

# FARMLAND AS A “COMMON”? TWO CASE STUDIES REGARDING SUSTAINABLE FARMING IN NORTHERN ITALY

## JE POĽNOHOSPODÁRSKA PÔDA „SPOLOČNÁ“? DVE PRÍPADOVÉ ŠTÚDIE O UDRŽATEĽNOM POĽNOHOSPODÁRSTVE ZO SEVERNÉHO TALIANSKA

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### I. Introduction

In this short paper, I present two private initiatives concerning sustainable and ethical farming in Northern Italy, questioning whether and to what extent it is possible to identify the main features of the so-called “environmental commons” as their ethical and legal background. To develop my arguments, I will proceed through the following structure.

In the first part, I will focus on the category of the environmental commons. After having set out a definition, I will proceed with the identification of the core elements of this phenomenon. In the second part, I will analyze two case studies that I consider significant for our present purpose. These are two private initiatives arising from the civil society in Northern Italy. The first is an example of “Community Supported Agriculture” (henceforth “CSA”) called Arvia. The second example is a uniquely Italian initiative named “Groups for the Acquisition of Lands” (henceforth: GAT). I will illustrate how these two projects work and the main principles characterizing

their statutes and structure. While describing these initiatives, I will highlight how and how much the main features of the commons outlined above are present in their statutes and in their ethical and organizing principles. These considerations lead me to the final part of this paper, where I submit some open questions for further research, given the limited length of this article: Can we talk about “farmland as a common”, in light of the cases considered? Or are there some obstacles that hinder such a definition?

### II. Materials and methods

The materials used for this short research come almost exclusively from existing literature, laws, official documents and websites. The methods embraced in this paper are mostly qualitative. The way of proceeding through the arguments is slightly unusual. Indeed, I will start with the consideration of the commons, and not with our specific case studies. Having set out clearly the main features of the commons will clarify

#### Abstract (EN)

Eco-sustainable and ethical farming initiatives arising from civil society have had an increasing popularity all over the world in recent decades, and Italy is no exception to this trend. This contribution is aimed at presenting two significant case studies from this country concerning sustainable and ethical farming, one of which is a uniquely Italian experience. What I argue is that it is possible to see the main features of the theory of the so-called “environmental commons” as the ethical-legal basis in the background of these initiatives. Through a sort of inductive approach of research, the examination of the two case studies offers the possibility to propose a more general inquiry, i.e. to question whether and how these experiences can be expressive of a new conception of farmland, which can be labeled as “farmland as a common”.

#### Keywords (EN)

sustainable and ethical farming, Community Supported Agriculture (CSA), commons, civil society, farmland protection, Northern Italy, agricultural land

#### Abstrakt (SK)

Initiatívy v oblasti ekologickej udržateľnosti a etického poľnohospodárstva vyplývajúce z občianskej spoločnosti sa v posledných desaťročiach stávajú čoraz populárnejšie, a to na celom svete, Taliansko nevynímajúc. Cieľom tohto príspevku je prezentovať dve významné prípadové štúdie z tejto krajiny týkajúce sa trvalo udržateľného a etického poľnohospodárstva, z ktorých jedna je talianskym unikátom. V príspevku tvrdíme, že etickoprávny základ na pozadí týchto iniciatív vychádza z hlavných charakteristik teórie tzv. „environmentálnych komún“. Analýza dvoch prípadových štúdií prostredníctvom induktívneho prístupu k výskumu viedla k formulácii všeobecnejšej otázky, a to, či a ako môžu byť tieto skúsenosti výrazom novej koncepcie poľnohospodárskej pôdy, ktorú možno označiť ako „spoločný zdroj“

#### Kľúčové slová (SK)

udržateľné a etické poľnohospodárstvo, komunitou podporované poľnohospodárstvo, spoločné zdroje, občianska spoločnosť, ochrana poľnohospodárskej pôdy, severné Taliansko, poľnohospodárska pôda

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better *what to look for* when considering the case studies. In this way, I can highlight more precisely the elements of the cases considered which are typical of the theory of the commons.

