

# Wine Law and Policy

*From National Terroirs to a Global Market*

*Edited by*

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# Exploring Italy's Wine Law Reforms

## *Experiences, Challenges, and Prospects*

*Antonio Rossi and Duilio Cortassa*

### 1 Introduction

Italy is the world's leading wine producer and the second largest exporter by volume. While in Italy, the heterogeneity of production reflects the diversity of regional contexts. Italian unity has a century and a half and Italy has not benefited from a centralizing tradition as in most other countries. The structure of the Italian wine world is the consequence of certain much larger historical and economic realities. Talking about the wine-growing regulation of a country and of those who are its actors implies to remain modest, as the complexity is great. In the case of Italy this is particularly true. Viticultural Italy is characterized by a multiplicity of indigenous grape varieties. For some this diversity translates the richness and the authentic character of Italian viticulture. For others, it appears to be an obstacle to the emergence of a vineyard of uniform quality. In any case, regulating wine in Italy is a complex and unique effort.

A few economic facts suffice to explain Italy's importance on the global market of wine. According to the International Organisation of Vine and Wine (OIV),<sup>1</sup> 7.4 mha is the global area under vines in 2018, while five countries represent 50% of the world vineyard. More precisely, Spain represents 13%, China 12%, France 11%, Italy 9%, Turkey 6%. In terms of grapes production (grapes intended for all uses), 77.8 mt is the world production of grapes in 2018, of which 57% of wine grape, 36% of table grape and 7% of dried grape. While 292 mhl is the global wine production in 2018, in terms of the total wine production per country Italy is in first place (54.8 mhl), followed by France (48.6 mhl) and Spain (44.4 mhl).

As can be gleaned above, these data confirm a fairly stable trend which, since 2014, was, respectively, 44.2/46.5/39.5; in 2015 50.0/47.0/37.7; in 2016 50.9/45.3/39.7; and in 2017 42.5/36.3/32.5. To find comparable figures we must

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1 2019 *Statistical Report on World Vitiviniculture*, OIV, 2018.

go back 18 years, to 2000, when 54.1 mhl were produced. With a small difference: in 2000 the Italian viticulture worked on 692,000 hectares, while today, according to ISTAT,<sup>2</sup> the hectares in production are 629,000, therefore around 9% less. Therefore, 2018 certainly was the most prolific vintage of the millennium, in absolute and also relative terms. In terms of major wine consumers, the situation is different, since the USA are in the first place with 33.0 mhl, followed by France (26.8) and Italy only ranking third (22.4), followed by Germany<sup>3</sup> (20.0).

In 2018 Italy was the second largest wine exporter (19.7 mhl) after Spain (21.1) and well ahead of France (14.1). Beyond these numbers, however, Italy is by far the country with the largest and most diverse wine production in the world. The climatic conditions, the numerous vines, the geological characteristics and the conformation of the territory make the peninsula the ideal place for the production of quality wines, sometimes of great value, from very diversified characteristics. Regulations regarding wine production have a profound effect on the character of the wine produced. Such regulations can be found on the local, national, and international levels, but each level must be considered with the others in mind.

This chapter explores the evolution of wine regulations in Italy. The chapter shows that wine law in Italy has constantly and considerably changed over the last decades. From a local approach and regulation, Italy has gradually embraced a more European and more international regulation which better services the interests of its producers and consumers. The regulatory framework has requested many social and economic changes, but it now provides Italy with a robust architecture which might help the country to retain a prime role in the wine global economy. The chapter first reviews the history of wine law in Italy (Section 2). It then provides a comprehensive analysis of the current Italian law on wines and vineyards (Section 3). In this respect, the chapter also explains the DOCG and DOC regime which are both quality classifications (Section 4). Under Italian wine law DOCG is the highest designation of quality among Italian wines. Moreover, the chapter discusses the Italian framework for the protection for geographical indications and designations of origin (Section 5) before it draws some regulatory and policy conclusions (section 6).

2 The *Istituto nazionale di statistica* (Italian National Institute of Statistics) is a public research organisation and the main producer of official statistics in Italy.

3 “*They [the Germanic tribes] on no account permit wine to be imported to them, because they consider that men degenerate in their powers of enduring fatigue, and are rendered effeminate by that commodity*”, Julius Caesar, *De Bello Gallico*, Book IV, Chap. 2; things change, obviously.

## 2 A Brief History of Wine Law in Italy

Wine regulations have existed for much of the history of the wine and are currently in place at all levels of national and international governance. In order to fully understand any single regulation, it is necessary to consider the regulation within the context of those around it. *"The growing globalization of trade has made clear the need to adopt rules which, while being limited for many products to a certain standardization, take on completely peculiar aspects in the case of food. On the other hand, foods are goods different from others, since they satisfy an inescapable need and have the peculiarity of entering into ourselves to support us. Furthermore, these are often products characterized by traditional recipes; so that a radical standardization, as carried out for mechanical products, would not be possible, otherwise the loss of traditional peculiarities which the consumer does not want to renounce. Hence the emergence of rules that essentially aim to ensure food security and food safety on the one hand, and on the other to guarantee the consumer that the recipe behind the product is respected"*<sup>4</sup>

In line with the entire agri-food sector, regulation is the best solution frequently adopted in the wine sector, implemented through the enactment of strict laws on the health of drinks and on oenological practices allowed, as well as through the creation of designations of origin and labelling rules.<sup>5</sup> The EU wine sector is undoubtedly the most regulated worldwide, where the lawmaker essentially establishes everything: the grape varieties permitted in each designation or geographical indication, the oenological practices as well as the labelling rules. *"Almost half the world's vineyards are in the European Union (EU), and the EU produces and consumes around 60% of the world's wine. The EU is not only the largest global wine-producing region and the main importer and exporter of wine but also a highly regulated market."*<sup>6</sup>

4 L. Costato, F. Albisinni, *European and global food law*, CEDAM, 2016.

5 An history of Italian wine law in M. Da Passano, A. Mattone, *La vite e il vino. Storia e diritto*, Carocci, Rome, 2000; the law on wine in communal age in P. Cammarosano, *Le campagne nell'età comunale (metà sec. XI-metà sec. XIV)*, Loescher, Turin, 1974, foot note in <http://fermi.univr.it/rm/didattica/fonti/cammarosano/nota.htm>; see E. Orlando, *Coltura vitivinicola, consumo e commercio del vino: il contributo degli statuti comunali veneti*, and U. Santarelli, *La vite e il vino negli statuti della toscana marittima*, both in M. Da Passano et al. *La vite e il vino. Storia e diritto*, cit.

6 G. Meloni and J. Swinnen, *The Political Economy of European Wine Regulations*, in *Journal of Wine Economics*, 8, 3, 2013, Pages 244–284.



### 2.1 *The Influence of the EU on Italian Wine Legislation*

On 1 January 1958, with the coming into force of the Treaty of Rome, ratified with the Act of 4 October 1957, no. 1203, Italy became a founding member of the European Economic Community (EEC).<sup>7</sup> Not long after, in 1962, the first common market organisation (CMO) was established, although an effective organization of the wine market did not come until 1970 with the passage of the Common Wine Policy (CWP) in Regulations 816/70<sup>8</sup> and 817/70.<sup>9</sup> The underlying motivations of the CWP were protectionist in nature and similar to those found in other statutes: to reduce wide annual fluctuations, to restricting quantity in order to protect the livelihood of wine producers and to raise the quality of wine. Most importantly, the EC was becoming a single market, within which no restraint was put for the commerce of wine. Indeed, it was only between 1976 and 1978, with the ban on planting and the obligation to distil the surplus, that the market organisation adopted the interventionist approach that nowadays characterizes it.<sup>10</sup>

Financial incentives for giving up vineyards were reinforced towards the end of the 1980's, with the objective of reducing production. Needless to say, a milestone in the process of European integration was the signing, on 7 February 1992, of the Maastricht Treaty (officially, the "Treaty on European Union"), whereby the European Economic Community was renamed the European Community (EC) to underscore the bridging of economic boundaries and the start of a process designed to integrate the member countries into a single political entity. Later on, the EC took the definitive name of "European Union", with the coming into force, on 1 December 2009, of the Treaty of Lisbon (Treaty on the Functioning of the European Union), which strengthened the institutional

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- 7 Since 1962, in the framework of the common agricultural policy (CAP), it was gradually established a common organization of the market in wine. Such CMO, based on a political balance between producer States, was availing itself of different tools to ensure market equilibrium. Such mechanisms were designed to regulate supply by restricting replanting rights and withdrawal at a minimum price guaranteed of surplus production and transformation of the same into alcohol for human consumption, granting premiums for the grubbing-up of vines; to apply a price and intervention regime to table wines (with the exception of "quality wines produced in specific regions", V.Q.P.R.D.) through the use of distillation, or the consumption or in fuel. As we all know, the conditions of the EU wine market have since changed and accrued globalization has made competition more heated.
- 8 Regulation (EEC) No 816/70 of the Council of 28 April 1970 laying down additional provisions for the common organisation of the market in wine.
- 9 Regulation (EEC) No 817/70 of the Council of 28 April 1970 laying down special provisions relating to quality wines produced in specified regions.
- 10 *L'organizzazione comune del mercato del vino*, in A. Germanò, E. Rook Basile, N. Lucifero, *Manuale di legislazione vitivinicola*, Giappichelli, Turin, 2017.

architecture of the Union, also from the legislative and financial viewpoints. Among other things, the Treaty of Lisbon defined in detail the co-decision procedure to be adopted by the EU Council and the EU Parliament.

