

# Voluntary certification systems in the EU wine sector: How to recognise quality and be safe from confusion

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**Abstract.** In recent years there has been a significant growth in voluntary certification schemes field in wine sector, by following a general trend that has characterised agricultural products and foodstuffs. The voluntary certification system is aimed at adding value to products, while differentiating it on the related market. The paper presents the preliminary results of a work-in-progress research on the voluntary certification schemes in the Italian wine sector. Through a case-study analysis, the paper is aimed at highlighting the emerging implementation issues. The scope of the case-studies is limited to three voluntary certification schemes, which underlie similarities with the organic wine farming and operate at business-to-consumer level. The paper is divided in three parts. Part I will examine the relevant legal framework on wine quality standards, by framing the legislation in mandatory, regulatory and voluntary. Part II will consider three case-studies of voluntary certification schemes that are implemented in the Italian wine sector. Part III will analyse the emerging issues that arise from the analysis of the case-studies. In conclusion, the paper highlights the key challenge, which concerns finding a trade-off between consumer protection and the promotion of free trade in an openly competitive market.

## 1. Introduction

In recent years there has been a significant growth in voluntary certification schemes field in wine sector, by following a general trend that has characterised agricultural products and foodstuffs [1].

In terms of benefits, producers are likely to enjoy increasing market access, market share and a reduction in transaction costs. Consumers, on the other side, will potentially make informed choices as long as the provided information is reliable and trustworthy.

However, some stakeholders have highlighted the drawbacks behind certification schemes. These include threats to the single market, questions on the transparency of the scheme specifications and the credibility of the claims, and further costs and burdens on farmers. In addition, specific legislation exists for many subjects covered also by voluntary certification schemes, such organic farming, animal welfare, environmental protection.

Against this background, the paper presents the preliminary results of a work-in-progress research on the voluntary certification schemes in the EU wine sector. Through the analysis of three case-studies on the Italian context, the paper is aimed at highlighting the emerging implementation issues. The scope of the case-studies is limited to three voluntary certification schemes, which underlie similarities with the organic wine farming and operate at business-to-consumer level.

The paper is divided in three parts. Part I will delineate the relevant legal framework in relation to quality standards of the wine sector, framing the legislation in mandatory, regulatory and voluntary. Part II will consider three case-studies of voluntary certification schemes that are

implemented in the Italian wine sector. Part III will analyse the emerging issues that arise from the analysis of the case-studies.

In conclusion, the paper highlight the key challenge, which concerns finding operative ways to balance consumers protection and the promotion of free trade in an openly competitive market.

## 2. EU law on wine sector

The wine sector legislation is constituted by a multi-level regulation, which includes international, European, national and regional legislation [2]. It includes different legal areas, such as hygiene and safety regulation, food law, competition law and trademark regulation. Without the intention to be exhaustive, the paper draws the relevant legal basis for the analysis of the case-studies, as discussed under Sect. 3. The legal framework is divided into mandatory, regulatory and voluntary rules.

### 2.1. Mandatory EU regulations in wine sector

Historically, the general aim of food labelling was to assure a high level of food safety, while aspects of consumer's protection were regulated under the framework of competition regulations [3]. However, EU legislation on food labelling changed over time. Food labelling now emerges as a direct tool of communication between producers and consumers [4]. On the one hand, the producer can provide information regarding the marketed products, such as specific values and characteristics [5]. On the other hand, the consumer has the chance, during the purchase process, to

receive information on the product and make a choice on the basis of the personal needs and preferences [5,6].

Regulation No. 1169/2011 sets out the rules on the provisions of food information to consumers. Under the article 2.(1), Regulation No. 1169/2011 defines labelling as any words, particulars, trademarks, brand name, pictorial matter or symbol relating to a food and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such food. Under its preamble paragraphs, Regulation 1169/2011 states that in many cases voluntary food information is provided to the detriment of the clarity of the mandatory food information [7]. Therefore, it recognises that specific criteria are necessary in order to establish a balance between the provision of mandatory and voluntary information.

Regulation No. 1169/2011 needs to be harmonised with Regulation No. 1308/2013 on common organisation of the markets in agricultural products, which provides rules on the labelling and presentation in the wine sector [8]. Under article 120, Regulation No. 1308/2013 provides a list of voluntary particulars that a wine labelling may contain.

