



HAL
open science

Adapting GI regulation to the pluralistic interpretations of origin quality

Geneviève Teil

► **To cite this version:**

Geneviève Teil. Adapting GI regulation to the pluralistic interpretations of origin quality. 145th EAAE Seminar, “Intellectual Property Rights for Geographical Indications: What is at Stake in the TTIP?”, EAAE - European Association of Agricultural Economists, Apr 2015, Parme, Italy. hal-04182087

HAL Id: hal-04182087

<https://hal.inrae.fr/hal-04182087>

Submitted on 17 Aug 2023

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Adapting GI regulation to the pluralistic interpretations of origin quality

145th EAAE Seminar, Parma, 2015

Geneviève Teil, INRA SAD APT, Paris

Tpt 1 AOCs and terroir

It's quite common to speak of AOC as heritage, this was also a main argument in Joseph Capus.

Yet what kind of heritage do AOCs refer to?

J. Capus said while arguing in favour of the 1935 AOC law on « controlled denominations of origin » - the AOCs, that AOCs :

(« According to M. Jenouvrier's report, denominations of origin would be the collective property of the vintners of the denomination area. It is more accurate to say that they)

...belong to national heritage. Therefore the State has the same rights and duties regarding them than regarding certain historical sites or monuments for instance, protected by a specific legislation.¹ » (Capus, 1947): 37

~~Because of this heritage character, a Bandol or Champagne has to be protected from "copies".~~

Yet what kind of heritage is under this name? It's a name, but not just a name; it designates a kind of wine. But it's not material, like a church or a forest; it's neither immaterial like an idea or a practice.

AOCs heritage is also called « terroir ».

The notion of terroir is framed by a small series of definitions, which try to delimit what terroir is.

“A **delimited geographical** space in which a human community builds through time a **collective understanding** of production based on a system of **interactions** between a **physical and biological environment** and a set of **human factors**” (UNESCO's definition)

But what kind of heritage goods are terroir products?

A recent conflict within the AOCs helps answer this question.

¹ « Selon la théorie développée dans le rapport “Jenouvrier” [...], les appellations d'origine seraient la propriété collective des viticulteurs de la région d'appellation. Il est plus juste de dire qu'elles font partie du patrimoine national et qu'à leur égard, l'Etat a les mêmes droits et les mêmes devoirs, par exemple, qu'à l'égard de certains sites et des monuments historiques, protégés par une législation particulière. » (Capus, 1947) : 37

Tpt 2 A terroir crisis in French wine AOCs

At the end of the 20th century, a conflict starts to grow within AOCs.

In order to be allowed to bear the AOC name, AOC wines have to pass an approval tasting.

This annual approval tasting was often judged to be lax, on the grounds that it rejected only very few of the presentedⁱ wines. In the early 2000s, however, it begins to exclude for “non-typicality” producers who are renowned for being strongly committed to the expression of terroir in wines.

Rather than blaming the typicality of their wines, on the contrary, the “rejected” vintners challenge the competence of juries to recognise the expression of terroir. They see their rejection as a sign of various “shifts” that they have been pointing out for several years in the interpretation of terroir quality and AOC regulations.

The approval tasting is not an exam; it aims to guarantee the gustative quality of the AOC's wines by highlighting faults or discrepancies in style deemed too significant. Thus, whenever possible, juries add to their “defect” or “non-typical” rejection verdicts practical advice on treating the wines to render them consistent with the AOC's wines at a next tasting.

However, at the risk of marketing their production as simple “table wine” and great loss of money, the vintners in question refuse any “doctoring” of their wine, because this *adulterate* it and make it lose its terroir expression.

A divergence in terroir quality understanding is developing, which opposes vintners and later retailers, wine drinkers, journalists, wine critics... All of them fear dangers threatening AOC quality; yet the dangers are not the same for all of them.

It's difficult to give them a name, let's call them side 1 and side 2 vintners

Tpt 3 A terroir crisis in French wine AOCs: Side 1

On side 1, vintners denounce dangerous shifts in the understanding of terroir quality.

