

Wine separatism without the geographic origin – In Vino Plebiscitum

Who is drinking and who is picking up the tab

The lack of legislation in Bosnia and Herzegovina regarding viticulture and enology is causing huge financial damage to the BH economy. Three years ago the 'Law on Wine, Brandy and other Grapevine and Wine Products' was adopted, but during the drafting of the relevant bylaws it was established that more than half of the articles of the Law could not be implemented in practice with the result that this Law is not being enforced. At the same time the Entity laws are also full of shortcomings. According to the current Law the Federation of B&H has almost no competence in this field making it very difficult to monitor the development of the viticulture and enology sector. Shortcomings in the current Law have prevented the adoption of relevant bylaws as a result of which the Federation of B&H now has a problem with marketing of wine, protecting designation of origin and geographical indication of wine, conducting quality control of wine and so on. This sector is much better organised in Republika Srpska.

The competent institutions have no accurate database on grapevine and wine producers and they cannot establish with certainty the exact level of losses suffered by the manufacturers and the State due to the inability to place products on the market. On the other hand the import of wine into B&H faces no obstacles of any kind. In the course of this analysis, relevant representatives of all interested parties were consulted including those from competent institutions, law proponents, manufacturers and other stakeholders who are involved in the process or are active in this sector. All these parties seem to be interested in solving the problem, but the question is to what extent are the various solutions acceptable to each of them.

It is about time for the wine producers in Bosnia and Herzegovina to send a clear message to the politics which is so obviously toying with their interests. Wine has no ethnicity, but has the label of geographic origin and quality. Whoever puts the geographic origin before quality loses every battle in the market. Statistics is a relentless annual reminder of this fact. If there is truth in wine, as the old Latin proverb says, then there is only one truth. As for the case of the BiH wine, the truth is very painful: once again politics is trying to trick the expertise.

'Protocol 7 on reciprocal preferential concessions for certain wines, the reciprocal recognition, protection and control of wine, spirit drinks and aromatised wine names' is a pertinent part of the Stabilisation and Accession Agreement. Since this relates to a reciprocal preferential trade concession between the Community and B&H, the adoption of national legislation is an imperative from the foreign trade point of view. National control of the wine market is necessary to ensure access to EU markets for wine producers from B&H irrespective of the entity in which they are based. This requires coordination among relevant state institutions; Ministry of Foreign Trade and Economic Relations and the Chamber of Commerce on the one hand, and competent entity institutions; associations of enologists and wine producers on the other. A single approach of BH wine exporters to EU markets is certainly a goal to which they should aspire in the near future.

Foreign production for domestic use

The enology sector is threatened by a continual decrease in the number of producers and the cessation of wine production, as can be seen from the figures presented in the table below. As indicated by the data, wine production in both entities has significantly dropped while the import of wine from abroad has remained at the same level, four times higher than the amount exported. The fact that the quantity of products intended for export has remained at the same level despite the drop in production, combined with the data on import of wine, suggests that local consumers are more oriented towards foreign products.

Data on wine (in litres)	2007	2008	2009
Wine production capacities in FB&H	26.400.000	26.400.000	26.400.000
Wine production in FB&H	4.237.484	4.317.484	3.518.000
Wine production in RS	539.000	270.000	403.000
Export of wine from B&H	2.226.077	2.467.985	2.537.005
Import of wine to B&H	10.277.298	9.360.793	9.657.568

Source: Ministry of agriculture, forestry and water management of FB&H; RS Statistics Bureau; B&H Chamber of Commerce

