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*The evolving role of private actors in shaping agri-food supply
chain regulation*

ABSTRACT: The regulation of agri-food supply chains is undergoing a significant transformation, driven by the increasing role of private actors in achieving sustainability objectives. This paper examines the evolving function of private autonomy within the agri-food system, emphasizing its interaction with European legal frameworks such as the Common Agricultural Policy (CAP) 2023–2027, the Corporate Sustainability Due Diligence Directive, and the EU Deforestation Regulation.

Through a systemic approach, the analysis highlights how private autonomy is being reshaped by normative tools that guide economic activities toward sustainability goals. The CAP’s revised framework emphasizes cooperation and aggregation among supply chain actors, fostering governance models that address economic, environmental, and

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social dimensions. Simultaneously, transnational regulatory measures impose new obligations on agri-food enterprises, integrating private autonomy into a broader accountability framework for global supply chains.

This study identifies a paradigm shift towards “guided autonomy,” where private actors are tasked with implementing sustainability norms while operating within a legislative framework designed to balance public and private interests

KEY WORDS: Agri-food market; food system; private autonomy; due diligence; CAP 2023-2027; sustainability; governance supply chain

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1. Introduction

The concept of private autonomy within the agri-food system forms part

of the broader dialectic between private economic initiative and public intervention in market regulation¹. This interplay is grounded in the core objectives of the agri-food system, articulated through the principles of food security and food safety—ensuring both the availability and safety of food supplies.

From a legal perspective, this dialectic has had to contend with the globalisation of the economy, which has inevitably led to the globalisation of law². This development has particularly affected agricultural markets³, where liberalisation gained momentum between the late 20th and early 21st centuries. At the European Union policy level, this shift marked a gradual departure from the economic protectionism⁴ that had previously defined these markets, in favour of a competitive framework. Technically and economically, this period also witnessed the transformation of agriculture, driven by the industrialisation of the agri-food system, as agricultural operators adapted to meet the quantitative and qualitative demands of food companies.

¹ The European Union's contract regulations are primarily designed to govern the relationships between contracting parties, with the aim of preventing or mitigating market failures that could undermine the public interest. For a broader discussion on this topic, see S. GRUNDMANN, *Europäisches Schuldvertragsrecht. Das Europäische Recht der Unternehmensgeschäfte (nebst Texten und Materialien zur Rechtsangleichung)*, Berlin, de Gruyter, 1999; A. JANNARELLI, *La disciplina dell'atto e dell'attività: i contratti tra imprese e tra imprese e consumatori*, in N. LIPARI (a cura di), *Tratt. dir. priv. eur.*, III, Padova, 2003, 23 ss.

² F. GALGANO, *La globalizzazione nello specchio del diritto*, Il Mulino, Bologna, 2005, 93 ss.

³ Cf. A. JANNARELLI, *Il diritto agrario del nuovo millennio tra food safety, food security e sustainable agriculture*, *cit.*, 513.

⁴ Cfr. F.G. SNYDER, *Diritto agrario della Comunità europea. Principi e tendenze*, Giuffrè, Milano, 1990; K. ANDERSON, G. RAUSSER, J. SWINNEN, *Political Economy of Public Policies: Insights from Distortions to Agricultural and Food Markets*, in *Journal of Economic Literature*, Vol. 51, No. 2, 2013, 423-477.

As a result, private autonomy—particularly contractual autonomy—has assumed increasing importance. It plays a critical role in defining agricultural activity through specific clauses imposing “positive obligations” and in structuring complex supply chains. Agricultural producers have been integrated into intricate global systems, where supply chains are governed by food and agro-industrial companies. In this context, the regulatory power of these companies has become pivotal in shaping economic relations, fostering both vertical and horizontal integration⁵.

In response, the European legislator has played a significant role in shaping market dynamics, aiming to prevent distortions and guide agricultural producers toward the objectives of the Common Agricultural Policy (CAP), as outlined in Article 39 of the Treaty on the Functioning of the European Union (TFEU).