## 2.2 *The Progressive Transformation of Italian Wine Law*

While the main economic issues which were bringing together these countries in 1957 were steel and coal, quite a major conflict had to be resolved in respect of the integration of the French and Italian wine industries. The two largest wine producing countries were organized in a fairly different manner. France had a detailed register of vineyards, while Italy's ordinary land register was out of date; while France was prohibiting planting new vines, planting new vines was subsidised in Italy; while France had a classification system based on quality and strict rules for vineyards, no comparable standards or rules were applied in Italy; while France had AOC, VDQS, and *vins de consommation courante*, only a general prohibition on inaccurate names existed in Italy, with no specific regulations on names or quality; while France had a set total amount of wine to be released to market and spread it over time, no such restrictions were contemplated in Italy. Even sugar and surpluses were ruled differently, with France allowing to add sugar to wine and Italy having severe penalties for this and France intervening to support prices by way of storage or distillation, while Italy not doing it. Thus, French *vignérans* was scared that Italian wine would flood their market while prices of French wines would deteriorate, at the same time with the value of French vineyards.

In 1959 the procedures for the progressive abolition of customs duties started, together with the process of unifying the European wine industry; the Common Custom Tariff was aimed directly at reducing outside competition by placing customs duties on imported wines based on the type of wine, alcohol content, and sugar content. In 1962, the Council adopted the first regulations on the CAP aiming to institute a single market for agricultural products and of financial fitness through the European Agricultural Guidance and Guarantee Fund (EAGGF): Regulation 24/62 laid the foundation for the common market in wine. The preamble noted the "*appreciable divergences in the wine-growing policies pursued by different Member States at a national level*" and then set out four main provisions, pursuant which each country was expected to establish 1) a vineyard register, 2) a central authority to keep track of annual production levels, 3) strict rules regarding quality wines produced in specified regions, and 4) to compile annually future estimates of resources and requirements. In response to Regulation 24/62, Italy instituted its own system of granting quality wines *Denominazione di Origine Controllata* (DOC) status based on the region

of origin.<sup>11</sup> While many protectionist measures previously in place began to be lifted, Italy and France elected to retain their quotas for table wine, but not for quality wine, since cheap table wine was considered more of an economic threat than quality wines that had production limitations. By 1970, although discriminatory taxation remained an issue until long after, quotas had essentially disappeared.

In this context, Italy began to pass a more organic set of laws regulating the wine sector in parallel with the formulation of the directives that would be adopted by the European Community. Thus, the Royal Decree of 1 July 1926, no. 1361, was completely redesigned by Presidential Decree of 12 February 1965, no. 162, which established stricter and more specific regulations on the production, distribution and marketing of wine products in preparation for the forthcoming directives that were going to apply to all EEC member countries, including Italy. At the same time, the first comprehensive set of rules on wines with designation of origin was approved, on 17 July 1963, with Presidential Decree no. 930, which, to this day, serves as the basis of Italy's legislative provisions on protected designation of origin (PDO) and protected geographical indication (PGI) wines, as we shall see in greater detail later on.<sup>12</sup>

### 2.3 *A New Framework: the Act of 12 December 2016*

The European Union's rules for the wine sector require each Member State to complete the regulatory framework with additional provisions which are in fact perhaps the most important part in regulating the specific operational aspects which allow to fully implement the EU policy to achieve the desired objectives. In late 2016 the long Italian wine-making tradition was finally regulated with the coming into force of the Act of 12 December, no. 238 (*Organic set of rules on the cultivation of grapes and wine production and trade*), which, having been approved after several years of debate, aimed to be an organic collection of the aforementioned earlier regulations, to be brought together in a Consolidated Wine Act.<sup>13</sup> Albeit in continuity with the earlier provisions, the

11 A comprehensive survey in L. Costato, P. Borghi, S. Rizzioli, *Compendio di diritto alimentare*, CEDAM, 2019.

12 For a general overview of trademarks and geographical names in Italian law, see L. Costato, A. Germanò, E. Rook Basile, *Trattato di Diritto Agrario*, vol. III, chapter 13, UTET Giuridica, 2011.

13 Act no. 238 of 12 December 2016, Article 2: "This law sets out the national regulations on the production and marketing, the designation of origin, the geographical indications, the traditional mentions, the labelling and presentation, the management, the controls and the sanctioning system for wine products as per Regulation (EU) No 1308/2013 of the European Parliament and the Council of 17 December 2013, and Regulation (EU) No 1306/2013 of the

production of a unified compilation made it possible to rationalise and simplify the complex set of rules governing grape growing and wine production.<sup>14</sup> Many aspects were reviewed and updated and, to facilitate future revisions, the lawmaker provided for the issuing of a series of implementing decrees making for a speedier amending procedure, since it was going to be up to the Ministry of Agricultural, Food and Forestry Policies, not the legislative body, to intervene, in a more direct and simplified manner, on the implementing provisions.

### 3 The New Italian Law on Wines and Vineyards

The Act no. 238 sets out a complex set of regulations, consisting of 91 articles grouped into eight titles, each of them comprised of chapters addressing specific issues. Article 1 of Title I stated: *“The wine obtained from grapes, the grapevine and the wine-making territories, as the fruit of labour, skills, know-how, practices and traditions, constitute a national cultural heritage to be safeguarded and enhanced from the standpoints of social, economic, productive, environmental and cultural sustainability”*. Article 5 in Chapter III, Title I, established the *national register of grapevine varieties, where the different wine grapes varieties are classified as a function of the relative administrative areas as either varieties suitable for cultivation or varieties under observation*. Article 6 defines the *«autochthonous Italian grapevine»* or *«Italic vine»* as *the grapevine belonging to Vitis vinifera, a species of proven exclusively Italian origin, whose presence is observed in delimited geographic areas of the national territory*. The use of the wording *«autochthonous Italian grapevine»* and its synonyms is reserved for the labels and presentations of specific PDO (both “DOGC”, protected and Guaranteed Designation of Origin and “DOC”, Protected Designation of Origin) and IGP (PGI) wines, within the framework of the relative wine-making standards, while appropriate vine identification procedures, conditions and characteristics were going to be defined by ad hoc decrees. The regulations on the protection of the vineyards defined as *«heroic or historic vineyards»* are set out in Article 7 and the government promotes interventions for the restoration, recovery, maintenance and protection of vineyards in the *areas subject to hydro-geological instability risks or having special landscape, historic and environmental characteristics*. Such vineyards are situated in areas ideally suited for

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European Parliament and the Council of 17 December 2013, as well as the Commission's Delegated Regulation (EU) No 2016/1149 of 15 April 2016, and the Commission's Implementing Regulation (EU) No. 2016/1150 of 15 April 2016”.

14 P. Caviglia, *Manuale di diritto vitivinicolo*, Milan, UVV, 2017.

grape growing, in that special environmental and climatic conditions endow the product with unique characteristics, strictly associated with the specific features of the area of origin.

