

The history of Wine law from the European Economic Community to the European Union

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Abstract: This article, by referring on the comparative analysis and historical approach, explores the regulations of EEC and then EU shaping the European Common Wine Policy, in order to find out what was the reason of introducing certain regulations and what was the outcome of these legislative actions.

Key Words: Common Wine Policy, EEC, EU, Wine Regulations,

Introduction

As Andrea Zappalaglio says: '...one cannot fully understand a legal concept without exploring its history first.' (Zappalaglio, 2021, p. xxiii). Since wine markets have been subject to numerous government regulations, which have been significantly varying between and within countries for centuries, it is an outstanding field to study in terms of these regulations. (Meloni, Anderson, et al., 2019, p. 620).

This article will explore the regulations of European Economic Community (EEC), and then European Union (EU), from 1950s until early 2000's in order to demonstrate how Common Wine Policy (CWP) was established and developed in Europe, what was the aim of this policy and what requirements were established for European wine production.

The literature review being the foundation and inspiration for the research (Boote, Beile, 2005, p. 3), has following purposes for this article: 1) to examine and assess existing academic papers (Thomas, Hodges, 2010, p. 105); (Boote, Beile, 2005, p. 8); (Cooper, Hedges, 1994, p. 3); 2) to identify the most effective research methods (Thomas, Hodges,

2010, p. 105); (Cooper, Hedges, 1994, p. 3). (Boote, Beile, 2005, p. 8); and 3) to assist in placing the article in context (Thomas, Hodges, 2010, p. 105); (Boote, Beile, 2005, p. 8).

There are number of books and academic papers focusing on legal aspects of wine regulations, more precisely on Geographical Indications (GIs), books of: Zappalaglio (2021), Blakeney (2014), O'Connor (2007), Gangjee (2012), and academic papers of: Meloni, Anderson et al (2019), Meloni and Swinnen (2018a), Meloni and Swinnen, (2018b), and Josling (2006).

Although being very useful, these literatures are not giving overall picture regarding what circumstances shaped European policy regarding quality wine production. Thus, for the aim of this article major part of the structure is inspired by work of Munsie (2002). The way author puts EEC and EU regulations, represents valuable source in analyzing European approaches towards wine production in historical perspective.

Research of this article is based on comparative analysis and historical methodology. Comparative analysis examines how various legal systems and cultures have approached problems that they faced, and to what level of apparent success or failure they have achieved (Salter, Mason, 2007 p. 183); (Schlesinger, 1995, p. 477); (Kahn-Freund, 1974, p. 1); (Legrand, 1996 p. 232); (Legrand, 1997, p. 111); (Curran, 1998, p. 657); (Mattei, 1998, pp. 709–718); (Reimann, 1998, pp. 637–646); (Bradney, Cownie, 1999, p. 51); (Collins, 1991, pp. 396-397). In this case regulations of EEC and EU will be discussed and compared, and in order to better understand what processes forced regulations to emerge, historical approach becomes a very useful tool as well. The effect of changing contexts, and the following lessons of how and why things have changed, are firmly emphasized by historical contextualization (Salter, Mason, 2007 p. 193). It analyzes the past not for its own sake, but rather to enable a better understanding of the significance and consequences of existing events (Salter, Mason, 2007 p. 194).

Regulations of the EEC and the EU from 1950s until early 2000's

In 1957 the signing of the Treaty of Rome and the creation of the EEC caused drastic changes in wine production of Europe (EC Treaty, Preamble); (Munsie, 2002, p. 18). The

Treaty of Rome was an attempt to eliminate trade barriers and to establish an international market (EC Treaty, Preamble); (Munsie, 2002, p. 18). Certain bilateral agreements existed between European Countries, but these agreements were permanently obstructed by customs duties, excise taxes and other factors (Niederbacher, 1983, p. 33); (Munsie, 2002, p.19).

One of the important factors of the Treaty of Rome was that it established the Common Agricultural Policy, which applied to a wide range of products, including wine. The objectives of the policy were: rising of agricultural productivity, providing a fair standard of living to the community, stabilizing markets, guaranteeing the availability of supplies and guaranteeing that supplies reach consumers at reasonable prices (EC Treaty, art. 39); (Munsie, 2002, p.19).