Agricultural law has historically employed regulatory techniques that shape the roles and powers of economic actors, seeking to balance *conflict and cooperation* among stakeholders. This balance reflects the inherent coexistence of individual and collective interests within the primary sector. Within the regulatory framework of agri-food markets, the “horizontal” relationships between supply chain actors have been unavoidably

⁵ The literature on vertical integration in agriculture is extensive; see G. GALIZZI, L. VENTURINI (eds.), *Vertical Relationships and coordination in the food system*, Physica-Verlag Heidelberg 1999; E. REHBER, *Vertical Coordination in the Agro-Food Industry and Contract Farming*, Food Marketing Policy Center Research Report No. 52, 2000; I. CANFORA, *La vendita dei prodotti agroalimentari*, in P. BORGHI, I. CANFORA, A. DI LAURO, L. RUSSO (a cura di), *Trattato di diritto alimentare italiano e dell’Unione Europea*, Giuffrè, Milano, 2021, 125 ss; M. GIUFFRIDA, *I contratti di filiera nel mercato agroalimentare*, in *Riv. dir. alim.*, 2012, 3 ss.

influenced by the “vertical perspective” characteristic of public law⁶. This is due to the structural features of the agri-food market, which is shaped by unique economic dynamics and the fragmented nature of the supply side⁷.

The legislator has responded by introducing specific rules governing private autonomy, including in contract law and competition law. These provisions position contracts not only as tools to reconcile conflicting interests but also as instruments to foster cooperation⁸.

The structural inefficiencies of the agri-food market have prompted the legislator to evaluate which rules and mechanisms could prevent distortions and align market operations with broader policy objectives⁹. Initially, policy efforts focused on ensuring the economic sustainability of the sector, addressing the inherent vulnerability of agricultural operators. However, the emergence of sustainability as a dominant paradigm has also recognised the role of economic actors in achieving environmental and

⁶ See A. ZOPPINI, *Autonomia contrattuale, regolazione del mercato, diritto della concorrenza*, in ID, *Il diritto privato e i suoi confini*, Il Mulino, Bologna, 2020, 177 ss.

⁷ *Ex multis* see A. JANNARELLI, *La concorrenza e l'agricoltura nell'attuale esperienza europea: una relazione «speciale»*, in *Profili giuridici del sistema agro-alimentare tra ascesa e crisi della globalizzazione*, Bari, Cacucci, 2011, 13 ss; C. DEL CONT, *Les producteurs agricoles face au marché Contrats. Concurrence et agriculture dans le règlement (UE) n° 1308/2013*, in *Revue de droit rural*, 2015; I. CANFORA, *Rapporti tra imprese e ripartizione del valore nella filiera agroalimentare*, in *Riv. dir. al.*, 2, 2022, 5-16; K. NES, L. COLEN, P. CIAIAN, *Market structure, power, and the unfair trading practices directive in the EU food sector: a review of indicators*, in *Agricultural and Resource Economics Review*, 2024, 1-24.

⁸ Cf. S. MASINI, *Abusi di filiera (agro-alimentare) e giustizia del contratto*, Bari, Cacucci, 2022.

⁹ See v. S. MASINI, *op. loc. cit.*; N. LUCIFERO, *Il contratto di cessione dei prodotti agricoli e alimentari nella disciplina del mercato e della concorrenza*, Torino, Wolters Kluwer, 2023.

social sustainability goals, as reflected in the UN Agenda 2030¹⁰. Moreover, the European Union, through its Green Deal and Farm to Fork strategy, has highlighted the systemic interconnections among global food system actors in generating positive externalities.

Within this renewed framework, private autonomy has gained new significance. In this evolving regulatory context, supply chain actors are increasingly called upon—albeit to varying degrees of obligation and intensity—to shape the legal framework of both horizontal and vertical relationships. Their task is to contribute to the realisation of sustainable agriculture across its economic, environmental, and social dimensions.

A reflection on such a broad and complex topic—outlined here only in general terms—necessarily requires a focused perspective and a defined scope.

This paper adopts the lens of autonomy regulation within the European market’s legal framework. It seeks to demonstrate how private autonomy has taken on a renewed role within the legislator’s intent, influencing governance models in agri-food supply chains and, as the conclusions will suggest, shaping a new legal order aligned with the sustainability paradigm. The analysis focuses on the peculiar regulation of private autonomy within the European framework, which is characterised by specific legal instruments—both promotional and prescriptive. These tools reflect the

¹⁰ United Nations General Assembly, *Resolution adopted by the General Assembly on 25 September 2015, “Transforming our world: the 2030 Agenda for Sustainable Development”* (A/RES/70/1). Regarding the agri-food system see I. CANFORA, *Agenda 2030, agricoltura e alimentazione*, in P. BORGHI, I. CANFORA, A. DI LAURO, L. RUSSO (a cura di) *Trattato di diritto alimentare italiano e dell’Unione Europea*, 2 Ed., Milano, Giuffrè, 2024, 25-28.

legislator’s apparent intent to assign a renewed “normative” role to private actors in shaping both the form and substance of regulation.

