



## *Forbidden Fruits: The fabulous destiny of Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont*

ARCHE NOAH, Brussels and Vienna, April 2016

### EXECUTIVE SUMMARY

Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont are six of the wine grape varieties whose turbulent history in Europe begins with the invasion of the vermin *Phylloxera* (*Viteus vitifoliae*) in the 19<sup>th</sup> century. Because of their natural resistance to *Phylloxera*, these varieties from North American breeders or from spontaneous crosses, were imported, amongst others, and used to counter the plague. Common strategies were to use breeds based on North American species as rootstocks to which European *Vitis vinifera* varieties were grafted, as well as to use them in longer term resistance breeding programs, primarily to infuse their resistance into *Vitis vinifera*. These varieties were, however, also directly planted in winegrowers' fields. This particular practice gave them the name "direct producers" or "direct producer wines". The term came to cover native American species as such (*Vitis aestivalis*, *V. labrusca*, *V. riparia*, *V. rupestris*), but also the first generation hybrids obtained from interspecific crossings, either with each other, or with the European common species *Vitis vinifera*, all the while maintaining their resistance to *Phylloxera*.

Today, direct producer varieties are grown in several European countries, and wine is still produced from their harvest. Strangely though, the planting of some of them for the purpose of wine production is forbidden. Indeed, in the course of the direct producer's 150-year history in Europe, first national, and then European laws have adopted a dramatically restrictive and unfairly discriminatory approach to certain direct producers and to hybrids, beginning mostly from the 1930s. The main barrier to the development of these vines in currently applicable European law relates to so-called classification, both for producing wine and qualifying it as quality wine for marketing purposes. Having undergone changes throughout time, the classification regime nonetheless gives little to no room to non *vitis vinifera* varieties, severely impeding innovation and hampering rural development prospects. Although quantitative restrictions regarding production areas and yields should remain the cornerstone of the European wine policy, the case for restricting the choice of varieties seems weaker. This practice has nonetheless been continuing since 1970 and has been most prominently complemented in 1999 through the express prohibition of six wine grape varieties, namely Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont from all classification. This express prohibition appears to have been a direct reaction to the 1998 authorisation of Noah and Isabella in the Friuli Venetia Giulia region of Italy. The 1999 wording stems from the French legal order, through legal terms introduced in 1934 but abolished in 2003 at national level. The European *acquis communautaire* maintains it in Regulation 1308/2013, which has direct effect in national legal orders.

The provision restricting the choice of grape wine varieties in the Union today, Article 81 of EU Regulation 1308/2013 establishing a common organisation of the markets in agricultural products, reads:

- “1. Products listed in Part II of Annex VII and produced in the Union shall be made from wine grape varieties classifiable in accordance with paragraph 2 of this Article.
2. [...] Only wine grape varieties meeting the following conditions may be classified by Member States: (a) the variety concerned belongs to the species *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;  
(b) the variety is not one of the following: Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont.”



Given the current legal situation, one wonders why certain wine grape varieties are purely and simply forbidden. They may, and do, have fans. They thus have a market. They can create employment. Furthermore, thanks to their inherent resistant characteristics, they are good for the environment. Many arguments have been hailed to justify their prohibition, including their poor quality, the risk caused to human health, plant protection issues, as well as market stabilisation concerns. We show that these arguments, which were doubtful to begin with, absolutely do not hold true today.

Our research seeks to answer a single and simple question: *Is the current prohibition of certain wine grape varieties in wine production appropriate for modern, liberal legislation which is committed to promoting development rooted in sustainable, resilient, and environmentally-friendly practices in agriculture?*

In our attempt to answer this question, we demonstrate that the current prohibition, based on legislation enacted in the 1920s and 1930s, came to life in a very specific historical context very different from current conditions. Backed by historical case studies from Austria, France, Germany, Portugal and Spain, we look at the rationale behind this discrimination, analysing the most important arguments used to support the prohibition of direct producers, before delving into the untapped potential of Noah, Othello, Isabelle, Jacquez, Clinton, Herbemont and other direct producers.