### 3.1 *The Establishment of a Grapevine Register*

The establishment of a grapevine register containing up-to-date information on the wine production potential of a vine, pursuant to regulation no. 1308/13, is provided for in Article 8. Each vine unit suitable for the production of wine grapes must be recorded in the grapevine register, whose management is entrusted to the Regions,<sup>15</sup> according to modalities agreed upon, to be defined, within the framework of the services offered by the *National Agricultural Information System*, based on information obtained from the dossiers of the individual wine producers. The vineyards entered in the grapevine register are considered suitable for the production of grapes for use in the making of DOCG, DOC and IGP wines, based on the technical characteristics of the vine units. For purposes of a tighter control on the production systems, each winery is required to submit a plan view showing the location of the various wine vats with a capacity of more than 10 hectolitres as provided for in Article 9. The period of time during the year when it is possible to collect the grapes and perform the fermentation and refermentation processes is established in Article 10 as going from 1 August to 31 December. Moreover, the regions are entrusted with the power to authorise on a yearly basis the increase in the natural alcoholic strength by volume of fresh grapes, grape must, partially fermented must, new wine still in fermentation, and wine, intended for the production of wines, whether or not IGP and DO quality, as well as of batches for the preparation of sparkling wines, quality sparkling wines, aromatic type quality sparkling wines, whether or not PGI and PDO.

Article 13 sets out the required storage and disposal modalities for the pomace and lees used for distillation and other purposes. The processes provided for include the preparation of alcohol-muted fresh grape must, liqueur wines, flavoured wine products and sparkling wines (obtained through the addition of sucrose) as well as the preparation of spirit drinks in wineries engaging in the extraction of musts and wines that cannot be prepared by adding sucrose, the preparation of schnapps, alcohol and all the products permitted according to regulation no. 251/14, as long as their production processes are notified beforehand, no later than by the fifth day preceding their preparation, to the local

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15 Italy is subdivided into nineteen regions (one of those, Aosta Valley, bilingual, French and Italian) and two autonomous provinces, i.e., the formerly Austrian territories of Trento and Bolzano (the latter bilingual, German and Italian).

office of the Central Inspectorate for Fraud Repression and Quality Protection of Agri-Food Products and Foodstuffs (*i.e.*, the ICQRF, Article 14).<sup>16</sup>

The prohibition to keep in the winery cellars substances that can be used for sophistication purposes is provided for in Article 16. Some derogations are permitted when the areas of the cellar or the winery include the dwellings of the winery owner, collaborators and/or employees, as well as accommodation facilities reserved for food service and food product preparation activities. There being no specific EU regulations on the production of semi-sparkling wines, whether or not DO or GI, and aerated semi-sparkling wines, the relative requirements are detailed in Article 19.

### 3.2 *The Storage of Oenological and Chemical Products*

Articles 21 and 22 lay down the rules on the storage of oenological and chemical products, prohibiting the sale, the storage for sale and the storage thereof in the wineries, and in facilities connected with the latter also through courtyards, irrespective of the use they are intended for, and well as the use in wine making of substances not permitted by the applicable EU and national regulations. However, wineries are allowed to keep, in duly traced and bare minimum amounts, prohibited products that are necessary to the functioning or the regeneration of the machinery and equipment used in authorised wine-making practices or depuration processes. Chapter V of Title II of the Act 238 of 2016 addresses marketing and distribution issues and, in particular, Article 23 defines the storage modalities for wine products in the cellar during the various production stages, whilst Article 24 details the components, possibly present in the products, that should neither be sold nor served.

### 3.3 *The Designation of Origin and Geographical Indication*

Title III of the Act addresses the designation of origin and geographical indication aspects that we are going to examine later on, in paragraph 1.2.1 et seq. The labelling and use of geographical indications, traditional mentions and other designations reserved for DO and GI wines are addressed in Articles 43, 44, 45, 46 and 47. For details, see the relative implementing decree, approved on 13 August 2012, which is currently being revised. In a perspective of ever stricter rules being imposed to ensure product traceability, we should point out the use of a government issued label as a guarantee and control tool, as provided for in Article 48: its use is mandatory for DOCG wines, whereas in the case of

<sup>16</sup> For an overview of official control systems see F. Albisinni, *Strumentario di diritto alimentare europeo*, Utet Giuridica, 2017.

DOC wines the consortium concerned can select an alternative modality, such as the simple presence of a batch number.<sup>17</sup>

### 3.4 *The Control Instruments*

The control instruments available are described in Title VI of the Act. In particular, Articles 58 to 68 detail the provisions on the transport documents and the registers, which must necessarily be held in electronic form (as required in Italy and in none of the other EU member countries<sup>18</sup>). Special provisions are established on control modalities, annual inspections, and the chemical and organoleptic analyses of DO and GI wines. The articles in Title VII of the Act specify the sanctions applied for violations concerning wine making potential, wine growing and making processes, distillation of prohibited products, keeping non-reported products in store, as well as violations of the designation and presentation requirements and of the rules on the production and marketing of vinegars. Besides the existing requirements and sanctions, an instrument of considerable importance for the wine sector was introduced with the “*active repentance remedy*”, derived from tax regulations, which provides for the possibility of being subjected to an appreciably reduced fine in the case of a limited number of violations reported by a wine producer prior to the beginning of a tax assessment process by the authority.

### 3.5 *The Impact of the EU Wine Legislation*

The EU wine legislation has had a further impact on Italian wine law. The adoption of the Common Agricultural Policy (CAP)<sup>19</sup> and the measures implemented with the European support plan.

For agricultural products, on account of the physical constraints farming is subject to and, above all, in view of the impossibility of developing competition

17 Title V of the Act is entirely devoted to the provisions governing the production, storage and marketing of vinegars; needless to say this subject matter is outside the scope of the chapter.

18 The Decree of the Ministry for Agricultural, Food and Forestry Policies of 20 March 2015, no. 293 lays down the rules for keeping registers in the wine sector in electronic form, in accordance with EU regulations. In particular, are transposed the provisions of Article 1-bis, paragraph 5 of Legislative Decree No. 91 of 2014 which provides for the implementation of the provisions referred to in Article 38, paragraph 1, letter a) of Regulation (EC) No. 436/2009 of 26 May 2009, according to which the registers of wine products are dematerialized and organized within the framework of the “*Sistema informativo agricolo nazionale*” (SIAN).

19 See generally, Julien Chaisse, ‘Adapting the European Community Legal Structure to the International Trade’ 17(6) European Business Law Review 1615.



conditions similar to those characterising the industrial sector, ad hoc “rules of the game” had to be established, not so much to level the starting points as to incorporate the different realities developed in different natural conditions, by steering production and the markets towards the primary objective of ensuring producer profitability.<sup>20</sup> *“With the 1999 CAP reform, the wine sector had a specific financial endowment at its disposal. The aim of the reform was to convert and restructure vineyards to encourage the validation of grape varieties and growing techniques with support from structural policies”*.<sup>21</sup> The formulation of the Mansholt Plan<sup>22</sup> for agriculture prompted the idea of developing a more advanced and coordinated set of rules for the wine sector, on account of its peculiar nature: the new provisions would be put into effect in a gradual manner with the aim of integrating the sector into a single market organisation and thereby achieve higher quality and productivity levels, support the income of producers, maintain a proper balance between supply and demand. 1959 saw the establishment of a common customs tariff to be applied gradually, and, shortly afterwards, the definition of the quotas to be complied with by Italian, French and German producers for wines meeting quality standards higher than those associated with wines for current consumption. Thus, the wine market dichotomy between two major categories began to take shape, with table wines on the one side and quality wines possessing characteristics that set them apart from all current consumption wines having no quality requirements to comply with on the other. The Common Agricultural Policy (CAP) was implemented through common organisations of the markets (CMOs) for

20 In the late 1960s, when the common organisations of the markets (COMs) were gradually being put in place, the Commission was determined to limit expenditure on the common agricultural policy (CAP). The uncontrolled increase in cereals and dairy surpluses resulted in expenditure on intervention (guaranteed prices) and market support that took up more and more of the Community budget. At the same time, between 1950 and 1958, the total number of working farmers fell from 18 million to 14.5 million.

21 A. Urso, G. Timpanaro, F. Caracciolo, L. Cembalo, *Efficiency analysis of Italian wine producers*, in *Wine Economics and Policy*, 7, 1, June 2018, Pages 3–12.