The discussion progresses step by step, deliberately forgoing a detailed analysis of the extensive body of accumulated legislation to allow for a broader reflection. The aim is to outline the “trajectory” currently defining the evolving legal framework of private autonomy in the context of sustainable agri-food supply chains.

2. Sustainable Governance: A Systemic Approach to Defining the Powers of Private Actors

The analysis of the “legal instruments of private autonomy” within the agri-food system must necessarily prioritise the agricultural enterprise, as it constitutes the primary and most complex arena for defining sustainability rules, particularly given the structural weaknesses of the sector.

In this context, the CAP legislator has reimagined a range of legal instruments aimed at governing supply chains, aligning them with new objectives to encourage the formulation of sustainability rules by private actors. Specifically, the new regulatory framework reinforces the role of cooperation and aggregation in the agri-food market, recognising these mechanisms as essential not only for improving market efficiency but also for supporting the creation of a framework of rules oriented towards

developing a sustainable economic model.

Notably, the overwhelming majority of European agricultural enterprises are small in scale¹¹, which poses significant challenges to the transition towards the institutionally envisioned sustainable agriculture model. Such organisational models often require resources, targeted investments, and/or technical know-how that are not readily accessible to small enterprises. Cooperation, in this sense, can provide a remedy by pooling resources and capabilities¹².

Similarly, in adherence to the supply chain approach underpinning the Farm to Fork strategy and the new CAP¹³, the European legislator has also revised the regulatory framework for agro-industrial and food enterprises. This revision takes into account the interconnections among all supply chain actors and the imperative of adopting a systemic approach to mitigate negative externalities.

Consequently, within this new regulatory framework, the concept of private autonomy has evolved, guided by tools that facilitate the development of specific rules impacting enterprise organisation, production processes, and the relationships among supply chain

¹¹ Cfr. EUROSTAT, *Agriculture, forestry and fishery statistics*, European Union, 2020.

¹² On the role of cooperation as a tool enabling farmers to increase their profits and achieve a stronger position in the market. v. M. NOSSEREAU, *La rémunération des agriculteurs en coopérative agricole*, in *Rev. dr. rur.*, 507, 2022, p. 4; and J. BIJMAN, C. ILIOPOULOS, K.J. POPPE, *Support for Farmers' Cooperatives. Final report*, European Commission, 2012, 67ss.

¹³ On the systemic approach of the current agricultural policy see I. CANFORA, *Il diritto agrario e l'evoluzione dei mercati e del lavoro*, in *Riv. dir. agr.*, 3, 2023, 494ss.

participants¹⁴.

Furthermore, the rules governing agricultural activities are largely shaped by governance models established through business-to-business relationships. More specifically, they are influenced by rules dictated by the buyers of agricultural enterprises, who act as intermediaries reflecting consumer preferences.

Accordingly, the instruments to be considered are, first and foremost, those established within the framework of the Common Agricultural Policy, particularly in the area of market regulation. Additionally, it is essential to examine instruments with a broader influence on the normative framework of supply chains, shedding light on the specific regulatory techniques employed to achieve sustainable supply chain governance. This analysis helps to identify the systemic and systematic features that are taking shape in this evolving landscape.

3. The CAP 2023–2027: Rethinking the Role of Private Actors in the Agri-Food Supply Chain

Indeed, the new CAP, a “product” of the development strategy defined at the political level, is now deeply integrated with environmental and social sustainability objectives. These objectives are aligned with the broader

¹⁴ See D. CRISTALLO, *Responsabilità sociale d'impresa e strumenti giuridici della filiera agroalimentare per la costruzione di un "agire responsabile"*, in *Riv. dir. agr.*, 1, 2022, 72ss.

goals of ensuring the proper functioning of markets, securing food supplies, and providing fair prices for consumers. The CAP has often been referred to as a perpetual work in progress¹⁵, reflecting a reform process that remains continuous, oscillating between the need to address new challenges and the opportunity to revise existing rules¹⁶.

