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Patrimonio culturale: natura e mano dell'uomo

Protection of agricultural landscapes in Italy: Overlaps, clashes and links of the sectoral policy instruments and interests

di [Dana Salpina](#)

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Given the multifunctional nature of agriculture, the protection of agricultural landscapes involves the legal and institutional pluralism. Based on the critical analysis of the sectoral planning instruments in Italy, the paper tries to establish a comprehensive understanding and exemplification overlaps, links, and clashes that have an effect on the protection of agricultural landscapes.

Keywords: Agricultural Landscapes; Sectoral Planning; Multifunctionality; Landscape Protection.

1. Introduction

The last decades have seen an increasing international interest in recognition of agricultural landscapes as a heritage category [1], and the emergence of new legal and institutional tools for their protection. The concept of agricultural landscape has evolved from being conceptually tied to productive land or nature to "a much broader, dynamic concept, emphasizing the human dimension of landscape and the symbolic relationship between people and place over time" [2]. The European Landscape Convention (ELC) has marked a further shift from the conventional understanding of landscape as culture or nature linked asset, towards more inclusive understanding as a source of social cohesion and sustainable development. It defined landscape as "an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors" [3] and landscape planning as a "strong forward-looking action to enhance, restore or create landscapes" [4].

There is no legal definition of the agricultural landscape. The Legislative Decree no. 228/2001 laying down Guidelines on the Modernization of the Agricultural Sector states that agricultural entrepreneur is one who carries out one of the following activities: land farming, silviculture, animal farming as well as the provision of assets and services such as agritourism, enhancement of the territory and rural heritage [5]. Accordingly, the definition of the agricultural landscape can be attributed to a broad variety of productive landscapes, including pastoral, staple crop and forest landscapes. However, shall we consider all agricultural landscapes as heritage?

The agrarian legislation divides the local productive systems to 'rural districts' (*distretti rurali*) representing the territorial identity [6] and 'districts of quality agri-food' (*distretti agroalimentari di qualità*) intrinsically linked to the certified production [7]. Thus, the level of 'cultural' significance of such landscape may range from mere productive lands characterized by extensive agriculture to iconic agricultural landscapes bearing the territorial identity [8].

Further, the Law n. 238/2016, known as "*Testo Unico della vite e del vino*" recognizes "wine, vineyards, and viticultural territories as the national cultural heritage" and calls for their protection and valorization within the aspect of social, economic, productive, environmental and cultural sustainability [9]. However, it sets the boundaries for what is worthy of protection. First, it specifies that the legislative text concerns "wines and vineyards representing the result of work", a combination of skills, knowledge, practices, and traditions". It states that the State warrants "promoting restoration, recovery, maintenance and protection of vineyards in areas subject to hydrogeological risk or having particular landscape, historical and environmental value" (Art. 7.1). The text gives particular attention to the protection of "historic and heroic vineyards" [10], while the reference to the traditions and historicity leaves the newly cultivated

landscapes out of its framework. Second, the provisions give particular attention to the Italian native vine (*vitigno autoctono italiano*) present in geographic areas within the national territory (Art. 6). Third, text specifies that the protection is given to "the vineyards situated in the areas designated for the cultivation of the vine, where the specific environmental and climatic conditions endows the product with the unique characteristics, as it is closely connected with the territory of origin". (Art. 7.2). Thus, it makes direct reference to the certified and typical production zones, replying to such criteria.

The Code on cultural properties and landscape n. 42/2004 also attributes particular significance to "agro-silvo-pastoral" activities, which according to article 149 do not require the 'preventive authorization'. However, such activities shall not entail permanent alterations in the landscapes and must comply with agrarian and urbanistic principles. These conditions permit to establish an equilibrium between the interest of landscape preservation and economic interest concerning the "agro-silvo-pastoral" resources [11]. The regional landscape plans established by the Code have a double nature. On the one hand, they are directed to the preservation of 'exceptional landscapes.'

On the other hand, they have a strategic character. They cover vast territories implying inevitable development and need to control the transformation processes. Thus, there is a conceptual and methodological division between landscape assets and landscape as an area. According to Gisotti (2016), such division "results in the landscape assets that are still treated as isolated elements subject to the protection provisions, and which do not always interact with the rest of the regional territory" [12].

Overall, within both agrarian and landscape legislation, the protection of agricultural landscapes is often limited to the conservation of the characteristic elements such as stone culture (rural architecture, terraces) and invariable natural structures (e.g., monumental trees) [13]. However, the protection of the agricultural landscape requires a multidimensional approach, considering at once tangible, intangible, economic, socio-cultural, and environmental aspects.

The protection of agricultural landscapes is situated in the crossroad of territorial, environmental, and agrarian legislation. In Italy, the legal and institutional pluralism characterizing the protection of the agricultural landscape is best reflected in the multiplicity of sectoral planning tools at the regional level. Besides the landscape plans, the protection of agricultural landscapes involves territorial plans, rural development plans (RDP), and plans for protected areas. These planning tools function as operational instruments where the supranational, state and regional policies merge and directly influence the protection of agricultural landscapes.