### **III. The commons: definitions and core features**

The category of the commons has generated increasing interest on the part of both academic scholars and civil society actors in recent years. Perhaps one of the main reasons for this interest derives from the fact that the commons can be studied from a wide array of perspectives, all intertwined with each other. Legal scholars, sociologists, economists and philosophers, to name a few, have all discussed and debated this fascinating interdisciplinary topic. For the purposes of this paper, though, I will mainly consider the contributions coming from the legal perspective.<sup>(1)</sup>

There is no universal consensus, neither as to the definition nor the taxonomy of the commons. However, we can affirm that there is a widespread agreement on the core features that constitute this category. Among the various possible definitions, I believe that the one given by Capra and Mattei (2015) is one of the most comprehensive and thorough. These authors argue that the commons “are neither private nor public. Nor are they understood as a commodity, as an object, or as a portion of the material or immaterial space that an owner, private or public, can put on the market to obtain their so-called exchange value. The commons are recognized as such by a community that engages in their management and care not only in its own interest but also in that of future generations.”<sup>(2)</sup>

As we can see, this definition is very broad. Traditionally, scholars include in the commons all the natural resources that are *essential for life* and that *we all share equally*: the air, the oceans, rivers, lakes, glaciers, the forests, etc. We can refer to these commons as *environmental commons* (henceforth, simply “commons”) and they constitute the focus of this paper.<sup>(3)</sup> Another important feature of the commons, which integrates the above definition, has been especially underlined by economists. That is, the commons are goods, which are both *non-excludable* and *rival*. These terms entail, respectively, that potentially no one can be excluded from the enjoyment of these goods, and that the enjoyment of them by one person decreases its availability for others.<sup>(4)</sup>

<sup>(1)</sup> Notably, I will mainly focus on the Italian literature on the topic, since the paper deals with an Italian situation and some of the most relevant contributions on the commons in the last years are coming from this country.

<sup>(2)</sup> Capra, Mattei (2015)

<sup>(3)</sup> Some scholars include in the taxonomy of the commons even immaterial goods such as the Internet, or even “everything that is obtained by social production, which is necessary for the social interaction and for the continuation of this production, in the form of knowledge, the languages, the regulations, information, affections, and so on” (Hardt, M., and Negri, A., *Comune*, Rizzoli, Milano, 2010, my translation).

<sup>(4)</sup> Cf. HARDIN, G., ‘The Tragedy of the Commons’, *Science*, 162(3859): 1243 - 1248, 1968. The classic example is fisheries: the more fishermen exploit this resource, which is freely accessible by anyone, the more the availability of fish in that location

Therefore, starting from this definition and then making use of the relative literature, we can extrapolate what I believe are the core elements of the category of the commons. These elements can be grouped under four headings: (A) *rejection of public-private dichotomy*; (B) *holistic approach*; (C) *community management*; (D) *intergenerational justice*. Let us proceed to analyze them separately, even if all these features are deeply intertwined with each other, so that the full understanding of one often depends on the understanding of all the others. Furthermore, we must specify that a full explanation of the features of the commons is not possible in a short paper such as this one, in particular because it is not our present purpose. What interests us here is simply to have an overview of the core elements of this category.

**(A) - Rejection of public-private dichotomy.** This first feature is probably the most important and, at the same time, the most problematic and politically radical. Commoners claim that the commons are goods that cannot fall within the traditional “public-private” dichotomy property.<sup>(5)</sup> From the modern age onwards, the dichotomy of “public-private” has been assumed to be exhaustive, i.e. no other forms of property can be imagined outside them. In other words, an asset can only be owned by a private subject or by the State: *tertium non datur*.<sup>(6)</sup> Within this framework, how do commons exist outside this dichotomy, constituting a *tertium genus*? Starting with private property, the explanation is somehow the easier one. As hinted above, commons are goods, which we all equally share and which are essential for life (e.g. the forests, the air, the water, the fisheries, the fruits of the land, landscapes, natural sources of energy, and so on). For this reason, to entitle individuals to own pri-

decreases. Economists usually distinguish commons from public goods (non-excludable and non-rival), private goods (excludable and rival) and “club” goods (excludable and non-rival).

<sup>(5)</sup> Cf., among others, MATTEI, U., *Beni comuni*, Laterza, Bari-Roma, 2011; Capra, Mattei (2015); OSTRÖM, E., *Governing the Commons. The Evolution of Institutions for Collective Action*, Cambridge University Press, Cambridge, 1990; Hardt, Negri (2010); BARNES, P., *Capitalism 3.0 - A Guide to Reclaiming the Commons*, BK Publishers, San Francisco, 2006; BOLLIER, D., *Think Like a Commoner: A Short Introduction to the Life of the Commons*, New Society Publishers, Gabriola Island, Canada, 2014.