## HISTORY OF DIRECT PRODUCERS IN EUROPE

Direct producers and associated wine grape varieties have been controversial since their initial encounter with the European wine landscape. Introduced to the Old Continent in the 19<sup>th</sup> century by researchers interested in their resistance to harmful diseases, the Holy Grail of North American native and resistant wine grape varieties was nonetheless two-faced. Although there was never proof for this claim, they were accused to have brought in additional, and perhaps even more devastating organisms. Representing both the illness and the cure, they triggered extremely strong, yet opposing sentiments. The divide was clear between those who viewed them as an opportunity to go forward in the evolution of European wine-making, and those who considered them a threat. The menacing voices seemed to have prevailed in a tense socio-economic and cultural context, where overproduction, under-consumption and cultural supremacism were the norm, leading to the prohibition of direct producers.

Because the contexts of direct producer prohibition were as diverse as Europe itself, it is especially important to examine the particular national socio-economic backgrounds that lie behind the legal provisions that still today prohibit the planting of certain wine grape varieties for the production of wine. To illustrate this premise, we have chosen five Member States of the European Union (namely Austria, France, Germany, Portugal and Spain), on account of their importance in the history of direct producers and within the European wine market, with further due to practical considerations and the inherent limitations of this research.

### Austria

The introduction of the direct producers in Austria goes back to the end of 19<sup>th</sup> century, when the spread of *Phylloxera* destroyed great parts of the Austrian wine growing business. Indeed, the disease was first discovered in the Habsburg Monarchy in 1868. The most prevalent response to the outbreak came in the way of resistance breeding. The first hybrids came to Austria in two waves. The first one, the “Old Hybrids” came in the 1890s and new crossings from Alsace were introduced in 1922. The rise of direct producers in Austria is mainly attributed to the economic advantages they entailed. Their vine shoots were more inexpensive than those of European varieties. Their cultivation was less work intensive, since they did not have to be grafted. Their resistance against *Phylloxera*, powdery and downy mildew saved money that would otherwise be needed for chemical plant protection products. After the *Phylloxera* catastrophe and the First World War, these were the main features in which the growers of direct producers were placing all their hopes.

Those advantages were, however, also responsible for the direct producers’ demise. Because they had the potential to significantly lower the price on the mass wine segment, they were accused of being a

threat to the economic existence of other winegrowers. The European wine market was trembling under the threat of overproduction and under-consumption. These considerations were significantly expanded to include the prohibition of the use of certain wine grape varieties.

First enacted at federal state level from 1924 onwards, a general prohibition of all so-called direct producers followed suit at the national level in the Wine Law of 1936. A mere regulation of the number of vineyards would have been as effective and reasonable to achieve a fairer regulation of production. In Austrian literature, it is unclear why these resonant market arguments led to the destruction of direct producer vineyards. That is why the significantly more subjective arguments pertaining to quality and taste, as well as the political influence of winegrowers of the state of Lower Austria and of Fritz Zweigelt, might have played a crucial role in the prohibition. Notwithstanding the restrictive approach of lawmakers, a strong tradition of wine-making under the name *Uhudler* persisted in the Burgenland region, as it still does today.

### France

The case of France is of paramount importance in the history of direct producers, since the country has been a driving force not only in the development of certain hybrids, but also paradoxically in the introduction of prohibitions in national and European laws, which are mostly still in place today. In the 19<sup>th</sup> century, the scale of the social and economic disaster created by the *Phylloxera* outbreak was immense. Following excursions by French scholars to the United States, rootstocks of varieties like Concord, Clinton, Jacquez, Noah, Othello, Taylor (and others), were imported to France and planted. At the same time, grafting of European *vitis vinifera* varieties on American varieties became the new talk of the town. Science in parallel also turned to the lengthy creation of new hybrids, attempting to combine American resistances with European taste, especially through the well-known “Seibel Method”. In 1958, about 30% of vines cultivated in France were actually such hybrids. While the horror of *Phylloxera* seemed like distant history, as first and second generation hybrids significantly relieved the market, it was to face another evil bug, that of wine overproduction, especially in the late 1920s. Due to the increasing amount of wine produced in Algeria, the 1929 Wall Street crash, the subsequent economic crisis and collapse in consumption, wine prices collapsed in France.

