



# GRAGE

*Grey and Green in Europe: elderly living in urban areas*



This project has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No 645706.

## Scientific paper on legal discipline of urban agriculture

D4.3.

### GRAGE: *Grey and green in Europe: elderly living in urban areas*

<b>Project title</b>	Grey and green in Europe: elderly living in urban areas
<b>Project acronym</b>	GRAGE
<b>Contract No</b>	645706
<b>Call identifier</b>	H2020-MSCA-RISE-2014
<b>Start of project</b>	1st December 2014
<b>Duration</b>	48 months
<b>Deliverable no</b>	D4.3
<b>Deliverable name</b>	D4.3-Scientific paper on legal discipline of urban agriculture
<b>Deliverable filename</b>	GRAGE_D4.3
<b>Work package no</b>	4
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<b>Nature<sup>1</sup></b>	R
<b>Dissemination<sup>2</sup></b>	PU
<b>Due date of deliverable</b>	30/11/2017
<b>Actual submission date</b>	30/11/2017

<sup>1</sup> R= Document, report; DEM =Demonstrator, pilot, prototype ; DEC Websites, patent fillings, videos, etc.

OTHER

<sup>2</sup> PU= Public; CO= Confidential, only for members of the consortium (including the Commission Services)

# URBAN AGRICULTURE AND THE LAW: BENEFITS, LEGAL BARRIERS AND BEST PRACTICES IN ITALY AND THE UK

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Summary: 1. Introduction to Urban agriculture - 2. Definitions, function and typologies - 3. Urban agriculture in the UK - 4. Urban agriculture in Italy

## 1. Introduction to Urban agriculture

Studies on urbanization unanimously recognize that the urban expansion causes loss of natural ecosystems and soil degradation, damaging a wide range of ecosystem services, including provision of food<sup>3</sup>.

As matter of fact, urban sprawl is jeopardizing the sustainable territorial development, where natural resources are overexploited and the global food systems has become more fragile.

In fact, food security is today a key global concern, having important consequences on cities that are supposed to feed more than 50% of the world population<sup>4</sup>.

Specifically, the most vulnerable groups, such as the elderly, have the greatest difficulties in obtaining access to sufficient, safe and adequate food.

Under these circumstances, it cannot be ruled out that in the future cities may also have to secure food provision, especially in a context of alternative, shorter, and more local production-consumption chains<sup>5</sup>.

In this context, urban and peri-urban agriculture<sup>6</sup> (e.g. home and community gardens, roof gardens, and urban farms) can play an important role: to be more precise, it simultaneously provides both food and environmental benefits, such as green spaces and infrastructures, mitigation of human impact on climate change, enhancing natural capital<sup>7</sup>.

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<sup>3</sup> EU Commission, *Cities of tomorrow - Challenges, visions, ways forward*, October 2011.

<sup>4</sup> FAO, *Food, Agriculture and Cities Challenges of food and nutrition security, agriculture and ecosystem management in an urbanizing world*, 2011.

<sup>5</sup> EU Commission, *Cities of tomorrow - Challenges, visions, ways forward*, October 2011.

<sup>6</sup> According to FAO: “*The distinction between “urban” and “peri-urban” depends on the density, types, and patterns of land uses, which determine the constraints and opportunities for agriculture.*”

<sup>7</sup> EU Commission, *Green Infrastructure*, May 2013.

Urban farming can also increase social interactions between citizens, reduce social problems, provide physical and/or mental benefits, social inclusion, active ageing, and further income for elderly people actively involved in the farming.

There are scientific evidences that people who participated in urban farming reported a significantly higher level of social, psychological, and environmental well-being than those who did not. The results of these recent researches suggest that urban farming enhances the well-being of the elderly, and the expansion of urban farming can be a viable component of improving welfare for the elderly<sup>8</sup>.

Therefore, urban or peri-urban farming activities can take on an important role in providing care for the elderly and citizens in general.

## **2. Definitions, function and typologies**

The phenomenon of urban agriculture has a large-scale dimension. Especially, the UN Food and Agriculture Organization reported that more than 800 million urban dwellers world-wide are actively engaged in urban and peri-urban agriculture in one way or another<sup>9</sup>.