However, it is important to understand that the RDP follows a trajectory different from spatial and park plans. The RDP is a programming tool, which allocates the economic resources among a targeted group (often farmers), while the landscape and park plans represent the regulatory instruments. As such, they establish rules and constraints for the transformation and preservation of the territory, and they are not associated with a budget, at least directly. According to Spaziante et al. (2012), "the allocation of economic resources and the establishment of regulations sometimes follow different rationales" [14]. Therefore, it has important implications for how these instruments are elaborated and on the heterogeneity of their subsequent implementation.

Nevertheless, we can't deny that the RDP has "a direct effect on the protection of agricultural landscapes" [15]. Understanding the interaction between these policy instruments is crucial for inclusive and cohesive protection strategies. This paper tries to establish a comprehensive understanding and exemplification of the links, overlaps, and clashes between the sectoral planning instruments at the regional level. It bases on the empirical research of two case studies: The vine hills of Soave and the terraced agricultural landscape of Cinque Terre. Accordingly, it mainly addresses the sectoral planning instruments in the Region of Veneto and the Region of Liguria. However, the paper also covers the juridical cases concerning the sectoral planning systems in other Italian regions. The research is based on the analysis of legal literature, plans, and interviews with key stakeholders conducted by the author in the period between 2017 and 2019.

2. Overlaps and incongruences of the territorial and landscape planning systems

The spatial planning instruments have an essential role in the protection of agricultural landscapes. In Italy, the spatial dimension of agricultural landscapes at the regional level mainly depends on two planning instruments, including territorial/urban plans regulated by the regional legislation [16]; and landscape plans as established in the Code on cultural properties and landscapes.

The protection and planning of the landscape is the primary function of landscape plans. While the territorial plans are at once responsible for the socio-economic, spatial, and environmental dimensions of the concerned territory scale (region, province, and municipality). Therefore, landscape protection is only one of their multiple objectives that can be suppressed by other interests. However, there is still a certain degree of parallelism between the regional territorial plans and landscape plans reflected in their territorial and functional overlaps.

It is important to note that article 145 of the Code (n. 42/2004) provides a principle to resolve the possible antinomies between the landscape plans and other territorial planning instruments (including urban plans). Thus, "the landscape plans are cogent to urban planning instruments at the municipal, city, and provincial levels. They immediately prevail over contradicting dispositions in the urban planning instruments" [17]. Moreover, the landscape plans "stabilize the norms of landscape preservation, when the adaptation of urban planning tools is pending" [18]. It means that the

landscape plans immediately prevail over the contradicting dispositions of the territorial plans to an extent the landscape protection interest is concerned.

It is important to note that article 145 *comma* 4 of the Code requires the conformity of the municipal urban plans with the landscape plans. Regardless of the hierarchic primacy of the regional landscape plan over the municipal urban plans, it leaves room for adaptation and integration of landscape planning at the immediate level. The landscape plans focus on the broad and strategic planning of the regional territory. At the same time, the adaptation of these strategic lines to the realities of a single community is left to the municipal urban plans; the municipal plans must conform to the landscape transformation restrictions defined in the landscape plan unless the latter does not specify 'less relevant' areas, flexible to the provisions of the municipal plans. Thus, the regional landscape plans can limit the municipal plans by putting landscape protection over the socio-economic and development interest.

Further, the Code n. 42/2004 establishes that the regions can either develop a separate landscape plan or merge it with the existing territorial plan. Thus, in some regions, the territorial plans have been "absorbed" by the landscape plans. While in others, they have remained as two separate instruments.

The Veneto region has chosen the first option. In 2013, the Region attributed the function of landscape planning (*valenza paesaggistica*) to territorial coordination plan (*piano territoriale regionale di coordinamento, PTRC*). Thus, two functions have been merged in one spatial planning instrument at the regional level. However, landscape planning, as defined by the national and regional legislation, hasn't yet been fully translated to the provincial and municipal plans.

However, in the case of Soave there is an additional level of heterogeneity of spatial planning system. The vine hills of Soave is located within the border of two municipalities: Soave and Monteforte d'Alpone. Accordingly, the spatial planning of the territory is divided between two municipal plans. The general regulative plan of Soave (*Piano Regolatore Generale, P.R.G*) is drafted according to the regional urban law n. 61/1985. Therefore, it is limited to the building regulations and technical norms of implementation and has little reference to landscape planning. While a portion of the vine hills within the territory of Monteforte d'Alpone enjoys a new spatial planning tool that meets better the requirement of landscape planning, it defines the areas subject to the transformations, conservation, and development, as well as the implementation of the concrete projects. Thus, the content and functions of two municipal plans differ considerably.

In this context, there is an increasing importance of the inter-municipal planning instrument that could ensure the integrity in the development of the vine hills, coordinated within two administrative unites. This function can be performed by plans for landscape areas (*piani paesaggistici regionali d'ambito*) defined in the regional landscape plans. The PTRC of Veneto divides the territory into 39 landscape areas (*ambiti di paesaggio*) considering naturalistic and landscape interests. The vine hills of Soave is located within the borders of two landscape areas: "ambito Lessinia", and "ambito Alta pianura Veronese". Each landscape has an individual landscape plan defining the objectives of development, use, and spatial transformation. However, the fact of being part of two different landscape areas, involving different administrative unites can create the stratification of the planning system for the vine hills and weaken their protection. This case demonstrates the major issue of the spatial planning system embedded in the lack of attention to the integrity of the agricultural landscape and the fact that it is rarely recognized as a landscape unite *per se*. However, the situation varies among the regions.