As a consequence of this dramatic premise of the 1930s, the French legislator adopted a series of laws and measures aimed at “curing” the wine market, mostly through the law of 24 December 1934, also prohibiting some direct producer varieties under the same impetus. Most of the legislative action to maintain high quality wine production led to the creation of the “*Appellation*” regime, which also fought fraudulent use of prestigious names. The strategy, however, also severely touched upon the use of hybrids, which were also in the radar of the *Appellation d’Origine* of Bordeaux, Champagne or Burgundy. They preferred the grafting solution to hybrids, since it allowed them to maintain their premium position. Forbidding the sale, offering for sale, the purchase, transport or planting of a certain number of wine grape varieties, namely Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont, the 1934 law aimed to stop the production of bad wine. Abrogated on 6 September 2003, the express prohibition of these six varieties from all classification (not just in quality wine) has nonetheless found its way into the European legal order in 1999, with direct effect on all Member States.

Notwithstanding the extremely harsh legal provisions and accompanying campaign against them, hectares of the forbidden wine grape varieties still exist in France; and numerous actors, amongst them the association “Fruits oubliés”, work for the rehabilitation of the six forbidden varieties.

### Germany

Compared to its Austrian and French counterparts, Germany chose a rather different approach to the *Phylloxera* invasion and direct producer wine grape varieties. It declared infected vineyards “quarantined areas”, putting the main focus of legal action on the complete eradication of the bug, which included the destruction of all direct producers that could have been potentially infected carriers without symptoms. As early as 1904, the *Reblausgeset* (law on *Phylloxera*) stated that competent authorities could prohibit or restrict the cultivation of vines, a power used to prohibit the cultivation of all American vines or crossings of such vines amongst themselves or with other species, except for the purpose

experimentation. The wine law of 29 July 1930 further prohibited products from direct producers in all imaginable aspects, from its marketing to its production for personal consumption.

The research exception to such prohibition was nonetheless maintained, and led to the development of the infamous Regent variety, whose ancestors include *Noah* and *Othello* (old American hybrids today prohibited by EU legislation), and which accounts for about 2,065 hectares of vineyards in Germany. Scientists are still eager to breed new varieties capable of facing present and future challenges.

Like in other European countries, the prohibition of direct producers in Germany from 1900 to 1940 was primarily politically and economically motivated. In contrast to other countries, however, direct producers did not play a significant role in the German wine market and thus were perhaps more easily eradicated due to the fear of *Phylloxera* and downy mildew.

### Portugal

Like in most European countries, the prohibition of direct producers in Portugal came in the 1930s. In January 1935, the attention of the *Estado Novo* regime in Portugal had already shifted to direct producers for the first time. The context was one of clear overproduction and under-consumption, as the total area under cultivation and production per unit increased and consumption decreased, leading to a severe crisis in the wine sector. There was an imbalance of supply and demand, decline in prices, a reduction in the purchasing power of wine growers and their workers, and subsequent negative impacts on other sectors of the economy, such as commerce, industry and transport. However, lawmakers believed that the repression of production alone would not be sufficient; rather, it had to be constrained. The first measure was aimed at direct producers, which existed in high quantity, primarily within the demarcated regions of *Vinho Verde* (Green Wine) and were alleged to have had adverse effects on both its reputation and even the cultivation of corn. They were seen as disruptive for the wine economy due to their abundance and low price, notwithstanding their peculiar taste.

The legal measures adopted were severe and swift. Plantings were prohibited, grafting mandatory to substitute or uproot existing direct producers, and the consumption of wine derived from direct producers was forbidden. Mobile brigades were set up to lead and direct the execution of these laws. On 23 March 1935, the decree-laws became law (N° 1891), officialising the demise of these varieties in Portugal. However, the law applied only to the continent, which is why in certain regions like Madeira today, there still are extensive vineyards with Noah, Othello and other varieties.

### Spain

In Spain, the prohibition of direct producers came quite late compared to other European countries, mainly through the impetus of more “important” wine-growing countries. The development of the wine sector as well as the spread of direct producers (*Híbridos Productores Directos* in Spanish) greatly varied throughout the different regions of Spain. In the humid regions especially, direct producers gained some importance due to their high levels of resistance, especially to counter the plague of *mildium* and *oidium*, but they were otherwise rarely used. As a result, it was not until 1955 that direct producers were excluded from grafting practices, while the comprehensive prohibition of direct producers was introduced through the 1970 Wine Law. The main reasons behind such a move included progressive integration into Europe, as well as economic and prestige issues linked to the promotion of quality and the avoidance of fraud. In an even more restrictive fashion, Spanish authorities took punitive steps towards direct producers, in 1980, ten years after their widespread prohibition, ordering the demolition of all direct producer vines. Nevertheless, direct producers still exist in Galicia, particularly in the village of Barrantes, where local wineries continue to produce *Vino Barrantes*, known for its rich colour.

