behalf of the University of Essex Ethics Committee and has been given approval.

**Thank you for your participation!**

**Alice Rizzuti**

Postgraduate research student

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## 2. Consent form (English)



### CONSENT FORM

**Research project title:** 'ORGANISED FOOD CRIME – Examples from the UK and Italy'

**Research project funding:** ESRC and University of Essex - Department of Sociology

**Research investigator:** Ph.D. candidate Alice Rizzuti

**Contact details:** [alice.rizzuti@essex.ac.uk](mailto:alice.rizzuti@essex.ac.uk) / [alicerizzuti@gmail.com](mailto:alicerizzuti@gmail.com)

**Other Researchers who are involved in this project and may be have access to the data:** Prof. Nigel South and Dr. Anna Sergi, project's supervisors

#### PLEASE INITIAL BOX

1. I confirm that I have read and understood the information sheet
  
2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason and without any penalty
  
3. I agree on the use of my name and job title with reference to comments made during the interview for the purposes of the project
  
4. I would prefer to have an anonymous name
  
5. I authorize Ms Alice Rizzuti to record the interview

6. I agree to the interview being audio recorded

7. I understand that data collected in this project might be shared as appropriate and for publication of findings, in which case data will remain completely anonymous

Participant Name:

Job Title:

Date:

Researcher Name:

Date:

Signature:

Signature

### 3. Information sheet (Italian)



#### FOGLIO ILLUSTRATIVO DEL PROGETTO DI RICERCA

**Titolo del progetto di ricerca:** ORGANISED FOOD CRIME - Examples from the U.K. and Italy

**Progetto finanziato da:** ESRC and University of Essex - Department of Sociology

**Ricercatore:** Alice Rizzuti, Ph.D. candidate, Centre for Criminology, University of Essex

**Contatti:** alice.rizzuti@essex.ac.uk / alicerizzuti@gmail.com

**Relatori:** Prof. Nigel South e Dr. Anna Sergi, Centre for Criminology, University of Essex

#### TEMATICA DI RICERCA

Questo progetto rappresenta uno studio esplorativo in materia di *food crimes*: l'obiettivo è individuare reati e fattispecie criminose ricomprese all'interno di suddetta categoria, gli attori criminali che le commettono e le modalità in cui suddette condotte sono poste in essere. Scopo finale di questo studio è verificare se e in che modo la criminalità organizzata è coinvolta in attività nel settore agro-alimentare. Questa ricerca fornisce un contributo originale poiché, attraverso un'analisi comparata fra Italia e Regno Unito, intende analizzare le diverse fasi della filiera agro-alimentare (es. produzione e distribuzione), al fine di verificare il coinvolgimento di gruppi di criminalità organizzata (*organised crime groups* e *mafia-type groups*) all'interno del mercato del cibo.

#### METODOLOGIA

Questa ricerca intende adottare una metodologia qualitativa. L'idea è di raccogliere dati sulla criminalità agro-alimentare in Italia e nel Regno Unito, analizzando fonti quali la letteratura accademica, i media, report di autorità pubbliche e private, statistiche criminologiche, sondaggi e interviste qualitative semi-strutturate con esperti nel settore della criminalità agroalimentare (i.e. magistrati, agenti delle forze dell'ordine, autorità sindacali, organizzazioni no-profit e giornalisti investigativi).

#### INFORMAZIONI GENERALI

La partecipazione a questo progetto è completamente volontaria e non ne sarà ricavato alcun beneficio. Il partecipante ha diritto di recedere in ogni momento, per qualsiasi motivo e senza fornire alcuna giustificazione o subire alcuna penalizzazione. Al fine dell'esercizio del diritto di recesso, il partecipante dovrà comunicare la volontà di recedere al ricercatore. Nel caso in cui siano già raccolti dati di ricerca, suddetti dati saranno distrutti, salva espressa autorizzazione all'utilizzo da parte del partecipante.

I dati registrati durante le interviste saranno conservati protetti da password e analizzati durante la ricerca, costituendo parte integrante della tesi di dottorato del ricercatore. In seguito, saranno conservati

negli archivi dell'UK Data Archive. Parti della ricerca potranno essere oggetto di pubblicazioni accademico-scientifiche.

### **CONSENSO INFORMATO**

Acconsentendo a partecipare a suddetto progetto di ricerca, le sarà chiesto di leggere e firmare un foglio di consenso prima dell'intervista. Suddette dichiarazioni di consenso saranno conservate separatamente dai dati di ricerca.

### **RECLAMO**

Per ogni perplessità circa qualsiasi aspetto di suddetto progetto di ricerca, il partecipante può rivolgersi al ricercatore principale (alice.rizzuti@essex.ac.uk) e ai due relatori, Prof. Nigel South (n.south@essex.ac.uk) o Dr. Anna Sergi (asergi@essex.ac.uk). Qualora il partecipante desiderasse effettuare una lamentela formale, dovrà contattare Sarah Manning-Press, Research Governance and Planning Manager, University of Essex, Wivenhoe Park, Colchester, CO4 3SQ (sarahm@essex.ac.uk).