A similar issue is addressed in the case of terraced agricultural landscape of the Cinque Terre. The Region of Liguria has chosen to keep two autonomous instruments of spatial planning: landscape plan and territorial plan (*Il Piano Territoriale Regionale, PTR*) [19]. The landscape plan incorporates a set of prescriptions and norms of use, the transformation, and the protection of the regional territory, including the natural protected areas [20]. While the territorial plan (currently in the process of elaboration) will represent a strategic instrument for the spatial and socio-economic development of the territory. Despite the supposed autonomy of the plans, there is still a risk of overlaps in terms of landscape planning. First, because the plans cover the same territory and address similar objectives: "the urban regeneration of the territory and the fight against the depopulation of the hinterland" [21]. Second, because both territorial and landscape plans influence the municipal spatial planning tools.

In order to suit the new regional spatial planning regulations and to provide integral protection to the agricultural landscape, the municipal administrations of the Cinque Terre (Monterosso al Mare, Vernazza, and Riomaggiore) are currently drafting a new inter-communal urban plan (*Piano urbanistico intercomunale, PUI*). The preliminary version of the plan defines the rehabilitation of the agricultural terraces as the main objective of the local spatial policy, while the establishment of favorable conditions for the development of local agriculture as the primary measure in achieving this objective [22]. Regardless of the joint strategy, according to the local administrations, the major challenge in drafting the joint urban plan is divergent priorities. Thus, in Riomaggiore, due to the limited space, the tourist flux represents the main risk factor that shall be addressed in the first place. While in Monterosso and Corniglia this issue is not of primary importance, given more favorable morphological conditions. Despite different priorities, we can already observe the gradual integration of the inter-municipal plan to the logic of the regional landscape planning system that classifies all territory of the Cinque Terre under one landscape unite (*sub-ambito*) "*Riviera di Levante*" [23].

However, the local spatial planning in the Cinque Terre is not limited to the landscape and territorial plans. The agricultural landscape is protected by the National Park of Cinque Terre, which imposes additional planning tools and regulations to the spatial development of the territory.

3. Duplication of functions by a park and spatial planning regulations

Landscape plans and park instruments address the agricultural landscapes from different sectoral perspectives (nature protection vs. landscape protection). However, in practical terms, both plans are involved in the protection of the territory, including landscape protection, heritage, and environment.

In terms of landscape protection, the provisions of landscape plans upstage the provisions contained in the territorial plans provided by the sectoral regulations, including those of the managing bodies in the protected natural areas [24]. This principle has engendered several discussions. First, because both plans have the nature of wide-area plans (it., *piano d'area vasta*). Second, because they have the same function - the protection of historical, cultural, and landscape values [25].

In Cinque Terre, the park plan hasn't yet been approved. Currently, the park regulations replace the functions of the park plan in the protection of the protected area. The regulations define the types of activities and interventions subject to the park authorization (*nulla osta*) according to the park zones [26]. It defines the protection of the agricultural landscape as one of the fundamental objectives of the National Park.

In addition to park authorization, there is also the landscape authorization procedure established by the spatial planning policy, more precisely the regional law n. 13/2014 (the consolidated text of regional regulations in the field of landscape) [27]. It makes the distinction between the landscape authorization function assigned to the region and the local authorities [28]. The entity responsible for the evaluation of the new project must check the conformity of the intervention with disciplines of the regional territorial and landscape plans, including the prescription of use, transformation, and the values of the protected landscapes. It means that specific intervention within the territory of the National Park can be subject both to *nulla osta* and landscape authorization, which creates the duplication of the administrative procedure. Because in both cases (landscape authorization and *nulla osta*), the evaluation shall consider the impact on the landscape and cultural value of the territory. The relevance of the discussion is reflected in the appeal against the constitutional illegitimacy of the Regional Law of Liguria n. 22/2015 on the building and requalification of the urban heritage. The case regarded the modifications to the law that defined the *nulla osta* as the only authorization procedure for the interventions in the territory of the parks. This way, it has omitted the necessity of the landscape authorization procedure as defined by the Code n. 42/2004. The court has ruled against the Region for the violation of the Code, stating that *nulla osta* can't replace the landscape authorization established by the national legislation [29]. *Vice versa*, according to the national law on protected areas, all types of authorizations within the territory of parks are subject to preventive *nulla osta* [30]. It means that without the consent of the park, the landscape authorization can't be even requested. In this context, the duplication of the authorization function is unavoidable if the interventions concern the protection of landscape values.

The existence of a multiplicity of actors responsible for the protection of the agricultural landscape within the same territory requires their collaboration on the procedural level. In practice, though, the collaboration practices in the form of *conferenza di servizi* [31] are often ignored, at least in the case of landscape authorization procedure [32]. This issue impedes the comprehensive evaluation of the environmental, landscape, urban, socio-economic, and other interests attached to the agricultural landscape.

