

LEGAL ASPECTS OF WINE IN ROMAN LAW, CONTEMPORARY LAW AND THE CRIMINAL LAW OF THE REPUBLIC OF NORTH MACEDONIA

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Abstract

Wine, which has been known since ancient times, seems to be one of the oldest and most widespread products and beverages in the world. Its consumption is an integral part of everyday life. Having in mind the fact that it is a product or, better said, an agri-food product that is sold both in the domestic markets and the markets around the world, there is an evidential real need for its legal regulation. Hence, the purpose of this paper is the legal aspect of wine in the Republic of North Macedonia. The wine, as a beverage, was legally regulated through history as well as in the present. The authors of this paper will present the wine through three segments. The first segment refers to the legal aspect of wine through the prism of Roman law in terms of its sale and its inheritance. The second segment of this paper will cover the wine from the aspect of the current Law on wine in the Republic of North Macedonia and will emphasize the articles of the same law intended for wine, its producers and the penal provisions that apply to wine producers if they do not comply with the legislation. Finally, in the third segment of this paper, the authors give a special review of wine from the aspect of the Criminal Code of the Republic of North Macedonia in case of harmful consequences for the health of people who have consumed the wine.

Keywords: wine, agriculture, Roman law, criminal law, law

I. INTRODUCTION

With the very mention of the term "a blissful drop – a gift from Gods " in the everyday's speech, the mind of the interlocutor creates a thought that indicates the wine. Ancient times notify wine presence and allude to its existence. It seems the wine has been perpetuated long before the birth

* Aleksandra Jovanovic, PhD, Associate Professor, Faculty of Business Economics and Entrepreneurship, Belgrade, Republic of Serbia; e-mail: aleksandra.aj17@gmail.com

* Aneta Atanasovska Cvetkovic, PhD, Assistant professor, Faculty of Business Economics and Entrepreneurship, Belgrade, Republic of Serbia; e-mail: a.atanasovska@yahoo.com

of civilization. The existence of the wine, it seems, was long before Jesus offered the Holy Grail full of wine at the Last Supper, saying: "Drink, this is my blood". Long before the settlement of the Slavs in this area, the area of the Balkan Peninsula.

The appearance of the vine on the planet Earth, from which the wine is produced, it is presumed that, dates back before the appearance of man, humanity, civilization in general.¹ This fact is indicated by numerous notes that can be found in the scientific literature, literature which refers to the vine. Those notes detected the notion that its first appearance is connected with the appearance of the first wild vine that belonged to the genus *Vitis vinifera*.² For this vine, there is a statement that it dates for so long, even before the appearance of the first man. If we took a thoroughly look at the Bible³ in detail, it does contain notes about the vine and the wine.

Scientists point out to another fact about wine: wines based on raw fruits have not been unknown to man since ancient times. The first forms of trade known to mankind, the first commodity exchanges, which are characteristic for the ancient peoples and the history of law, are closely correlated with the wine. And the punishments dating back from ancient times, wine and grain were the basis of their execution. The history of law points to the Code of Hammurabi⁴, which, although was not the first code in history, was considered the first most important code⁵ and provides for penalties specifically for wine and taverns.⁶ Enjoying a good drop of wine and growing vines along the Egyptian Nile River was an integral part of regular life for the then-rulers - the Pharaohs. Traces of wine are also found in the poetry of the ancient Greek poet Homer, who did not spare lyrics for good wines originating from Macedonia and Greece. Hence, history, the history of law and, arguably, the oldest languages of civilization contained the words for vine, wine and grape.

If a culprit is sought, in a figurative sense of speaking, then Rome and, further, the Roman Empire⁷, could be considered the "culprits" for the transfer and expansion of wine and vines in our Balkans, and the way of growing vine (the lineage) and the winemaking process were accepted by the immigrating Slavs.⁸

Although the Middle Ages have negative consequences for the development of the law⁹, both socially and sociologically, this is not the case in terms of the expansion of the vine, its cultivation and the production of the wine itself. Priests and monasteries, especially on the Balkan Peninsula, are crucial for keeping the tradition of wine and its production in this historical period. This tradition of wine production, historically, is extinguished with the invasion

¹ Лазар Аврамов, *Практично виноградарство*, Белград, 1975, стр. 10.