Following six countries, Belgium, France, Germany, Italy, Luxembourg, and the Netherlands were the initial member states of the EEC (Munsie, 2002, p.19); (Meloni, Swinnen, 2013, p. 264), but in bringing these countries together, the main problem that had to be solved, was the integration of wine industries of France and Italy, since being the biggest wine producing countries, the ways in which France and Italy were organized in terms of wine production, were drastically different (Niederbacher, 1983, p. 321); (Munsie, 2002, p.19); (Meloni, Swinnen, 2013, p. 264).

In 1959 when the Common Custom Tariff act was passed, the EEC started the process of unifying the wine industry. The aim was to reduce outside competition by placing customs duties on imported wines based on the type of wine, alcohol volume and sugar content (Niederbacher, 1983, p. 36); (Munsie, 2002, p.20).

In 1962 Regulation 24/62 "on the progressive establishment of a common organization of the market in wine" contributed to the foundation of the common market in wine (Council Regulation 24/62, preamble); (Munsie, 2002, p.20); (Meloni, Swinnen, 2013, pp. 248, 266). This Regulation set out four main provisions: 1) Each country was to establish a vineyard register, 2) A central authority was to keep track of annual production levels, 3) Strict rules were to be established regarding quality wines produced in specified regions, 4) Future estimates of resources and requirements were to be compiled annually

(Council Regulation 24/62, preamble, arts. 1, 2, 4, 6.); (Niederbacher, 1983, pp. 321-232); (Munsie, 2002, p.20).

In spite of the fact that the foundation of the common wine market had been set in 1962, the true organization of it did not come until 1970, when the Common Wine Policy (CWP) was passed in Regulations 816/70 and 817/70. Regulation 816/70 set out the basic provisions implementing the common organization of the wine market, and Regulation 817/70 on the other hand, set out provisions specifically for the quality wines (Council Regulation 816/70, preamble, art. 1); (Council Regulation 817/70, preamble, art. 1); (Niederbacher, 1983, p. 322); (Spahni, 1988, p. 3); (Munsie, 2002, p.21); (Meloni, Swinnen, 2013, pp. 250, 267).

And what's most important here is that, the EEC was to be considered as a single market and wine was to travel without restraint within it (Spahni, 1988, p. 3); (Munsie, 2002, p.21). While free movement within the EEC was supported by prohibiting duties and charges, trade with non-EEC member countries was to be controlled (Council Regulation 816/70, arts. 8, 31); (Munsie, 2002, p.21).

Regulation 816/70 also set out the certain boundaries for the wine industry, so the alcohol content of the "table wine" was to be between 8.5 - 15% (Council Regulation 816/70, Annex II); (Niederbacher, 1983, p. 42); (Munsie, 2002, p.21) and it could not be fortified (Council Regulation 816/70, art. 25); (Munsie, 2002, p.21). Moreover, the EEC was divided into five zones, and for each of them requirements regarding alcohol content and chaptalization differed (Council Regulation 816/70, art. 18); (Munsie, 2002, p.22). (Chaptalization is addition of sugar to the grape juice or must, before or during the fermentation, in order to increase alcohol volume. (Munsie, 2002, p.22); (Robinson, 2015, p. 159)).

As mentioned above, Regulation 817/70 focused on the production of quality wines, taking into consideration the traditional methods of wine production used in Member States (Council Regulation 817/70, preamble); (Munsie, 2002, p.22). Thus, each Member State had to create a list of those vine varieties, which were needed to produce particular quality wines (Council Regulation 817/70, art. 3); (Munsie, 2002, p.22), as well as to define

the wine production methods and even were allowed to create legislation that was stricter than regulations of EEC itself (Council Regulation 817/70, arts. 4, 7, 15); (Munsie, 2002, p.22). All these wines had to be made from *Vitis vinifera* and had to pass analytical and organoleptic tests (Council Regulation 817/70, arts. 3, 11); (Munsie, 2002, p.22).

Regulation 1338/70 established the general rules for the classification of vine varieties, thus supplementing the CWP. So, vines based on their characteristics and suitability for certain regions, were classified into three categories: 1) Recommended, 2) Authorized, 3) temporarily Authorized (Munsie, 2002, p.22).