Our chronological but also thematic analysis of the prohibitions in these five countries highlighted numerous similarities but also quite significant divergence points in the reasons lying behind them, the actors having influenced the decisions, and their timelines. It is nonetheless an indisputable fact that they have all (to a smaller or greater extent) contributed to the shaping of the European common market organisation rules regarding wine, especially that of classification and quality wine schemes.

## ARGUMENTS AGAINST DIRECT PRODUCERS

Notwithstanding country-specific considerations, which entail that certain arguments gained more weight in certain regions than others, or that they were framed differently to better echo national law-making, it is fairly easy to distinguish the common narrative that was built up against direct producers. Several streams of argumentation were used to identify an easy culprit to the wine crises of the time. The destruction of direct producers indeed took place literally and figuratively. They were attacked for their quality and impact on human health, due to plant protection issues, and finally on the basis of economic and market concerns.

First and foremost perhaps, direct producers have been attacked for their quality, highly linked to their inherent “Fox tone”, described at times as strange, disturbing, sweet or grassy. Although these statements are probably absolutely true for some tasters, it is unquestionable that the issue remains a subjective one that could never warrant exclusion of these varieties from the general classification regime. As for the quality wine aspect, it is safe to say that modern direct producer wine that is organised through a professional association like in Austria, maintains high and constant standards in production.

Probably the most long-lasting arguments are linked to human health risks caused by the consumption of direct producers, including anger excesses, hysteria, hallucinations and paleness concerns linked to these wines’ high methanol content. Not only have the studies used to develop these arguments been debunked by more recent science, they have also shown that the methanol content of all direct producers are within the limits warranted by the International Organisation for Vine and Wine (OIV). The same goes for the toxicity concerns raised in some Member States.

With regards to plant protection issues, the direct producers’ resistances to disease have been at times used against them, most recently in debates surrounding *flavescence dorée* in Austria for instance. As these varieties seem to sometimes show signs of the disease later in time than their *vitis vinifera* counterparts, their opponents have jumped on the occasion to discredit them for no reason, since all vines are potential vectors of the disease.

In the 1930s, the most resonant arguments were linked to economic considerations, especially with regards to the situation of the wine market. Indeed, the European wine market was experiencing a major crisis caused by overproduction as new countries like Algeria started to produce wine, and under-consumption linked to the general economic crisis, tax rises and the prohibition movement in America and some parts of Europe. The leap from the crafting of wine propaganda, quality premiums, and limiting the quantity of wine, towards a prohibition of direct producers was already an excessive one during these challenging times. Today, not only is overproduction and under-consumption not an issue, but the production potential of direct producers would by no means threaten the balance reached within the general wine sector. Direct producer wines are – like other niche products of the sector – not in direct competition with mainstream wines. They have to be considered not as a competing but complementary product.

## THE POTENTIAL OF DIRECT PRODUCERS IN TODAY’S VITICULTURE

Previous chapters illustrated why and how direct producers were hated, discredited, prohibited and destroyed. Most of the stories that surround them are either completely untrue, or are irrelevant today. We found that there was much more to the story, however. There is tremendous potential and hope. Our study therefore attempts to close on a more cheerful note, highlighting the positive aspects of old hybrids, further building the case for their right to existence. These are not the words of a few biodiversity enthusiasts, as even a man who has played an eminent role in the prohibition of direct producers, Fritz Zweigelt, admitted to their potential. He had already identified specific niches where direct producers should be used in the 1920s: in areas where ordinary wine is the norm for low-requirement consumers or where wine is produced generally for one’s own use; in areas where other crops are dominating (polyculture) and where the farmers thus do not have the time for plant protection measures; and in hostile environments that require very early varieties to still be able to produce wine. Significant time has passed since such a statement, accompanied by significant changes in the business



of wine, but also in the range of challenges tackled by agricultural policy. The case for direct producers has thus gained a fair range of new and quite convincing arguments.