² Драгутин Мијатовић, Татјана Јовановић, *Ампелологија*, Бања Лука, 2014, стр. 5-6.

³ The Holy Bible, The Old Testament, Genesis, Chapter 9, 9:21 And Noah began to be a husbandman, and he planted a vineyard; 9:22 And he drank of the wine, and was drunken; he was uncovered within his tent.

⁴ Its acclamation was for the area of ancient Mesopotamia, brought in the period from 1792-1750 BC by the ruler Hammurabi.

⁵ Војислав Станимировић, Нови поглед на Хамурабијев законик (I део), *Анали Правног факултета у Београду*, Vol LIX, 1/2011, стр.133-159; and also see: Војислав Станимировић, Нови поглед на Хамурабијев законик (II део), *Анали Правног факултета у Београду*, Vol LIX, 2/2011, стр.91-121.

⁶ In the Hammurabi Code, article 108 states: Art. 108.: If a wine seller does not take grain for the price of a drink but takes money by the large weight, or if she makes the measure of drink smaller than the measure of grain, they shall call that wine seller to account and throw her into the water.; Драган Николић, Александар Ђорђевић, *Законски текстови старог и средњег века*, Ниш, 2002, стр. 23.

⁷ For details see: Николај Александрович Машкин, *Историја старог Рима*, Београд, 1951.

⁸ Петар Т. Христов, *Лозарство општо*, Скопје, 2010г, стр.13-15.

⁹ For details see: Сима Аврамовић, *Општа правна историја, стари и средњи век*, Правни факултет Универзитета у Београду и Досије, Београд, 2000.

of the Turks in our area, because of the fact that the Islam and the Muslim religion forbid the consumption and production of alcoholic beverages, including wine.¹⁰

The historical epoch of the XVIII-XIX century brings great oscillations concerning the cultivation of vine and wine production. The period of the XVIII century, on the soil of the European continent, notice the growth of the cultivation of the vine and the production of wine. The decadent period for the vine, wine and production is noted in the XIX century period. Namely, this historical period is associated with the damage and the destruction of vineyards and even with the extinction of whole grape varieties. Europe, in this period, was facing a grapevine disease¹¹ transmitted from America¹² that caused their waste. After this discord of the vine, on European soil begins the application of chemical means that, to a large extent, helped to eradicate the disease and the ultimate goal was achieved - saving the vine and its re-development.¹³

Wine and wine production is one of the aspects for which, today, the Republic of North Macedonia, is worldwide known. It seems the sufficient number of sunny days, the sufficient hours of sunshine, the quality of the soil and regionalization¹⁴, are the several factors that enable the tradition, both family and industrial, of wine production and vine cultivation. The export orientation and the quality of the wine as a product are part of the factors that point out the need for legal regulation and standardization of the wine, to the competitiveness of the country and its recognition in both domestic and world markets. Hence, the aim of this paper is the current Law on Wine and the Roman law and the criminal law of the state, on the other hand, are also aims of this paper, in terms of wine as a product (agri-food product).

II. LEGAL ASPECT OF WINE THROUGH SEGMENTED REVIEW OF ROMAN LAW

The legal aspect of wine through the segmented review of Roman law is the first goal of this paper. The need for extensive research and processing in separate papers on the manner of selling wine or its inheritance in Roman law is unequivocal, but for the purposes of this paper, the legal aspect of wine in Roman law will be considered only in a segmented scope. It is said segmented review because the sale of wine, its form and its inheritance in Roman law will be presented in a very small scope, all for the purpose of the expediency of this paperwork.

Since the Romans, in terms of law, are adorned with legal consciousness, which was strongly expressed, and legal logic, it is not surprising that wine, as one of the basic things (*res*)¹⁵ used in trade (*res in commercio*), had a place in Digestes (Pandects)¹⁶. According to Roman legal

¹⁰ Нада Кораћ, Петар Циндрић, Мира Медић, Драгослав Иванишевић, *Воћарство и виноградарство (део виноградарство)*, Универзитет у Новом Саду, Пољопривредни факултет, Нови Сад, 2016, стр.1-6.

¹¹ Phylloxera (*Phylloxera vastatrix*, *Dactylosphera vitifolia*, *Phylloxera vitifolia*)

¹² Transmitted in the year of 1864.

¹³ Лазар Аврамов, *Практично виноградарство*, Белград, 1975, стр. 11.