Recommended category included vine varieties able to produce grapes, which were suitable for production of high-quality wines. Authorized category included vines able to produce grapes of slightly less quality than Recommended vines. Provisionally Authorized category contained vines that still had some sort of economic importance to a specific region (Council Regulation 1338/70, art. 6); (Munsie, 2002, p.23). Quality wine had to be made only from Recommended or Authorized categories (Council Regulation 817/70, art. 3); (Munsie, 2002, p.23), later Regulation 2005/70 categorized all the vine varieties from Recommended and Authorized categories for each region of the EEC, and completed the classification process (Council Regulation 2005/70, art 1); (Munsie, 2002, p.23).

Soon after EEC created these regulations, the massive overproduction took place within its boundaries, reasons of which were: consumption reduction in France and Italy while not increasing in other member countries, increasing of productivity of vineyards, increasing of imports from non-member countries, the quality of table wine did not improve to match with the increasing demand for quality wines (Voss, 1984, p. 71); (Munsie, 2002, p.23). Consequently, French market was flooded with low priced Italian wine, to fight this France imposed an import tax on Italian wine, thus violating the general agreement on the free movement of wine. Additionally, the port of Sète, where most of the wine was imported was blocked by the French producers (Unwin, 1991, p. 322); (Munsie, 2002, p.23).

In dealing with this issue of overproduction, Regulations 1162/76 and 1163/76 was passed by the EEC. Regulation 1162/76 restricted new vine plantings for table wine, but

replanting was permitted if the vines met recommended or authorized categories. all this served as an attempt to increase the quality of table wine (Munsie, 2002, p.23). Regulation 1163/76 on the other hand, established the system of subsidies for abandoning vineyards for six years or for uprooting, in order to replace vines with other crops (Munsie, 2002, p.24); (Meloni, Anderson, et al., 2019, pp. 622-623).

In order to improve things, additionally it was decided by the EEC, to create the classification not only of vine varieties but of vineyards as well. Regulation 1338/70 already set out the classification of vine varieties, so the Regulation 454/80 fulfilled this process by establishing the Categories of land for winegrowing areas (Munsie, 2002, p.24). Later Regulation 456/80 relied on these land categories in setting out another series of subsidies for the winegrowers to abandon their vineyards on temporary or permanent basis, the main aim yet again was to reduce the production volume of low-quality wines (Munsie, 2002, p. 24).

In spite of all these affords, huge harvests of 1979 and 1980 provoked more protest among French wine producers, they attacked boats trying to import Italian wine into the port of Sète (Niederbacher, 1983, p. 322); (Munsie, 2002, p.24); (Meloni, Swinnen, 2013, p. 269). So, in 1982 distillation was established as a main tool in dealing with surpluses (Niederbacher, 1983, p. 322); (Munsie, 2002, p.24). In 1984, Dublin Summit called upon for further activities such as: compensation for uprooting of vineyards, restrictions on replanting of vineyards, and compulsory distillation (Munsie, 2002, p.25).

Since the adoption of the CWP and making of numerous regulations afterwards, the creation of Regulations 822/87 and 823/87 represented combination of economic and qualitative rules, taking into consideration past policies (Vialard, 1999, pp. 235, 237); (Munsie, 2002, p.25), recognizing the necessity "to stabilize markets and ensure a fair standard of living for the agricultural community concerned." (Council Regulation 822/87, preamble); (Munsie, 2002, p.25).

Regulation 822/87 included many similar provisions created in the past, but it tried to reinforce them to increase wine quality. The interventionist activities regarding table wines still included provisional storage of surpluses as well, as compulsory distillation and

other measures (Council Regulation 822/87); (Munsie, 2002, p.25). new planting of vines suitable for table wine was banned for three years and replanting was under strict limitations (Council Regulation 822/87, arts. 6, 7); (Munsie, 2002, p.25). All temporarily authorized vine varieties were subject of time-by-time elimination (Council Regulation 822/87, art. 13); (Munsie, 2002, p.25).