4. Clashes of interests: rural development and landscape protection

According to article 149 of the Code (42/2004), the landscape plans are binding and cogent to the socio-economic planning instruments, including the rural development and other sectoral plans. These facts highlight the significant limitations of the regional landscape plans in relation to the agricultural landscape. Because the protection of the agricultural landscapes is intrinsically related to the socio-economic development of rural areas currently experiencing an increasing depopulation and the lack of main-d'œuvre, crucial for the continuous maintenance of heritage. However, what is the place of landscape protection interest within the rural development policy?

The analysis of juridical cases regarding the agricultural landscapes in Italy has demonstrated the ubiquity of clashes between rural development and landscape protection interests. It can be referred to as the double function of the agricultural landscape as a private good with the socio-economic function and the function as a public good with socio-cultural function.

The restrictions to landscape transformations established by the territorial or landscape planning systems are often considered as a form of 'disincentive' to the rural development and pressure to property rights. Thus, according to the court decision (*Cons. Stat., sez. IV, n. 5453, 2013*), an absolute 'prohibition to build' in agricultural areas requires "a specific and particular motivation", because it can affect "the legitimate expectation of the agricultural entrepreneur for the development of his business" [33]. The case has outlined that the power of municipal urban planning has limits in relation to the productive function of agricultural areas.

The decision becomes even more complex when it comes to the characteristic agrarian landscapes protected by law through the restrictions on landscape transformations (it., *vincolo paesagistico*). Thus, the Regional Administrative Court of Veneto (Tar Veneto, Sez. II 2 gennaio 2019, n. 9) has ruled in favor of the superintendence that has refused the authorization for the cultivation of 38.000 sq.m of vineyards. However, the agricultural farm previously received the landscape authorization from its municipal administration. In a similar case, the initiative of an agricultural society to plant vineyards was first approved municipal commission and then refused by the *soprintendenza*. The refusal was motivated by the fact that the cultivation of vine terraces would "negatively affect the balance and harmony of the protected area, characterized by forest masses, [...] meadows and pastures of high natural value" (*Cons. St., sez. VI,*

n. 718/2015).

Besides the clashes between the rural development and landscape protection interests, these cases demonstrate the divergences of views expressed by the local administration and regional authorities in relation to landscape authorization procedure. The issue has been addressed directly in the case, where the municipal administrations have accused the regional authorities in drafting the landscape plan, without the consideration of the socio-economic development needs and the risk of abandonment of the rural area that mainly rely on the agricultural activity. The court has ruled in favor of the region. It has outlined that the sustainable development principle doesn't mean that the socio-economic interest can prevail over the landscape protection: "il nuovo piano deve prevedere interventi di valorizzazione e valutazioni ispirate alle 'prospettive di sviluppo sostenibile' (art. 135, 3 comma lett. d, art. 132, secondo comma), concetto quest' ultimo che seppure diretto ad introdurre un collegamento tra protezione del paesaggio e valori economici, non deve tuttavia essere inteso come giustificazione di una recessione 'in misura accettabile' del primo rispetto ai secondi" (Tar Sardegna, sez. II, Sent. n. 1810/2007) [34].

This court decision brings us to article 145 *comma* 3 of the Code, according to which the landscape plans cannot be derogated and are cogent to all territorial planning instruments, including urban plans. It means that the landscape plans immediately prevail the contrasting dispositions of the territorial plans, to an extent the landscape protection interest is concerned. In this view, the article 145 *comma* 4 of the Code requires the conformity of the municipal urban plans with the landscape plans.

Regardless of the hierarchic primacy of the regional landscape plan over the municipal urban plans, it leaves room for adaptation and integration of landscape planning at the immediate level [35]. The landscape plans focus on the broad and strategic planning of the regional territory. While the adaptation of these strategic lines to the realities of a single community is left to the municipal urban plans. The municipal plans must conform to the landscape transformation restrictions defined in the landscape plan unless the latter does not specify 'less relevant' areas, flexible to the provisions of the municipal plans [36]. Thus, the regional landscape plans strictly limit the municipal plans by putting landscape protection over the socio-economic and development interest. In addition, the landscape plans are binding and cogent to the socio-economic planning instruments, including the rural development and other sectoral plans. These facts highlight the significant limitations of the regional landscape plans in relation to the agricultural landscape. Because the protection of the agricultural landscapes is intrinsically related to the socio-economic development of rural areas currently experiencing an increasing depopulation and the lack of *main-d'œuvre*, crucial for the continuous maintenance of heritage. However, what is the place of landscape protection interest within the rural development policy?

5. Landscape planning vis-à-vis the rural development plans

Initially introduced as income support for farmers, the EU rural development policy currently recognizes traditional agricultural landscapes as a part of the cultural and natural heritage of Europe. In contrast, ecological integrity and the scenic value of landscapes are seen as the important elements in the attractiveness of rural areas for business, tourism, and life in general [37].

Thus, one of the six priority areas of the EU policy for the ongoing programming period (2014-2020) is the "restoration, preservation and enhancement of ecosystems [...] including high nature farming as well as the state of the European landscap" [38]. This objective is articulated in several policy measures, including the investments in physical assets in rural areas, renewal of villages, development of farm business, and support for the restoration of agricultural production in the rural areas damaged by natural disasters.