Under article 36, Regulation 1169/2011 requires that information should not mislead the consumer, not be ambiguous or confusing for the consumer and, where appropriate, be based on relevant scientific data. Voluntary food information has to not be displayed to the detriment of the space available for mandatory food information [9]. It is worth noting that it does not provide positive indications in relation to voluntary information.

Relevant literature argues that an extension of mandatory food information does not facilitate the consumers in making an informed choice, but it may generate the risk of information overload and result in consumer confusion [10]. Nevertheless, a similar risk arises also from voluntary food information, in particular when the communication is not clear but highly appealing [11]. In literature, several scholars underline that the legal framework creates a significant margin of legal uncertainty [12].

## 2.2. Voluntary framework on wine quality standards: Organic wine rules and voluntary certification schemes

In 2012, Regulation No. 203/2012 provided for the first time the possibility for wine to be labelled as organic, using the new EU organic logo [13]. Before the introduction of the Regulation, the only labelling option was “wine made from organic grapes” due to the fact that grape-growing was regulated by EU organic legislation but the winemaking process was not.

The “*wine made from organic grapes*” label precluded relevant differences across winemakers in terms of techniques, identity and quantity of additives used [14]. As a consequence, a significant number of private schemes were developed to overcome the lack of a common regulation [15]. Against this background, Regulation (EU) No. 203/2012 provided a significant opportunity for producers to communicate the value-added of their products [16].

Under Annex VIII bis, Regulation (EU) No. 203/2012 provides a list of permitted additive products and substances of natural origin. Non-essential and synthetic additives are forbidden or, if no alternative exists, restricted.

Furthermore, preference has to be given to the use of additives and processing aids derived from organic raw materials with the aim of further development of the market demand for them. As listed in annex VIII bis, the following substances should be used in organic wine if they are available: gelatine, protein from wheat or peas, isinglass, egg white albumin, tannins, acacia gum, and yeast strains [17].

In relation to sulphites, lengthy negotiations occurred to agree on a regime of limitations for organic wine production [18]. The use of sulphur dioxide was not prohibited, however it was recognised that limits for conventional wines are too high [19]. The outcome of the negotiations provides that the maximum sulphur dioxide content must not exceed 100 mg/l for red wines with a residual sugar level lower than 2 g/l [20]. For white and rosé wines, the maximum sulphur dioxide content must not exceed 150 mg/l with a residual sugar level lower than 2 g/l [21]. This approach provides a solution that enabled an acceptable compromise to be reached, by using a classification based on residual sugar levels.

In regulating the use of terms referring to organic production, Regulation No. 834/2007 provides that related terms cannot be used for the labelling, advertising and commercial documents of an agricultural product which does not satisfy the requirements for organic production [22]. Furthermore, business operators must refrain from using any terms or practices used in labelling or advertising liable to mislead the consumer, by suggesting that a product or its ingredients satisfy the requirements for organic production [23]. In particular, the derivatives or diminutives of organic production, such as “bio” and “eco”, alone or combined, may only be used for the labelling and advertising of certified organic products [24].

Regulation No. 203/2012 allows the use of private logos and voluntary certification supported by specific standards in addition to the EU organic logo. Voluntary certification schemes for agricultural products are aimed at guaranteeing, through a certification mechanism, the conformity with certain characteristics, attributes of the product or its production method, as set out under the specifications [25]. Certification schemes by definition employ third-party attestation. However, other schemes operate on the basis of a logo, often registered as a trademark, without involving any certification mechanism [26]. Compliance with these schemes is assured by self-declaration or through selection by the scheme owner [27].

However, a potential drawback results from the fact that the more logos on the label, the higher the potential for consumer confusion [28].

## 3. Case-study analysis

### 3.1. Associazione Vino Libero

*Associazione Vino Libero* is an Italian association which includes 12 wineries and one distillery [29]. The leader winery, Casa E. Di Mirafiore & Fontanafredda srl, registered the trademark *Vino Libero*. This last is granted to the associated wineries and distilleries which comply with the scheme specifications. The compliance is not certified by a third-party organisation, but the same association is

appointed for the certification, which is therefore equal to a self-declaration.

