

CONFERENCE ABSTRACT

Session: SOCIAL SUSTAINABILITY IN AGRI FOOD VALUE CHAINS

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Sustainable transformation of the agri-food system through regulation of global supply chains

This research examines the regulatory role of private actors in the development of sustainable agri-food supply chains at the global level, focusing on emerging models of sustainability due diligence within the European Union. Global value chains (GVCs), which are central to international trade in agricultural and food products, serve as the normative arena in which production models for agri-food systems are designed and implemented. The analysis of regulatory strategies adopted by private entities reveals the integration and promotion of sustainability in global market mechanisms and highlights their impact on the agricultural sector. Understanding the context of recent legislative advances and emerging trends in the EU is essential, particularly with regard to sustainability focused due diligence frameworks. These normative instruments are seen as transformative tools, reshaping supply chain regulation and signaling a profound shift in the integration of sustainable development principles into the contractual dynamics of the supply chain. The emergence of mandatory due diligence mechanisms is an integral part of the European Green Deal strategy, heralding significant shifts in the legal and policy landscape. Prime examples include the due diligence model mandated by the Zero Deforestation Regulation and the proposed Corporate Sustainability Due Diligence Directive, which are helping to pave the way for a sustainable agri-food ecosystem. European legislation is now promoting a process of "corporate responsibility", moving from a purely private self-regulatory model to a "hybrid" co-regulatory approach. This shift promotes an enhanced dialogue between private and public interests, shaping the competitive dynamics within international markets. The discourse will highlight the crucial role of contractual relations in the practical enforcement of sustainability standards and examine the significant influence of major economic actors in the transition to a sustainable model. By establishing norms that shape production, organization and relationships within supply chains, these actors are central to shaping the future of sustainable agri-food systems.

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The role of confiscated assets in creating ethical supply chains

Land confiscated from mafias offers a unique opportunity to enforce ethical principles and respect for human rights through its reuse. The confiscation of mafia assets plays a critical role not only in dismantling criminal operations but also in fostering the development of ethical supply chains, when these lands are repurposed with an entrepreneurial spirit. Products cultivated on these lands can thus become integral to supply chains that are committed to legality, fairness, and environmental stewardship, significantly contributing to the fight against agromafias, promoting a culture of legality, and safeguarding workers' rights.

The regulation and suppression of mafia activities entail a complex legal framework that spans both European and national legislation. Key to this framework are measures aimed at the seizure and repurposing of assets owned by criminal organizations, which are vital in stripping these groups of their financial power. European Union strategies and directives, notably the EU Internal Security Strategy and Directive 2014/42/EU, emphasize the importance of confiscating assets of illicit origin as an effective method to combat organized crime, suggesting their reuse for social purposes as a way to integrate them back into the community.

Italian law, especially law no. 109 of 1996, explicitly facilitates the social and productive repurposing of confiscated assets, offering a means to return stolen resources to the community. This is vividly illustrated through the case study of Altereco, a social cooperative in Cerignola, which has been successful in employing organic farming practices on confiscated lands to reintegrate vulnerable individuals into society and the workforce. Altereco's initiatives, spanning from organic production to education and social justice, showcase the significant positive impacts of such repurposing efforts. Despite existing challenges related to the implementation, allocation, transparency, and financing of these initiatives, the repurposing of confiscated assets as regulated at the European and national levels marks a significant stride towards the establishment of sustainable supply chains. This approach not only contributes to environmental protection and improved labor conditions in agriculture but also serves as a potent instrument against organized crime, offering a path towards social redemption and a more just society.

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Collective ownership and sustainable land use to ensure responsible consumption and production

The aim of investigation within which this work intends to fit concerns the functions that collective properties, nowadays, can perform with regard to responsible consumption and production, and more particularly, the sustainable use of land.

Without any type of wistfulness, in fact, it is possible to state that, generally, the collective and self-managed use of assets by the original organized communities has guaranteed the conservation of the agro-forestry-pastoral heritage of many rural and mountain areas in an intra-generational and inter-generational perspective, as referred to in art. 1 of l.168 of 2017.

A peculiar aspect of these ownership structures is also represented by the existence of a closed system which, through a statute of rules, ensures the promiscuous or collective use of the assets.

Among these assets, the use of land, constituting the fulcrum of the right of collective enjoyment, represents, at the same time, the instrument through which management with sustainable profiles on an environmental, social and economic level is achieved.

In this sense, it seems worthy of interest to focus on the fact that forms of collective land management inspired by fair-environmental values can represent experiences for the development of alternative economic models.

It follows that the analysis path, in addition to taking into consideration the purposes of protection, conservation and enhancement of the environment assigned to collective properties, as defined by Law 168 of 2017 «b) *primary tools to ensure the conservation and enhancement of the national natural heritage; c) stable components of the environmental system... d) source of renewable resources to be valorised and used for the benefit of the local communities of those entitled.*», will take into consideration the directions reached by the most recent European environmental policies regarding the sustainable management of the soil, such as the *Nature Restoration Law* and the proposed Directive, known as the *Soil Monitoring Law*.

Finally, it is believed that in the definition of collective properties, such as alternative consumption management systems and responsible production, the use of environmental impact analysis tools, such as *Life Cycle Assessment (LCA)*, can play a significant role.

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Due diligence rules in international and European law: what prospects for companies in the agri-food sector?

European Green Deal has as one of its objectives to build a more sustainable and healthier food system.