According to the principle of subsidiarity, in Italy, the regions adapt the policy measures to the local needs employing regional rural development plans (RDP). The competent regional entities, while drafting the RDPs and distribution of the funds, must take into consideration the territories protected by law and areas subject to specific land use forms.

The strategic environmental assessment procedure (known as VAS) ensures the compliance of the rural development plan with the disciplines and strategies established by RDP [39]. According to the regulations, the assessment of RDP shall consider the possible impact of the plan on landscape and heritage, in addition to the effect on atmosphere, energy, hydrosphere, biosphere, waste, and soil. In practice, the VAS in relation to landscape and heritage is often limited to the list of regulations on landscape protection. The qualitative and quantitative analysis is usually applied only to the environmental components (e.g., soil, water) of the area concerned. While the VAS as applied to the RDP lacks a detailed assessment of the risks of the RDP measures to the landscape.

The lack of conventional methods and comprehensive evaluation criteria for the landscape can be the first reason for this issue. There is no commonly recognized mythology to assess the visual impact of the new installations (e.g., windmills, processing industries, and hangars) on the landscape value. Second, the strategic environmental assessment mostly involves the experts from the environmental field, which might be the reason why there is an extensive analysis of the ecological aspects and the lack of attention to the landscape/heritage elements that require interdisciplinary expertise.

6. Synergies of rural development measures with park instruments

The Italian law on protected areas addresses the rural development through the prism and within the limits of the

nature protection objectives. Therefore, while speaking about the protection of agricultural landscapes, the park plans mainly address traditional and biologic agricultural activities. The zones of the National Park of Cinque Terre, where the agricultural activities are allowed and even encouraged, concern only the activities conforming to the principles of biologic and traditional agriculture. Thus, the park plans are quite selective regarding the forms of agricultural activities.

Nevertheless, the support provided within the EU rural development policy has increasing importance for the preservation of local agriculture and landscapes. Thus, during the previous and the current programming periods, the agricultural terraces of Cinque Terre have benefited the reconstruction of an aqueduct and the introduction of the network of monorail trains, which have paramount importance for the local agriculture characterized by a complex morphology.

In this view, we can observe the attempts of park authorities to find the synergies with the rural development instruments. Thus, the funding for the protection and management of agricultural landscapes in the park plans largely relies on the EU and regional funds provided within the rural development measures. It is the practical evidence of the inter-dependence between nature protection and rural development within the protected areas.

However, there are several operational and normative issues limiting access to the funds by the local farmers. Those are the threshold set by the RDP, which is not adapted to the characteristic of heritage agricultural landscapes; the orientation mainly to the farms with specific economic capacity; the weakness of information channel between the responsible authorities and farmers [40].

Similarly, in the case of Natura 2000 farmlands, the farmers have difficulty benefiting from the direct payments of the CAP due to eligibility issues such as the size of farm or parcel, the presence of trees, land tenure, or too high standards of environmental. Thus, the presence of trees in the forest pastures, at once represent valuable natural habitats and cultural landscapes, but do not always fit into the framework of the RDP measures. In other words, the elements constituting the biodiversity value of the farmland often do not fit within the EU eligibility rules. It is the reflection of the gap between CAP strategies and the de-facto implementation of the CAP measures.

7. Concluding remarks: An increasing necessity in the inter-sectoral cooperation and coordination of the sectoral policies

To sum up, the research has demonstrated the complexity of interrelation between sectoral planning instruments, expressed in 1) spatial and functional overlaps of the territorial and landscape plans at the regional level; 2) incongruences of the spatial planning instruments at the local and inter-municipal level; 3) duplication of landscape authorization function by landscape plans and park regulations; 4) clashes of landscape protection and rural development interests, expressed through the interrelation of local and regional spatial planning instruments; 5) increasing synergies of park and landscape planning interest with rural development policy.

As it was outlined in the Global Biodiversity Assessment conference (Paris, May 2019): "*Challenges related to climate change, natural deterioration and achieving a good quality of life for all are interconnected, and, they need to be addressed synergistically, from local to global levels*". Thus, the integration of the diversity of interests in the governance system involves inter-sectoral collaboration in all directions. At the state level, there is a need in an established process of dialogue between the concerned Ministries (agriculture, culture, and nature protection) and the administrative subdivisions (such as regions, cantons, provinces, districts, states) within the context of the planning instruments. Regardless of several barriers inhibiting the inter-sectoral cooperation (e.g., perceived loss of organizational identity, prestige or authority; inter-professional and intra-professional differences; different strategic goals) [41], the main challenge is their identification.

Besides the horizontal collaboration, the attention shall be directed to vertical communication, particularly in countries like Italy, where the regions play a crucial role in landscape policymaking. In Italy, the regional landscape observatories are assigned to establish such dialogue. However, these structures still need substantial improvements in terms of inclusiveness and operational structure. Thus, in the context of conventional sectoral structure, the policymakers can fail to look at things from a different perspective and see the 'big picture' in the protection of agricultural landscapes.