<sup>(6)</sup> The historical shift which marked an essential milestone towards this totalizing polarization between the private and the public sphere is considered to have started with the Scientific Revolution (XVI sec.) and then to have been consolidated with the Industrial Revolution (XVIII sec.). The phenomenon of the enclosures, corroborated by the theorizations from the most eminent philosophers (e.g. Hobbes and his Leviathan, Locke and his “natural right to property”, to name a few) and scientists (e.g. Newton, Galilei) contributed to the formation of a two-poles structure where no other forms of property were imaginable outside the exhaustive State-private dichotomy. What is argued by the commoners is that the construction of private and public property is essentially an ideology brought about by modern thought, which does not have grounds in “naturalistic” bases, as it instead claims to have. Cf. Capra and Mattei, 2015; Mattei, 2011. For a similar historical reconstruction, cf. Merchant, C., *The Death of Nature: Women, Ecology and the Scientific Revolution*, Harper, New York, 1990.

<sup>(7)</sup> Cf. Mattei (2011)

vate property made up of these particular goods is considered to be unfair, since it would exclude all the non-owners from their enjoyment without a reasonable justification. Indeed, private property traditionally entitles the owner to have exclusive rights of enjoyment over the asset, in this way challenging the very nature of the commons, which, as we said, are on the contrary, *non-excludable* goods.<sup>(8)</sup> Along similar lines, commons also reject every form of commodification of natural resources. Indeed, given their incommensurable and, most of all, irreplaceable value, the commons are considered to be incompatible with their exchange and availability on the market similarly to every other commodity.

Regarding the rejection of the other element of the dichotomy, i.e. public property, the question is slightly more complex and is characterized by slightly sharp political claims. Various authors, not only commoners, have argued, especially in recent decades, that the State has become subject to an increasing power deriving from private actors. Furthermore, they claim that the State has started to act as a “large” private owner, dismissing common goods through liberalizations and privatizations for the sake of relieving its debts. In other words, what is claimed is that most of the time public property, instead of absolving its collective function, has merely become “the other side of the coin” of private property.<sup>(9)</sup>

That said, in contrast to these elements the commons postulate a form of *collective* property which falls outside of both the private and the public properties. Indeed, while traditional property is *exclusive*, *individualistic* and it stands as the main cornerstone of a competitive market, the commons advocate a radically different conception of property, which is *inclusive*, *participative* and *cooperative*.<sup>(10)</sup> Moreover, while traditional property conceives a concentration of power in the hand of a single or a few owners, common property is aimed at a diffusion of power amongst all the various subjects entitled to that asset.<sup>(11)</sup>

**(B) – Holistic approach.** A second feature characterising the commons is a *holistic* approach to ecology and, in general, to the human–nature relationship. A holistic approach is aimed at considering systems in their wholeness, and not as a mere sum of their individual components. In this way, the value given to the whole is different and “higher” than the value attributed to the singular parts that compose this whole. The example of natural ecosystems is particularly explicative in this sense. The life of an ecosystem depends on the efficient functioning of all its components which work and thrive within an interconnected and inter-dependent web of equal relations. Translating this reasoning into the human–nature relationship, the commons postulate an approach which does not only address

<sup>(8)</sup> Especially after Hardin’s article in 1968, private property has been deemed to be the best solution in order to avoid the “tragedy” of the commons. Indeed, the institution of private property naturally limits the otherwise free use and consumption of common natural resources by everyone.

<sup>(9)</sup> Cf. especially Barnes (2006); Mattei (2011); MATTEI, U., *Il benicomunismo e i suoi nemici*, Einaudi, Torino, 2015 and other literature from the same author.

