

CONFERENCE ABSTRACT

Session: COMMON AGRICULTURAL POLICY: SUSTAINABILITY TOOLS

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Ecosystem Services and Results-based Agri-environmental climate Schemes in the New Delivery Model of the EU CAP 2023-2027

The relationship between agriculture and the environment is complex and the subject of extensive debate. Issues like biodiversity loss, climate change, and ecosystem collapse rank among the most significant challenges we will face in the coming decade. The costs of not addressing these issues are already high and expected to rise. Agriculture plays a dual role in this scenario, acting both as a provider and a beneficiary of ecosystem services. Traditionally, agricultural ecosystems have been recognized for provisioning services such as food, fiber, forage, and biomass. However, there is growing recognition of their role in delivering other types of services: supporting services like soil quality regulation, pest control, pollination, and genetic diversity; regulating services including water quality control, climate regulation, and carbon storage; and cultural services. The paper aims to analyze the way in which the European Union has relied on agri-environmental-climate measures to enhance the delivery of ecosystem services. Farmer acceptance and uptake have been considered as key indicators of the success of these schemes in Europe. However, various challenges have led the EU to seek alternative methods to promote ecosystem benefits. One strategy under consideration is the implementation of results-based schemes, wherein farmers are compensated not for adhering to specific activities, but for achieving certain environmental outcomes. With the introduction of the new delivery model of Common Agricultural Policy (CAP), the European Commission has stated that the CAP should aim for greater ambition and focus more on results in resource efficiency, environmental care, and climate action. The CAP Strategic Plans Regulation emphasized that CAP payments would be linked to actual environmental outcomes. The paper investigates the legal implications that results-based approach has in designing the recent agri-environmental and climate commitments in the European Union and in encouraging farmers to deliver a significant enhancement of the quality of the environment in a measurable way, within the EU Common Agricultural Policy. In conclusion, by critically examining the shift towards results-based agri-environmental climate measures within the CAP, the paper highlights both the potential benefits and the legal challenges of linking CAP support to environmental results. This approach not only signifies a pivotal move towards sustainable agriculture but also aligns with broader environmental and climate objectives. Ultimately, the success of these initiatives in enhancing ecosystem services and promoting environmental stewardship among farmers will hinge on the effective implementation and adaptation of the CAP Strategic Plans Regulation.

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Pursuing Sustainability through agricultural funds' conditionality: an EU law contextualization of a controversial instrument

While the Institutions are struggling to finalize the adoption of an *ad hoc* legislative act on food sustainability, the EU's efforts towards it may rely on pre-existing instruments, among which the agricultural funds' conditionality plays a central role.

According to the "Farm-to-fork" strategy, the Common Agricultural Policy (CAP) represents a key field to mainstream sustainability in the agri-food chain. As known, EU agricultural funds are subject to conditionalities that push farmers to comply with a set of norms and standards, established – at supranational level – by the CAP legislation (Reg. 2021/2115). In this regard, the proposed presentation aims, firstly, to illustrate the agricultural funds' conditionality under the lens of the three pillars (economic, social and environmental) of sustainable development.

Against this backdrop, one cannot ignore the strong criticism among farmers of the current conditionality of agricultural funds. *Inter alia*, farmers complain about the alleged excessive burden of the CAP green conditionality, which could result in an imbalance between the environmental and the economic pillars of sustainable development in the sector. Even if it belongs to the political sphere, the ongoing discussion on the topic calls into question the *ratio* of the agricultural funds' conditionality itself.

To deal with this issue, the presentation suggests considering the agricultural funds' conditionality within the general framework of EU law. In this sense, such an instrument should not be perceived as a CAP's peculiar legal device. If it is true that the CAP green conditionality has been deemed as a response to the specific quest for the legitimization of direct payment to the farmers, it is also possible to look at it as part of a wider array of EU legal tools, under two different points of view. From the angle of the instrument's purpose, agricultural funds' green conditionality can be inscribed within the list of means to implement the "European Green Deal" project. In this sense, it can be equated to other EU legal instruments, both new and existing ones. From a legal technique standpoint, it is worth noting that conditionality is gaining momentum within the EU legal order, as proved by the recent general regime of conditionality (Reg. 2020/2092), concerning the rule of law, and the Recovery and Resilient Facility (Reg. 2021/241) in the context of the NextGeneration EU funds. In this perspective, the agricultural fund's conditionality seems to be in line with the same logic governing the other conditionality regimes.

In light of the above, the presentation will try to draw some conclusions on how to strike a balance between the different pillars of CAP funds sustainability.