The term urban agriculture (UA) includes a broad range of subjects and a wide variety of activities. Therefore it is quite difficult to give a unique definition of this phenomenon, also because, in many countries, UA is still informal and it goes unrecognized in local regulations, agricultural policies and/or urban planning.

For the purpose of clarification, some of the most relevant definitions are provided below.

According to Cost Action - Urban Agriculture Europe -<sup>10</sup> *“urban agriculture spans all actors, communities, activities, places and economies that focus on biological production (crops, animal products, biomass for energy, [...]), in a spatial context that, according to local opinions and standards, is categorized as ‘urban’”*.

Instead, the UN Food and Agriculture Organization defines urban and peri-urban agriculture in a shorter way *“as the growing of plants and the raising of animals within and around cities”*<sup>11</sup>.

In addition, some authors<sup>12</sup> describe UA as *“a localized activity within an urban and periurban area that aims to produce and distribute a wide variety of food products and services, using*

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<sup>8</sup> Ji-Hye Y., Min-Hwan N., *The Effects of Urban Farming on Well-Being of the Elderly: A Focus on Social, Psychological, and Environmental Well-Being*, International Journal of Social Science and Humanity, 2017, vol. 7, no. 2, pp. 82-87.

<sup>9</sup> FAO, *Urban Agriculture For Sustainable Poverty Alleviation and Food Security*, October 2008.

<sup>10</sup> Lohrberg, F., Lička, L., Scazzosi, L., Timpe, A. (Eds.), *Urban Agriculture Europe*, Cost Action TD 1106, 2015.

<sup>11</sup> <http://www.fao.org/urban-agriculture/en/>

<sup>12</sup> Adornato F., *Pulsa la vita nel diritto (Laudatio per Paolo Grossi)*, Rivista di diritto agrario, 2013, I, 3, p. 490 ss.

*relevant amounts of human and material resources of that area, and concurrently giving relevant amounts of products and services to that area”.*

It goes without saying that the definition of UA is strictly connected to food production and, therefore, to food security.

The food provided from urban agriculture includes animals, various kind of crops, trees for fruits, as well as non-food products, e.g. fuel or aromatic and medicinal herbs.

It is important to remark that UA also guarantees easier access to food for low-income persons and disadvantaged groups, as the elderly.

In fact, a local product is cheaper than a non-local one because the short-production-chain requires less costs due to lack of long-distance transportation, packaging and storage, *ergo* it is more affordable by consumers. Furthermore, local food is fresher and then healthier - it is known that, after a long travel, food products lose their nourishment and vitality - and also it preserves genetic diversity and open spaces, creating multifunctional urban landscapes.

It is easy to notice that the innovative aspect of urban agriculture lays not only in the idea of “being a farmer in the city” but also in the fact that UA guarantees huge benefits to the local community.

Carrying out agricultural activities in urban environments is not a break-through, indeed.

Historically, the evolution of urban and peri-urban agricultural has been strictly connected to the earliest urban settlements: from being a common and deeply-rooted phenomenon in ancient times - especially in peri-urban areas -, it turned into a marginal activity during and after the industrial revolution. Nowadays, instead, it has made a comeback in an innovative way, embracing new values and importance.

The main innovation of modern UA is not related with its economic advantages, but it consists of its social and environmental benefits.

These benefits could be direct - as protection of biodiversity, recovery of derelict land, creation of green areas, support to food security and food safety - and indirect - as reduction of CO<sub>2</sub> emissions and pollution, better use of natural resources due to the short-production-chain, limited soil consumption, protection of human health and well-being, social inclusion especially of disadvantaged groups -.

For these reasons, it is possible to witness a relevant increase of UA activities in many cities worldwide.

The UA activities carried out usually include two different levels: the farming level and the gardening level. In fact urban agriculture encompasses both urban farms and backyard and/or balcony gardening.

Regarding the former level, urban farming intentionally materializes business models taking advantage of the proximity to the city by offering local/regional agricultural products or services, i.e. local food farms, leisure farms, educational farms, experimental farms, social farms, therapeutic farms, agro-environmental farms, cultural heritage farms.

On the opposite, the latter level regards urban food gardening activities with mostly low economic dependence on material outputs but it aims to make use of agricultural procedures for achieving other - mostly social - goals, i.e. family gardens, allotment gardens, educational gardens, therapeutic gardens, community gardens and squatter gardens.