In addition to the cooperation at the institutional level, efficient management of agricultural landscapes requires enhanced coordination and even integration of the sectoral policies [42], which are characterized by the traditional 'sector-stuck' perspective. The research has demonstrated the functional divergences and increasing complexity of the interrelations between the sectoral policy instruments. On the one hand, the multiplicity of sectoral policies provides more opportunities for the protection of agricultural landscapes. On the other hand, a weak integration between them complicates the management.

In Italy, the main issue in the interaction of the sectoral planning systems relies on the poorly elaborated system of modification and update of the plans. In contrast, the territorial plans are often established as long term instruments, due to the complex process of their approval. In addition, the compliance to the agroecology principles usually involves only the interaction of agricultural and environmental protection instruments, with limited application to the socio-cultural legislation. In this context, the protection of agricultural landscapes relies on a patchwork of legal and planning tools, whose strategic objectives often conflict.

There have been several suggestions on how to enhance the inter-sectoral collaboration for the sake of landscape

protection including 1) the necessity to convert the landscape plan into a sort of inter-sectoral plan through co-planning process of the decision-making departments involved in the governance of the territory (including the sectors of infrastructure, agriculture, tourism, and environment) [43]; 2) the subdivision of territory based on landscape-environmental units suitable to support the integration of land-use, economic, agricultural and landscape planning, instead of zones supporting the socio-economic development goals only [44]. However, taking into account that the agricultural policies change every seven years and that the majority of the landscape plans were not adopted or even drafted, it is difficult to assert that the landscape plans can ever go hand in hand with the agricultural policies. It brings us to the issue of divergences of the planning instruments in terms of their nature and structure. Because all are differently scaled legal systems. Thus, the landscape and park plans are instead the regulative instruments. In contrast, the rural development plans are budget-linked programs, which has important implications for how these instruments are elaborated and on the heterogeneity of their subsequent implementation.

Recently, there have been several discussions on the principle of "agroecology" [45] as a form of inter-sectoral cooperation and policy integration, a 'trans-law' connecting the different legal fields but respecting their autonomy [46]. Indeed, in the case of multifunctional resources such as agricultural landscape, food production, environmental, and cultural dimensions are complementary and interdependent. Therefore, it requires cross-sectoral management at multiple levels. Currently, though, even the policy instruments claiming their conformity to the agroecological principles [47] often fail in demonstrating policy integration. It reflects the complexity of such integration and the need for structural changes.

Although such ideas may seem perfect, the different sectoral policies concerning landscape planning and management can be integrated and structured on a landscape level. The absence of such synergies depends on the capability of the local governance structures to maneuver the multiplicity of the public policies in favor of their territory. In this context, there is an increasing necessity in improving the process of co-planning both between the administrative and sectoral units, through improving the co-planning procedures and qualification of staff. This would inhibit the segregation of the regulative tools at the different administrative units, often involved in the large-scale agricultural landscape, and avoid the existing antagonisms of the planning instruments affecting the protection of agricultural landscapes.

The strategic environmental assessment that is already being actively used in many EU countries is a promising tool in the integration of sectoral planning instruments. The analysis of the sectoral policies in Italy has shown that all sectoral planning instruments are subject to the strategic environmental assessment. It legally binds the decision-makers to consider the other interests existing in the territory. Therefore, SEA could represent an assessment tool capable of balancing the legal instruments of various dimensions. In other words, it could bridge the gap between the sectoral and territorial legislations influencing the agricultural landscapes.

However, we could also observe several limits, which impedes the application of the tool to a full degree. The first limit refers to the quality of the assessment concerning the landscape, which can be explained both by the lack of the commonly accepted qualitative and quantitative tools of landscape impact analysis, and the lack of interdisciplinary expertise during the assessment process, particularly from the social sciences. It brings to the limited attention and even overlooks the intangible component of the landscape within the rural development plans.

Note

[1] The Unesco World Heritage List today includes over 50 cultural landscapes shaped by agricultural activities, while the ongoing programme of FAO protecting over 60 Globally Important Agricultural Heritage Systems (GIAHS).

[2] See A. Strecker, (2018) *Landscape Protection in International Law*. Oxford University Press, pag. 177.

[3] Art. 1 (a), European Landscape Convention.

[4] Art. 1 (f), European Landscape Convention.

[5] Art. 1 *comma* 1, Legislative Decree no. 228/2001.

[6] Art. 13 *comma* 1, Legislative Decree no. 228/2001: Rural districts are "local productive systems characterized by 'historic and territorial identity deriving from agrarian and other local activities, including the provision of assets and services coherent with traditions, natural and territorial specificities". Author's translation.

[7] Art. 13 *comma* 2, Legislative Decree no. 228/2001: Districts of quality agri-food are "local productive systems characterized by 'productive interrelation and interdependence of the agricultural and agri-food enterprises, as well as by the certified and protected production as defined in communitarian and national norms". Author's translation.

[8] S. Amoroso, *Viticoltura e tutela del paesaggio agrario*, Relazione al Convegno *Vino e territorio: profili giuridici, economici e culturali di un rapporto identitario* organizzato dalla Scuola di Giurisprudenza dell'Università di Padova e dall'AIDA - Associazione Italiana di Diritto Alimentare il 20 ottobre 2017.