The objectives of the new promotional framework, which fully incorporate sustainability, are detailed in Article 5 of Regulation (EU) No. 2021/2115. This provision explicitly states that the aid system is designed to “further improve the sustainable development of agriculture, food, and rural areas, contributing to the achievement of [the general objectives] aligned with the implementation of the 2030 Agenda for Sustainable Development.”

However, the CAP has always been characterised by a distinctive interplay between economics and law, between promotion and regulation, and between promotional and regulatory law¹⁷. In fact, with the liberalisation of markets, the agricultural policy underwent a profound rethinking as early as 2013, leading to a significant reduction in intervention measures¹⁸. Conversely, this shift redefined the scope within which private autonomy

¹⁵ See v. F. ADORNATO, *Agricoltura politiche agricole e istituzioni comunitarie nel Trattato di Lisbona*, in *Riv. dir. agr.*, I, 2010, 261-284.

¹⁶ Cf. A. SCIAUDONE, *Presentazione Prima Sessione (La nuova Pac: considerazioni generali) e Seconda Sessione (Pac e finanziamenti in agricoltura)*, in *Riv. dir. agr.*, 1, 2020, 19ss.

¹⁷ On the distinction drawn in the text see A. JANNARELLI, *Pluralismo definitivo dell'attività agricola e pluralismo degli scopi legislativi: verso un diritto post-moderno?*, in *Riv. dir. agr.*, 2006, I, 183; ID., *Il pluralismo definitivo dell'attività agricola alla luce della recente disciplina comunitaria sugli aiuti di stato: prime considerazioni critiche*, in *Riv. dir. agr.*, 2007, I, 3 ss.

¹⁸ See A. JANNARELLI, *Profili giuridici del sistema agro-alimentare e agro-industriale: Soggetti e concorrenza. cit.*, 18 ss.

operates, strengthening the regulatory role of private actors within the agri-food market¹⁹.

On this point, some general observations can be made concerning recent changes. Within the prism of sustainability, the new CAP has transformed the regulation of private autonomy, both in terms of scope and objectives. Following the direction set by the Green Deal and the Farm to Fork strategy, the legislator has adopted an approach that treats the entire supply chain as a regulatory subject, structuring an interconnected agri-food chain that links all actors, while regulating the connections between the various production segments²⁰.

This approach has led to changes in the legal instruments of private autonomy, aimed at strengthening the position of weaker actors in the supply chain, particularly farmers. These changes have been implemented through revisions to the regulation of supply contracts, producer organisations (POs)²¹, interbranch organisations (IOs)²², and competition rules. In this context, the CAP's "regulatory" framework has been reinforced to address social and environmental sustainability aspects. For instance, Regulation 2021/2117²³ has enhanced the normative function of

¹⁹ See I. CANFORA, *Le pratiche commerciali sleali nella filiera agroalimentare alla luce della giurisprudenza della Corte di Giustizia UE*, in *dir. agroal*, 1, 2023, 9.

²⁰ *Ibidem*.

²¹ Cf. Recital 50, reg. (EU) 2021/2117.

²² Both Article 157, concerning objectives, and Article 210 of Regulation 1308/2013 have been amended, establishing that prior approval from the Commission is no longer required for the adoption of anti-competitive agreements, provided they are deemed "necessary" and align with the organisation's objectives.

²³ The regulation, although it does not explicitly reference the 2030 Agenda, specifically cites the document "*The Future of Food and Farming*" (COM (2017) 713 final, Brussels, 29

collective structures, expanding the range of objectives and activities they can undertake to establish and implement not only economic but also social and environmental sustainability standards.

Moreover, the new regulatory framework consolidates cooperation among all supply chain actors. The role of producer organisations has been strengthened, both internally, through an expansion of their objectives, and externally, in their relations with other supply chain actors, particularly in ensuring a more equitable distribution of value²⁴. Similarly, revised IO rules aim to increase the structural representation of economic operators within the supply chain, fostering a more balanced “normative dialogue” among the various interests involved.

