

# **THE ILLICIT RECRUITMENT OF DAY LABOR: THE RESPONSIBILITY OF ENTITIES AND RECENT REFORMS ON D. LGS. 231/2001**

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## **ABSTRACT**

During the last decades, the phenomenon of the illegal recruiting (*Caporalato*) has been the subject of a diversified and not entirely precise discipline, outlined in principle as a hypothesis of a crime of contraventional nature. Following the approval of L. 29 October 2016 n. 199 “*Provisions on combating the phenomena of undeclared work, the exploitation of agricultural work and the realignment of remuneration in the agricultural sector*”, in our legal system, major changes have been made in the area of “*Caporalato and exploitation of labour*”. Among the main innovations, and as regards the scope of the *Caporalato*, the introduction of art. 603-bis in the Italian Criminal Code in the list of crimes alleged pursuant to art. 25-quinquies of Legislative Decree n. 231/2001 “*Regulation of the administrative liability of legal persons, companies and associations also without legal personality, in accordance with Article 11 of the law of 29 September 2000, n. 300*”. This reform has seen the creation of a new criminal case through the expansion of the audience of active subjects referred to in paragraph 1 of art. 603-bis c.p. and the creation of a new protective measure to replace preventive seizure. The reform is the result of a reflection on the shortcomings of the previous regulatory instruments. For some time now, both doctrine and practical operators had highlighted some structural limitations of the case considered technically unfit to fill the gap of protection for which it was originally conceived. These include the short-sighted identification of the active subject of the crime only in the *Caporale*, or in the promoter of the organized activity of illicit interposition in the Job market. As a result of L. 199/2016, companies will have to pay more attention to the organization of their workforce, as well as to procedures for the selection and recruitment of personnel; greater attention should also be paid to all those entrepreneurial realities which are characterized by a massive use of administered work, in which the recruitment of staff is carried out through a third-party intermediary