[9] Art. 1. *Disciplina organica della coltivazione della vite e della produzione e del commercio del vino*: "Il vino, prodotto della vite, la vite e i territori viticoli, quali frutto del lavoro, dell'insieme delle competenze, delle conoscenze, delle pratiche e delle tradizioni, costituiscono un patrimonio culturale nazionale da tutelare e valorizzare negli aspetti di sostenibilità sociale, economica, produttiva, ambientale e culturale".

[10] Cervim (the Centre for Research, Environmental Sustainability and Advancement of Mountain Viticulture) defines heroic

vineyards as "vineyards at altitudes over 500 meters (1600 feet), planted on slopes greater than 30%, on small islands in difficult growing conditions, on terraces or embankments". Retrieved on Nov 8, 2018 from <http://www.cervim.org/viticultura-eroica.aspx>.

[11] See the discussion on the article 149 "*Interventi non soggetti ad autorizzazione*" in R. Fuzio, *I Paesaggi Rurali e la loro Valorizzazione e Salvaguardia*, in Atti del Convegno "*Tutela Paesaggistica e Paesaggio Agrario*", Portovenere 3-4 giugno 2016, (a cura di) D. Granara, G. Giappichelli Editore, 2017, pagg. 52-53.

[12] See M.R. Gisotti, *Dal vincolo al progetto. Il quadro della pianificazione paesaggistica in Italia e una proposta per un modello operativo*, in *La pianificazione paesaggistica in Italia: stato dell'arte e innovazioni*, (online), (a cura di) Alberto Magnaghi, 2016, Firenze University Press, 2016, pag. 4.

[13] N. Ferrucci, *La tutela del paesaggio e il paesaggio agrario*, in *Trattato di diritto agrario*, (a cura di) L. Costato, A Germanò, E. Rook Basile, 2011, Tomo 2.

[14] See Spaziante A., Rega C., Carbone M., and Murano Ch. (2012) Strategic Environmental Assessment (SEA) of Rural Development Programs in the European Union - Towards a More Efficient Monitoring of the Environmental Effects of Agricultural Policies. In *Rural Development - Contemporary Issues and Practices*, Dr. Rashid Solagberu Adisa (ed.), InTech, pag. 218.

[15] See B. Jack, *Ecosystem Services: European Agricultural Law and Rural Development*, in Monteduro M. et al (eds.) *Law and Agroecology: A Transdisciplinary Dialogue*. Springer, 2015, pagg. 127-150; See M. Lefebvre, M. Espinosa, S. Gomez y Paloma, *The influence of the Common Agricultural Policy on agricultural landscapes. Reference Report by the Joint Research Centre of the European Commission*, 2012.

[16] With the Law n. 8/1972 the function of drafting and approval of the territorial coordination plans was transferred to from the State to the Regions.

[17] Art. 145 comma 3. Code n. 42/2004.

[18] Ibid.

[19] The Regional Urban Law of Liguria n. 29/2016.

[20] "L'apparato normativo riguarderà [...] prescrizioni d'uso per le aree tutelate per legge, in cui saranno forniti gli indirizzi, le direttive e le prescrizioni per la gestione del territorio o per il corretto inserimento degli interventi di trasformazione del territorio nelle aree tutelate per legge di cui all'art. 142". See pag. 76 of the preliminary version of the landscape plan approved by the Region of Liguria. Available at: https://www.regione.liguria.it/components/com_publiccompetitions/includes/download.php?id=33464:documento-preliminare-piano-paesaggistico.pdf. Last accessed 20.01.2020.

[21] Art. 3., Legge regionale n. 29/2016.

[22] The information is based on the draft of the intercommunal plan that was kindly provided by the Mayor of the municipality Riomaggiore.

[23] Besides the Cinque Terre, the 'Riviera di Levante' includes the territories of Moneglia, Deiva, Bonassola, Levanto, and Portovenere. See *Documento preliminare del Piano paesaggistico di Regione Liguria*, dgr n. 334, Apr. 2019, pag. 58. Available at: https://www.regione.liguria.it/components/com_publiccompetitions/includes/download.php?id=33464:documento-preliminare-piano-paesaggistico.pdf. Last accessed 11.09.2019.

[24] Art. 145 comma 3 of the Code n. 42/2004 states: "Per quanto attiene alla tutela del paesaggio, le disposizioni dei piani paesaggistici sono comunque prevalenti sulle disposizioni contenute negli atti di pianificazione ad incidenza territoriale previsti dalle normative di settore, ivi compresi quelli degli enti gestori delle aree naturali protette".

[25] See L. De Luca, *Piani paesaggistici e piani per I parchi. Proposta per una razionale divisione del lavoro amministrativo*, in *Riv. giur. urb.*, 2014, 1, pagg. 72-83; S. Amoroso, *I rapporti tra i piani dei parchi e i piani paesaggistici alla luce del Codice Urbani*, in *Aedon*, 2006, 3; N. Vettori, *Il piano paesaggistico alla prova. I modelli della Toscana e della Puglia*, in *Aedon*, 2017, 1; F. Albanese, *Il Piano paesaggistico non può prevalere sul piano del parco*, in *Lexambiente*, 2010 (<http://www.lexambiente.it/beni-ambientali/169/6103-beni-ambientali-piano-paesaggistico-e-piano-parco.html>). Last accessed 28.08.2019.