In this way, the legislator has intervened in market rules, shaping the normative space for private actors and aligning private autonomy with the renewed objectives of agricultural policy. Notably, the CAP 2023-2027 introduces significant changes to competition rules in agriculture, reflecting a recognised interaction between sustainability and competition—or, more broadly, between sustainability and market rules. Within the supply chain logic, instruments that strengthen farmers’ positions in the supply chain also become functional to implementing social and environmental sustainability objectives, reducing the top-down

November 2017). This document emphasises modernisation and sustainability, encompassing economic, social, environmental, and climate sustainability in agriculture, forestry, and rural areas, while also aiming to reduce the administrative burdens imposed on beneficiaries by EU legislation.

²⁴ See D. CRISTALLO, *Il contributo delle organizzazioni dei produttori e delle organizzazioni interprofessionali verso una regolazione sostenibile: un percorso in via di definizione*, in *Pers. Merc.*, 1, 2025 (in press).

interventionism of markets²⁵.

Agricultural enterprises, in particular, operate within a broader system on which they are economically dependent, such that the rules governing their activities are significantly influenced by relational norms established through contractual mechanisms. Within this framework, specific derogations from general competition rules have been developed. For instance, Regulation 1308 includes provisions allowing POs to derogate from the general prohibition on anti-competitive agreements for activities such as production planning, cost optimisation, market placement, and the negotiation of contracts for agricultural products supplied by their members²⁶. Similarly, for IOs, the procedural burden of obtaining prior approval for agreements, decisions, and concerted practices aimed at achieving normative objectives has been removed, simplifying their operational framework²⁷. Additionally, Article 210a, titled “*Vertical and Horizontal Initiatives for Sustainability*,” extends the scope of private autonomy by allowing producers of agricultural products to agree on sustainability standards exceeding those mandated by EU or national law, albeit solely concerning environmental sustainability²⁸.

This evolving competition framework emerges as a “tool” for private

²⁵ Cf. I. CANFORA, *op. loc. cit.*, 12.

²⁶ Article 152, par. 1a, regulation EU 2013/1308 in the latest formulation.

²⁷ Article 210, regulation EU 2013/1308 in the latest formulation.

²⁸ For an analysis of the perspective and critical aspects of Article 210a, see A. JANNARELLI, *Gli accordi di sostenibilità, nell’art. 210 bis del reg. 1308 del 2013 ed il relativo progetto di comunicazione della Commissione Europea*, in *Dir. agroal.*, 462ss, ID, *Gli accordi di sostenibilità*, in P. BORGHI, I. CANFORA., A. DI LAURO, L. RUSSO (a cura di) *Trattato di diritto alimentare italiano e dell’Unione Europea*, Seconda edizione, Milano, Giuffrè, 2024, 63-78.

actors to introduce sustainability norms and achieve policy objectives, steering private economic activity towards a “socially guided” economic paradigm. Furthermore, in the context of fostering dialogue between agricultural producers and other supply chain actors to achieve sustainability goals, the role of producer groups associated with quality labels has been revised under Regulation 2024/1143. The new regulatory framework strengthens private autonomy in developing sustainability norms, albeit with varying degrees of effectiveness. This can be achieved through mechanisms that—although voluntary—allow the extension of sustainability norms to all actors in the quality supply chain, either via specific certification mechanisms or through their incorporation into the product specification²⁹.

In conclusion, a preliminary general observation can be made regarding the legislative techniques employed in the CAP 2023-2027, which helps to understand the changes introduced in its regulation. The approach adopted for constructing a sustainable agri-food system combines promotional and regulatory law within an “integrated” perspective, highlighting the unique roles of public and private actors in supply chain governance. This governance requires a necessary interplay between public and private efforts to build sustainable practices. On the one hand, a minimum sustainability standard is established; on the other, private regulatory actions are directed towards aggregation and the introduction

²⁹ See M.C. RIZZUTO, *Indicazioni geografiche e pratiche sostenibili: prime considerazioni alla luce del regolamento (UE) 2024/1143*, in *Pers. Merc.*, 2, 2024, 615ss.

of broadly applicable sustainability norms, surpassing the minimum standards mandated by legislation.

Thus, private autonomy, albeit guided through promotional techniques, becomes functionally aligned with the pursuit of sustainability goals and the transition towards a sustainable paradigm.

4. Global Supply Chain and Governance of the Agri-Food System: Towards Sustainability

The governance of the agri-food system within the sustainability paradigm necessitates a transformation not only in the practices of agricultural enterprises but also in those of other economic operators along the supply chain, within a broader regulatory framework that extends beyond the European dimension.

