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Wine Labelling: Future Perspectives

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At the beginning of July 2007, the Commission presented a “Proposal for a Council Regulation on the common organisation of the market in wine and amending certain Regulations”.¹ This document is part of the continuing Common Agricultural Policy (CAP) reforms of 2003². It takes into account Community policies related to sustainable development, agreed at the Göteborg European Council, on greater competitiveness in the relaunched Lisbon Strategy and on Simplification and Better Regulation for the CAP.

I. Introduction

The Commission’s proposal nearly covers all the aspects of the pre-cited common market organisation (CMO). Nevertheless, in the present paper we exclusively refer to the measures that are foreseen in the said document related to the labelling and, in this field, we will also briefly analyse the references made to the designations of origin and geographical indications of wines [which is dealt with in Chapter III of Title III (“Regulatory measures”) of the proposed Regulation]³.

Before delving further into the topic, it is worth underlying that one of the Commission’s planned objectives is precisely to achieve a clearer, more coherent and therefore more market oriented wine classification and labelling. Moreover, we would like to remind that the said Community Institution [bearing in mind that the concept of EU quality wines is based upon a geographical origin approach (quality wine produced in a specific region), and that this approach is currently being confirmed, adapted, promoted, and enhanced worldwide] already announced in the Communication “Towards a sustainable wine sector”⁴ its intention to “... revise the current quality regulatory framework, with a view to enhancing the conformity of EC quality policy as regards international rules”⁵.

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1 COM(2007) 372 final of 4th July 2007.

2 See the epigraph No 1 of the “Explanatory memorandum” of the document COM(2007) 372 final quoted in the previous footnote.

3 Therefore, we will not analyse here the provisions relating to oenological practices [articles 20, 21, 22, 23, 24, 25 and 26 of the proposed text in Document COM(2007) 372 final quoted in note 2 supra], which, probably, will be the object of a future monographic study.

4 COM(2006) 319 final of 22nd June 2006 (see, on this Communication: SEGURA RODA, “Las nuevas propuestas de la Comisión relativas al etiquetado del vino”, *Revista de Derecho Alimentario*, No 17, 2006, 16-21).

5 See paragraph 6.3 of the document COM(2006) 319 final quoted in the previous footnote [although SEGURA RODA (in “Denominaciones de origen de los vinos europeos: ¿comunitarizar o no comunitarizar?”, *Gaceta del InDeAl*, Vol. 9, n. 11, 2007, 22-23) believes that the real objective is to reinforce the conformity of the varied (and often absurd) domestic norms in the field with the Community policy in question.

6 Directive of the European Parliament and of the Council of 20th March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6th May 2000, p. 29).

II. Labelling

1. Establishing a unique framework

The Commission proposes to simplify the labelling provisions by setting up a single legal framework applying to all the different categories of wine and particulars relating to them. It would be tailored to the expressed needs of consumers and more consistent with the wine quality policy. In particular, this would involve:

- transferring the competence from the Council to the Commission;
- using a single legal tool for all wines by complementing the rules in the horizontal labelling Directive 2000/13/EC which horizontally regulates the labelling of food products⁶ as appropriate to meet the particularities of the wine sector as regards compulsory and optional labelling needs;

- improving the flexibility of the labelling policy, in taking into account the WTO policies: by removing the distinction between the rules on labelling wines with and without geographical indications, and, most importantly, facilitating the indication of vine variety and vintage on wines without geographical indication status but which abide by certain requisites on appropriate traceability; and
- ensuring health and consumer information and protection, fully informing the consumer of the origin of the product, which will imply the adoption of labelling provisions on traceability⁷.

2. Definition of labelling

In Article 47 of the Regulation proposed by the Commission, labelling is defined as “any words, particulars, trademarks, brand name, pictorial matter or symbol placed on any packaging, document, notice, label, ring or collar accompanying or referring to a given product”. The fact that the proposed text does not refer to the definition appearing in Directive 2000/13/EC (whose applicability is confirmed in Article 48⁸) could be considered as an inconsistency which will hinder the transposition on wine labels of such effective concepts as the presentation inherent to labelling, etc.

3. Compulsory information

Labelling of the products abiding by the future Regulation shall contain the following compulsory particulars:

- the category of the grapevine product (wine, liqueur wine, sparkling wine, aerated sparkling wine, etc.⁹);
- the actual alcoholic strength by volume;
- an indication of provenance of the wine;
- an indication of the bottler; and
- an indication of the importer in the case of imported wines.

For wines the labels of which include the protected name of a designation of origin or geographical indication, it would be compulsory to specify:

- the terms protected designation of origin or protected geographical indication; and
- the name of the protected designation of origin or protected geographical indication in question.

In the case of these wines, the reference to the category of the grapevine product may be omitted when the name of the protected designation of origin or protected geographical indication is displayed on the label.