The local viticulture and enology sector is now in an undesirable position due mainly to a legal vacuum; the B&H Law on Wine has been in parliamentary procedure since August 17, 2010. The new Law is supposed to regulate the production, processing, quality and trade of grapevine and wine production. The Law should also define the marking of local wines with geographical and quality indications and introduce a Viticulture and Enology Registry. Local wine producers can access EU wine markets only through harmonising regulations at the State level with the framework of foreign trade policy. The new Law has been harmonised with EU directives and other European provisions, e.g. definitions of key terms have been taken from directives and integrated into the Law. This new Law should provide effective regulation of the wine market in B&H. Entity laws are certainly very important because they more thoroughly define the competencies of all institutions in the sector of viticulture and enology. Owing to the fact that wine producers from Republika Srpska and the Federation of B&H are not currently in the same position, they do not attach the same importance to this problem. However, entity laws afford an insufficient basis for increasing wine exports, not least in the Federation of Bosnia and Herzegovina. Due to shortcomings in the current Law, producers are not able to keep up the normal pace of production and place their products on the wine market in Bosnia and Herzegovina. At the same time producers point out that there is a high percentage of imported wine and a lack of quality control on the part of B&H with regard to these products. This example highlights that Bosnia and Herzegovina does not have a single economic space and that the producers themselves suffer the consequences of this situation.

Unprepared for the European “alcohol test”

Having signed the Stabilisation and Accession Agreement (SAA), Bosnia and Herzegovina, pursuant to Article 70 of SAA, assumed responsibility for bringing national law into line with relevant EU regulations concerning viticulture and enology. The new B&H Law on Wine should be in accordance with the following EU regulations:

- EC Regulation No. 1234/2007 on establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products;
- EC Regulation No. 702/2009 amending and correcting Regulation No. 555/2008 laying down detailed rules for implementing Council Regulation (EC) No. 479/2008 on the common organisation of the wine market in the areas of support programs, trade with third countries, production potential and on controls in the wine sector;
- EC Regulation No. 436/2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept;
- EC Regulation No. 606/2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions;
- EC Regulation No. 607/2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labeling and presentation of certain wine sector products.

Current situation in Bosnia and Herzegovina

In the Federation of Bosnia and Herzegovina a law on wine, brandy and other grape and wine products is in force ("Official Gazette of B&H" no. 25/08) as well as bylaws pertaining to the Law on wine and brandy ("Official Gazette of SR B&H" No. 26/89 and 29/90). This Law has been in force for two years but since its introduction many shortcomings have been identified that have had the effect that this Law could not be implemented in practice. For this reason it was decided to draft a new Law on Wine which would remove the current problems in the implementation thereof. In the Republika Srpska, the Law on Wine and Brandy was adopted in 2009 ("Official Gazette of RS" no. 71/09). Talking to grapevine and wine producers, as well as to representatives of B&H and entity institutions, we concluded that in general there is no political will for the adoption of a new Law. The overall conclusion is that the RS is not willing to give consent for state level regulation of this issue. This causes suffering primarily for the wine makers in the RS who have managed to produce only a small portion of the overall BiH production capacity, and have barely managed to earn fifteen percent of the overall annual export at the state level. Instead of encouraging the wine production in the East Herzegovina through the affirmation of the EU standards at the BiH state level, the RS Government opts for the "wine nationalism" with which it ultimately inflicts punishment to its own wine makers.

In the meantime, the Ministry of Agriculture, Forestry and Water Management of the Federation of Bosnia and Herzegovina has started drafting a new Federal Law on Wine that is supposed to remove all the previous shortcomings which, to a great extent, have paralysed the sector of production due to problems in releasing wine to the market, inability of adequate protection of geographic origin of wine, question of wine quality control, etc.

However, neither of these two laws will enable a significant increase in the trade of B&H wine in EU markets. Since there is currently no authorised institution in Bosnia and Herzegovina which would, pursuant to the Law, issue decisions on placing wine on the market, the wine producers are 'de jure' prevented from marketing their products and are consequently suffering significant material damage. In addition to this, in the past 12 months, not a single decision has been made on protecting the designation of origin and geographical indication according to the submitted wine production report, with the consequence that there were no legal grounds for the export of local wine. In the Federation of Bosnia and Herzegovina this situation has been circumvented, de facto, by the passing of decisions by Cantonal Ministries of Agriculture relating to the marketing of wine and protection of the designation of origin and geographical indication, despite the fact that under the Law they have no competence over these matters.

Local production and the competitiveness of local manufacturers and producers are endangered by the lack of authorised institutions and laboratories for quality control of imported wine. The consequence of this is that there is a large quantity of imported wine on the B&H market. Based on research we found that significant quantities of grapes are imported into B&H from Macedonia and other countries for the production of wine. This wine is then placed on the market as a local product. This places local grape growers and wine producers in an unfavourable position with regard to the selling of their grapes and wine in both local and foreign markets.