The European Farm to Fork Strategy highlights that “The transition to sustainable food systems requires a collective approach involving [...] private sector actors across the food value chain”³⁰. Furthermore, the same document underscores that “The sustainability of food systems is a global issue and food systems will have to adapt to face diverse challenges”³¹.

From this perspective, the systemic interconnections among supply chain actors have led the European legislator to introduce specific corporate

³⁰ See COM (2020) 381 final, *A “Farm to Fork” Strategy for a fair, healthy and environmentally-friendly food system*, Brussels, 2020, 18

³¹ *Ibidem*, 4.

accountability frameworks. These frameworks impose distinct obligations on food and agri-industrial enterprises, while still assigning private autonomy a crucial role in shaping substantive rules and ensuring the effectiveness of these mechanisms.

Two legislative measures are particularly relevant (or will become so) to agri-food supply chains: the Corporate Sustainability Due Diligence Directive (CSDDD) (Directive EU 2024/1760)³² and the EU Deforestation Regulation (Regulation EU 2023/1115)³³.

4.1. The Corporate Sustainability Due Diligence Directive

The CSDDD establishes a cross-sectoral and transnational governance framework for businesses, setting out rules for conduct and supply chain organisation while entrusting private autonomy with the practical implementation of predetermined objectives³⁴.

In summary, the directive requires Member States to implement:

³² Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024, *on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859*, was published in the OJEU, 5 July 2024, in issue L 1760.

³³ Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023, *on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010*, was published in the OJEU, 9 June 2023, in issue L 150.

³⁴ For an analysis of the directive within the agri-food system see D. CRISTALLO, *La regolazione delle catene globali di fornitura: la direttiva sulla corporate sustainability due diligence nel sistema agroalimentare*, in *Riv. dir. agr.*, 2, 2024, 378 ss.

- A due diligence obligation for large companies³⁵ to address human rights and environmental impacts across their own operations, subsidiaries, and business partners in their “value chains.” This obligation includes engaging in meaningful dialogue with stakeholders.
- A climate change mitigation plan, ensuring that corporate strategies adequately address environmental challenges.
- An enforcement mechanism combining private and public measures, including civil liability provisions, penalties, and promotional initiatives fostering collaboration with public institutions.

The directive frames corporate sustainability, as referenced in its title, in terms of respecting human rights and protecting the environment. This highlights the polysemic nature of sustainability³⁶, which is tailored to align with the specific goals pursued by the legislator.

³⁵ The directive applies to companies that meet the following criteria: a) They employ an average of more than 1,000 staff members and generate a global net turnover exceeding €450 million in the most recent financial year; b) They are the parent company of a group that meets the same thresholds for employees and turnover; c) They have entered into franchise or licensing agreements within the European Union that establish a shared identity and business model, generating licensing rights exceeding €22.5 million, with a global net turnover exceeding €80 million. For companies based in third countries (outside the EU), the directive applies if they meet any of the following criteria: a) They generate a net turnover exceeding €450 million within the EU during the previous financial year; b) They are the parent company of a group that, on a consolidated basis, generates a net turnover at the same level within the EU; c) They have concluded franchise or licensing agreements within the EU that generate licensing rights exceeding €22.5 million, with a global net turnover within the EU exceeding €80 million. It is important to note that for European companies, the directive considers global turnover, whereas for third-country companies, only turnover generated within the EU is considered. Moreover, the employee threshold does not apply to third-country companies, leading to a narrower scope of application.

³⁶ S. CARMIGNANI, *Agricoltura e pluridimensionalità dello sviluppo sostenibile*, in *Dir. giur. agr. al. amb.*, 1, 2016, 1-3.

This regulatory framework applies across all economic sectors, influencing diverse regulatory systems. However, in the agri-food sector, the directive integrates into a complex and specific normative framework that governs supply chains at both European and international levels. These frameworks are deeply interwoven with human rights and environmental protections³⁷. For instance, the Farm to Fork Strategy has stated that the Commission would “improve the corporate governance framework, including a requirement for the food industry to integrate sustainability into corporate strategies”³⁸, reflecting the unique characteristics of the sector³⁹.