¹⁴ The regionalization in R. North Macedonia was performed in the distant 1976 and includes three wine-growing regions: Pchinsko-Osogovo region, Povardarie region and Pelagonija-Polog region. There are no sub-regions within the regions, and vineyards with localities have been identified.

¹⁵ Антун Маленица, Поделе ствари и појам „ствар“ у римској правној доктрини, Зборник радова Правног факултета у Новом Саду, 1/2006, стр. 19-51.

¹⁶ Digests (Pandects) are part of Justinian's codification - *Corpus iuris civilis*. Namely, this great codification, which was carried out by order of Emperor Justinian I (526-565) contains three legal codes: Codex, Digests and Institutions. Finally, in Middle Ages *Novellae* are appended to *Corpus iuris civilis* which represented the new

doctrine, is said that the wine was a thing (*res*) because a thing, in Roman law, was a whole (or an object) that has a concrete legal connection related to the people.¹⁷

If we analyze the Digests from the aspect of only wine selling, there are no specific titles strictly related to it. But if we do the same, and read the Digests, we will see that in Book 18 entitled “Concerning the contract of purchase and agreements between purchaser and vendor, and what things cannot become the objects of the same”¹⁸ noticeable are the texts dedicated to wine selling in terms of generic things (items). Thus, wine in Roman law was considered a *res in commercio* whose sale was considered a special type. The sale of wine was considered special because it required the measurement of wine (*mensura*) and the wine could be physically measured.¹⁹

Considering the sale of wine in Roman law, let us emphasize a few facts. Related to the wine selling, in Roman law, was the legal rule of measuring the wine which was sold (*mensura*) and the same legal rule gave the buyer the opportunity to try, taste it (*degustatio*). In the group of rules that belonged to the sales of wine, and were valid in Roman law, is the pouring out of the wine (*effundere vinum*). We must also emphasize the fact that the purchase, the contract of sales (*emptio venditio*)²⁰ Roman law has primacy as one of the most significant and important contracts in Roman society at that time period. It was part of a large and significant group of consensual contracts, for which special legal rules and characteristics applied. To understand what the selling of wine as a generic thing means, first it must be emphasized that Roman legal doctrine lists the following characteristics of the *emptio venditio* (contract of sale): a simple consensus (*consensus*)²¹ of the contracting parties was sufficient for its validity, the price (*pretium*) and the thing (*merx*) which was sold were the subject of the contract, it was a mutually-binding contract, to which specificity *bona fide*²² is given, and meant that each of the contracting parties (buyer -*emptor* and seller - *venditor*) appeared both as a debtor and as a creditor^{23, 24}.

The feature related to the sale of wine has already been mentioned, which indicates a correlation between the sale and the measure (*mensura*)²⁵. The separation of the wine into amphorae (*amphorae*)²⁶ facilitated its sale. For each amphora (*amphorae*)²⁷ The price was determined

imperial regulations that were not included in the codification during the reign of Emperor Justinian I. Иво Пухан, Мирјана Поленак Акимовска, Владо Бучковски, Гоце Наумовски, Римско право, Скопје 2014, стр.89-91.

¹⁷ Антун Маленица, Поделе ствари и појам „ствар“ у римској правној доктрини, Зборник радова Правног факултета у Новом Саду, 1/2006, стр. 19-51.

¹⁸ Hereinafter: D.18

¹⁹ Petr BěLOVSKY, Perficio emptionis in case of a sale of wine in Roman law. Fundamina (Pretoria). 2019, vol.25, n.2, pp.1-11.

²⁰ Sanja Maksimović, Danijela Despotović, Ugovor o kupoprodaji u rimskom pravu, PRAVO-teorija i praksa, br. 7-9/2017, str. 62-71.

²¹ Vladimir Vuletić, Nastanak i razvoj rimske prodaje: trijumf načela konsensualnosti, Harmonius, br.1/2012, str.109-130.

²² Магдолна Сич, Fides и Vona fides у процесу стварањаримског општег права (ius gentium),Зборник радова Правног факултета у Новом Саду 2/2012, стр. 157-176.

²³ Марија Игњатовић, Мими Шутова, Класификација правних послова, Зборник радова Правног факултета у Нишу, LXIV, 2013, стр.179-198.

²⁴ Жика Бујуклић, Римско приватно право, Београд, 2015, стр. 378-384.