22 On 21 December 1968, Sicco Mansholt, the European Commissioner for Agriculture, sent a memorandum to the Council of Ministers concerning agricultural reform in the European Community. This long-term plan, also known as the ‘1980 Agricultural Programme’ or the ‘Report of the Gaichel Group’, named after the village in Luxembourg where it had been quietly prepared, laid the foundations for a new social and structural policy for European agriculture. In the Mansholt Plan, the Commission proposed a radical overhaul of Community agriculture, causing much concern and discontent among European farmers, as evidenced by a spectacular demonstration of nearly 100,000 farmers on the streets of Brussels on 23 March 1971. The results were serious: much material damage was caused, 140 people were injured and one person died.



each of the products that were thought to require specific actions in order to ensure a stable income for the farmers and a permanent supply for consumers.<sup>23</sup> The CMOs should therefore be seen as the basic regulatory tools for the proper operation of the common agricultural market, in that they remove the barriers to intra-Community trade of the products in question.

The latest EU policies have translated into a series of regulations and, as the governing bodies of the EU adopted specific regulatory provisions, EU member countries were gradually deprived of the power to adopt national regulations on the issues in question, unless they were delegated to issue provisions implementing the Community regulations. Accordingly, a number of national decrees were issued to put into effect the support measures provided for in the EU regulations and several provisions on plant authorisations. A list of such decrees is given in the footnote below.<sup>24</sup>

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23 F. Albisinni, *La OCM vino: denominazioni di origine, etichettatura e tracciabilità nel nuovo disegno disciplinare europeo*, in *Agriregionieuropa*, 4, 12, March 2008; A. Germanò, E. Rook, N. Lucifero, *Manuale di legislazione vitivinicola*, cit.

24 DECREES IMPLEMENTING THE SUPPORT MEASURES AND THE WINE COMMON ORGANISATIONS OF THE WINE MARKETS (in chronological order):

Decree of 27 November 2008 – Implementing provisions for Regulations No 479/08 (now Reg. 1308/13) and No 555/08 (now Regulations 1146/16 and 1150/16) as concerns the implementation of the regulations governing the distillation of wine-making by-products.

Decree of 23 December 2009 – National provisions on the common organisation of the wine growing and wine making market with reference to the «Green Harvesting» provision.

Decree of 8 March 2010 – Criteria for the determination of the support measures as per Council Regulation No 1234/07 of 22 October 2007, art. 103r (now Reg. 1308/13, art. 47) – «Green Harvesting» provision.

Decree of 2 August 2010 – National implementing provisions for Council Regulations No 1234/07 (now Reg. 1308/13) and Commission Regulation No 555/08 (now Regs. 1146/16 and 1150/16) regarding the «harvest insurance» provision.

Decree of 2 July 2013 – National provisions implementing Regulations No 1234/07 (now Reg. 1308/13) and Regulation No 436/09 ((now Reg. 273/18) regarding the documents to accompany certain types of wine product transport.

Decree of 17 June 2014 – Provisions on the use of certified electronic mail for purposes of the validation and transmission of the documents that must accompany certain types of wine product transport pursuant to articles 8(4)(14) of the ministerial decree of 2 July 2013.

Decree of 15 December 2015 – National provisions implementing Regulation No 1308/13 of the European Parliament and the Council regarding the common organisation of the markets of agricultural products. Authorisation system for vineyards.

Decree of 14 February 2017 – National provisions implementing Regulation No 1308/13 of the European Parliament and the Council, Delegated Regulation No 2016/1149 and

## 4 Understanding Italian Wines: the DOC and DOCG Wines

Geographical names identifying wines have their roots in the oldest history, although they may have little in common with the European schemes of geographical indications and traditional specialties, known as protected designation of origin (PDO) and protected geographical indication (PGI), aiming at promoting and protecting names of quality wines. Since March 1900, when the first provisions were adopted for the protection of typical wines, the road of the legislation has been long and uneven. We wish to describe here the developments in the history of those names, until they reached the current scheme known to all wine-lovers in the world. While in the 30' there were no clear-cut definitions of the concepts of "quality" and "typicality", detailed regulation on the protection of the designations of origin of musts and wines were finally approved in Summer 1963. It was only in response to Regulation 24/62 that Italy instituted its own system of granting quality wines the status *Denominazione di Origine Controllata* (DOC) and geographical indications the status *Indicazione Geografica Tipica* (IGT) based on the region of origin.

### 4.1 *The Tradition of Geographical Origin*

Since ancient Roman times the Italian territory was known for its wines, normally kept in amphorae, bearing very few indications such as the consular year or a geographical name to claim its origin. Their quality was poor, the product not easily storable: in a nutshell, very far from wines we are used to now.

Italy has however a long and ancient regulatory tradition which was over time able to identify some characteristics of the product aiming, above all, at linking wines to their geographical origin. It is no secret that one of Italy's most well-known and recognizable wines, *Chianti*, can boast a history dating back to at least the 13th century with the earliest incarnations of *Chianti* as a white wine. In the Middle Ages, the villages of Gaiole, Castellina and Radda located near Florence formed as a *Lega del Chianti* (League of Chianti) creating an area that would become the spiritual and historical "heart" of the Chianti region.<sup>25</sup>

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the Commission's Implementing Regulation No 2016/1150 concerning the implementation of the investment provision.

Decree of 3 March 2017 – National provisions implementing Regulation No 1308/13 of the European Parliament and the Council, Delegated Regulation No 2016/1149 and the Commission's Implementing Regulation No 2016/1150 concerning the implementation of the provisions on vineyard conversions and restructuring.

25 In 1716 Cosimo III de' Medici, Grand Duke of Tuscany, issued an edict delineating the boundaries that would eventually become the heart of the Chianti Classico region. The same area today is located within the Chianti Classico Denominazione di Origine

When in 1861 Italy became one nation, the rules relating to the wine world were far from being uniform. It was not before 1861, thus, that we may talk of “*Italian wine*”, although the concept of a bond with a single region, and particularly with its territory of origin, was still lacking. Governments that followed one another in the newly formed state (starting as early as 1885) were solely concerned with issues related to ensuring the authenticity of wine, omitting, however, measures and solutions designed to protect the quality and origin of those productions.

While the Calandra Act of 25 March 1900 may be seen as the first regulatory measure to be adopted in Italy, the first act containing “*disposizioni per la difesa dei vini tipici*” (*provisions for the protection of typical wines*) was the Royal Legislative Decree no. 497 passed on 7 March 1924 and converted into the Act of 18 March 1926, no. 562, which was followed by its implementing rules. Then came the Royal Legislative Decree of 11 January 1930, no. 62, providing for “provisions for the defence of typical wines”, converted with amendments into the Act of 10 July 1930, No. 1164 and the relative implementing rules, published in 1933. At the time, there were no clear-cut definitions of the concepts of “*quality*” and “*typicality*”, but the legislator’s intention to ensure some form of protection to wines having specific characteristics arising from soil, climate and human factors was unmistakable.<sup>26</sup>

It was not until the EEC stated its intention to integrate the European markets that Italy created its DOC system to separate quality wine from table wine (*vino da tavola*). For each new designation, product specifications were set out regarding specified grape varieties, maximum yields, conversion ratios of grapes to wine, alcohol content, and ageing requirements. While tasting panels were not required initially, they have since become mandatory. It was the summer of 1963 when, a few days before the end of the legislature, Senator Paolo Desana was able to push through a law that provided a future for Italian wine: the law on DOC labels, which the French had passed about thirty years earlier, with the *Décret du 31 janvier 1930 pris pour l’application de la loi du 1er*

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Controllata e Garantita (DOCG). Ampelographers find clues about which grape varieties were popular at the time in the writings of Cosimo Villifranchi who noted that Canaiolo was a widely planted variety in the area along with Sangiovese, Mammolo and Marzemino. It wasn’t however till the work of the statesman Baron Bettino Ricasoli (Count of Cavour’s successor as Prime Minister in 1861) that the modern “Chianti recipe” would take shape.

26 The hallmark of the Wine Statute was the law of July 30, 1935 that formally created the system of *Appellations d’Origine Contrôlées* (AOC), that distinguished quality wine from ordinary table wine. This system specifically set out the areas of production, choice of grape varieties, minimum alcohol levels, growing methods, and winemaking techniques required for regions and their wines to carry the AOC designation.

*août 1905*<sup>27</sup> en ce qui concerne le commerce des vins de liqueur, des vermouths et des apéritifs à base de vin. On 12 July 1963,<sup>28</sup> Presidential Decree no. 930, “*norme per la tutela delle denominazioni di origine dei mosti e dei vini*” (*Regulation on the protection of the designations of origin of musts and wines*), was finally approved: a recognition that resulted in a quality leap for Italian wines.