First and foremost, there is a **market for direct producer wine**. These wines are now produced with modern technology and have developed a quality comparable to other wines of the lower price segment. In the regions of Europe where direct producer wines are still being produced (and there are some), they have a large fan base. In Austria, people are travelling to the *Südburgenland* region just to drink the famous *Uhudler* wines.

As a result, they have significant potential to contribute to **rural development**. Lovers of special wines are willing to pay for it and even visit the region where it is produced. In the last century, direct producer wines were a product for lower income populations and planted on small farms by poor farmers. Today, they help make these regions thrive, like in Austria's Burgenland, where two thirds of the tourists link their visit to the tasting of Uhudler wine. Elsewhere, direct producers have become an integral part of **local traditions**, leading to celebratory fairs in the Venetian region of Italy for instance.

Notwithstanding their potential market value, which would also be translated into regional development and the local grounding of direct producer farmers, these varieties also have tremendous potential in **tackling current and future environmental challenges**. They could contribute to the new goals set out by European and national environmental policy, as well as agricultural policy. Indeed, on account of their tolerance to powdery and downy mildew, direct producers do not need farmers to resort to chemical plant protection products. Direct producers can thus be considered a low-input plantation and should absolutely not be forbidden.

With regards to **agricultural biodiversity**, the preservation of direct producer varieties should be a clear priority to achieve the Aichi Biodiversity Targets and all correlated European policies. Not only is the diversity of vines very important for the resilience of our viticulture, they have to be preserved for the future, not only in research facilities but also *in situ* by farmers. The preservation of the diversity of cultivated plants and its constant development can indeed only be ensured by their sustainable use, a use which should not be restrictively contrived.

## GENERAL CONCLUSIONS

As Arche Noah, further to the conduct of this enlightening research on the history behind the prohibition of direct producers and the far-fetched and outdated arguments hiding behind such a move, we firmly believe that the prohibition of direct producers is a non-proportionate discrimination.

We thus ask for the adaption of Article 81 paragraph 2 of the EU Regulation No. 1308/2013 establishing a common organisation of the markets in agricultural products, in order to unlock the potential of these beautiful wine grapes. We believe wine regulation should contribute to promoting and protecting a vital cultural heritage, providing new and considerable rural development opportunities and advantages, responding to a specific market demand, all the while preserving the environment through more sustainable practices.

### ***ARCHE NOAH's motivations to conduct this research***

Even if ARCHE NOAH has been an advocate for agricultural biodiversity from its inception, the association was not specifically founded to protect the wine grape variety called “Noah”. ARCHE NOAH has been striving to preserve and develop the diversity of all cultivated plants for more than 25 years. We are committed to the conservation and sustainable use of biodiversity for present and future generations, in order to ensure adaptation to local and changing environmental conditions, while preserving the attached traditional knowledge linked to agricultural practices. To that end, we believe it is not enough to keep genetic resources in gene banks or scientific institutions, freezing them off for future research. ARCHE NOAH strongly advocates that these resources should be cultivated and made available to and by farmers to safeguard not only the basis of agriculture, but also the richness of flavours that enhance our quality of life.

Wine grape biodiversity is thus only a portion of our actions for crop diversity, but it rightly exemplifies unjust and unsound laws against socially rooted and environmentally sound practices. In the case of Austria for instance, a due legalisation of so-called “direct producer varieties” would ensure the continued existence of *Uhudler*. It would recognise and support its economic and cultural contribution to the Burgenland region, while releasing winegrowers from uncertainty and illegality. Furthermore, having had direct experience in the consumption of *Uhudler* for obvious research purposes, we can vouch that no anger excesses, hysteria, tendencies to hallucinations, mental and physical degeneration were observed at the time of writing.



ARCHE NOAH

ARCHE NOAH, *Forbidden Fruits: The fabulous destiny of Noah, Othello, Isabelle, Jacques, Clinton and Herbemont*, Brussels and Vienna, April 2016.

### **About ARCHE NOAH:**

ARCHE NOAH (Noah's Ark) is a seed savers association in Central Europe, founded in 1990, with today more than 14.000 members, which closely and actively follows political processes regarding plant biodiversity. Arche Noah is politically active in Austria and in Brussels. [www.arche-noah.at](http://www.arche-noah.at)

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