There are also non-urban oriented farming, which includes farms being located in urban areas, but whose business models have not - yet - been deliberately adapted to the proximity of the city (business as usual)<sup>13</sup>.

So, it is possible to notice that the term “urban agriculture” is used in a wide-ranging sense in order to include different levels of agriculture activities which share two characteristics: the location in an urban or peri-urban area and the aim to achieve relevant benefits - economic, social and environmental - for the local community.

We will focus on the gardening level, specifically, on the UK and Italian experience.

### **3. Urban agriculture in the UK**

Historically, practices of UA have been extremely common in the UK for centuries<sup>14</sup>. Traditionally individuals have cultivated allotments but, as recognized by the Department for Communities and Local Government (DCLG) guide “Space for Food Growing”, “*new users have now come on the scene - from food growing collectives to therapeutic and educational schemes*”<sup>15</sup>. These include projects for people with special needs, refugee projects, youth groups and elderly projects.

Despite these recent developments, in the UK a subject-specific regulation on community growing has never put in place. Practices of community gardening in the city are affected by two level of regulations: i) the regional level made up by legislative instruments adopted by the devolved administrations (the so called *Allotment Law*); ii) the local level mainly based on policy instruments used by the local authorities.

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<sup>13</sup> Cf. <http://www.urbanagricultureeurope.la.rwth-aachen.de/wiki.html>.

<sup>14</sup> “*History shows that Urban Agriculture tends to expand during periods of crisis, emergencies or wars*” (Cabannes Y., *Pro-poor legal and institutional frameworks for urban and peri-urban agriculture*, FAO, Roma, 2012, p. 32). The number of cultivated plots more than doubled during the Second World War in the United Kingdom. During the 1960s a number of community gardens were established. Part of the inspiration for this was the growth of the community garden movement in the United States.

<sup>15</sup> Department for Communities and Local Government, *Space for Food Growing*, (available at: [www.gov.uk/government/publications/space-for-food-growing-a-guide](http://www.gov.uk/government/publications/space-for-food-growing-a-guide)), 2012.

The Allotment Law appears in several Acts of Parliament<sup>16</sup>. These acts predating 1950 make up the main legislative context for allotment planning, provision and protection in England.

In 1998 the Select Committee on Environment, Transport and Regional Affairs conducted a review of allotments and concluded that “*the Government should issue a Green Paper as soon as is practicable and commission a research study to consult with the various interested parties and develop a consolidating piece of legislation which simplifies, updates and enhances existing allotments legislation. The Government should aim to introduce the resulting Bill within the lifetime of this Parliament*”. The Select Committee argued that allotments legislation should be overhauled, including removal of the restrictions on the uses to which allotments may be put<sup>17</sup>. Over a decade on, no such action has been taken and a number of councils have recently called for revision of allotment legislation<sup>18</sup>.

Community gardens are not recognized in the law, nonetheless they require administrative arrangements that ensure compliance with it. General planning regulation also applies to allotments and further legislations have affected allotments, the latest of which is the Localism Act 2011 in England. There are a number of measures in the Localism Act 2011 that provide opportunities for communities to expand the provision of green spaces and enable local people to play a bigger role in planning, managing and maintaining community green spaces for food growing<sup>19</sup>.

Community gardens are also influenced by local policy instruments (e.g. Local Authorities’ Allotment strategies, Local Food strategies, Local Authorities’ planning policy guidances and strategies, Zoning plans) and many Councils have set out frameworks for action to increase the amount of community food growing spaces.

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<sup>16</sup> *The Small Holdings and Allotment Act 1908; The Allotments Act 1922; The Allotments Act 1925; The Allotments Act 1950*. All of the Acts relating to allotments up until 1950 can be found in House of Commons, Select Committee on Environment, Transport and Regional Affairs, Fifth Report, *Appendix II: Modern Allotment Legislation*, 24 June 1998, <http://www.parliament.the-stationery-office.co.uk/pa/cm199798/cmselect/cmenvtra/560/56016.htm>.

<sup>17</sup> House of Commons, Select Committee on Environment, Transport and Regional Affairs, Fifth Report, “*Conclusions and Recommendations*”, 24 June 1998.