- There is a technical shift they say: the use of new vine-growing and most of all of new wine-making practices, which allow hundreds of foreign products to be added to the grape juice, are concealing terroir expression
- There is also a commercial shift: Market pressure has become too strong for producers who cannot put forward their quality as a differentiation. Therefore they try to adjust their terroir quality to the quality, which sells the best. Demand likes wooden taste? So they pressure AOC regulation in order to include the possibility of adding cheap oak shavings and chips to the wine in order to aromatize it.
- There is also a third shift, a technico-commercial shift: In well-known AOCs, sales depend on wine critics marks. In this case, terroir quality is shifting, thanks to technology, to fit famous « critic tastes » leaving aside any notion of « terroir ».

→ Because of these shifts, the members of the juries are no more able to distinguish the terroir voice in the wine.

→ According to these side 1 vintners, the very *notion* of terroir has been lost. And the production of terroir wine requires now an intense search for terroir, and the meticulous gathering of its traces.

- There is a need for a reform
 - Practices must be better controlled to ensure terroir expression. All practices leading to the wiping out of the terroir expression must be carefully supervised if not forbidden.
 - Typicity definition must be opened, because vintners do not know anymore what terroir expression is. It has become a quest. And as each quest, if you frame it too much, you may impede it from achieving its goal

They add : Of course there is a threat: the search for terroir may lead to undesirable routes

- Good terroir friendly practices can lead to oxidized wines
- Fermentation can start again in sulphite low wines and induce a loss of the fragile terroir expression
- So OK, typicality must be controlled, but in a very open manner. Only main defects must be checked out.

Tpt 4 A terroir crisis in French wine AOCs: Side 2

On side 2, the vintners point out the loss of identity in the AOC production. The world is transforming: techniques, markets, climate, etc. change. The way each vintner adapts in order to run its farm induces variability in the wines qualities threatening the AOC identity, which has to be reinforced and better guaranteed.

Side2 vintners too think a reform of the regulation is necessary, yet with different orientations

- Innovation must be framed and controlled through a quality test
- Approval tasting is required to guarantee the AOC identity
 - But yes, the approval tasting has to be improved

Tpt 5 Two contrasting views on quality framing

As you can see, all these vintners agree regarding the need for a reform, yet they do it from very different points of view.

- Side 1: terroir expression has to be reinforced
 - Practices need to respect terroir and terroir expression
 - The typicity control must be vague enough so as to allow for a rediscovery of the AOC terroir identity
- Side 2: typicity must be better controlled so as to ensure AOC's identity
 - Practices have to allow vintners to produce the expected quality
 - Typicity has to be better defined and controlled so as
 - To make wines recognizable by consumers
 - To allow for a precise conformity test

Tpt 6 Two different viewpoints on AOC heritage

These diverging views on AOC quality, and quality regulation can also be related to two different interpretations of AOC heritage and therefore two different interpretations of intellectual property rights.

Tpt 7: Side 1: Terroir and vintner as co-authors of wine quality

For the side 1 vintners who see terroir as a quest, terroir wines are achieved every new vintage by skilled vintners aiming at fostering the vineyard expression in the wine;

This is achieved by carefully eliminating all practices, which could potentially limit or impede the vineyard expression. They often resort to environment-friendly practices, which are also supposed to be terroir-friendly.

Let's resort to a musical analogy

- Musical analogy

In classical music for instance, music results from a double contribution where a performer plays the music written by a composer.

In our terroir wine case, we can see Side1 terroir vintners as playing the terroir score written by the vineyard. They have to be respectful of the various nuances of the score and attentive not to adulterate it by their playing.

The resulting wine is the result of the vineyard and vintner **creativity**

→ Both vineyard and vintner are **authors** of the AOC quality wine

Tpt 8: Side 2: The vintner as the reproducer of terroir quality

In this second case, wine production is no more a ~~creative production~~.

The quality protected by the AOC is a historical past achievement.

- The AOC quality is the result of the **good reproduction** of a **relatively predefined and acknowledged quality**

Let's resort now to a painting analogy

- Like a copyist who reproduces a master exemplar, the vintner dedicates itself to produce a good copy of the original terroir quality
- The vineyard provides a specific raw material. It is no more a creative contributor
- The resulting quality **can and has to be verified** to make sure the copy is good enough.

Tpt 9: AOC quality as « heritage »?

