

CONFERENCE ABSTRACT

Session: THE GOVERNANCE OF SUSTAINABILITY IN AGRIFOOD CHAIN

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*Sustainability in the wine sector: a claim like no other?**

This paper delves into the integration of sustainability within the wine sector, beginning with a foundational understanding from a wine perspective. It explores the adaptation of wine law to encompass sustainability claims, including issues related to planting authorizations and the social implications of alcohol consumption. The study further examines the immaterial value of wine, particularly through the protection of wine landscapes and the role of PDO/PGI designations in reinforcing local subsidiarity. Finally, it addresses future perspectives by identifying legal gaps, combating greenwashing, and questioning the resistance to sustainability claims in the wine industry.

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Where competitiveness meets sustainability: law, policy, implementation and the environmental challenge of vineyards

When talking about a sustainable food system, a systemic approach is required: it must take into consideration all the relationships and all the involved souls of sustainability. The environmental aspect cannot therefore ignore the economic side, as well as the social and cultural profile. Nevertheless, sectoral specificity must be a key factor in planning the most suitable interventions to ensure sustainability. The proposed contribution therefore focuses on the wine sector and its peculiarity.

In September 2023, the Court of Auditors published its report «Restructuring and planting vineyards in the EU. Unclear impact on competitiveness and limited environmental ambition». The report's findings emphasize that the impact of EU assistance on wine growers' competitiveness is uncertain. According to the document, the design and execution of the planting authorization scheme show deficiencies, while the wine policy of the European Union fails to meet the

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environmental goals of the common agricultural policy. The Court of Auditors calls on the Commission to better target EU actions in order to increase the sector's environmental goals and encourage wine growers' competitiveness. The EU Commission's reply to the remarks stresses, however, the significant changes of the CAP 2023-2027 and its enhancement of environmental ambition for the wine sector.

Starting from a general overview of the specificity of this sector (e.g. link with the territory and the landscape, connection with tradition and culture, extreme dependence on climate conditions, relevance for trade), the paper compares the Court of Auditors' findings and the Commission's reply in light of the CAP and of the recent partial failure of the debate on agriculture under the 13th WTO Ministerial Conference. After having identified the main issues emerging at a global and regional level, the paper will focus on what steps might be taken by policymakers and lawmakers to find realistic solutions for a truly competitive and sustainable wine sector.

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Partnership applied to distribution networks as a legal tool for sustainable agri-food supply chains

In the design of the "European model of sustainable development" outlined by the Green Deal, the EU has assigned agriculture a central role as a link. In the European documents Farm To Fork/F2F and Biodiversity Strategy (which include the food component of the Green Deal) it is specified that the pursuit of sustainability affects the implementation of the objectives of the CAP and that the reorientation of agriculture and food systems in the European Union towards sustainability starts with the creation of new agri-food supply chain models.

This is the first attempt by the EU to design an integrated food policy that brings together measures and objectives involving the entire food chain, from production to consumption to food disposal, and on the assumption that the environment, agriculture, agro-industry, distribution, health and consumption are related materials. But the transition from the enunciation of strategic objectives (political level) to the definition of legislative frameworks marks the greatest friction between the opposing demands that animate the European Trilogue, pressed by three factors: a) the different food model of each Member State; (b) the different level of sensitivity of each Member State to sustainability issues; c) the recent protests of the primary sector in many EU countries against the stringent limits imposed on activities in the field (reduction of pesticides, quotas of land to be kept fallow, etc.) in the name of environmental sustainability objectives.

Of the three factors indicated, the last one, also for the involvement of all Member States without the traditional contrasts between the south and the north of the EU, ratifies the rejection of the awareness of a "high level of environmental ambition of the CAP" (EU Reg. 2021/2115, Recital 16) which was considered a shared objective and which instead clashes with the (opposite) requests of European farmers called upon to implement an agricultural model in which they declare that they do not Recognize. This makes it more difficult for the construction of the EU framework legislation on food sustainability (Sustainable Food System/SFS Law) which, envisaged in the F2F as one of the two umbrella actions, should have intervened in the form of the regulation by 2023 and with respect to which there are still no concrete elaborations but only general indications in continuous remodeling. Of the four dimensions of food systems on which the SFS Law must grapple, the contribution focuses on distribution as a possible pivot of a new model of supply chain relations; it proposes to overcome the stepmother version of distribution by suggesting the partnership as a tool to strengthen producers over intermediaries, to broaden the governance of the agri-food market and to coexist with food security, Food Safety and Healthy Nutrition. The aim is to identify legal models, institutional schemes, best practices, guidelines capable, through partnership, of identifying and resolving the trade-offs that are activated in and that condition food systems to achieve effective operational results, in terms of improving the value chain (to the benefit of producers) and combating climate change, beyond the mere environmentalist ideological affiliation that has revealed all its inadequacy.

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Benefit corporations and circular economy in the agrifood chain: balancing on the tightrope between profitability and common good

The transition towards a sustainable agri-food chain, as envisaged by the European Union's Green Deal, and confirmed by the mandatory rules which are into force, implies a revision of production, consumption and distribution patterns. Beyond affecting the ways in which companies carry out their activities, it requires a change in business models that are implemented: corporations must not only prioritize profits, but also be conducive to achieving a common benefit. As sustainable businesses are called, among other things, to assess, report and eventually be accountable for their externalities, sustainable corporate governance has entered in the political agendas of legislators, at national, European and international levels. In this respect, private and public interests match together in view of the sustainability strategy.