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Exploring new farmers' legal qualifications for a just transition in agriculture

The recognition and definition of the legal subject – as the recipient of rights and obligations – is one of the main instruments for the structuring of law and its directing toward relevant political objectives (Rescigno, 1973). In the agricultural context, singling out the key features of the farmer, and subsuming its main sociological and economic characteristics in the sphere of legal relevance, has traditionally been – and still is – an important instrument of policy design, both at the national and EU level. The recognition and selection of the farmers' identity (or identities) is propaedeutical to the development of a dedicated discipline that considers their specific needs and tailors the legal framework accordingly. By doing so, the law facilitates the efficient deployment of available legal tools and orients economic activities toward public goals. The sum of such public interventions in law and policy results in the creation of veritable legal statuses, that reflect the model in a given time (Casadei, 2004). The paper stems from the assumption that delivering a sustainable, resilient and diverse agriculture also entails ensuring subjective diversity. The 2023-2027 CAP has, for the first time, addressed the issue of inequality among payment-recipients, and gave more visibility to small farmers, young, women, and new farmers. In addition, recent legislative initiatives at national level have witnessed a rise in the attempts to subjectively qualify farmers in rather innovative fashions. Those projects – by mixing personal, structural and objective criteria – aim to shape a sustainably qualified farming system stemming from the individuation of a new subjective model. After reconstructing the underlying criteria of farmers' legal identities and their specific statuses, the study investigates the surfacing regulatory trends in farmers' subjective qualification and critically assesses their impact, in view of futureproofing agricultural law and deliver a just ecological transition.

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Geographical Indications at the crossroads of sustainability and technological innovation

Today, more than ever, Geographical Indications are called upon to look closely at the compelling matters of sustainability and at the demands arising from it. Indeed, some of the main challenges relating to social, economic, and mostly, environmental sustainability, inevitably affect PDOs and PGIs productions, as it is immediately understandable with climate change related issues; at the same time, quality production choices sometimes risk to collide with the needs of sustainable agri-food systems.

The opportunity of (re)thinking the EU quality schemes in the light of a solid strategy for sustainability is undeniable; and yet, this combination seems neither immediate, nor simple. This is also testified by the cautious approach followed by the EU Institutions in the just reformed system of protection of Geographical Indications. Here, in fact, the fundamental goal of including (more) sustainable practices in the production of GIs, mentioned several times since the preambles, is achieved exclusively through voluntary instruments, thus entirely left to the discretion of producers and groups. To wonder whether the decision will have profound impacts on the sustainability of these productions is thus spontaneous.

These premises raise a reflection on whether technological innovation may have a role. On the one hand, indeed, the relationship between Geographical Indications and technological innovation might at a first glance seem clashing, as the former find their key feature in tradition. On the other, however, technology provides tools which could be implemented, among others, to identify more sustainable production techniques (e.g., through precision agriculture), to strengthen the role of producers and their relations within groups (as with data collection and data sharing technologies), or to make procedural and control phases safer, faster, and more efficient (as in the case of Blockchain). These are all results that the new regulation proposes to achieve and to which technological innovation may indeed contribute, also with the final purpose of making PDOs and PGI productions more sustainable.

In this manifold framework, it is thus interesting to engage a reflection on the link between technological innovation and sustainability in the peculiar realm of GIs, mainly as to the possibility of finding a meeting point between the potential tools provided by the former and the needs and goals connected to the latter.

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Blockchain technology at the service of the sustainability of food supply chains: the case of wheat.

In the horizon of legal considerations on the sustainability in the agri-food chains, food traceability appears as the unveiler of a set of rules - issued within the European Union - that all chain operators are called upon to put in place, to respond resiliently to the consumer needs and environmental issues.

However, we are not able to speak about sustainability and sustainable development in the food supply chain, in the absence of technological development.

At the moment, the main challenge is to introduce the technology in supply chain traceability, where alignment among all actors is necessary.

The most innovative aspect of the traceability system could be implemented by Blockchain technology.

As known, Blockchain is a distributed digital ledger able to group, protect, and archive the information given in blocks, until the end of the process, so blockchain guarantees certainty, efficiency, and quality.

Blockchain can support the digital certification process of product and raw material traceability, allowing the recording of information among various interconnected entities, along the supply chain.

The traceability trend over Blockchain is driven by the necessity to safeguard internal excellence from fraud and the heightened awareness of consumers.

The project aims to analyze the application of Blockchain technology in the wheat supply chain, which is the most productive supply chain in Italy that, as known, is the first producer of wheat and the first exporter of pasta, thanks to the farms located in the country.