*Associazione Vino Libero* adopted a Production Specification for the Integrated and Evoluted Winemaking (*Disciplinare Tecnico di Produzione Vitivinicola Integrata Evoluta*, in Italian). It is intended to define general rules of production with the aim of enhancing the regional and national guidelines on integrated and organic farming [30]. The Production Specification applies to both the associated wineries and the wine production provided by third-party wineries, when this last is marketed with the related trademark [31]. The Specification is considered a dynamic instrument, which is yearly amended for adopting the legal development in the wine and agricultural sector. [32]

The Production Specification is divided in three parts. The first, called “*General Principles*”, provides the main values that set up the technical choices adopted in the different challenges addressed. The second part, called “*Operational Provisions*”, lists the specific measures to be adopted in order to comply with the General Principles. The third, called “*Actions*”, states the concrete actions to be carried out as soon as possible with the aim to realise the envisioned integrated production.

The Production Specification regulates different aspects of the wine production, such as business organisations, soil and planting management, pest management, uses of herbicides, fertilization, waste and water management. The majority of specification standards are formulated in general terms, containing aspirational goals [33]. The only mandatory requirements concern the permitted use of only organic fertilizers [34], the prohibition of herbicides [35] and the requirement to reduce the amount of sulphites of at least 40% in relation to the legal limits [36].

In marketing communication, *Vino Libero* farming model is presented as breaking the middle of the current cultivation methods, while meeting the needs of consumers and producers [37]. The association highlights that the main aim aligns with the production of a wine free from chemical fertilizers, herbicides and from at least 40% of sulphites in relation to the limit established by law [38].

The wine, produced in accordance with the Production Specification, is labelled with the related logo *Vino Libero*<sup>®</sup> (Free Wine, in English). The logo, in white and red colours, is placed in the bottleneck.

### 3.2. Biolwine

Istituto per la Certificazione Etica ed Ambientale (ICEA) is a non-profit consortium composed of associations and organizations operating in a field of activities oriented towards environment - friendly and fair development [39]. In 2012, ICEA sets out a voluntary certification scheme that provides a standard for the production of quality organic wine. The standard is formulated on the basis of the European ORWINE project [40]. The *Biolwine* Production Specification argues that the negotiation on the EU organic wine regulation did not provide satisfactory results for the Italian wine sector, in particular regarding the limit on sulphites levels [41]. The main aim of certification scheme is, therefore, to value quality organic wine that is produced according with the oenological procedures provided by the IFOAM organic farming [42].

The Production Specification provides a standard that is more restrictive than the EU regulations on organic wine [43]. The grapes, intended for being processed into wine with the *Biolwine* certification, must have been obtained in accordance with EU Regulation No. 834/07 and 889/08 and by winegrowers fully converted to organic production [44]. Regarding the content of sulphites, the Specification provides a limit significantly more restrictive than the level allowed under EU regulations on organic wine [45].

Wineries using the logo *Biolwine*, in addition to the usual formalities required under Regulation No. 834/07, will have to store evidence and records useful to demonstrate compliance with this specification for a period of at least five years after the entry into market of the product [46]. The organic wine already produced before the accession to this specification can show the logo *Biolwine* on the label only in so far as the compliance with the specification is objectively verifiable.

All information and marketing communication that contain references to *Biolwine* voluntary certification must clearly refer to the certified product and must be approved in advance by ICEA [47].

### 3.3. Biodynamic wine

The current biodynamic farming method derives from the theory of Rudolf Steiner, an Austrian scientist and philosopher, which considered the farm in its-self as a living system [48]. In 1924, Rudolf Steiner held eight lectures entitled “Spiritual foundations for the renewal of Agriculture” at Koberwitz, Silesia. The Experimental Circle of Anthroposophical Farmers immediately adopted Steiners theory in farming practice [49]. In the following three years, a co-operative was founded in order to market Biodynamic produce [50]. Biodynamic farming is presented as a holistic approach to agriculture in which “*vitality has the highest priority*” [51].

Currently, only private organisations certify Biodynamic produce, among which Demeter is arguably the most world-renowned. Demeter has built up a network of individual certification organisations world-wide, which includes 18 members and 5 guest-members from Europe, America, Africa and New Zealand [52]. In Italy, *Demeter Associazione Italia* is a non-profit association of farmers and business operators which do business in accordance with the Demeter international standards [53]. The associated members have the license to show the Demeter logo on the products.