Wines are perishable goods. The heritage they represent as AOC has to be continuously produced.

The nature of this production is different according to side 1 or 2.

- Side 1: AOC quality heritage has to be produced in the sense of created
 - Wine is like an artistic good; its quality depends on the interpretation of the physical terroir (vineyard) by the vintner performer
- ➔ AOC Intellectual property is that of the author over its creation, with this peculiarity: the vintner has to share the authorship with his vineyard, something that could need an appropriate legal arrangement
 - The wine quality evaluation resorts to a complex collective appreciation procedure
- Side 2: AOC quality heritage has to be reproduced
 - The quality of the reproduction depends on the similarity of the resulting wine with the original
- ➔ AOC Intellectual property: there is no author of terroir quality left
 - AOC vintners are awarded operating rights over the heritage
 - AOC vineyards are exclusive suppliers of grapes
 - In this later case, quality evaluation can be performed through a conformity test

Tpt 10: A The 2008 AOP reform

Let's have a look at the 2008 European AOP reform.

The ancient AOC regulation has been changed in order to propose a better quality guarantee to the consumer.

1. The former list of practice specifications has been replaced by a farm accreditation, which ensures that the practices are terroir-respectful
2. Then vintners were asked to provide a description of the wines' (z) « link to terroir », that is to explicit what makes the AOP quality specific to the wines of the AOP.
3. Third point, they also had to agree on a list of criteria defining the typicity of their AOP wines in order to set up a conformity test of the quality

This is where the very difficulties started, because they all were unable to find an agreement on typicity definition.

For Side 2 vintners, a detailed and precise list of criteria was a condition for a good quality control; for side1 vintners, it was an obstacle to the search for terroir.

The 2008 reform revived the controversy between the opponents, each trying to get the upper hand.

➔ BUT do we really have to **choose** one interpretation of AOP heritage over the other?

Let's try to imagine the consequences of one or the other choice

Tpt 11: A difficult choice

If we were to choose the side 2 interpretation, AOP as the reproduction of a masterpiece,

- AOP regulation would aim at strictly framing innovation so as to ensure the reproduction stability and recognition
- Yet the AOP threatens to become very conservative, unable to adapt to a changing world

If on the contrary we opt for side 1 and the continued search and reinvention of terroir,

- AOP maintains its capacity for adaptation and renewal
- BUT one might fear a scattering of the AOP wine style over an uncontrolled multitude of heterogeneous terroir interpretations.

So what's the solution?

There is not ONE solution.

AOPs require a variety of contributions to carry on

A solution could be to organise the coexistence with these both contrasting but mutually supporting interpretations

Tpt 12: Towards coexistence

But there is one problem left.

- In Side 2 view, reproduction of a masterpiece,

Quality evaluation is performed through a conformity test

Yet this quality proof is unsuited to the creative production of side 1 vintners.

For these vintners, quality evaluation resorts to a complex appreciation procedure

- Such a quality proof already exists, it's the wide critical collective appreciation performed by all the interested wine drinkers.

This collective procedure, which has neither start nor end, is unsuited for an AOP qualification proof.

Yet it can be simulated by a wine jury, which would aim just as any artistic jury, to appreciate the rightfulness of the terroir interpretation performed by each side 1 vintner.

So finally, the controversy on terroir could find a way out in organizing the coexistence within the same AOP of two contrasting interpretations of AOP heritage and intellectual property.

References

Capus, J., 1947. *L'Evolution de la législation sur les appellations d'origine ; Genèse des appellations contrôlées*. INAO- Editions Louis LARMAT, Paris.

INAO, 2005. *Rapport d'activité 2004-2005*, rapport pour INAO.

ⁱ This lack of severity from approval juries is mentioned in Information Report n° 349 (2001-2002) by Gérard CÉSAR, for the Economic Affairs Committee *L'avenir de la viticulture française: entre tradition et défi du Nouveau Monde*, which notes only a few percent of rejections each year. This accusation, still contested by the INAO (interview with an INAO representative); *Rapport d'activité 2004-2005* de l'INAO, 2005. *Rapport d'activité 2004-2005*, rapport pour INAO. indicates that over 10% of wine samples are rejected. (p. 44).