In this context, the legislator has implemented a cascading contractual system, where leading enterprises bind all economic operators within their value chains to comply with a code of conduct. This ensures that all actors conduct economic activities in alignment with EU sustainability standards. Such a multi-level approach fosters “collective responsibility” throughout the supply chain, promoting inclusive and accountable governance. It also prevents weaker actors within the supply chain from becoming sources of environmental or human rights violations under the pressures of extreme economic competition.

The rationale behind this regulatory model lies in recognising the role of

³⁷ Cf. L. COSTANTINO, *La “sostenibile” leggerezza dell’essere umano tra politiche pubbliche e dinamiche di mercato: nuovi vincoli e futuri obblighi*, in M.T.P. CAPUTI JAMBRENGHI, A. RICCARDI (a cura di), *La sostenibile leggerezza dell’umano. Scritti in onore di Domenico Garofalo*, Bari, Cacucci, 2022, p. 145; EAD, *Profili giuridici dei sistemi produttivi agroalimentari locali nell’era della sostenibilità*, Torino, Giappichelli, 2024, 24ss.

³⁸ COM (2020) 381 final, 12.

³⁹ Cf. Recital 47, Directive EU 2024/1760.

private actors in protecting vulnerable groups (such as farmers, workers, and minors) and safeguarding the environment. It also acknowledges the inefficiencies of self-regulation due to the global nature of supply chains and the persistent violations of human rights and ecosystems.

To address these challenges, the European legislator has introduced a framework that aligns private autonomy with legislative objectives, driving organisational and relational transformations within enterprises.

4.2 Due Diligence Mechanisms Under the EUDR Regulation

Unlike the directive, the “Zero Deforestation” Regulation (EUDR) does not adopt a global or cross-sectoral approach. Instead, it specifically targets deforestation and forest degradation. It focuses on specific raw materials and products placed on or exported from the EU market, integrating environmental and climate protection with human rights safeguards⁴⁰.

The regulation incorporates broader objectives, including climate change⁴¹

⁴⁰ See L. BERNING, M. SOTIROV, *Hardening corporate accountability in commodity supply chains under the European Union Deforestation Regulation*, in *Regulation & Governance*, 17, 2023, 870–890; M. KÖTHKE, M. LIPPE, P. ELSASSER, *Comparing the former EUTR and upcoming EUDR: Some implications for private sector and authorities*, in *Forest Policy and Economics*, Volume 157, 2023; E. VERHAEGHE, S. RAMCILOVIC-SUOMINEN, *Transformation or more of the same? The EU’s deforestation-free products regulation through a radical transformation lens*, in *Env. Sc. Pol.*, 158, 103807, 2024, 1-10.

⁴¹ Cf. Recital 3, Regulation EU 2023/1115.

mitigation, biodiversity conservation⁴², and recognising the intrinsic connection between these values and human rights⁴³. It also addresses various agricultural and agri-food supply chains with significant impacts on global deforestation and forest degradation⁴⁴. The targeted “relevant commodities” include cattle, cocoa, coffee, palm oil, rubber, soy, and wood, alongside products that “contain, have been fed with, or are manufactured using these commodities.”

The regulatory framework established by the EUDR relies on cooperation between private actors (suppliers and operators) and public authorities⁴⁵. Article 3 stipulates that commodities and products may only be placed on the market if they:

1. Are “deforestation-free,”
2. Have been produced “in compliance with the relevant legislation of the country of production,” and
3. Are accompanied by a “due diligence statement.”

The due diligence system involves three stages: collecting information, conducting risk assessments, and implementing risk mitigation measures. Non-compliance triggers a sanctioning system under the regulation.

This regulatory framework significantly impacts private autonomy. On one hand, it establishes a conformity model for economic activities, while on the other, it limits private autonomy by setting a vertical norm that

⁴² Cf. Recital 4,5,6, and 14, Regulation EU 2023/1115.

⁴³ Cf. Recital 7, Regulation EU 2023/1115.

⁴⁴ Cf. Recital 8, Regulation EU 2023/1115.

⁴⁵ The regulation establishes different requirements for SMEs and large enterprises, but all operators are required to carry out due diligence.

prohibits the circulation of products that violate the regulation within the EU market.

This differs markedly from the previous model: in this case, private autonomy becomes—albeit in specific instances—a form of “guided autonomy.” The law imposes a vertical norm of conduct that influences horizontal relationships among supply chain operators, extending its effectiveness beyond EU borders.

