

# Legal means of protection (guarantees) of the quality of wine production in the Czech Republic, with respect to the legal mechanisms in Austria

## Abstract

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The purpose of my thesis is to analyse selected issues related to the legal means of protection (guarantees) of the quality of wine production in the Czech Republic, with respect to the legal mechanisms in Austria. The thesis examines the means of protection of the quality of wine production in the field of both viticulture and winemaking. The thesis is divided into ten chapters.

The first chapter serves as an introduction into the selected topic. It explains the choice of the topic, highlighting the position of wine in the world of alcoholic beverages and justifying the special legal protection that wine deserves. This chapter also defines law in opposition to other systems, such as moral or ethics, proving the validity of the point according to which special legal protection of wine is a necessity. Finally, this chapter also explains the geographic location of the thesis into the Czech Republic and the reasons of the comparison with Austria.

The second chapter is entitled *“The significance of wine quality compliance”* and it is focused on the history and tradition of Czech wine. The significance of wine quality compliance in the Czech Republic is supported in this chapter using mainly the arguments of limited territory where quality wine may be produced as well as the long history and tradition.

The third chapter is entitled *“Legal mechanisms as a tool to ensure wine quality, including the role of state bodies”*. This chapter distinguishes the legal mechanisms into two categories, depending on whether they are related to viticulture or winemaking. The legal differences between viticulture and winemaking are described here. Further, the Central Institute for Supervising and Testing in Agriculture is introduced in this chapter and its role as the state administration body in the field of viticulture is explained and underlined. Similarly, this chapter introduces also the Czech Agricultural and Food Inspection Authority and explains its role as the state administration body in the field of winemaking.

The fourth chapter is entitled *“Analysis of the Czech Viticulture Act, considering the Austrian legal framework”* and deals mainly with the Czech Viticulture Act. It starts off with an explanation of the role of European Union and its legislation in the form of Regulations, Directives, Decisions, Recommendations and Opinions. Further, the key European Union legislative acts which regulate the field of viticulture and winemaking are described in this chapter.

Key part of the fourth chapter is aimed at the description of the contents of the Czech Viticulture Act and its comparison with the Austrian wine legislation. The main findings in this chapter are the following. Firstly, due to the strict and detailed European Union legislation, Czech and Austrian wine laws are very similar. Secondly, the Austrian wine legislation regulates also fruit wines. Thirdly, there is a big difference regarding severity of potential punishments for non-compliance with wine laws as the Austrian law contains also special crimes which may be committed solely by breaching the Austrian wine legislation.

The following three chapters are focused at the actual legal mechanisms which protect the quality of wine production.

The fifth chapter is entitled “*Prevention tools*” and describes the legal tools which are aimed at prevention of production of low quality wine. Among the described legal mechanisms, the rules regarding new planting and unauthorized planting can be highlighted. Administrative duties such as maintenance of the registration books and reporting to the Wine Register are introduced in this chapter, including interpretation of these duties by the case law of the Czech Administrative courts, such as the Regional Court in Brno.

The sixth chapter is entitled “*Quality and production criteria*” and its main focus is on the tools in the field of winemaking by which the final quality of wine is ensured. A handful of tools is described in this chapter. As an example, the role of the “maximum yield per hectare” criterion can be named. This chapter also deals with the technical regulations imposing duties regarding production hygiene, oenological processes, and appearance, colour, scent and taste of wine. A part of this chapter is dedicated to the part-fermented grape juice known as *burčák* in the Czech Republic and *Sturm* in Austria. Finally, the chapter deals also with the duties regarding designation of wine, again including the interpretation of these duties by the case law of the Czech Supreme Administrative Court.

The seventh chapter is entitled “*Control activities, including sanctioning tools*” and concentrates on the last group of tools and mechanisms aimed at the production of quality wine. The powers of both the Central Institute for Supervising and Testing in Agriculture and the Czech Agricultural and Food Inspection Authority are examined, including their actual role in practice. The mechanisms analysed in this chapter include especially the fines, but also other tools such as the wine classification and the wines of original certification.

The eighth chapter is entitled “*A comparison of Czech and Austrian legislation*” and is aimed particularly at the differences between Czech and Austrian legislation related to wine. The analysis of the differences shows that due to the aforementioned European Union legislation there is not much space left for local regulations, but some differences can be found. The overall picture shows that the Austrian legislation is stricter, regarding for example the maximum yield per hectare, sweetening of wine by sugar, or the increase of alcohol level in wine.

The ninth chapter is entitled “*Assessment of the significance of legal mechanisms*” and deals with the actual use of the described mechanisms in practice in both the Czech Republic and Austria. The chapter shows the shortcomings of the Czech legal mechanisms in practice, stemming mainly from the lack of actual use of the mechanisms in practice, little number of controls performed by the administrative bodies and, as a result, relatively high rate of wine samples which are not in compliance with the legal regulations. The Austrian mechanisms, on the other hand, are described as one of the top in the world, leading to 100 % control of all samples.

The tenth and final chapter entitled “*Conclusion – de lege ferenda suggestions*” draws conclusions from the analysis which forms the body of the thesis and transforms the conclusions into the *de lege ferenda* suggestions which could be to the benefit of the protection of the quality of wine in the Czech Republic. The approach of the European Union and its legislation as well as the administrative burden laid upon vine-dressers and winemakers is criticized in this chapter. The possibilities of ensuring higher quality of wine in casks and their sale, as the area in which the Czech Republic experiences the biggest shortcomings, are brought in, including the description of the role of a control tape and a better definition of wine adulteration.