However, it will not be necessary to include the terms protected designation of origin or protected geographical indication in the following cases:

- where a national specific designation as regulated by national law is displayed on the label; and
- where, in exceptional circumstances¹⁰, the name of the protected designation of origin or protected geographical indication is displayed on the label.

4. Optional information

According to Article 50 of the Regulation proposed by the Commission, some labels may contain the following optional particulars:

- the vintage year;
- the name of one or more wine grape varieties;
- terms indicating the sugar content; or
- terms referring to certain production methods;

For wines with the protected designation of origin or geographical indication, some labels may include references to:

- traditional terms other than the designations of origin and geographical indications which des-

7 See Recital No 73 of the proposed Regulation in the document COM(2007) 372 final quoted in note 2 supra, in which it is stated that “in order to provide for a satisfactory level of traceability of the products concerned, in particular in the interest of consumer protection, provision should be made for all the products covered by this Regulation to have an accompanying document when circulating within the Community” (our emphasis).

8 Which states that «save as otherwise provided for in this Regulation, Directive 2000/13/EC, Council Directive 89/396/EEC [of 14th June 1989, on indications or marks identifying the lot to which a foodstuff belongs (OJ L 186, 30th June 1989, p. 21)], Council Directive 75/106/EEC [of 19th December 1974 on the approximation of the laws of the Member States relating to the making-up by volume of certain pre-packaged liquids (OJ L 324, 16th December 1975, p. 31)] and Council Directive 89/104/EEC [of 21st December 1988, to approximate the laws of the Member States relating to trademarks (OJ L 40, 11th February 1989, p. 1)] shall apply to the labelling of products falling within their scopes».

9 See Annex IV of the Regulation proposed in the document COM(2007) 372 final quoted in note 2 supra.

10 Which will be determined pursuant to the Management Committee's procedure [see Articles 49.3(b) and 104.1 of the proposed Regulation in the document COM(2007) 372 final quoted in note 2 supra].

- designate the production or ageing method or the characteristics, colour, type of place of the wine concerned; or
- the Community symbol indicating the protected designation of origin or geographical indication.

It is remarkable that whilst in Regulation No 510/2006¹¹ the Community symbols associated with the protected designation of origin or geographical indication are included in the compulsory particulars (when the names of the “protected designation of origin” or “protected geographical indication” are not displayed on the label¹²), such a symbol is merely optional for wines...

5. Languages

The topic of “Languages” is dealt in Article 51, which provides that «compulsory particulars [...] shall, where expressed in words, appear in one or more of the official languages of the Community”. However, “the name of a protected designation of origin or geographical indication or the national specific designation shall appear on the label in the official language or languages of the Member State where the wine originates”¹³.

This provision raises certain doubts over the possible movement of wines bearing indications, which are incomprehensible for consumers of the

Member State in which they are marketed. We suppose the Council will amend it.

III. Indication of the geographic origin

1. A new approach

The Commission’s new approach in this field is in line with the general objectives set forth to change the wine sector’s Community regime by proposing to:

- consolidate the reputation of Community quality wine as the best in the world¹⁴; and,
- recover old markets and winning new ones in the Community and worldwide; and,
- create a wine regime that operates through clear, simple and effective rules that balance supply and demand; creating a wine regime that preserves the best traditions of Community wine production, reinforcing the social fabric of many rural areas, and ensuring that all production respects the environment.

2. And new definitions...

Recital No 24 of the Commission’s proposed Regulation insists that the concept of quality wines in the Community is based, among other things, on the specific characteristics attributable to the wine’s geographical origin. Moreover, “such wines are identified for consumers via protected designations of origin and geographical indications although the current system is not fully developed in this respect”¹⁵¹⁶.

The alternative system proposed by the Commission is fundamentally based upon the common notions of designation of origin and geographical indication, which are defined in Article 27.1 of the abovementioned Regulation as follows:

- designation of origin: the name of a region, a specific place or, in exceptional cases, a country used to describe a wine, a liqueur wine, a sparkling wine, an aerated sparkling wine, a semi sparkling wine or a wine of overripe grapes that complies with the following requirements:
 - i) its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;

11 Council Regulation (EC) of 20th March 2006, on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 93, 31st March 2006, p. 12). Please note that the quoted Regulation has been repealed and substituted the Council Regulation (EEC) No 2081/92, of 14th July 1992, on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 208, 24th July 1992, p. 1). See, about Regulation No 510/2006: GONZÁLEZ VAQUÉ, “Indicaciones geográficas y denominaciones de origen: interpretación y aplicación del nuevo Reglamento n° 510/06”, *Derecho de los negocios*, No 193, 2006, 5-16; and LÓPEZ ESCUDERO, “La protección de las denominaciones geográficas en la UE – situación y perspectivas tras la adopción del nuevo Reglamento 510/2006”, *Revista de Derecho Comunitario Europeo*, No 24, 2006, 355-400.