<sup>(10)</sup> Cf. *idem* and Ostrom (1990)

<sup>(11)</sup> Cf. *idem*.

the welfare of humans alone or of non-human nature alone. On the other hand, the commons attempt to offer a sort of compromise between these two opposites, and they advocate an ecological view which sees human and nature in an equal relationship with each other. The commons aim at a human welfare *within* and not *above* nature. As Mattei eloquently says, we do not *have* the nature, but, in a certain sense, we *are* the nature.<sup>(12)</sup> In sum, in opposition to a mechanistic, reductionist and hierarchical view, the commons advocate instead a holistic view, where humans, nature and the whole ecosystem are considered to be interconnected in an equal web of relations.<sup>(13)</sup>

**(C) – Community management.** A second element of the commons is that they are identified and managed by a community, which considers them essential for their life and for their welfare. Regarding this feature, it is impossible not to mention the famous work by Nobel Prize winner Elinor Ostrom. In her *Governing the Commons*, she catalogued a wide range of examples of communities around the world, which, without the intervention of public or private property, managed to efficiently govern common pool resources (e.g. fisheries, water) in a sustainable and regenerative way (the so-called *commoning*). What is important to stress beyond this example is that the commons are those goods, which the community of reference has deemed essential for its life and for that of future generations. Moreover, the term community bears a strong political message. A community is not a mere sum of people. On the contrary, a community is a group of people, which is cohesive, cooperative and supportive in the management of goods that are essential for its life. In addition, since many commons are considered to be “global” (e.g. the atmosphere, the oceans), the term community can be elastically interpreted in a *spatial* way, i.e. considering as part of this community all the individuals who have an interest in the preservation of them, in a sort of “all-affected” mechanism.<sup>(14)</sup>

**(D) – Intergenerational justice.** Finally, there is the element of intergenerational justice. As we have already said, the commons are goods, which, due to their peculiar nature, can potentially be exploited by everyone, while no one can be excluded from the enjoyment of them. The example of most natural resources is an evident example of this. But it is also patent how this feature dooms these goods to a certain extinction (Hardin’s “tragedy”), if they are not managed in a way that enables their reproducibility and regeneration over time. For this reason, in addition to what was said in the above paragraph, the element of community is also elastically interpreted in a *chronological* way by the commoners. Indeed, not only are present generations deemed to have an interest in the preservation of the commons, but also and foremost the *future* generations, since they can be extremely jeopardized in the enjoyment of natural resources if the current rhythms of exploitation are maintained.

<sup>(12)</sup> Cf. Mattei (2011)

<sup>(13)</sup> Cf. Capra and Mattei (2015)

<sup>(14)</sup> On the issue of “ecological communities”, see Capra and Mattei (2015): 28–29; 131–136; 144–145. See also MATTEI, U. and QUARTA, A., *Punto di Svolta. Ecologia, Tecnologia e Diritto Privato. Dal Capitale ai Beni Comuni*, Aboca, Sansepolcro, 2018.

## IV. Two case studies

At this point, it is worthwhile illustrating two significant examples of sustainable and ethical agriculture coming from civil society in Northern Italy. As I pointed out at the beginning, I will particularly focus on the statutes and on the organizing and ethical principles at the basis of these initiatives, highlighting how much they resemble the aforementioned features of the commons.

### IV.1. Arvaia: an example of Community Supported Agriculture (CSA)

Arvaia is an interesting example of CSA in Northern Italy. More precisely, this CSA carries out its activity in the area of Bologna, the main city of the Emilia-Romagna region. Founded in 2013, it defines itself as a “cooperative society made of citizens, producers and farmers”<sup>(15)</sup>. As the label CSA suggests, Arvaia is a project that has the main aim of cultivating its lands (47 hectares) thanks to the material and financial contribution of the community of its members and volunteers. Its functioning is quite simple. At the beginning of every year, the budget is calculated and presented to the members, so that they can pay their shares to finance the activity of Arvaia (Arvaia does not borrow money from banks). Usually, a *suggested average share* for each member is calculated, so that the sum of all contributions can cover the annual budget. However, in a spirit of solidarity that characterizes this initiative, members can also anonymously offer more than the average share, to compensate the eventual lower contributions by members who are unable to afford this expense. Then, once a week, for 49 weeks per year, part of the vegetables and other products of Arvaia (such as honey, bread, cereals) is distributed to the members in various collection points throughout the city.

