



2015 BRNO - CZ

XXII ENOMETRICS CONFERENCE



ID=131

From Montesquieu to the EU Planting Rights Regime

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On April 15, 2014, a consortium of all major European wine associations co-signed an urgent letter to all the European Union (EU) governments and the EU Commissioner for Agriculture and Rural Development complaining about the detrimental effects of new proposed regulations and restrictions on planting vineyards.

The letter reflects the frustrations and concerns of the European wine associations. Things look very different in 2014 than a few years earlier. In 2006, the European Commission proposed to liberalize the EU's vineyard planting rights regime. The proposal was in line with reforms in other agricultural markets – such as grains, oilseeds, sugar and dairy – where various regulations which distorted production allocations have been removed and replaced by a more market oriented policy combined with direct income support for farmers.

Also in the wine sector extensive regulations had led to problems of oversupply, low quality and distorted market. After a series of more timid reforms in the 1980s and 1990s, the European Commission proposed to get rid of the planting rights regime, a system which have been regulating and restricting vineyard planting since 1976, in line with the removal of production quotas in e.g. the dairy and sugar sectors. After two years of discussions, in 2008, the EU Ministers of Agriculture adopted the Commission's proposal to liberalize the planting rights as part of broader reform of the EU wine sector.

However, then an unprecedented development in EU political history occurs. Almost as soon as the liberalization decision was reached in 2008, an intense lobbying campaign starts to reverse the decision. And successfully so: the liberalization of the planting right system was overturned in 2013. Not only was the liberalization decision reversed, a series of new proposed regulations would create an even more restrictive system of planting rights regulations. Facing the proposal to make vineyard planting even more restrictive, the European wine associations wrote their desperate letter to EU governments.

The question is: will this have any effect? If recent history is any guidance, their efforts seem to stand little chance of succeeding. The strength of the lobby seems more powerful for those in favor of vine planting regulations than those opposing them. However also a look at the longer history does not look promising for them. In fact, there is a precedent.

In 1748, Charles-Louis de Secondat, Baron de La Brède et de Montesquieu (1689–1755), published his famous and most influential work “De l'Esprit des Lois” (The Spirit of the Laws), where he argued the need to separate the political power in three separate branches: the executive, the legislative and the judicial (Montesquieu, 1748). Montesquieu's work inspired James Madison (the “Father of the United States Constitution”) and the American Founders on the separation of powers in the 1787 United States Constitution. In fact Montesquieu is the second most cited source in the period of Constitution writing (1780s) – only surpassed by the Bible. Montesquieu's ideas on the separation of powers also inspired the 1791 French Constitution and many others constitutions in the world.

However, Montesquieu was more than a political philosopher. He was also a wealthy owner of land and vineyards in France. In this position he wrote a letter in 1726 to Mr. Le Pelletier, the just-appointed French Contrôleur Général who was in charge of the finances of King Louis XV (1710–1774) of France. In this essay, like today's European wine associations, he bitterly complained about the newly introduced prohibition on planting new vines.

Montesquieu argued that the 1725 prohibition was “useless” because winegrowers were much more competent in assessing the needs of the market than public officers. According to Montesquieu, given the high demand for Bordeaux wines (in France and abroad such as in England, Holland and Flanders), it is in the public interest to rely on the winegrowers entrepreneurial skills to invest in the most efficient vineyards.

While Montesquieu may have inspired the United States Constitution, he was not able to convince the French King (or his advisors) to get rid of planting rights. Actually, he may have made things worse when he complained that partial planting rights make things worse because other regions would just plant more. In fact, this was his only argument that was taken up by King Louis XV. In 1731, the King extended the prohibition to plant vines to the entire kingdom of France. The outcome was the opposite of Montesquieu’s intention.

Montesquieu would not see the end of the planting rights anymore. He passed away in 1755. Four years later there is some relaxation in the planting rights system, but it is only in 1789, 34 years after the death of Montesquieu and 64 years after they were introduced, that wine production is liberalized and planting rights are removed. The thing that made it happen was ... the French Revolution. Only a dramatic political change sufficiently shifted the political equilibrium to allow a liberalization of planting rights.

What does this imply for today? As Montesquieu, the European wine associations want to remove the restrictions imposed by the planting rights regime. So the question is: what would make liberalization of the EU planting rights system possible? In this paper we document many similarities between Montesquieu’s time and now in terms of the motivation for the introduction of the planting rights, their extension to other regions and problems of implementation. This comparative analysis suggests that, as planting rights were ultimately abolished and plantings liberalized only after a major political change in the 18th century, it may require another (type of) French Revolution this time again.

Keywords: Law and Economics, European agriculture, wine history, regulation, institutions

JEL Code: K10, K23, L51, N43, N44, N53, N54, Q15