12 See Article 8.2 of the Regulation No 510/2006 quoted in the previous footnote.

13 See also Article 50 of the proposed Regulation in the document COM(2007) 372 final quoted in note 2 supra.

14 Sic in the fifth Recital of the proposed Regulation in the document COM(2007) 372 final quoted in note 2 supra.

15 Our emphasis.

16 See also Recital No 24 of the proposed Regulation in the document COM(2007) 372 final quoted in footnote 2.

- ii) the grapes from which it is produced come exclusively from this geographical area;
 - iii) it is obtained from vine varieties belonging to *Vitis vinifera*.
- Geographical indication: an indication referring to a region, a specific place or, in exceptional cases, a country, used to describe a wine, a liqueur wine, a sparkling wine, an aerated sparkling wine, a semi sparkling wine or a wine of overripe grapes which complies with the following requirements:
- i) its quality, characteristics or reputation are essentially attributable to its geographical origin;
 - ii) at least 85% of the grapes used for its production come exclusively from this geographical area;
 - iii) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.

Yet, according to Article 27.2:

“Traditional names shall be considered as a designation of origin where they:

- a) designate a wine;
- b) refer to a geographical name;
- c) fulfil the conditions referred to in points (i) to (iii) of paragraph 1(a)¹⁷”.

3. Coexistence of new and old designations

Brevitatis causa, we shall not deal with the various procedural requirements to comply with when filing an application for the protection of certain names by means of including them in the category of Community designations of origin or geographical indications¹⁸.

In any case, we consider it useful to refer to Article 44 of the future Regulation, according to which:

- “1. Wine names, which are protected in accordance with Article 54 of Regulation (EC) No 1493/1999¹⁹ and Article 28 of Regulation (EC) No 753/2002²⁰, shall automatically²¹ be protected under this Regulation. The Commission shall list them in the register provided for in Article 39.
- 2. Member States shall, in respect of the designations of origin and geographical indications referred to in paragraph 1, transmit to the Commission:

- a) the technical files as provided for in Article 28(1);
 - b) the national decision indicating their validity.
3. Names referred to in paragraph 1, for which the information referred to in paragraph 2 is not submitted by 31 December 2010, shall lose protection under this Regulation. The Commission shall take the corresponding formal steps to remove such names from the register provided for in Article 39.
4. By way of derogation from Article 43, it may be decided, until 31 December 2013, on the initiative of the Commission and in accordance with the procedure referred to in Article 104(1), to cancel protection of designations of origin or geographical indications referred to in paragraph 1 of this Article if they do not meet the relevant conditions for protection”.

IV. Conclusion

It is surely too early as yet to reach definite conclusions. However, we consider it praiseworthy that, at last, it is a question of eliminating “differences between the laws of the Member States on the labelling of wine products [which] may impede the smooth functioning of the internal market”²². Furthermore, it appears coherent that the applicability, with horizontal character, of Directive 2000/13/EC should be maintained, considering that, “experience has shown that a differentiation in

17 In other words, its quality, characteristics or reputation are essentially attributable to its geographical origin, with its related natural and human characteristics; the grapes used for its production come exclusively from this geographical area; and is obtained from vine varieties belonging to *vitis vinifera*.

18 See: MARTÍNEZ JAVALAMBRE, “El futuro de las denominaciones de origen e indicaciones geográficas de los vinos en la UE: la Propuesta de la Comisión Europea”, ReDeco, No 14, 2007, 14-15.

19 Council Regulation (EC) of 17th May 1999 through which is established the common organisation of the market in wine (OJ L 179, 14th July 1999, p. 1).

20 Commission Regulation (EC) of 29th April 2002, laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products (OJ L 118, 4th May 2002, p. 1).

21 Our emphasis.

22 See Recital No 35 of the proposed Regulation in document COM(2007) 372 final quoted in note 2 supra.

terms of labelling rules according to the category of wine product is not expedient²³.

If the communautarisation of wine labelling is welcomed, the one of the regime applicable to designations of origin and geographical indications is equally suitable. As far as the latter is concerned,

23 Ibidem, Recital No 38.

24 Ibidem, Recital No 27.

25 Ibidem, Recital No 25 (see also: MARTÍNEZ JAVALAMBRE, op. Cit. note 18 supra, 16-17).

the Commission's proposal presents several positive aspects such as, for instance, foreseeing that "protection should be open to designations of origin and geographical indications of third countries where these are protected in their country of origin"²⁴. On the contrary, some authors have criticised the fact that the Commission believes that "in order to preserve the particular quality characteristics of wines with a designation of origin or a geographical indication, Member States should be allowed to apply more stringent rules in that respect"²⁵.