But what are the aims and principles of Arvaia, which mirror and express most the theory of the commons outlined above? First of all, Arvaia cultivates in a completely eco-sustainable manner (endorsing agroecology), and its products are all organic and locally produced. In this way, this CSA pursues the goal of shortening the supply chain, bringing citizens closer to organic farming and to the production which is behind the food they consume every day. In this regard, Arvaia speaks of an *alliance* between who produces the food (the farmer) and the consumer, defining itself as an “*open and supportive community* of citizens, which sets itself the objective of directly cultivating its own food in a sustainable way”.<sup>(16)</sup>

Therefore, it is interesting to notice that Arvaia’s activity is also aimed at fostering the social dimension of agriculture. Indeed, Arvaia also offers teaching programs for its members and volunteers, it hosts internships and, in a spirit of social inclusion, it opens internal paths in its fields to citizens who would like to enjoy the farm and the local landscape. In this regard, Arvaia eloquently affirms that “it does not only cultivate food,

but also social relationships, cooperation and participation”<sup>(17)</sup> among members who, as a proper *community* in the sense described above, collectively decide what vegetables they want to be cultivated. Indeed, Arvaia aims at fostering as much as possible an *inclusive participation* of all members in the choices of the CSA.

Another feature in line with the commons can be found in Arvaia’s conception of food sovereignty. Here, Arvaia explicitly affirms that the community of producers and consumers should be “at the heart of food politics and systems and above the pure logic of profit characterising modern neo-liberal market”. More than this, Arvaia endorses a conception of food sovereignty which could “defend the interests and the integration of future generations, and which could resist and dismantle the neo-liberal market and the contemporary nutritional regime, deemed economically, socially and environmentally unsustainable”<sup>(18)</sup>. This rejection of commodification can also be seen in the statute of Arvaia, where it is affirmed that “the time, the capacities and the competences of the members are relational goods which are made up of knowledge, expertise, reciprocal trust, and many other characteristics which are neither measurable nor convertible into money”.<sup>(19)</sup>

Interestingly for our purposes, Arvaia also explicitly promotes in its statute a “participative and sustainable use of fundamental commons: the land, the air, water, the landscape, energy, knowledge and genetic heritage”.<sup>(20)</sup> In sum, we can surely say that Arvaia embraces a *holistic* conception of farming. Indeed, Arvaia pursues an idea of agriculture which does not only take into account the good status of its land and of its members, but which is also aimed at the welfare of the whole planet. In its statute this CSA recognizes the Earth ecosystem as a “great living organism, and humans are responsible for its welfare”, and it attempts to enhance the associates’ connection with the territory within a systemic and integrated context, where the welfare of every component is important.

### IV.2. The Groups for the Acquisition of Lands (GAT): a uniquely Italian experience

The second case study is a uniquely Italian experience founded in 2008 near Mantova, in the Lombardia region: the “Groups for the Acquisition of Lands”, also known with its acronym “GAT”. This initiative started as a response to the financial crisis of 2008, thus advocating a return to a “real” economy, which does not appeal to financial markets but only to local in-

<sup>(15)</sup> This and all the following quotations of this paragraph are taken and unofficially translated by me from the official Arvaia website (<http://www.arvaia.it/>), thanks to the kind collaboration of its organizing committee.

<sup>(16)</sup> *Idem.*

<sup>(17)</sup> *Idem.*

<sup>(18)</sup> *Idem.* In particular, see the document available at [http://www.arvaia.it/agro/wp-content/uploads/2017/07/che\\_cosa\\_intendiamo\\_per\\_sovranita\\_alimentare.pdf](http://www.arvaia.it/agro/wp-content/uploads/2017/07/che_cosa_intendiamo_per_sovranita_alimentare.pdf).

<sup>(19)</sup> *Idem.*

<sup>(20)</sup> *Idem.*

vestments.<sup>(21)</sup> Indeed, GAT is a foundation<sup>(22)</sup> that coordinates and promotes the collective purchase of farmland activities through the investment from small investors (usually families) within the Italian territory, using a model, which resembles the so-called “fair trade purchasing groups”.

The way GAT work is quite straightforward. First of all, the designated farm that expresses its will to become a GAT farm should have certain requirements<sup>(23)</sup>. For example, the farm should produce organic food and/or high-quality agricultural products. Its area cannot be smaller than 10 hectares; the farmer should accept a business plan and they should be available to constitute a limited liability agricultural company with the GAT foundation; and satisfy other requirements.<sup>(24)</sup> Therefore, a farm which possesses these requirements is identified. A team of designated experts draws up a report that describes the “state-of-the-art” of the farm, which will be presented and promoted to the potentially interested investors.<sup>(25)</sup>