### **PROFILI ETICI**

Questo progetto ha ottenuto l'approvazione del Comitato Etico dell'Università dell'Essex.

**Grazie per la partecipazione!**

### **Alice Rizzuti**

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#### 4. Consent form (Italian)



### DICHIARAZIONE DI CONSENSO ALL' UTILIZZO DEI DATI PERSONALI

**Titolo del progetto di ricerca:** ORGANISED FOOD CRIME - Examples from the U.K. and Italy

**Progetto finanziato da:** ESRC and University of Essex - Department of Sociology

**Ricercatore:** Alice Rizzuti, Ph.D. candidate, Centre for Criminology, University of Essex

**Contatti:** alice.rizzuti@essex.ac.uk / alicerizzuti@gmail.com

**Relatori:** Prof. Nigel South e Dr. Anna Sergi

#### Per favore siglare le caselle

1. Confermo di aver letto e compreso il foglio illustrativo del progetto di ricerca

2. Comprendo che la mia partecipazione è volontaria e di essere libero di ritirare il mio consenso in qualunque momento, senza fornire alcuna motivazione e senza alcun tipo di penalizzazione

3. Do il mio assenso all'utilizzo del mio nome e della mia qualifica lavorativa in riferimento alle opinioni espresse durante l'intervista ai fini del suddetto progetto di ricerca

4. Autorizzo la dott.ssa Alice Rizzuti a registrare l'intervista

5. Sono consapevole che i dati di ricerca raccolti durante l'intervista potranno essere resi pubblici in forma anonima

Nome del partecipante:

Ruolo:

Data:

Firma:

Nome del ricercatore:

Data:

Firma:

## **Appendix C – Timeline and Anecdotes of the Horsemeat Scandal<sup>223</sup>**

In the late 2012, while conducting some random routine checks, the Food Safety Authority of Ireland (FSAI) discovered undeclared traces of horsemeat inside products advertised, labelled, and sold as beef processed foods (e.g., burgers or beef lasagne,) by some of the most relevant supermarket chains operating across the UK (Asda, Aldi, Tesco, Lidl, Iceland). Following this, the FSAI increased the testing to find out DNA from other undeclared species. In doing so, it discovered traces of horse DNA in one-third of the beef burgers tested. The Irish and British food market being interconnected, especially in the meat sector, the FSAI contacted the UK FSA that notified to the Parliament in January 2013. The following investigations found out that three factories were providing beef meat that, afterwards, proved to be contaminated and adulterated with horsemeat (i.e. Silvercrest Foods and Liffey Meats in Ireland, and Dalepak in Yorkshire). Interestingly, two of the factories were owned by ABP Food Groups, one of the largest beef processors in Europe and trades food sources imported from continental Europe. Checks conducted across Europe found out more adulterated products that had been sold by different food processors to relevant retailers and to consumers. In brief, the horsemeat sold as beef was slaughtered by Romanian slaughterhouses, sold first to a Dutch food trader (Jan Faser), second to a Cypriot trader (Andronicos Sideras at Dyno's) and, later, to famous French firms (Comigel and then Findus). In other words, different actors active at different stages of EU food supply chains were involved in the fraud. To highlight the high transnationality of this case, Europol (the European law enforcement agency coordinating the activities of the state members law enforcement) declared that sixty-five people were arrested in relation to the investigations in Spain and Belgium (Bartunek, 2017). To deal with the alarm caused by the scandal, the EU Ministers of Agriculture established a three-month programme of DNA testing

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<sup>223</sup>The primary source of this section is Lawrence, 2013a, 2013b.

of processed meat across the EU to check for traces of bute, a strong medication used with horses and that can cause health risks for humans. Despite the wide network of investigations and checks taking place across Europe, the actual extent of this scandal is still not clear, and the real number of victims and criminal actors involved remains undefined.

## Appendix D – EU specialised olive oil regulation

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Reg. EEC n. 136/1966	First European regulation that unified the denominations for the different types of olive oils
Reg. EC n. 2815/1998	On the oil's origin must be specified in relation to the country of the oil mill
Reg. EC n. 1019/2002	On the optional information on the label regarding the qualities and properties of the oil
Reg. EU n. 182/2009	On the compulsory indication of the olive oil's origin
Reg. EU n. 2568/2011	On the different categories of olive oils
Reg. EU n. 29/2012	On the olive oil 'marketing standards, the different types of oils and labelling systems; the regulation identifies seven types of oils (extra virgin, virgin, refined, blend of virgin and refined, and three types of pomace oil <sup>224</sup> )

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<sup>224</sup> This type of oil is obtained from the leftovers of the olives resulting from the processing stage.