<sup>18</sup> Birmingham City Council has asked for changes to allotment legislation to encourage and facilitate local authorities to provide more allotments and community gardens (Birmingham City Council, “*The Sustainable Communities Act*”, 2009); The Lambeth Council has encouraged the Government to allow local growers to sell their produce to local restaurants and through local shops and farmers’ markets (Lambeth Council, “*Lambeth’s Economic Recovery Implementation Plan*”, 2009); Brighton and Hove City Council has also made a request for legislative changes to encourage allotments by allowing plot holders to sell their surplus produce (Local government association, Brighton & Hove City Council Lead Authority, 2009).

<sup>19</sup> Department for Communities and Local Government, “*Get the green space you want: How the Government can help. Localism Act 2011*”, 26 August 2011.

Among others, Brighton & Hove launched the “City Sustainability Action Plan 2015-2017”, with the aim at initiating a land-use planning approach that promotes the creation of spaces for food growing, especially in urban and peri-urban areas.

Bath & North East Somerset have developed the “Local Food Strategy 2014-2017”, that sets out a framework for action to support more local and sustainable food production in order to increase the amount of community food growing spaces across the district such as allotments, community gardens and communal orchards<sup>20</sup>.

The Bristol Food Policy Council has published the “Bristol Good Food Plan 2014” and the Bristol Food Policy Council brings together public and private organizations representing the interests of the whole food sector and its current projects include work on public procurement, support for urban food growing schemes and action plan initiatives to tackle food waste and food poverty. Newcastle launched the “Newcastle allotment strategy 2010-2015”. The strategy’s approach is to work with policy and decision makers to effect strategic change (in areas such as procurement, waste and environmental sustainability) that will increase the supply of sustainable food. One of the priority actions is the identification of urban green areas to be used for community gardens and urban farms.

The common aim of these projects and strategies is to increase the amount of locally produced food and to increase the amount of community food growing space such as allotments and community gardens.

Furthermore, 47 urban areas across the United Kingdom have joined the “Sustainable Food Cities Network” (SFCN), a partnership project of public, private and third sector organizations committed to promoting sustainable food, to develop best practices in all aspects of sustainable food and to share experiences in developing city-wide healthy and sustainable food projects, food strategies and action plans<sup>21</sup>.

Despite the increasing interest in food growing among the local communities, the current UK laws and planning and building regulations still present obstacles to Urban Agriculture schemes. The obstacles range from a common prohibition on selling the products of allotments to zoning laws fixing land use. It could be argued that the revision of allotment legislation, regulatory changes to zoning laws and the creation of local strategies could encourage the development of urban

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<sup>20</sup> Bath & North East Somerset Environmental Sustainability Partnership, *Environmental Sustainability and Climate Change Strategy 2012-2015*.

<sup>21</sup> The *Sustainable Food Cities Network* (SFCN) is a partnership project, led by the Soil Association, launched in The UK in 2011 (<http://sustainablefoodcities.org/>).

agriculture and enable local communities to play a bigger role in planning green spaces for urban agriculture and in promoting community growing practices.

#### **4. Urban agriculture in Italy**

After an initial success in USA, UK, and France, in the last few years the UA phenomenon saw a significant growth also in Italy<sup>22</sup>.

Citizens and residents from North to South of Italy have started to get organized in different ways (associations, clubs, foundations etc.) in order to renew urban and peri-urban areas with a “greener” approach, e.g. creating community garden in cities like Bologna and Rome; realizing urban farms - especially in peri-urban areas - specialized in providing cultural-educational services or in local food production and often creating urban farmers’ market.

The growing expansion of initiatives linked to agriculture aims to satisfy the community general interests through the proactive role of civil society. These initiatives could be considered as expression of the principle of horizontal subsidiarity, which lays down a legal obligation on Public Institutions to promote them, as referred to in article 118 of the Italian Constitution.

However, there is still no specific national legislation on urban agriculture but only municipality-level regulation, as Regulation for Allotments and Community Gardens promoted by the City of Rome.

Therefore, it is hard to put an exact number on how many urban farms and gardens are present in Italy but, according to the “Green Urban Areas” drawn up by the National Institute for Statistics (Istat) for the year 2014<sup>23</sup>, the phenomenon of urban gardening has risen sharply.

The report says that 64 municipalities have considered “community gardens and similar” as integral part of their green-areas in urban planning: the percentage has increased by 18.5% in three years, compared with 2011.