#### 4.2 *The First Protection Consortiums*

The Act No. 1164 of 1930 paved the way for the birth of the first Protection Consortiums. The Consortium for the protection of *Asti* wine was founded on 17 December 1932, but the *Barolo* and *Barbaresco* wine making areas, among the most renowned in Italy, had felt the need to join forces to protect their products as way back as in the early 20th century, and in 1908 had applied for the creation of a “certificate of origin” to be issued by an association working under the control of the provincial administration and the winemakers’ union of Piedmont. As we have seen, it was only in 1924 that the Italian Parliament promulgated the Royal Legislative Decree no. 497 on typical wines and established that their characteristics should be constant and should be specified in the bylaws of the consortiums. Thus, preparatory works got underway for the creation of the Consortium for the Defence of Typical High Quality Wines *Barolo* and *Barbaresco*, which was officially founded in 1934 with the task of defining the production context (the zone of origin, the grapes and the characteristics of the wine), keep watch for frauds, adulteration and unfair competition, enhancing the appreciation of wines, as well as defend the reputation and qualities of wine through all the appropriate channels.<sup>29</sup>

The Act of 10 June 1937, no. 1266, which regulated “*la produzione ed il commercio di vini pregiati di determinata origine*” (the production and trade of high quality wines of a specific origin), clearly reflects the intention to protect the wines whose characteristics depend on their geographic areas of origin. The term designation of origin refers to the geographic name or the geographic qualification of the corresponding area of production – possibly accompanied by the name of a grape variety or some other indication – used to designate the

27 It was the «*loi du 1er août 1905 sur la répression des fraudes dans la vente des marchandises et des falsifications des denrées alimentaires et des produits agricoles*».

28 Prime Minister Amintore Fanfani resigned four days later and the subsequent elections resulted in the formation of the first government headed by Giovanni Leone.

29 For a survey on consortia and controls on wine production, see D. Cortassa, *La sicurezza alimentare nel settore vitivinicolo: i controlli sulla produzione*, in *Impresa agricola e sicurezza alimentare – esperienze e regole*, ESI, Naples, 2009; R. Ricci Curbastro, *Il ruolo di garanzia dei consorzi di tutela*, in *Riv. dir.alim.*, n. 1-2012; L. Paoloni, *I Consorzi di tutela ed i contratti per le politiche dell'offerta dopo il d. lgs. 61/2010*, in *Riv. dir.alim.*, n.3-2012.

wines that are produced in a specific area and whose characteristics essentially depend on the grapevines and the conditions of the natural environment. This is what we read in the first article of the decree, which was clearly inspired by the French law of 6 May 1919 “*relative à la protection des appellations d’origine*”,<sup>30</sup> which stated that “*Constitue une appellation d’origine la dénomination d’un pays, d’une région ou d’une localité servant à désigner un produit qui en est originaire et dont la qualité ou les caractères sont dus au milieu géographique, comprenant des facteurs naturels et des facteurs humains*”. From the 1963 decree, we also learn that the designations of origin of the wines are distinguished into: a) designations of “simple” origin; b) designations of “controlled” origin; c) designations of “controlled and guaranteed” origin. Thus, Italy chose to adopt a sub-specification of the designations of origin, which, to this day, is peculiar to it, and calls to mind a pyramid with the designation of controlled and guaranteed origin at the top.<sup>31</sup>

#### 4.3 The Birth of “Quality Wines Produced in Designated Areas”

In the meantime, Community lawmakers began to realise that the notion of quality associated with the designated geographic area was a valuable instrument for the enhancement of wine products.<sup>32</sup> Accordingly, Regulation (EEC) no. 24 of 4 April 1962 ratified the birth of “quality wines produced in designated areas” (in Italian: *Vini di Qualità Prodotti in Regioni Determinate – VQPRD*). The law formulated by senator Desana served as the basis on which the legislator defined the structure of the Act of 10 February 1992, no. 164, referred to precisely as the new regulation on the designation of origin of wines. The threefold division provided for in the 1963 Decree was now translated into the concept of “*denominazione di origine dei vini*” (designation of origin of the wines), meaning the geographic name of a specific wine growing area used to designate a well-known quality product, whose characteristics arose from the natural environment and human factors, and the concept of “*indicazione geografica tipica dei vini*” (typical geographical indication of the wines), which simply means “the geographic name of a zone used to designate the product arising from it”.

30 F. Humbert, *Approche historique du processus de délimitation des AOC vinicoles françaises. Contribution à la compréhension des principes et de l’application d’une expertise*, in *Sciences Humaines Combinées*, 5, 2010.

31 A. Sabellico, G. Martelli, *Note pratiche di legislazione vinicola*, Assoenologi, 2011.

32 See G. Allaire, F. Casabianca and E. Thévenod-Mottet, *Geographical origin: A complex feature of agro-food products*, in *Labels of origin for food: local development, global recognition*, cared by E. Barham e B. Sylvander, Wallingford, CABI, 2011.

The geographic name constituting the designation of origin or the typical geographical indication, and the other mentions reserved for specific wines are defined more clearly and the lawmaker specifies that they cannot be used to designate products that are similar, or alternative, to wines, nor can they be used so as to engender, in the consumer, confusion in the identification of wine products. Accordingly, the Act of 1992 classifies the designations of origin and the typical geographical indications into: a) controlled and guaranteed designations of origin (DOCG); b) controlled designations of origin (DOC); c) typical geographical indication (IGT).<sup>33</sup> This marked the beginning of the main subdivision between table wines (*vin de table*, *Tafelwein*) and typical geographical indication wines (*vin de pays*, *Landwein*) on the one side and, on the other side, wines with designation of origin (*vin à appellation d'origine*, *Wein mit Ursprungsbezeichnung*), which, in Italy only, were and continue to this day to be further subdivided into wines with protected designation of origin and wines with protected and guaranteed designation of origin.<sup>34</sup>

A turning point in the evolution in stages of Italian wine regulations was the Legislative Decree 61 of 2010,<sup>35</sup> the outcome of lengthy discussions among specialists. Legislative Decree 61 was, so to speak, the “translation” into the national context of the new, wide-ranging Community regulations reforming the common organisations of the markets for wine, comprised of Council Regulation (EC) No 1234/2007 of 22 October 2007 (also referred to as the “Single CMO

33 A useful survey on PDO and PGI and their product specifications in A. Rossi, *Codice delle Denominazioni di Origine dei Vini*, UIV, 2018, while a comprehensive collection of the legislation on wine is to be found in A. Rossi, *Codice della Vite e del Vino*, UIV, 2018; regarding the product specifications, see A. Germanò, E. Rook Basile, N. Lucifero, *Manuale di legislazione vitivinicola*, cit.

34 With regard to the nature of this sign, it is worth mentioning that GIs are detailed in Part II of the TRIPS Agreement and is recognised to them the quality of an intellectual property right (similar to other rights, such as copyrights, patents, trademarks and the like): an idea which is now accepted, even if in legal-writing it was not, and still is not, devoid of criticism. One of the central arguments in favour of such an approach is the fact that the good to be analysed is immaterial. For a survey on GI's as rights of intellectual property, see V. Mantrov, *EU Law on Indications of Geographical Origin. Theory and Practice*, Cham, Springer International Publishing, 2014, F. Albisinni, *Quality and Origin between GIs and TMs: a Difficult Relationship*, in *Les marques vitivinicoles et appellations d'origine: Conflits, mimétismes et nouveaux paradigmes*, a cura di T. Georgopoulos, Paris, Mare et Martin, 2019; G. Morgese, *L'accordo sugli aspetti dei diritti di proprietà intellettuale attinenti al commercio (TRIPS)*, Bari, Cacucci, 2009.

35 Legislative Decree of 8 April 2010, no. 61 “Tutela delle denominazioni di origine e delle indicazioni geografiche dei vini, in attuazione dell'articolo 15 della legge 7 luglio 2009, n. 88” (“Protection of the designations of origin and the geographical indications of wine, implementing Article 15 of the Act no. 88 of 7 July 2009”).