The Italian model is based on the transformation of the raw material (part of strong wheat coming from a big variety of cereals) into the final product of high-level quality.

Over the years, Italy and the European Union have developed a composite toolbox of rules to give definitions of these products and to guarantee the traceability of raw wheat, rice, and dairy products at agricultural sites.

In particular, the paper aims to analyze the specificities, in terms of objectives and techniques of the wheat supply chain, to understand how and where Blockchain can be applied to the supply chain: regarding on one hand the cultivation and the production of the raw material, and on the other hand the packaging, the trade and the market of the processed food.

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Toward a sustainable agribusiness system through sanction mechanisms

The paper aims to analyze the current and future prospects of corporate diligence on sustainability, beginning with EU Directive No. 2022/2464 ("Corporate Sustainability Reporting Directive"). This is an extremely virtuous program, which conceives sustainability in its multidimensionality and which seems to directly involve the reputation of companies, leveraging, in a "deterrent" key, the publicity of "sustainable" performance. The latter topic could be the driving key to accountability, if well transformed into precise legal obligations and accompanied with sanctions, administrative or criminal, that stimulate a widespread awareness of the seriousness of the phenomena.

The merits of the discipline, however, come up against a latent inadequacy of the market: an in-depth analysis reveals the asynchronous speed between member countries' legislations and innovative European designs.

Multiple obstacles of different natures add up: cultural, legal; the costs of the transition, economic and in terms of human capital, now require serious and timely reflection by the doctrine, which can in the near future come up with concretely feasible programs.

Moreover, the entrepreneurial "sustainability" fostered by the Directive also imposes a check on the diligence of stakeholders; in short, the goal is to shape an economic tissue in which it will no longer be possible to relocate to Asia or Africa so as to do "greenwashing."

Well, the practicability of the transition requires finding tools to specify obligations, controls and responsibilities. A contribution can be hypothesized from current organization and management models regarding the administrative responsibility of entities. In this scenario, the food industry lends itself to be the perfect case study of the experimentation of change: for obvious reasons - food, symbiotic with the well-being of the ecosystem, is the basis of life; therefore, action must be taken for the resolution of the environmental and climate issue - and "more" functional - agribusiness has always been a proceduralized sector (quality control, HACCP, ect.), which is why such an organizational apparatus lends itself to implementation.

The survey therefore aims to outline the possible current and future contribution of (para-)criminal sanction law in pursuing sustainable development goals: highlighting, on the one hand, the existence at present of a solid framework of accountability in relation to the "units" of sustainability (food and environmental safety, worker safety, protection of human rights, corporate transparency in sustainability, etc.), on the other hand, outlining for the food industry the challenges for future legislation that more explicitly binds to "sustainability."

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Contractual aspects of Community Supported Agriculture. The case study of Chagfood market garden

The recent events surrounding agricultural issues in Europe and worldwide informs on the broad crises in agriculture.

The combination of biological risks, such as unpredictable and uncontrollable climatic disasters, and market risks, such as changes in market prices or commodity demand, with unfair trade practices generate low and unstable incomes for agricultural producers.

Solving the persistent crisis in conventional agriculture requires experts to rethink agribusiness models and their contractual language.

At the heart of the consideration is the analysis of the benefits of direct marketing contracts between agricultural producers and consumers in a short supply chain model, known as Community Supported Agriculture (CSA). Where adopted, this model can achieve sustainable aims, such as an

increase in agricultural productivity, an increase in farmers' income and direct and balanced contractual relationships.

The literature investigating the short food supply chain and the CSA highlights the advantages of a production and consumption model to have the ability to satisfy the interests of producers, who derive maximum profit from their work, and consumers, whose consumption choices reduce the environmental impact.

However, the CSA model, particularly in North-Western Europe, reveals further potential. Within the CSA, agreements based on the sharing of common values show a new contractual language, marked by social solidarity and characterised by a sharing of risks and powers of direction and governance of the agricultural enterprise. These agreements are far removed and different from the vertical integration mechanisms of conventional agriculture.

Moreover, the mechanism of participation of consumers and the local community in the agricultural activity of producers achieves a horizontal type of contractual integration, in which the parties contribute equally to the equal realisation of their interests, without thereby eroding the bargaining power of the counterpart. The benefits of this innovative contractual relationship go far beyond the mere reduction of environmental impact; here, the contract is an instrument for planning a new agriculture, which embodies solidarity, and is participatory and oriented towards the achievement of sustainable development objectives.

The opportunity to examine the costs, benefits and potential of new contractual models should be seized by lawyers who want to participate in the demands for change emanating from contemporary society.