Altogether, the surface dedicated to urban gardening goes beyond 1.6 million of square meters.

It is interesting to notice that the diffusion of urban gardening shows relevant polarity among Italian Regions: community gardens are present in 40 out of 47 provincial capitals in northern Italy; they are also very common in central Italy, being present in every provincial capitals of Marche and Lazio (except for Ascoli Piceno and Viterbo) and also in half of the main cities in Tuscany. Differently, only one-fifth of the Province in the South of Italy have planned urban community gardens or similar.

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<sup>22</sup> Certomà C., *Orti urbani, giardini condivisi, guerrilla gardening: l'impegno della società civile nella costruzione partecipata dello spazio pubblico*, Rivista di diritto agrario, 2012, I, 4, p. 634-647.

<sup>23</sup> <http://www.istat.it/it/archivio/186267>

With regard to the subjects, a report made by the Parma Chamber of Commerce<sup>24</sup> points out that the most “passionate” urban and social farmers are elderly: 60% of the participants is between the ages of 60 and 70; 30% consist of over 70.

Some examples of municipality-level regulation of UA in Italy will follow.

A special mention should be given to “Ortipertutti” in Emilia-Romagna Region, a project supported by the Municipality of Bologna, designed to create innovative and eco-friendly urban gardens, both home and community ones, in highly populated areas of the city.

The purposes of the above-mentioned project are numerous: Ortipertutti aspires to create green areas, to support local-food-production, to encourage recycling, to save water resources, to promote social inclusion and to realize common spaces for local residents.

Another case-study involves the City of Rome and specifically the Regulation for Allotments and Community Gardens, which was approved in July 2015. The phenomenon of urban gardening in the Italian Capital City started to spread more than ten years ago and during the last few years urban gardeners and farmers began to network and became more organized, requesting an official recognition and a formal assignment of the cultivated lands. Previously, the Municipality only created a technical office - in charge of the identification of individual gardens -, it opened public allotments and offered public land to local associations but it didn't promote directly UA, neither grew awareness on the subject.

Therefore, as response to the growing relevance of UA in Rome, the Municipality adopted the above-mentioned Regulation, whose draft was drawn up with the partnership of the Municipality of Marseille (France), which worked with the City of Rome in an EU-funded project on urban agriculture. The main aim of the Regulation is to promote urban gardening as a tool to fight urban decay and to stimulate social inclusion.

The last example on urban gardening concerns once again the Region of Emilia-Romagna, in particular the Municipality of Modena which adopted a Regulation directly addressed to elderly. In 2015 the Town Council issued the Regulation on assignment and management of allotment for the elderly (as from 55 years of age), which conferred urban gardens to local associations in order to encourage both local food production and active ageing of citizens.

On the side of urban farming, it seems important to underline that UA is put into practice mostly through private initiative<sup>25</sup>.

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<sup>24</sup> Cf. <http://www.pr.camcom.it/>

<sup>25</sup> In fact, there are not municipality-level regulations yet.

Among them, it is worth to mention the urban farm “Riva degli Albogatti” based in the town of Lucca, Tuscany: the aim of the association who runs the farm is to bond traditional knowledge on agriculture with progress and innovation, in order to bring social and cultural growth to each participants. The activities carried out by the farm range from food production and education, to touristic and cultural events: their mission is to connect the local community with the Municipality of Lucca in a more active and inclusive way.

Another example is the “Coop Mezzago”, a cooperative based in Brianza, one of most developed industrial areas of northern Italy, where a group of young entrepreneurs decided to create a urban farm, located in a former abandoned factory, specialized in production of so-called “microgreens”: small plants that grow in tiny boxes. The goal of the cooperative is to support food security and food safety, producing tasty and nutrient food in a local, innovative and sustainable way.

The last case-study shows the overall relevance of UA in Italy and it is provided by “Città d’Orti”, an initiative organized by LifeGate, Slow Food Italy, and Comart that aims to support urban agriculture in general, providing information on how to create a urban farm or a urban garden, which plants and cultivation methods are more suitable for UA etc. Città d’Orti wants to raise awareness on the importance of urban agriculture as an alternative and more sustainable food-production-chain and it wants to underline the value of an eco-friendly and active lifestyle, in order to safeguard both environment and human health.