Regulation”), Regulation (EC) No 479/2008 of 29 April 2008<sup>36</sup> and, above all, Council Regulation (EC) No 491/2009 of 25 May 2009, amending Regulation (EC) No 1234/2007, with which, in particular, Regulation (EC) No 479/2008 was included in the aforementioned Regulation (EC) No 1234/2007, effective 1 August 2009; the Legislative Decree also took into due account the provisions laid down in Regulation (EC) No 607 of 14 July 2009.<sup>37</sup>

Regulation No 479/2008 on the common organisation of the market in the wine sector, whose key aspects were defined with the political agreement reached within the Council of Ministers on 19 December 2007, was part of an overall reform path proceeding along the lines also confirmed by the “Single CMO Regulation” of 2007 and the new regulation on fruit and vegetable products, also issued in 2007.<sup>38</sup> In its initial 2006 projects, the European Commissions had pointed out the need for a radical reform of the CMO for the wine sector; this need was reasserted in the 5th recital of the regulation approved by the Council, based on an evaluation of the inefficiency of Regulation No 1493/1999 *«in steering the sector towards a competitive and sustainable development»*, and in view of a plurality of objectives, ranging from economic goals (improving the competitiveness of Community wine producers and enhancing the visibility of high quality Community wines in the world markets) to social objectives (strengthening the social issues of rural areas), as well as historical (safeguarding wine-growing and wine-making traditions) and environmental considerations (producing wine in an environmentally compatible way).<sup>39</sup> In actual fact, there was no general consent as to the need for a radical reform and the inefficacy of the previous set of rules, whose validity was advocated precisely by some of the producers’ organisations that – according to the Commission – should have found them wanting. Moreover, the congruity of the new provisions with the stated objectives was not uncontested,<sup>40</sup> even where

36 Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in the wine sector, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999.

37 Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products.

38 P. Borghi, *Sovrapposizioni fra ordinamenti e “fantasia” del legislatore in tema di segni di qualità dei prodotti alimentari: entropia e storytelling*, in *Riv.dir.alim.*, n. 4-2015.

39 V. Mantrov, *EU Law on Indications of Geographical Origin. Theory and Practice*, cit.

40 A. Germanò, *La disciplina dei vini dalla produzione al mercato*, in *Riv.dir.alim.* (2007); E. Pomarici-E. Sardone, *L'attuazione dell'OCM vino: un primo bilancio di metà percorso*, in *Agriregionieuropa*, 6, 21, June 2010.

the budgetary and financial compatibilities of the 27 members EU seemed to play a much bigger role than officially declared.

In a brief assertive note in the 24th recital, the new regulation states that *«in order to permit the establishment of a transparent and more comprehensive framework substantiating the indication of quality»* for wines *«it is appropriate to put in place a system that would make it possible to examine designation of origin and geographical indication applications in keeping with the approach adopted within the framework of the cross-cutting quality rules applied by the Community to food products other than wine and spirit drinks with Regulation (EC) No 510/2006»*.<sup>41</sup> In actual fact, the text of the regulation goes well beyond the assertion made in the recital, as, besides reforming procedures and responsibilities, it also drastically changes the definitions and the contents of the rules. As for designation recording modalities, Article 27 introduces significant new requirements, asking that the recognition take place at Community level, as opposed to national level as it had been the case for years and had been reasserted only a few years before in Regulation No 1493/1999.

Innovating the law in its substantial aspects meant discarding the well-tested formulas used for purposes of symbolic communication with the consumer (VQPRD and IGT) in favour of the adoption, in the wine sector too, of the PDO and PGI labelling schemes, until then reserved for products other than wines and alcoholic beverages. Such a unification of distinctive marks was not called for by international agreements. On the contrary, by providing diversified protections for geographical indications of wines and alcoholic beverages (art. 23) and other food products (art. 22), and by underscoring the *“additional protection”* granted to wines and alcoholic beverages the TRIPS agreement clearly justified a diversification of the distinctive marks. However, the most significant innovations were introduced in terms of the legal framework. According to the model outlined by Regulation No 1493/1999, quality wines consisted of the VQPRD wines (i.e., *“quality wines produced in specific areas”*) governed by requirements (as per Title VI of the Regulation) clearly distinct from those specified for table wines, even if the latter were permitted to make use of a geographical indication pursuant to art. 51 of the 1999 Regulation and art. 28 of Commission Regulation No 753/2002 (5).

With the new CMO (arts. 27 et seq.), PDO and PGI wines, albeit with some differences from one another, were grouped under a single regulatory category, so that, as a result, the perimeter of quality wines was extended to include

<sup>41</sup> The reference to Regulation No 510/2006 seems to address solely procedural matters, i.e., examination and approval modalities. Nothing is said about the substantial aspects of the law.



PGI wines, i.e., wines that, like the old IGT wines, could be made with 85% – instead of 100% – grapes coming from a specific zone (and at the same time the power granted to the member countries by Regulation No 1493/99 to adopt more stringent requirements for TGI wines was also ruled out). Thus, as a result of the reform, the regulatory and identity elements that in the past had clearly marked the boundary lines between IGT and VQPRD wines – which were assigned to two distinctly separate product classes – have been appreciably attenuated where PGI and PDO wines are concerned in view of their belonging to a single regulatory framework.

## 5 Designations of Origin and Geographical Indications in Italian Law

The breakdown of production by quality category in 2019 in Italy sees DOC products at 40% of total production (among the highest levels ever recorded), while production of IGT has fallen to historic lows, in relative terms, at 22% of production. The 13.5 million hectolitres IGT are in fact 2% lower than the historical average. With 17.8 million hectolitres, table wines (including, however, table wines with indication of grape variety) return to represent one third of production, after having fallen in recent years, with more limited production.<sup>42</sup> Since each vineyard, region, or country produces wine that is distinguishable from another, we assume that, for the most part, this distinction is due to the unique characteristics imparted on wine by the geographic conditions, the growing methods, and the winemaking process. An intricate web of regulations exists, however, behind these natural and man-made factors, which fundamentally influences the character of the final product.<sup>43</sup>

### 5.1 *The Consolidated Wine Act: Scope and Significance*

The Italian laws governing the wine sector are collected in an organic body of rules, known as the Consolidated Wine Act,<sup>44</sup> which has been discussed above, under 2.3. The Consolidated Wine Act represents a codification of Italian laws on wine production and trade that is fully in line with the 2013 wine

42 Federdoc (Confederazione Nazionale dei Consorzi Volontari per la Tutela delle Denominazioni dei Vini Italiani), *I vini italiani a Denominazione di Origine 2018*, <https://www.federdoc.com/new/wp-content/uploads/2018/04/brochure-2018.pdf>.

43 S. A. Conca Messina, S. Le Bras, P. Tedeschi, M. Vaquero Piñeiro, *A History of Wine in Europe, 19th to 20th Centuries*, Volume 11, *Markets, Trade and Regulation of Quality*, Cham Springer International Publishing, 2019.

44 “*TU Vino*”, i.e., the Act of 12 December 2016, no. 238, *cit.*

CMO reform. Though it is commonly referred to as the “Consolidated Wine Act” (*Testo Unico Vino*), in fact it is no such thing. In fact, it should be referred to with its proper title, i.e.: “*Organic set of rules on the cultivation of grapes and wine production and trade*”.

The set of rules governing such matters is subdivided along different levels, that is, on the one side along the European level, consisting of the major regulations brought together in the Single CMO and set out in the international agreements entered into at EU level (which prevail over the Single CMO) as well as of the various implementing provisions issued by the European Commission;<sup>45</sup> on the other hand, the national level consisting of the applicable laws, one of which is the “Consolidated Wine Act”; the Community and national laws implementing provisions issued by the ministry, the implementing circulars. Essentially, grape cultivation laws and wine production and marketing laws are grouped into a set of rules having a pyramid-like hierarchical structure at whose apex we find the Single CMO.

This was an innovation of absolute significance, whereby wine, the vine, the terroirs, the labour and the know-how of the wine sector constitute a national cultural heritage. In Article 1 the law describes wine precisely as a national cultural heritage: “*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*”. (*The wine obtained from grapes, the grapevine and the wine-making territories, as the fruit of labour, skills, know-how, practices and traditions, constitute a national cultural heritage to be safeguarded and enhanced from the standpoints of social, economic, productive, environmental and cultural sustainability*).