²⁵ BěLOVSKY, Petr. Perficio emptionis in case of a sale of wine in Roman law. Fundamina (Pretoria). 2019, vol.25, n.2, pp.1-11.

²⁶ In Roman society, wine was kept in *vasa vinaria*. *Vasa vinaria*, in papers dedicated to wine is a generic term, thus in Latin translations and terms dedicated to vessels in which wine was stored following terms can be distinguished: amphorae (*amphorae*), barrels (*dolia*) -tankers, jars (*cadi*), urns (*urnae*), barrels (*cuppae*). Самир Аличић, Винске посуде (*vasa vinaria*) у римском праву, Анали правног факултета у Београду, 2017 65(1), стр. 131-150;

separately.²⁸ Following, then, the existing Roman legal rules of the contract of sale (*emptio venditio*), wine (as a thing, item (*merx*) and subject of the contract) was sold at a precise time when the agreed price (*pretium*) was determined to each amphorae separately. The quality of the wine was directly related to its sale. Thus, if the casks, vessels and barrels of wine were the subject of the contract of sale (*emptio venditio*), the need to seal them was more than necessary, and this procedure indicated one goal - not to destroy the quality of the wine contained in the casks or the vessels.²⁹

The measure of wine, lied in amphorae, casks or vessels, as a manner of selling wine in Roman Law was not merely. Namely, the Roman doctrine provided the sale of wine in a certain quantity, so the sale of wine was not necessarily done only in amphorae, casks and vessels. In today's conditions, such a sale of wine would be equated with a "bulk" sale. This view is indicated by Book 18 of the Digest, entitled 35.6. According to this title, the Roman jurist Guy refers to the sale of wine from wine cellars, determining the price and risk of selling the wine. Thus, if the wine was sold from a wine cellar and if 100 measures were sold, the risk of sale belonged to the contracting party seller (*venditor*) whether the price as the subject of the contract had already been set and was fixed for those hundred measures as a whole or the price was set and fixed for each measure individually. The risk was foreseen in the direction of the measurement - whether the agreed measures were really sold. In Roman law, bulk sales also emphasize specificity: an obligation of the seller (*venditor*) which consisted of storing the wine. This responsibility and obligation for the seller (*venditor*) lasted until the measurement of the wine was done.³⁰

Above in the paper was already mentioned the procedure of pouring out of the wine (*effundere vinum*) as a characteristic that corresponds to the wine sales. According to the Roman legal rules of that time period, which corresponded to the sale of wine in bulk or by measure, the seller (*venditor*) was obliged to determine a specific time and place for measuring wine. If the specified time is not observed by the buyer (*emptor*), in that case, the Roman rules gave the seller (*venditor*) the right to pour out the wine from the vessels in which it was stored. For the wine pouring out the procedure to be valid, a witness had to be present, and the intention for the pouring out procedure had to be conveyed to the buyer (*emptor*) and he had to be informed that the seller (*venditor*) intended to pour the wine.³¹

The third characteristic that corresponds to the sale of wine and is part of the Roman legal rules is the tasting, the degustation of the wine during the sale (*degustatio*).³² D.18.6.4.pr refers to - who bears the risk if the condition for the sale of wine was the degustation that had to be performed on a specific date, and this date was considered as a term that had to be fulfilled for the sale to be valid. Was reducing the quality of the wine and its moldiness scope of responsibility to the seller? Ulpian unequivocally says that the risk, the assessment of the risk if the wine-tasting does not take place on a specific date falls on the side of the seller (*venditor*). Regardless of the essence of this title (D.18.6.4.pr), in terms of wine, it could be concluded that the Romans, at that time period, took care of the quality of the wine and it should not be sold sour or full of mould. And to the buyer (*emptor*), Roman law gives the right to taste so that the

²⁷ The amount of wine liquid that an amphora could receive was equal to 26 litres. The amphora is a clay vessel with a narrow throat. Thus, the amphora was easy to handle, transport, load and sell the wine.

²⁸ D.18.1.35.5.

²⁹ D.18.6.1.2.

³⁰ D.18.6.1.

³¹ D.18.6.1.3.