5. Conclusions: Functionalising Economic Action Through ‘Guided Autonomy’ in Agri-Food Chains

The brief overview of the regulatory measures affecting private autonomy allows for several observations.

In the “*legal laboratory of sustainability*”, it becomes evident that the European legislator has intervened on two distinct yet complementary levels to advance sustainable supply chains. Indeed, the EU, through a regulatory approach that integrates promotion and regulation, aims to foster a robust “normative dialogue” among all supply chain actors, aligning economic activities with public interests to create a sustainable agri-food system.

In this regard, the legislator has undertaken a thorough revision of the rules and structures governing the agricultural market. Recent reforms under the CAP have reshaped the regulatory framework for economic associations (POs and IOs) and producer groups, both structurally and

functionally. These entities have been transformed into effective instruments of private autonomy to regulate and manage a sustainable market. At the same time, significant changes have been introduced in competition law, particularly in Articles 152, 210, and 210a, where a supply chain-oriented approach has enhanced dialogue between agricultural producers and other economic operators, facilitating the incorporation of sustainability norms.

In parallel, and complementing these efforts, the legislator has also addressed the food and distribution sectors by regulating global supply chains.

The highlighted regulatory framework illustrates how, by combining promotion, regulation, and compliance, the legal order seeks to navigate a sustainable transition that accounts for both the local and global dimensions of the agri-food system. This reflects a deliberate functionalisation of economic activity towards sustainability.

The functionalisation of private actions is, however, not a novel concept in legal systems. As has been noted, private autonomy is safeguarded only to the extent that it pursues socially useful functions consistent with social economy and public order⁴⁶. Legal choices, therefore, should not lead to a conflictual dichotomy between general interest and individual interest as inherently opposed and contradictory terms. Instead, they should strive

⁴⁶ In this vein see S. MASINI, «Pubblico e «privato» nei contratti di cessione di prodotti agricoli e alimentari, in *Riv. dir. agr.*, 2, 2020, 367. Additionally, for further reflections on this theme, refer to A. JANNARELLI, *Dall'età delle regole all'età dei principi ed oltre? Problemi e paradossi del diritto privato post-moderno*, in *Giust. civ.*, 4, 2014, 991ss.

for a balance that allows both to coexist and be realised at the highest possible level⁴⁷.

In this context, the need to ensure meaningful adaptation of economic activities has driven the progressive development of what German legal scholars have termed “*regulierte selbstregulierung*”⁴⁸. This approach sees private autonomy giving way to heteronomous rules of “justice” designed to govern the complex dynamics of relationships within supply chains. It lays the foundation for a new conception of autonomy, “guided” by sustainability, which balances collective and individual interests, creating a renewed equilibrium between conflict and cooperation.

The most pressing challenge, however, lies in assessing how this new regulatory framework will impact the system, considering the growing obligations imposed, the implications for global competitiveness, and the need to protect producers. These factors are crucial to ensuring that, despite the complexity of these new governance models, the transition

⁴⁷ In this vein, see A. SCIAUDONE, *Agricoltura, Persona, Beni (una prospettiva per lo studio sulla qualificazione giuridica dei beni)*, in *Riv. dir. agr.*, 2, 2016, 163.

⁴⁸ B. WEITEMEYER, *Nachhaltigkeitsförderung durch das Gemeinnützigkeitsrecht*, in M. Bürgi-F. Möslein (a cura di), *Zertifizierung nachhaltiger Kapitalgesellschaften, »Good Companies« im Schnittpunkt von Markt und Staat* Herausgegeben von Martin Bürgi und Florian Möslein, Tübingen, 2021, 177ss where the author observes that “regulated autonomy” identifies a wide range of normative phenomena that have emerged in the current context. The logic behind this regulatory technique lies in the state’s intention to leverage the actions of private actors to achieve public interest goals. Methodologically, the legislator establishes a framework of principles and general clauses within which private actors can operate independently. In essence, they can exercise their regulatory powers within a legal framework that defines the functional parameters of their activity.

In the same vein, albeit with specific reference to corporate sustainability due diligence, see, G. PIEPOLI, *La grande impresa quale ordinamento giuridico privato nella Proposta di Direttiva sul dovere di diligenza*, in *Giust. Civ.*, 3, 2023, 597-621.

remains both genuinely and effectively sustainable.