GAT does not only pursue economic aims, such as preserving and incrementing the value of the investment made by the associates (indeed, nowadays investing in land means investing in an increasingly scarce – and, thus, increasingly valuable – asset). It first and foremost pursues *ethical and ecological principles* that resemble very much the theory of the commons illustrated above. Indeed, GAT farms embrace an ecological way of carrying out agriculture, with the production of organic food (the method chosen is preferably permaculture, which is a very stable and resistant productive system over time that requires low energy inputs).<sup>(26)</sup> In addition, it advocates a shared vision of agricultural values between investors and farmers, eliminating the intermediaries between producers and consumers, thus choosing a very short supply chain like Arvaia. Among its principles, GAT aims to promote an ecological agri-food culture with a very wide meaning. This entails promoting not

<sup>(21)</sup> A similar experience comes from France, with the project named Terre de Liens (<https://terredeliens.org/>). Unlike GAT, however, this initiative relies on the financial market. Cf. MOISO, V. and PAGLIANO, E., ‘Azionariato fondiario e gestione collettiva: una “Terre de Liens” italiana?’, in *Agriregionieuropa*, anno 9, n. 33, giugno 2013, available at <http://agriregeionieuropa.univpm.it>.

<sup>(22)</sup> The information regarding GAT that follows is taken and/or unofficially translated from the official GAT website <https://www.fondazionegat.it/>. I would like to thank its founder, the lawyer Rosanna Montecchi, who kindly provided me with additional information on the recent GAT projects. So far, there are three GAT farms in Italy: one in Mantova (Lombardia), one in Parma (Emilia-Romagna), one in Scansano (near Grosseto, in Tuscany). However, the number of farms applying to become GAT associates is constantly increasing.

<sup>(23)</sup> Among these, the farm should possibly be an already working farm (the majority of cases), even if GAT does not exclude considering abandoned or uncultivated agricultural lands for its project.

<sup>(24)</sup> Cf. GAT website <https://www.fondazionegat.it/>.

<sup>(25)</sup> Associates (preferably physical persons, usually families) participate with the purchase of equal shares whose value is between 10,000 and 20,000 euros each, depending on the business plan (existing GATs number between 70 and 85 associates). Every associate can purchase a maximum of four shares, in order to avoid dominant positions within the assembly.

<sup>(26)</sup> Interestingly, it is possible to see in GAT’s background even the theory of degrowth by Serge Latouche. Cf. LATOUCHE, S., *Farewell to Growth*, Polity, Cambridge, 2010.

only education in terms of a healthy food regime, but also pursuing a more holistic conception which, in addition to physiological aspects, covers other important features of life such as culture, tradition, sociality, the notion of territory, and others.<sup>(27)</sup> The GAT foundation also engages in and finances a wide range of activities other than agriculture, which are holistically interconnected in the spirit of ecology, sustainability, social inclusion and participation (so-called “social agriculture”<sup>(28)</sup>). For example, GAT promotes projects in the field of renewable energies, it provides scholarships and awards, it invests in scientific research on agriculture, it offers assistance on every aspect related to the agri-food sector to companies and private individuals, and many other diverse activities.

## V. Farmland as a common? An open question

At this point, we can surely affirm that most of the principles of the commons are present in the considered case studies. Indeed, we see how both Arvaia and GAT operate endorsing a holistic approach to farming, which does not only address agriculture *tout court*, but also takes into account the important role of the community of reference in a spirit of social inclusion and cooperation, without ignoring the interests of future generations. Therefore, are our cases examples of “farmland as a common”? This question is embedded in a more general inquiry, that is: can the good “farmland” (or “agricultural land”) be a common according to the definition set out above?

Despite appearances, the answer cannot be, *prima facie*, totally affirmative. Indeed, we have to bear in mind the first and most critical feature of the commons, namely *their rejection of both private and public property* in their traditional meaning. Indeed, it seems unproblematic to think about farmland as a holistic asset, managed by a community even in the interests of future generations. On the contrary, some issues would arise if we affirmed that farmland were neither private nor public, but a common. Before making such an assertion, our contemporary liberal-constitutional states would waver: as we have said, the public-private categories have been the only possible two alternatives for the ownership regimes of goods for centuries. Affirming that the good “farmland” is a common would starkly clash with all the existing situations regarding the ownership regimes on agricultural lands in Italy (and elsewhere in the world). Indeed, in most of the cases land is *privately owned* or, at least, owned with the traditional forms of property. However, we must consider that agricultural land is not a “usual” asset such as other commodities. Agricultural land is a par-

