

Chapter 12

Contemporary Issues on Agriculture and Health: Financial Framework, Reforms, and Competition Policy

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ABSTRACT

Rights and restrictions, education and financial resources at both European and national levels represent the core points of attention in proposing useful considerations on the effects of the pandemic in the health sector. Looking at health as a single and isolated sector makes it difficult to focus on the specific transversal aspects that are extremely relevant in the context we live in. Thus, health has to be considered from a multidimensional perspective, which encompasses different aspects ranging from legal to economic and social issues. The chapter develops an analysis that, through a complementary approach, embraces different sectorial dimensions, considering the supranational scenario and the current measures the Italian government has set in place till now. Within this framework, over the years, safe health has been more and more identified as a direct consequence of a safe agricultural environment. Thus, the whole chapter emphasises the important link to be inevitably taken into consideration for the future: the nexus between agriculture and health.

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INTRODUCTION

Health as a Constitutional Right: An Introductory Overview by Gianclaudio Festa

The protection and defence of human health are among the fundamental tasks of a liberal democratic country, which combines the liberal principle of individual rights with the democratic one of people's sovereignty. To this end, the national healthcare system must be viewed not only with reference to strictly health-related activities, but under a wider perspective related to the general economy, education and competition policies, and the legal and political aspects of EU financial measures.

It follows that the introduction to this chapter must necessarily deal with the legal foundations of the principles and rights concerning health protection, in order to subsequently develop considerations on the transversal issues.

From a legal point of view, at European level, the Lisbon Treaty focuses on health in Title XIV denominated 'Public Health'. In particular, Art. 168 TFEU (ex. Art. 152 of the European Community Treaty) provides that 'A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities'.

Furthermore, the first paragraph underlines the system of powers characterising the role of the EU, whose responsibility is to complete national ones in such cases as the fight against major health scourges by promoting research into their causes, their transmission and their prevention, as well as health information and education. The monitoring, early warning and fighting of serious cross-border threats to health, and information and prevention for the reduction of drug-related health damages are other EU competences aimed at integrating national policies. The second paragraph of Art. 168 focuses mainly on the actions of member States, assumed to operate according to the principle of loyal cooperation in liaison with the EU Commission.

At national level, Italy has given the public value of health, for both the individual and the community, a place in its Constitution¹. In particular, the constitutional framework outlines a decentralised Italian health system with most administrative and organizational powers governed by regions and limited powers at national level. More specifically, the State sets objectives for eliminating geographical differences in social and health care conditions and determines Essential Levels of care to be guaranteed to all citizens (the core benefit package called 'LEAs').

Within this context, the safeguarding of people's health is basically related to psycho-physical integrity, the right to a safe environment, to receive health care and medical assistance, and to decide whether to accept medical care or not. Ensuring these conditions allows people to be integrated in society and led to the creation of the National Health Service (NHS) in 1978 aimed at creating an efficient and uniform health system.

In this regard, one of the main concepts of its functioning is universal coverage for all citizens.

The first part of Art. 32 of the Italian Constitution formally states the State's obligation to ensure health protection as a 'fundamental individual right' and, in parallel, a public collective interest shared by all members of the community. In line with this, the pandemic and the vaccination campaign offer a contemporary example which stresses this coexistence because the protection of individual rights permits consequently preserving society as a whole. As a result, the right to health is strictly related to the individual as such, so that it can be defined a fundamental and inviolable right attributed to a man or woman as an 'individual'. By implication, no one can transfer it, sell it or give it up. On this point Art. 2

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