In 2013, *Demeter Associazione Italia* approved a standard on the Biodynamic wine produced by Biodynamic grapes grown following the Demeter Standards of Production. In particular, the Standard requires that the grape used has to be certified by Demeter, hand harvesting should be preferred, the wine needs to be segregated from non biodynamic wines and a specific limit of sulphite is established [54]. The Demeter provides that the standard is more restrictive than the provisions under the EU regulation on organic production. The Biodynamic wine is presented as having a double certification which allows the consumer to be safer: on the one hand, the product is controlled by independent monitoring bodies for the organic certification and, on the other hand, the product is tested by Demeter [55].

## 4. Finding a balance between marketing strategies in voluntary certification schemes and the protection of consumers

The case-study analysis brings to light some critical issues that involve the implementation of these voluntary certification schemes. The first concerns the harmonization of the schemes with the existing EU legislation. The second involves the clarity and transparency of scheme requirements and corresponding claims.

### 4.1. Harmonizing voluntary certification schemes with existing EU legislation

Specific legislation usually exists on many subjects covered by the requirements of certification schemes. As emerged under the case-study analysis, voluntary certifications show a degree of difficulty in harmonizing with legislation.

In the case of *Vino Libero*, an open question is to what extent it is possible to create a voluntary scheme characterised by such a similar shape with organic wine production, without making reference to the Regulation (EU) No. 203/2012. Furthermore, this voluntary scheme is presented, in marketing communication, as alternative to the EU regulatory schemes.

In the other two cases, the specification makes an explicit reference to the EU related provisions, by providing that the standard is more restrictive. However, in the case of Biodynamic wine, an open question concerns the marketing strategies to present the certified wine as allowing the consumer to be more safe thanks to the double certification.

In such areas, where regulatory requirements exist, business operators should take such legislation into account and make reference to it in the specification [56]. In general, business operators have to refrain from using any terms, including those used in the certification mark, or practices used in labelling or advertising liable to mislead the consumer. Voluntary certification schemes may not prejudice or aim to replace regulatory standards, nor should they be intended to substitute for official controls carried out by competent authorities.

In case where regulatory requirements exist, it should clearly provide whether, where and to what extent the standard goes beyond the relevant legal requirements [57].

### 4.2. Clarity and transparency of scheme requirements and claims made

All claims made should be accurate, clear and easy to be understood in order to not be misleading or confusing for the consumers. If appropriate, the claims should also be based on scientific-based documentation. In absence of positive legal indications for defining voluntary food information, it is particularly difficult to provide a compliance assessment which takes into account the promotion of free trade in an openly competitive market and the consumer protection. As food information is the primary means through which producers communicate to the consumers, the quality and usefulness of information in providing

facts concerning the specific products acquire a fundamental role in the assessment process [58].

In assessing the impact of their commercial practice, the notion of the average consumer plays a relevant role as developed by the EU Court of Justice [59]. In order to determine whether a particular description, trade mark or marketing statement is misleading, the presumed expectations of an average consumer should be taken into account. The average consumer is critical person, which is reasonably well informed and reasonably observant and circumspect in his market behaviour [60]. The average consumer normally perceives a mark as a whole and only rarely has the chance to make a direct comparison between the different marks. The average consumer's level of attention is likely to vary according to the category of goods and services in question [61]. According to the Court of Justice, "among the factors to be taken into account in order to assess whether the labelling at issue in the main proceedings may be misleading, the length of time for which a name has been used is an objective factor which might affect the expectations of the reasonable consumer" [62].

Regarding the analysed cases, a number of questions remain open. First, to what extent it is possible to affirm that a certification claim is accurate and clear when it is presented as breaking the muddle of the current regulatory schemes? Could this promotional statement be misleading for the consumers? Second, to what extent a certification scheme provides a real value added to a product and communicates useful information to the consumers? Third, in case the certification scheme does not provide a real value added, is it confusing the consumer with useless information?

## 5. Conclusion

The paper attempted to briefly present the problematic issues involved in the voluntary certification schemes for the wine products. These issues concern the promotion of free trade, questions on the transparency of the certification scheme specifications and the clarity of the claims. A further aspect is the related costs and burdens of these schemes on farmers, in particular where there is a risk of rejection from the market.

The key challenge of the ongoing research project will be to find a possible trade-off between consumer protection and the promotion of free trade in an openly competitive market.

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