<sup>(27)</sup> As made explicit by GAT, one of its main objectives is to “stimulate the constitution of a quality system of agri-food products which can be immediately applied to the territory in its wholeness”

<sup>(28)</sup> The most recent example of this is the Corte Grande Canedole project (“Cittadella GAT”). GAT is financing and sponsoring the regeneration of an 1875 rural court in the area of Mantova. This project aims to make Corte Grande the GAT headquarters as well as a multifunctional center of activities: organic and sustainable agriculture, projects of inclusion of weaker groups of the local population (such as disabled and elderly people), and the creation of new job positions are among the main purposes.

ticular natural resource which, as also the Italian constitution affirms<sup>(29)</sup>, has also a social function embedded within itself. Indeed, agricultural land is essential for the sustainment of our lives, not only as a food provider, but also due to its function of carbon storage and for many other reasons. Thus, the owner of agricultural land is not totally free to use this asset in whatever way they wish: they have specific limitations in the enjoyment of its property. Notably, in most cases the owner of agricultural land has the specific duty to cultivate it and to maintain it cultivable also for the future.<sup>(30)</sup>

In light of these considerations, therefore, is it possible to affirm that farmland is a common, given its essential social function that we have just pointed out? An affirmative answer to this question would still be opposed by the fact that, in the Italian legal system as well as in many other countries, this would entail “inventing” a third and new category of ownership and formalizing it in legislation and official policies. However, most of all, affirming that farmland is a common would have to face the fact that normally most of the owners do not want their asset to be commonly owned, nor do they want an inclusive participation of the community in the choices regarding their asset, and so on. As is often the case, especially for large-scale farmland, owners primarily want to gain the maximum profit from their asset, and they want to manage their land through an exclusive and individualistic form of ownership (the traditional form of private property), without permitting a diffused power on the land for all members of the community.

Therefore, is there some possible way to avoid these problematic issues and to consider farmland as a common? A thorough answer to this question would surely need deeper and longer research that is not possible in such a short paper as this. However, some hints for a possible answer can perhaps be found in what can be considered the highest peak of the formulation of the commons in our country in recent decades: the work by the Commission headed by the famous legal scholar Stefano Rodotà in 2007<sup>(31)</sup>. Interestingly, this reform scheme was pur forward again in the form of a popular legislative initiative proposal in 2018, ten years after the original formulation.<sup>(32)</sup> Very simply, the Commission suggested for the first time introducing the category of the “commons” into the taxonomy of goods that are set out in the Italian Civil Code.

<sup>(29)</sup> Cf. in particular art. 42, 44 of the Italian Constitution. See also; GERMANÒ, A., *Manuale di diritto agrario*, Giappichelli, Torino, 2016. On the issue of agriculture and the commons in Italy see LUCIFERO, N., *Proprietà fondiaria e attività agricola. Per una rilettura in chiave moderna*, Giuffrè, Milano, 2012; GERMANÒ, A. and VITI, D. (eds.), *Agricoltura e beni comuni*. Atti del Convegno IDAIC (Lucera, 27-28 ottobre 2011), Giuffrè, Milano, 2012.

<sup>(30)</sup> Cf. *idem*.

<sup>(31)</sup> In 2007, the Commission was designated by the Government to draw up a reform scheme for the Italian civil code (dated 1942 and quite obsolete in some of its parts) in the part regarding public goods. The reform scheme remained a dead letter. Now in 2019, ten years later, a popular legislative proposal is aiming to re-launch this reform scheme.

<sup>(32)</sup> While I am writing, an extensive campaign for the collection of signatures among the population is being carried out, so that the legislative proposal can be presented to the Italian Parliament. According to the Italian constitution, at least 50,000 signatures are required for popular legislative proposals.