At European level, the "Farm to Fork" Strategy has highlighted the need to incorporate sustainability into corporate strategies within the food industry, leading to significant legislative measures such as

Directive (EU) 2022/2464, Regulation (EU) 2023/2772 and the proposal on Corporate Sustainability Due Diligence Directive. However, the European Union has not harmonised the functioning of benefit corporations, leaving room for national legislators to act.

The development of B-Corps, in the United States, has catalysed a global movement centred around assessing corporations' entire social and environmental impact, prompting changes in governance structure with the achievement of a "benefit corporation" status.

Under the national law, Italy addressed (as first) the issue with Law No 208 of 28 December 2015, aimed at supporting enterprises that, in addition to the traditional profit motive, intend to pursue one or more benefit purposes and operate in a responsible, sustainable and transparent manner. In detail, the incorporation of benefit aims in the corporate purpose allows the company – provided it fulfils governance and transparency obligations – to amend its designation (adding the terms "Società Benefit" or "SB") and utilise it in external communication. Consequently, in Italy agrifood companies pioneering innovative circular economy models, which have not only a productive but also a collective aim, may qualify as "benefit" and access financial and market advantages, even if not certified as "B-Corps".

As legislative efforts to identify and promote sustainable governance obligations continue to evolve, both at the national and European levels, this paper seeks to contribute to the understanding of the subject by analysing the opportunities and challenges posed, from a regulatory point of view, by Benefit Corporations in the agrifood sector. The analysis of the national intervention underscores the need, in the European context, for a comprehensive framework that encourages and facilitates responsible business practices, while properly communicating company objectives to consumers.

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The new directive (EU) 2024/825 "anti-greenwashing" and the italian case "fileni sustainability"

It is now a fact that businesses are using unfair and deceptive commercial practices which give rise to the so-called greenwashing phenomenon to the detriment of consumers. In fact, the green turn that the European Union and the individual member States have been taking for some years now on the one hand brings the merit of an undoubted attention towards the environment and the circularity of resources and on the other is leading entrepreneurs to implement distorted communication strategies, in marketing, to gain market shares.

This is the case of provision no. 31025/2024 of the Italian Competition Authority (ICA) which sanctioned the poultry and feed company Fileni for the disclosure of misleading information relating to the entire agricultural production of foodstuffs used to produce organic feed and about the totally Italian origin of the raw materials for animal feed.

The fight against greenwashing is an objective already announced and therefore pursued at community level by the New Consumer Agenda (COM(2020) 696 final), which was then substantiated in the issuing of the very recent Directive (EU) 2024/825 relating to the responsibility of consumers for the green transition by improving information and protection from unfair practices. In particular, the Directive in question includes, in the list of commercial practices considered in any case unfair (Annex I Directive (EC) 2005/29 and art. 23 Legislative Decree no. 229/2003, so-called Consumer Code), new practices attributable to greenwashing and also modifies the rules on product labelling, prohibiting the use of generic environmental indications.

The Antitrust has in fact specified that the conduct carried out by the professional does not appear to comply with the level of professional diligence reasonably required, based on the general principles of correctness and good faith (art. 20 Cons. Code), given its significant impact on the economic choices of the consumer oriented towards products of greater safety, quality and healthiness for the origin of organic chicken feed. Fileni is a benefit company and as such is required by statute for promotional purposes not only for profit, but ultra-social for common benefit and, among other things, to operate in a responsible, sustainable and transparent way towards people, communities, territory and environment.

The International Federation of Organic Agriculture Movements (IFOAM) itself has drawn attention to the improper use of indications, labels or communication initiatives on food products and, therefore, is with this latest Directive so-called “anti-greenwashing”, that it is hoped that this phenomenon will be eliminated or at least massively limited.

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Italian and European regulatory profiles for sustainability communication

Consumer influence is an essential driver in the circular economy. Therefore, communicating sustainability needs to be regulated to achieve a better circular economy, and unfair commercial practices that undermine sustainability must be discouraged. Specifically, on March 30, 2022, the Commission proposed a directive on empowering consumers for the green transition as part of the circular economy package. Directive (EU) 2024/825, adopted on February 20, 2024, and in force as of March 26, 2024, has focused on regulating the following phenomena:

- greenwashing practices (i.e. misleading environmental claims)
- premature obsolescence practices (i.e., premature failure of goods), and
- the use of unreliable and non-transparent sustainability labels and information tools.

These provisions draw a clearer picture of deceptive practices related to environmental sustainability requirements, so it is now up to individual member states to implement them. It is presumable that

from the Italian point of view, such implementations are the subject of the Consumer Code and will be included here shortly. In this view, a more precise framework already at the European level is certainly supportive both to companies and the authorities themselves, which, until now, have had to intervene based on general principles rather than *ad hoc* legislation. In Italy, there have been several proceedings before the Italian Competition Authority (AGCM) and the Advertising Self-Regulation Authority (IAP) over the past years that have begun to channel the boundaries of greenwashing practices. So, before discussing the new European legislation, looking at the national regulation of the phenomenon is useful. Therefore, based on the national case law and the general principles of fair-trade practices, I will propose an overview of the current and future regulatory assets of “greenwashing practices.”