However, the real innovation having a most profound effect on the Italian regulatory system for the wine sector lies in the fact that the national lawmaker had traditionally identified the definitions of designation of origin and geographical indication in the provisions of national law. Article 1 of the Act of 10 February 1992, no. 164, which, as mentioned above, replaced Presidential Decree 164 of 1992, which, in its turn, replaced Presidential Decrees of 12 July 1963, no. 930 and of 24 May 1967, no. 506, provides for two specific definitions for musts and wines. Article 3(1)(2) of Legislative Decree 61 of 2010, in fact, specifies that two different versions of the protected designation of origin (PDO)

45 V. Rubino, *La protezione delle denominazioni geografiche dei prodotti alimentari nell'Unione europea dopo il regolamento 1151/2012 UE*, in *Riv.dir.alim.*, n. 4-2013, 4.

should be used for wine, *i.e.*, controlled and guaranteed designation of origin (DOCG) and controlled designation of origin (DOC). The lawmaker specified that DOCG and DOC are the traditional mentions used in Italy to designate PDO wine products, in accordance with EU regulations. This approach was drastically modified with the approval of the Consolidated Act in 2016, in that now the definitions of PDO and PGI are no longer included in the national standard and are only described through a reference to the European regulation.

## 5.2 *The Consolidated Wine Act: Some Key Innovations*

The Consolidated Act unified all the provisions governing designation of origin and geographical indication wines. It was compiled by reorganising in a more coherent manner the provisions introduced by the Decree 61 of 2010, thereby making them easier to understand and comply with. The relative implementing decrees were also revised accordingly, where necessary. The most significant innovations with respect to the previous provisions concerned the issues of “Community Protection – Recognition Procedure – Fundamental Requirements and Management of PDO and PGI Attributes”; a newly introduced clause provided for the possibility for PDO and PGI wines to be labelled provisionally pursuant to the applicable European regulations as of the date of submission to the European Commission of the relative protection or conversion application, provided that the application had been authorised beforehand by the Ministry of Agricultural, Food and Forestry Policies acting in coordination with the Region.

The same provision was included in Article 5 of the Title on “Production Specifications” which details the specification amendment procedures. The Title on the “Management of Production and Market Policies” contains a proposal for the simplification of the execution modalities of organoleptic analyses of CDO wines, by requiring that sample checks be performed solely on designations with an average production volume coming short of a predetermined value.

Pursuant to Article 26, the definitions of designation of origin and geographical indication for wine sector products are those established in Article 93 of Regulation (EU) No 1308/2013.<sup>46</sup> Now, the acronyms «PDO» and «PGI»

46 Pursuant to Article 93 of Regulation (EU) No 1308/2013, “*designation of origin*” is the name of a region, a specific place or, in exceptional and duly justifiable cases, a country used to describe a product referred to in Article 92(1) fulfilling the following requirements: (i) the quality and characteristics of the product are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; (ii) the grapes from which the product is produced come exclusively from that geographical area; (iii) the production takes place in that geographical area; and (iv) the product is obtained from vine varieties belonging to *Vitis vinifera*; on the contrary, a “*geographical indication*”

stand for «protected designation of origin» and «protected geographical indication», respectively, also in the plural form, as provided for by Regulation (EU) No 1308/2013 for wine sector products. The acronyms «DOCG» and «DOC» stand for the traditional «controlled designation of origin» mentions used in Italy for PDO wine sector products. «DO» is used with the same meaning in the «DOCG» and «DOC» acronyms. «IGT» stands for the traditional mention «typical geographical indication», which is the formula, used in Italy for PGI wine sector products. «IG» stands for the «geographical indication» expression contained in the IGT and PGI acronyms.

The wine market CMO, as addressed in Article 34, which then became Article 118b of the Single CMO Regulation and was eventually included in Article 93 of Regulation (EU) 1308/2013, associates the expression DO (“designation of origin”) with the name of a region, a specific place, or, in exceptional cases, a country used to designate a wine; the characteristics of a DO wine must be essentially or exclusively due to a particular geographical environment with its inherent natural and human factors. A PGI wine, instead, must possess quality, reputation or other specific characteristics attributable to its geographical origin; in either case, production must take place in the specific area, but the language used is characterised by subtle but unmistakable differences. In the case of PDO wines, it is possible to mention additional geographic units, smaller than the production zone of the designation, situated inside the production zone and appearing in a list, provided that the product is processed separately and is specified in the annual grape production report to be submitted pursuant to Article 37. These geographical units must be clearly delimited and may correspond to municipalities, districts and administrative areas, as well as clearly defined local geographical areas. These additional geographical units (“*unità geografiche aggiuntive*”) and the relative boundaries must be specified in an ad hoc list in an annex to the production specifications.<sup>47</sup>

In Italy, at present, wines are classified according to a well-defined pyramidal order: starting from the wines without geographical indication, we find the so-called “*varietal wines*”, i.e., wines that may show the name of the grapevine even

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is an indication referring to a region, a specific place or, in exceptional and duly justifiable cases, a country, used to describe a product referred to in Article 92(1) as fulfilling the following requirements: (i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin; (ii) at least 85 % of the grapes used for its production come exclusively from that geographical area; (iii) its production takes place in that geographical area; and (iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between *Vitis vinifera* and other species of the genus *Vitis*.

47 Pursuant article 29(4) of Act of 12 December 2016, no. 238.

though they are not GI wines;<sup>48</sup> moving up we find the protected geographical indication wines, then the controlled designation of origin wines, and, at the top of the pyramid, controlled and guaranteed designation of origin wines.<sup>49</sup>

The so-called “*sottozona*” (sub-zone), that is, an expressly delimited area, possessing environmental or traditionally known characteristics, designated with a specific geographical, historical-geographical or administrative name, and subject to stricter regulations. A sub-zone may be recognised as an autonomous DOC zone and can be promoted to DOCG zone independently of the main DOC zone. Altogether different is the nature of the so-called “geographical unit”, which also defines an area smaller than the production zone, but instead has fixed boundaries and may correspond to municipalities, districts and administrative zones, as well as clearly defined local geographical areas. However, what distinguishes the two cases is that, though it is true that, in either case, the wine product must be described separately in the annual grape production report, while the product of a sub-zone must have an expressly identified character of its own, the wine produced in a geographical unit must simply be declared as coming from that particular unit and entered separately in the grape production report.

## 6 Conclusion

Although modelled after France’s successful AOC system, Italian DOC classification and the higher standard DOCG classification<sup>50</sup> needed a few years

48 It should be noted that a Decree issued on 23 December 2009 by the Ministry of Agricultural, Food and Forestry Policies (National provisions implementing Council Regulation (EC) No 1234/2007 and the Commission’s Implementing Regulation (EC) No 607/2009 regarding the use of PDO and PGI attributes and traditional mentions, and the labelling and presentation of certain products of the wine sector) introduced the so-called varietal wines, that is to say, wines without designation of origin or geographical indication, whose labels bear the year of production and/or the name of one or more grape varieties with which they were produced, without any connection with the place of production being established. The certification is based on a review of the documents conducted to determine whether the optional indications that the producer wants to add to the labels are truthful. The varieties that may appear on the labels of still wines are few: Cabernet Franc, Cabernet Sauvignon, Cabernet, Chardonnay, Merlot, Sauvignon, Syrah; conversely the grapevine varieties that may be specified on the labels of sparkling wines are Moscato, Malvasia, Trebbiano, Pinot blanc\*, Pinot gris\*, Pinot noir\* (\*for non GI sparkling wines only the synonym “Pinot” may be used).

49 This typical Italian category has no counterpart in other national regulations for the wine sector.

50 With the *Indicazione Geografica Tipica* (IGT) to be equivalent to the French *vin de pays*.

before they became a true symbol of quality; there is little doubt that a comprehensive Italian regulation was implemented long after, and was partially borrowed from, the French one. However, the higher standards set by more recent regulations were able to guarantee a quality standard. In the years, this led many producers who previously preferred to work outside the denomination system, even producing wines of a similarly high quality, to join the designation in order not to build their reputation relying on their brand name alone and possibly to take advantage of higher prices and good sales figures based, also, on the DOC/DOCG reputation.