The Commission defined the commons as goods that cannot be included *stricto sensu* in the categories of public goods.<sup>(33)</sup> Furthermore, they were defined as goods that “suffer a highly critical situation due to their scarcity, depletion and for absolute lack of legal guarantees [and as] things that express utilities that are functional to the exercise of fundamental rights and functional to free personal development, and they are characterized by the principle of intergenerational safeguard of their utilities”<sup>(34)</sup>. The very innovative point, as is worthy of notice, is the definition of the commons in terms of their necessity for the exercise of the fundamental rights of the individual. In this regard, the Commission affirmed that, given this connection with fundamental rights, the enjoyment of the commons must be granted to everyone, *irrespective of the ownership regime within which they exist*, i.e. irrespective of the fact that they are in public or private hands. The Commission formulated this concept with the expression “diffuse ownership” and, as it can be seen, this assertion is particularly interesting for the question we have been attempting to answer in this last paragraph. Indeed, we saw how agricultural land is an essential natural resource for human life and, we can say, for the exercise of some fundamental human rights. These include the right to food, the right to a healthy environment, and the right to water, to name but a few. Therefore, in light of this assertion, can agricultural land be included in the taxonomy of the commons, in accordance with the formulation of the Rodotà Commission? Indeed, it seems *prima facie* that agricultural land responds to all the requisites identified by the Commission to be deemed as a common: it is an increasingly scarce asset<sup>(35)</sup>, it has to be managed in a sustainable way so as to make it available also for future generations and, most of all, it is an asset which is necessary to produce food and to store carbon, so we can say it is essential for the exercise of the fundamental rights of the individual. However, a critical point still remains: how to deal with the element of “diffuse ownership”? That is, how to grant the enjoyment of agricultural land to everyone, *irrespective of the existing ownership regime*? The nodal point seems to lie in what meaning we should attribute to the term enjoyment: what are the boundaries of the enjoyment of, say, a privately-owned farmland by a person who considers it as necessary to exercise

<sup>(33)</sup> The Commission identified the commons in “all the natural resources, such as the rivers, the streams, the lakes and the other water resources; the air; the parks, the forests and woodlands; the mountain areas of high altitude, glaciers and eternal snows; those coastlands declared as natural reserves; the wild fauna and protected flora; the other protected landscape areas. Even archeological, cultural and environmental goods are included”.

<sup>(34)</sup> Rodotà Commission (Commissione Rodotà), “Relazione per la modifica delle norme del codice civile in materia di beni pubblici”, 14 June 2007. Available at [https://www.giustizia.it/giustizia/it/mg\\_1\\_12\\_1.wp?facetNode\\_1=0\\_10&facetNode\\_2=0\\_10\\_21&previousPage=mg\\_1\\_12&contentId=SPS47617](https://www.giustizia.it/giustizia/it/mg_1_12_1.wp?facetNode_1=0_10&facetNode_2=0_10_21&previousPage=mg_1_12&contentId=SPS47617), p. 6 (my italic, my unofficial translation).

<sup>(35)</sup> The phenomenon of land loss and consumption is an increasingly dramatic problem in Italy, as officially reported by the ISPRA Report (Superior Institute for the Environmental Protection and Research), *Consumo di suolo, dinamiche territoriali e servizi ecosistemici - Report*, 2018, available at <http://www.isprambiente.gov.it/it/pubblicazioni/rapporti/consumo-di-suolo-dinamiche-territoriali-e-servizi-ecosistemici-edizione-2018>

their fundamental rights? These inquiries surely need much more space than is available in this paper. Up to this moment we cannot say that agricultural land is a common according to our definition. However, I believe that the formulation expressed by the Rodotà Commission could surely provide some hints for a change of paradigm, especially if it becomes codified law in the near future.

## VI. Conclusions

Initiatives of sustainable and ethical agriculture from civil society are increasing in Italy, and Arvaia and GAT are two significative examples of this trend. These and similar initiatives have embraced a new idea of farming which, in addition to the mere production of food *tout court*, attempts to include a wider range of related issues and activities. Social inclusion, enhanced participation of the final consumers in the choices of the farm, related projects regarding sustainable and renewable energies and cultural initiatives, are just a few of the aspects that this new concept of farming has endorsed. What we have tried to demonstrate is how these aspects resemble and express very much the core features of the theory of the so-called commons. A *holistic* approach to farming, the consideration of the community of reference as principal stakeholder in the management of agricultural land and the concern for the welfare of future generations are all aspects that constitute the backbone of the theory of the commons and which are all present in the case studies we have considered. However, the most critical point is the rejection of the public-private dichotomy, which is probably the main feature of the category of the commons. We have seen how this feature creates *prima facie* some hurdles if we were to consider agricultural land as a common. However, we can conclude this paper with an interesting and timely contribution by the Rodotà Commission, which defines the commons *in terms of their aptness to exercise the fundamental rights of the individual*. This innovative definition, we argue, could open the path for a new categorization and conception of the good “farmland”, which could potentially be included within the taxonomy of the commons.

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## Websites

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