Regulation 823/87, like Regulation 817/70, focused on quality wines, thus included many identical provisions. Member Countries were obliged to establish the criteria for quality wines, such as: the demarcation of production areas, varieties of vine, methods of cultivation and winemaking, minimum volume of natural alcohol, yield per hectare, analysis, and organoleptic assessment (Council Regulation 823/87, art. 2); (Munsie, 2002, p.25). Each Member Country had to create a list of vine varieties suitable for individual quality wine. These vine varieties had to be *Vitis vinifera* and from recommended or authorized categories. All vines out of this list were subject of removal from land suitable for quality wine production (Council Regulation 823/87, art. 4); (Munsie, 2002, p.25). Countries were free in determining conditions and characteristics of wine production if they met or exceeded the basic requirements (Council Regulation 823/87, art. 18); (Munsie, 2002, p.26).

Regulations 822/87 and 823/87 represented main legal acts of the wine industry, before EU as part of Agenda 2000, attempted to maintain competitiveness of wine producers along with expansion of international wine market (Robinson, 1999, p. 265); (Munsie, 2002, p.26); (Meloni, Swinnen, 2013, p. 255). On This way, the first step was issuing Council Regulation (EC) No 1493/1999 of 17 May 1999, on the common organization of the market in wine (Regulation 1493/99), it replaced and repealed the main regulations of previous times regarding wine policy. Regulation 1493/99 tried to take into consideration the changing circumstances in the wine market as well as to consolidate the numerous amendments that had been created previously. The inefficiency of previous interventionist activities and long adaptation period to competitive changes were recognized and taken into account (Council Regulation 1493/99, preamble); (Munsie, 2002, p.26).

Regulation 1493/99 restricted new vine plantings until 2010, not only for table wine, but for quality wine as well, but still certain exemptions were allowed, if production of a particular vine of a geographical indication was sufficiently low in comparison to market demand (Council Regulation 1493/99, arts. 2, 4); (Munsie, 2002, p.26); (Meloni, Swinnen, 2013, p. 255). Subsidies for uprooting and alteration with other plants have been remained (Council Regulation 1493/99, arts. 8, 11); (Munsie, 2002, p.26); (Meloni, Swinnen, 2013, p. 255); (Josling, 2006, p. 346), but storage and distillation activities, although being still in force, became more loose (Council Regulation 1493/99, Title III); (Munsie, 2002, p.26); (Meloni, Swinnen, 2013, p. 255). Regulation 1493/99 like Regulation 823/87 repeated provisions concerning quality wine, and obliged Countries to create criteria for the delimited areas of wine production (Council Regulation 1493/99, art. 55); (Munsie, 2002, p.26). Lastly, minimum limitations and conditions of winemaking that Member Countries were to comply or exceed, were established (Council Regulation 1493/99, Annexes IV-VI); (Munsie, 2002, p.27).

Additionally, to winemaking provisions, Regulation 1493/99 also established minimum requirements for the wine labeling (Council Regulation 1493/99, Annex VII); (Munsie, 2002, p.27), but the most important result of this restriction was that within the EU it was forbidden to use any designation of origin for which producer was not specially qualified and approved (Council Regulation 1493/99, Annex VII); (Spahni, 1995, pp. 98-99); (Munsie, 2002, p.27); (Josling, 2006, p. 343).

Conclusion

After exploring and comparing wine regulations of EEC and then EU, it becomes clear what Europe wanted to achieve. Establishing the single market, was an attempt to give member countries better opportunity to develop their wine productions, and it was anticipated to achieve within the Agricultural Policy, but after the Treaty of Rome established Common Agricultural Policy, it can be seen how EEC's wine policy started emerging gradually.

It started by placing customs duties on imported wines in order to reduce outside competition and in 1970, it became fully distinguishable strategy by setting out the basic provisions implementing the common organization of the wine market, and by setting out provisions specifically for the quality wines. This approach was later inherited by following regulations and in some cases stickered according to what level of intervention was assumed to be relevant in dealing with overproduction, which in this case happened twice, involving tensions between France and Italy.

It seems that, in spite of all affords, heavy interventional activities were not as effective as it was anticipated, so in 1999 EU tried to adapt to the new challenges in the wine market and some interventionist measures regarding overproduction were softened.

Although not being effective in terms of dealing with overproduction, the legislative activities of EEC and EU definitely can be considered meaningful in supporting quality wine production, since the quality requirements set out by the regulations would have been affecting wine production of member states in a positive way for sure.

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