Pending the first effects of the duties, Italian wine continues to grow on foreign markets. According to ISTAT data updated to October 2019 and released on 17 January 2020, Italian wine in the first 10 months of 2019 recorded a 3.6% growth in turnover compared to the same period of 2018, reaching 5.3 billion Euro.<sup>51</sup> In 2019, about 40% of all Italian wine is in DOC and DOCG, about 22% is in IGT, a third is finally table wine. Veneto is the region that produces the most wine, with over 11.3 million hl of which 7.8 of DOC and DOCG. Puglia ranks second, with just over 10.5 million hl composed largely of table wines (7.3 million hl). Piedmont and Trentino-Alto Adige are the two regions where over 90% of the wine produced is DOC or DOCG, while on the other hand Molise, Puglia and Calabria do not reach 10%.<sup>52</sup>

Therefore, 74 DOCG wines and 334 DOC wines currently make up around 40% of Italian wine production and 118 IGP wines make up around 22% of Italian wine production.<sup>53</sup> The most bottled IGP are *Terre Siciliane* and *Veneto*, with minimal quantity differences, followed by *Emilia*, *Puglia Toscana*. *Prosecco* triumphs among the DOC wines, covering alone 23% of the production, followed by *delle Venezie*. *Chianti* is the most bottled DOCG, followed by *Asti* and *Moscato d'Asti*. These figures are not far from the 58,2% market share for French 363 AOP wines and the 33,5% market share for the 74 IGP wines.<sup>54</sup>

On the other hand, it is worth to be mentioned that the evolution of the Italian legislation has led to a very significant use of the resources of the web with the implementation of a register to be held in electronic form, which is still a unique example of such a tool in Europe, allowing a remote control on

51 ISTAT, <https://www.istat.it/it/archivio/esportazioni>; also, <http://www.inumeridelvino.it/tag/dati-istat>.

52 <http://www.wineacts.it/19-notizie/statistiche/2156-la-produzione-2019-per-regione.html>.

53 Data from *Corriere Vinicolo*, in partnership with *Osservatorio del vino*, *Annuario Statistico sul Mondo del Vino*. 10th edition. See also <http://www.wineacts.it/19-notizie/statistiche/2156-la-produzione-2019-per-regione.html>.

54 <https://www.inao.gouv.fr>; <https://www.vitisphere.com>; see also M. Roumegoux, *Plan Stratégique de valorisation de la filière vitivinicole Française à l'Horizon 2020*.

the stored wines and circulation between wineries of wine products. MVV supporting documents and mandatory communications and declarations can also be made directly online using certain computer programs connected to the on-line register. Thanks to these systems it is now possible to know monthly the details of the stocks of wine products in Italian wineries providing a fundamental information for the regulation of the market itself. At least in this sector, it therefore seems that Italy has been able to draw on the experience of other European countries and especially of France which, let us recognize it, has the merit of having first outlined the guidelines of wine legislation.

### Annex 1

The Act of 12 December 2016 No. 238, laying down a comprehensive set of rules on the cultivation of vines and the production and trade of wine (as amended by the Legislative Decree of 30 December 2016 No. 244, converted into the Act of 27 February 2017 No. 19, the so-called “*Consolidated Law on Wine*”) has provided for a number of decrees of application (*i.e.*, pieces of subsidiary legislation) aimed at completing the regulatory framework with the implementing provisions of the principles and requirements contained therein. Some of those are material in order to operationalize the will of the legislator, such as the decree on the *State Seal* (alternative systems), the decree on historic or heroic vineyards, the decree on the autochthonous Italian grape variety and the like. A certain delay in implementing all of them in fact renders the action of the Consolidated Law on Wine incomplete. Here below the decrees having been already adopted.

#### *Implementing Decrees (in a chronological order)*

*Decree of 12 January 2017* – Decree vesting into ICQRF offices heads the power to impose the administrative sanctions provided for by the Act of 12 December 2016, no 238 Title VII.

*Decree of 30 March 2017* – Definition of the scope of the provisions concerning the incompatibility criteria for the appointment and activity of the national committee on PDO and PGI wines referred to in article 40 of the Act of 12 December 2016, No 238.

*Decree of 21 June 2017* – Prohibition of the use of pieces of oak wood in the wine-making and aging of Italian PDO wines as set forth by article 23 of the Act of 12 December 2016, No 238.

*Decree of 22 June 2017* – Provisions for keeping a dematerialized register of loading and unloading of vinegars, as set forth by article 54 of the Act of 12 December 2016, No 238.



- Decree of 7 July 2017* – Implementing rules for article 24, 5th§, of the Act of 12 December 2016, No 238 concerning the methods of traceability in wineries where products deriving from wine grapes and from grapes from vine varieties not registered as wine grapes in the register of vine varieties.
- Decree of 14 July 2017* – Seventeenth revision of the list of traditional agri-food products pursuant to article 12, § 1, of the Act of 12 December 2016, No 238.
- Decree of 10 August 2017* – Limits of some components contained in wines, pursuant article 25 of the Act of 12 December 2016, No 238.
- Decree of 6 September 2017 (with annexes)* – Provisions for keeping a dematerialized register of loading and unloading of sugary substances as set forth by article 60 of the Act of 12 December 2016, No 238.
- Decree of 6 September 2017* – Regulations on storage in cellars and wineries of grape must having a natural alcoholic strength of less than 8 per cent by volume, without the required denaturation, pursuant article 15, § 1, g), as well as article 17, § 1, first sentence, of the Act of 12 December 2016, No 238.
- Decree of 25 September 2017* – Regulations on denaturation of certain wine products, certain substances deriving from carrying on permitted oenological practices as well as ciders and other alcoholic fermenters other than wine which have undergone acetic fermentation or are in the process of acetic fermentation, pursuant the EU provisions as well as the Act of 12 December 2016, No 238.
- Decree of 9 November 2017* – Rules on wine competitions, pursuant article 42, § 3, of the Act of 12 December 2016, No 238.
- Decree of 16 February 2018* – Updating of the national list of traditional agri-food products pursuant to article 12, § 1, of the Act of 12 December 2016, No 238.
- Decree of 8 May 2018* – Regulations on organic wine products, pursuant article 20 of the Act of 12 December 2016, No 238.
- Decree of 18 July 2018* – Control and surveillance system for wines that do not have a protected designation of origin or a protected geographical indication and are designated with the vintage and the name of the vine varieties, pursuant to article 66 of the Act of 12 December 2016, No 238.
- Decree of 18 July 2019* – National provisions implementing the EU Delegated Regulation 2018/273 and the EU Implementing Regulation 2018/274 of the Commission of 11 December 2017, concerning the declarations of the harvest and wine production.
- Decree of 18 July 2018* – General provisions on the establishment and recognition of consortia for the protection of designations of origin and geographical indications of wines.
- Decree of 25 July 2018* – National provisions implementing the EU Delegated Regulation 2018/273 and the EU Implementing Regulation 2018/274 of the



Commission of 11 December 2017, concerning the declarations of stock of wines and musts.

*Decree of 2 August 2018* – System of checks and surveillance on DO and GI wines, pursuant to article 64 of the Act of 12 December 2016, No 238.

*Decree of 12 March 2019* – Discipline of the analytical tests for PDO and PGI wines, of the organoleptic tests and of the activities of the tasting commissions for PDO wines and of the financing of the activities of the appeal tasting committee.

*Decree of 27 February 2020* – Decree, pursuant article 48, § 9, of the Act of 12 December 2016, No 238 laying down certain characteristics, terms, methods for the manufacture, use, distribution, control and cost of the labels for wines with a controlled and guaranteed designation of origin and a controlled designation of origin, as well as certain characteristics and application methods for alternative control and traceability systems.

*Decree of 10 March 2020* – Act of 12 December 2016, No 238, article 10 § 4, derogation from fermentations and re-fermentations outside the harvest period for wines with designation of origin and geographical indication and for particular wines including raisin wines and wines without geographical indication. Wine campaign 2019/2020.

*Existing Decrees (to be replaced)*

*Decree of 16 December 2010* – Implementing rules for the legislative decree of 8 April 2010, No 61 (*now, the Act of 12 December 2016, No 238*), on the protection of designations of origin and geographical indications of wines, as regards the regulation of the vineyard register and the annual claim for production.

*Decree of 13 August 2012* – National provisions implementing the regulation n. 1234/07 (*now regulation 1308/2013*) of the Council, of implementing regulation No 607/09 of the Commission (*now, regulation 33/2019*) as well as of the legislative decree No 61/10 (*now, the Act of 12 December 2016, No 238*), as regards PDOS, PGIs, traditional terms, labelling and presentation of certain products in the wine sector.

*Decree of 7 November 2012* – National level procedure on presentation and examination of applications for the protection of PDO and PGI of wines and modification of the specifications, pursuant to regulation No 1234/07 (*now, regulation No 1308/2013*) and legislative decree No 61/10 (*now, the Act of 12 December 2016, No 238*).

*Decree of 22 July 2015* – Establishment of the single register of inspections on agricultural undertakings.