[26] The article 1 of the park regulations subdivides the national park in three zones: 1) zone of considerable naturalistic, landscape and cultural interest, which has no or limited level of anthropization; 2) zone of naturalistic, landscape and cultural interest with major level of anthropization; 3) zone of considerable landscape, agro-environmental, historic and cultural interest with the high level of anthropization. Art. 1. Disciplina di tutela del Parco nazionale delle Cinque Terre. G.U. 17.12.1999, n. 295.

[27] Legge regionale 06 giugno 2014, n. 13 'Testo unico della normativa regionale in materia di paesaggio'. (Bollettino Ufficiale n. 8, del 11.06.2014).

[28] According to the article 6, the landscape authorization functions of the regional authorities are limited to: public interventions, interventions of state, regional and inter-municipal interests; constructions and urban interventions subject to environmental impact assessment; constructions and urban interventions subject to the regional approval on the basis of the territorial and sectoral plans; the private interventions within the commercial ports; interventions related to the mining activities; interventions within marine areas; coastal defence interventions. The maintenance, restoration, and conservations works are not subject to the regional landscape authorization procedure. The local administrations, instead, are responsible for the rest of public and private interventions.

[29] Corte Cost. n. 10 del 9.03.2016 (<http://www.gazzettaufficiale.it/eli/gu/2016/03/09/10/s1/pdf>).

[30] Art. 13 comma 1. Italian park law.

[31] *Conferenza di servizi* is prescribed by the article 5, comma 4, d.lgs. n. 380/01 "Testo unico dell' edilizia".

[32] See the discussion of the court Tar Liguria, Sez. I - 7 Maggio 2008, n. 928.

[33] The case is available at: <http://www.webgiuridico.it/amministrativo/sentenze2013/5453-2013.htm>.

[34] Tar Sardegna, sez. II, Sent. n. 1810/2007.

[35] S. Civitarese Matteucci [archivio/2005/3/civitarese.htm], *La pianificazione paesaggistica: il coordinamento con gli altri strumenti di pianificazione*, in *Aedon*, 2005, 3.

[36] It is important to note that non-conformity of urban plan to landscape plan doesn't necessary result the repeal of the former, but just to the abolition of its specific provisions.

[37] EC, *Agriculture and Landscape*. Available at: https://ec.europa.eu/agriculture/envir/landscape_en. Last accessed 28.03.2017.

[38] Art. 5 of the EU Regulation n. 1305/2013.

[39] According to the Environmental Code (n. 152/2006), the main function of the VAS is the evaluation of the plans/programs in regards to the environmental considerations (Art. 5.1) before their approval. Thus, it is a preliminary procedure, without which the plans and programmes can't be approved.

[40] Author (2019).

[41] E. Meijers, D. Stead (2004) *Policy integration: what does it mean and how can it be achieved? A multi-disciplinary review*, 2004 Berlin Conference on the Human Dimensions of Global Environmental Change: Greening of Policies - Interlinkages and Policy Integration, pag. 7.

[42] While the policy coordination means the adjustment of policies, the policy integration intends a cross-cutting policy-making that may result in a joint new policy. See E. Meijers, D. Stead D. (2004), *Policy integration: what does it mean and how can it be achieved? A multi-disciplinary review*, 2004 Berlin Conference on the Human Dimensions of Global Environmental Change: Greening of Policies - Interlinkages and Policy Integration, pag. 15.

[43] A. Magnaghi (a cura di), *La pianificazione paesaggistica in Italia: stato dell'arte e innovazioni* (online source), Firenze University Press, 2016.

[44] P. Tassinari et al., *Dealing with agriculture, environment and landscape in spatial planning: A discussion about the Italian case study*, in *Land Use Policy* 30 (2013), pagg. 739-747.

[45] In the glossary of OECD (2001) agro-ecology is defined as "the study of the relation of agricultural crops and environment".

[46] M.G. De Molin (2013): *Agroecology and Politics. How To Get Sustainability? About the Necessity for a Political Agroecology*, *Agroecology and Sustainable Food Systems*, 37:1, 45-59; M. Monteduro, P. Buongiorno, S. Di Benedetto, A. Isoni, *Law and Agroecology. Transdisciplinary Dialogue*. Springer, 2015; R.A. Gonzalez, J. Thomas, M. Chang, *Translating Agroecology into Policy: The Case of France and the United Kingdom*, in *Sustainability*, 2018, 10, pag. 2930; doi:10.3390/su10082930; C.R. Anderson, J. Bruil, M.J. Chappell, C. Kiss, M.P. Pimbert, *From Transition to Domains of Transformation: Getting to Sustainable and Just Food Systems through Agroecology*, in *Sustainability* 2019, 11, pag. 5272.

[47] FAO (2018). *The 10 elements of agroecology. Guiding the transition to sustainable food and agricultural systems*. Available at: <http://www.fao.org/documents/card/en/c/I9037EN>. Last accessed 5.12.2019.