In this contest, the EU Code of Conduct on responsible food business and marketing practices, that entered into force in July 2021, is one of the first deliverables of the farm to fork strategy. Seven aspirational objectives are proposed around promoting healthier and more sustainable food consumption patterns and they are explicitly linked to the UN Sustainable Development Goals. Specifically, it should be clarified that individual companies are invited to sign up to the code and report annually on their progress, and their performance in relation to the aspirational commitments is monitored.

Unilateral measures, aimed at companies, take two main forms: due diligence and mirror clauses, both have the objective of preventing imports that do not meet production standards decided unilaterally by the EU but differ in the way of achieving this.

It's important to underline that currently the Deforestation Regulation repeals and replaces the existing due diligence regime created by the EU Timber Regulation. In particular, the new regulation deals with commodities associated with deforestation, such as cattle, cocoa, coffee, palm-oil, rubber, and soya, considering that European Union, according to reductive estimates, is responsible for at least 10% of deforestation carried out between 1990 and 2008.

In case of non-compliance, operators and traders will be subject to penalties set by EU member states that could include fines of up to 4% of their annual EU-wide turnover, confiscation of the relevant products or the revenues gained from the transaction.

In conclusion, the european legislation, in compliance with international obligations, aims to incentivize the transition to sustainable supply chains by encouraging sustainable behaviors from exporting companies, main protagonists to address the problem of food waste and gender involvement in the agri-food sector.

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A (fair) price to be paid: is the business and human rights approach a game-changer in pursuing sustainability of agrifood chains?

Examples of human rights violations in agrifood chain usually refer to work exploitation practices linked to undeclared work: the evil is considered to be in the last Her of the value chain. Such an assumption has led the legislators to tackle direct human rights violations, by sanctioning the perpetrators. The latest Common Agricultural Policy, with the inclusion of a social conditionality clause, follows this path by sanctioning those found in breach of relevant norms.

However, tackling inequalities related to food production calls for more than ex post sanctions; it requires changing the way in which food is conceived and valued, by questioning the asymmetry of powers between the actors of the agrifood chain. In particular, the conditions imposed by big retailers and supermarkets on food producers, besides possibly integrating unfair trading practices tackled by the relevant EU Directive (Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain), are to be considered threats to human rights because of their potential cascade effects. As food is not paid the price it deserves and the biggest share of that price is anyway retained by lead agrifood companies, the latter should be engaged and held accountable for adverse impacts on human rights of their supply chains.

Such an approach is provided by international soc law instruments of business and human rights, such as the UN Guiding Principles on Business and Human Rights, whose content has been recently transposed in the EU Corporate sustainability due diligence directive (Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71 final).

The contribution will explore how the business and human rights approach, through the requirement of carrying out a human rights due diligence, is a potential game-changer in shaping the focus from the last Her to a “whole-of-supply-chain” approach. Indeed, the human rights due diligence process requires companies to identify and address not only adverse impacts on human rights directly caused by the company, but also those impacts that companies “contribute” or are “directly linked” to.

In the context of agrifood chains, squeezing the price of food may force the farmers to cut their production costs, falling into severe human rights abuses. Without prejudice to the responsibility of the abuser, it is necessary to attach greater responsibilities to those having the greatest power of influencing and determining the structural deficiencies of agrifood chains.

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**Improving farmers' awareness of the new eco-social provisions of the CAP 2023-2027:
insights on the dual conditionality from the AGRITECH project**

The main objectives of the Just Transition rely on the implementation of comprehensive strategies aimed at guaranteeing sustainability through a holistic approach, prompting intertwined interventions on the economic, social, and environmental levels. For this reason, labour law needs to develop new tools to safeguard workers, such as regulatory compliance mechanisms to assure both environmental protections and better working conditions.

In this regard, an example can be observed in the regulatory framework of the CAP 2023-2027, which introduced new requirements for the access to the direct payments with the Regulation (EU) 2021/2115. The adoption of the dual conditionality mechanism has bound the disbursement of the basic income support for sustainability (BISS) to the respect of both environmental and social standards, thus going beyond the cross-compliance system previously applied.

In particular, this eco-social compliance mechanism demands the beneficiaries of the agricultural incentives to provide better employment protections by requiring the respect of three European directives concerning contractual conditions and transparency, workers' health and safety, and safety of work equipment. In addition, the implementation of such mechanism is also enforced by the provision of dissuasive sanctions and inspections, which deduct resources in case of non-compliant conducts.

Undoubtedly, these provisions demonstrate that environmental and employment protections can no longer be separated from the direct accountability of enterprises. In this perspective, the CAP 2023-2027 sheds light on the possible intersection of environment and working protections arising from eco-social safeguards and compliance regulations.

However, farmers' concerns regarding the risks of excessive bureaucratic burdens and difficulties in accessing funds raise a reflection on the practical application of the dual conditionality clause. For these reasons, despite the clear indication of the regulations covered by the conditionality clause, it's crucial to improve the awareness of the various requirements posed by this compliance mechanism.

In this perspective, some insights can be observed in the AGRITECH project, whose WP2 (Spoke 9) focuses on the measurement of sustainability of the agricultural/agrifood enterprises. In particular, among the different goals of the Project, the CAP 2023-2027 is addressed in reference to the development of a set of indicators and metrics to evaluate the adherence to requirements in terms of social conditionality. Such activities are therefore relevant not only to help farmers developing a deeper understanding of legal requirements for direct payments and ensure a better access to the European funds, but also to foster the promotion of better working conditions in the agricultural sector.