A problem also occurs with regard to the level of efficient and consistent implementation of inspectional supervision of this Law in the Federation of Bosnia and Herzegovina. Namely, the Law stipulates that inspectional supervision and official inspections of the production and trade of wine shall be conducted by entity inspectorates. In this way this very specific problem is politicised because it raises the issue of division of competencies between the Federation and the Cantons. Apart from this there is also an issue of the limited capacities of agricultural inspection which ultimately has a significant adverse effect on the production and marketing of wine in local and foreign markets.

Another systemic shortcoming is the lack of a database or 'Registry' relating to grapevine and wine producers. Due to this lack of a database there are very limited possibilities to systematically and continuously monitor and analyse the situation in this field. This also significantly reduces the possibility for the definition of a policy which would enable resolution of identified problems relating to development measures, support, promotion and protection of the viticulture and enology sector in Bosnia and Herzegovina. Bosnia and Herzegovina still lacks bylaws defining the functioning of a Registry of grapevine and wine producers and consequently there is no data on the exact number of wine producers in Bosnia and Herzegovina. A large number of wine-cellars are registered under wine-producers and wine-growers associations within Bosnia and Herzegovina.

Next steps

After preliminary analysis we have defined a few specific steps that could be undertaken to better organise the viticulture and enology sector in Bosnia and Herzegovina:

1. A more favorable legislative ambience should be ensured for sustainable development of the viticulture and enology sector by establishing and maintaining a single and well organised wine market pursuant to EU standards.
2. There should be a Law at the State level to define foreign trade aspects of this sector and create legal preconditions for marketing local products on foreign markets. Detailed solutions could be provided in parallel and harmonised entity laws.
3. There should be an efficient system and mechanisms for quality assessment and organoleptic assessment of the wine (control over the production of grapevine, control of wine production, wine quality control, protection of designations of origin and geographical indication, wine marketing, establishing of registries, etc.).
4. In certain areas there should be clearly defined competencies of all levels of power, in particular in the Federation of Bosnia and Herzegovina, and an efficient system of inspectional control and supervision in the viticulture and enology sector.

Recommendation

A clear conclusion that can be drawn from all of the foregoing is that for the purpose of protecting the production of wine in B&H and preventing the decline of the share of local products in the B&H market, the B&H Law on Wine and pertinent bylaws need to be urgently adopted. Particular attention needs to be paid to simplifying of procedures in order to make them more cost-effective for both the State and wine producers. One should not overlook the need to provide a clear definition of the terms and conditions under which someone can become a grapevine and wine producer. Organisation and regulation of this sector requires political will and the involvement of competent institutions and NGOs which would lead to the expedition of these processes. Throughout this process it would be advisable to draw on the experiences of neighbouring countries.

About FPI BH:

The Foreign Policy Initiative BH (FPI BH; www.vpi.ba) is a BiH, nongovernmental and non-profit organization founded in Sarajevo in 2004, which is dedicated to analysing international relations and Euro-Atlantic integration processes of BiH. The goal of the FPI BH is to offer assistance to state institutions in removing weaknesses and promoting values present in those processes in order to increase the efficiency of BiH institutions in fulfilling the upcoming obligations.

Division of competences in Viticulture and Enology Sector of Republic of Croatia:

- The Croatian Viticulture and Enology Institute carries out the tasks pertinent to this field.
- The Institute carries out the quality control of wine.
- The Minister appoints the Commission for Organoleptic Assessment of the Wine with protected designation of origin and geographic indication.
- The Ministry establishes a Viticulture Cadastre while the Croatian Viticulture and Enology Institute is responsible for its maintenance.
- Local administrative bodies maintain the grapevine and wine producers' registries, which are then consolidated in the main Registry kept by the Institute.
- The Institute also carries out tasks related to the protection of designation of origin and geographic origin. At the proposal of the Institute, the Ministry passes decisions on protection of designation of origin and geographical indication.
- Inspectional supervision over implementation of the Wine Law of Republic of Croatia