³² D.18.6.4 pr.

buyer (*emptor*) can have the opportunity to be convinced of its quality. Roman law goes so far as to say that the purchase is incomplete if the wine has not been tasted before the conclusion of the contract of sale (*emptio venditio*), especially in situations where the sale of wine was considered as "wholesale" purchased.³³

The condition or the quality of the wine was of more than exceptional importance for the sale of wine in Roman law. For its condition or its quality, the seller (*venditor*) was the one who had to take care of the wine and store it properly. The moldiness or acidity of the wine were two of the criteria by which its quality and condition were determined. Thus, whether the wine will be sour or mouldy depended only on the seller, on the manner of storage and care of the wine in general. If the wine did not have the required quality and conditions, in that case, the Roman doctrine protected the buyer (*emptor*) - the buyer (*emptor*) could not buy the wine in poor condition, and the seller (*venditor*) was not allowed to sell it and he was forbidden to sell further the wine in such conditions.³⁴ The fairness of the Roman legal rules dedicated to the purchase and sale of wine as a generic thing is also reflected in the protection of the seller (*venditor*). If the loss of wine quality, if the conditions of the wine were changed, if it was sour or mouldy after the sale, in that case, the buyer (*emptor*) as a contracting party suffered the consequences of the damage.³⁵ Accidental or intentional breaking of amphorae or other vessels in which wine was stored was an integral part of Roman society at that period. As a result of the breaking of the amphorae (*amphorae*), pouring out the wine was necessary to appear as a consequence. Hence, these consequences, in Roman law, are related to the responsibilities of the contracting parties arising from the contract sale of wine. If the sale was made by handing over the wine, and the amphorae were undamaged, and the breaking occurred after their handover, then the responsibility for breaking the vessels and pouring out the wine lies with the buyer (*emptor*).³⁶

From the legal aspects, the wine as presented, related to its sale in Roman law and one gets the impression that the "a blissful drop – a gift of the Gods" was highly valued by the Romans.

In this chapter, the wine will be also considered from another legal aspect - inheritance law. Inheritance, as a legal institute, is an integral part of humans' everyday life and has a *mortis causa* characteristic. Specifics are an integral part of the inheritance in Roman law.³⁷ Thus, inheritance in Roman law could be based on the law (intestate)³⁸, could be based on testament (testamentary)³⁹ and necessary inheritance⁴⁰.

Book 33 of the Digest, Title 6 "Concerning bequest of wheat, wine and oil" ⁴¹ discusses the wine from the legal aspects of the manner and the possibility of inheriting it in Roman law. Summarizing and briefly presentation the legal rules of inheritance of wine in Roman law is the goal of the further.

³³ D.18.6.4.1.

³⁴ D.18.6.6.

³⁵ D.18.6.1.pr.

³⁶ D.18.6.1. pr.

³⁷ Inheritance in Roman law can be divided into four stages: inheritance under the old civil law, Pretorian inheritance system, inheritance under imperial law, and Justinian's inheritance law. Ante Romac, *Rječnik rimskog prava*, Zagreb, 1983, str. 435-437.

³⁸ Charles Phineas Sherman, *Roman law in the modern world*, Boston, 1917, стр 670-677.

³⁹ Милан Почуча, Ненад Стефановић, Институт тестаментa као наслеђе из римског права, Правни записи, Правни факултет Универзитета Унион, год X, бр.2 (2019), стр 517-531.

⁴⁰ Marjan Horvat, *Rimsko pravo*, Pravni fakultet, Zagreb, 2002, стр. 393-420.; Ante Romac, *Rječnik rimskog prava*, Zagreb, 1983, стр.438-449.; Жика Бујуклић, *Римско приватно право*, Београд, 2015, стр. 281-311.

⁴¹ Hereinafter: D.33

Bequest (*hereditas*), according to the Digest, except wine, included everything that originated from the vine and was the basis of wine and its nature at the same time.⁴² From the texts in the Digests, Book 33, is understandable that in the Roman society, in a concrete historical period and concrete households of that same period, the vinegar was an integral part that was kept in the cellars together with the wine. Thus, if vinegar was found between the wine, in the cellar, after the death of the testator (*de curis, defunctus*), it entered the bequest (*hereditas*) together with the wine.⁴³ According to the Roman legal rules of the time period, if the wine was found and was counted as part of the succession, a small part of it was left for the household itself. And the vessels⁴⁴, although were not a part of the inheritance (*hereditas*), were also inherited merely because in them the wine was stored in.⁴⁵ If in a will, in case of the testamentary inheritance, an obligation was left for the heir to deliver a certain quantity of wine to the legatee, the wine, all together with the vessels in which the wine was stored, were delivered to the legatee named in the will.⁴⁶

Just like in the sale, the proceedings of pouring out the wine (*effundere vinum*) were also allowed for the institute of inheritance in Roman law. The Roman law allows such a procedure in case of existing a legatee, according to the will, to whom the heir had to deliver wine and the legatee does not receive the wine. In this case, the legatee bears the responsibility that the wine was not received, and the heir was given the right to pour out (*effundere vinum*) the wine from the vessels which were strictly used for wine storing.⁴⁷

The terms "age of wine" and "old wine", which are recognized today, were also known to the ancient Romans. In Digests, Book 33, there is no strict rule that refers to the notion of how many years have to pass for a wine to be called or recognized as "old wine", so the ancient Romans considered it is necessary and stood to "expiration of years for the wine to become old".⁴⁸ Terminologically, "old wine" was defined by the Romans as "any wine that is not new".⁴⁹ According to Roman law, any wine from the previous year could be classified as old wine.⁵⁰

The Pragmatic Romans in D.33.6.9.pr. itemized what was not considered as wine and which beverages could not be included in the scope of bequest (*hereditas*). Thus, according to D.33.6.9.pr., mead, old antique beer, diluted mead, brewed wine and spices added to it, raisin drink, were not considered as wine.

The ancient Romans also recognized the term "sweet wine". Sweet wine could be inherited and be part of the bequest (*hereditas*) also. The legal rules deriving from the Digests, Book 33, indicate that if there are no specific indications in the will regarding the inheritance of wine, then the wine mixed with honey, raisin wine, mulled wine with spices and all those drinks that compounded grapes, figs, dates and dried fruits was part of the bequest (*hereditas*).⁵¹

⁴² D.33.6.9.pr.

⁴³ D.33.6.1.

⁴⁴ If we read carefully Book D.33 of the Digests and its Title 6, we can fully determine which were the specific vessels in which the wine was then stored and kept.

⁴⁵ D.33.6.3.1 and D.33.6.14.

⁴⁶ D.33.6.3.1.

⁴⁷ D.33.6.8.

⁴⁸ D.33.6.10.

⁴⁹ D.33.6.11.

⁵⁰ D.33.6.11.

⁵¹ D.33.6.16.1

Unequivocally, in Roman law, the wine, as a beverage and product derived from grapes, had its own legal aspects and was an indispensable part of it, which indicates the fact that the need for its legal regulation existed in Roman law.

III. LEGAL ASPECT OF THE WINE THROUGH SEGMENTED REVIEW IN THE CURRENT LAW OF WINE IN THE REPUBLIC OF NORTH MACEDONIA

The family and industrial production of wine in the Republic of North Macedonia has a long tradition. The increasing growth, development and marketing of wine on the domestic and foreign markets as a consequence have increased production capacities, especially in private sector capacities.

Wine, as a product, in the Republic of North Macedonia is regulated in the Law on Wine, consisting of 101 articles.⁵² The production of wine, its classification, the marking of wine and the protection of wines with a geographical name are a part of the subject scope of this law (Article 1) and are useful for the needs of this paper.

Grape varieties belonging to the genus *Vitis vinifera* are allowed for wine production in the Republic of North Macedonia. The law establish these grape varieties into two classifications: recommended and approved (Article 28). In order to obtain top-quality wine and quality products, the state allows crossbreeding by law, and only the crossbreeding of the genus *Vitis vinifera* with other genera of the genus *Vitis* is allowed (Article 28). This article reveals two intentions: sale of quality wine on domestic and foreign markets and protection of consumers-delighted in a good drop of wine. Hence, the criminal provisions of this law are also of particular interest for this paper in case of non-compliance with the norms prescribed for wine production and wine producers.

The legal norms related to the production of wine in the law are located in Chapter III and Articles 21-30a. The definition of the term wine is by law determined, so in accordance with this law, the legislator, who does not allow lay definition and interpretation of the term, unequivocally states that wine is a product⁵³ obtained exclusively by the full or partial alcoholic fermentation of fresh grapes, crushed or non-crushed or must. It is clearly stated that only the wine obtained from wine grape varieties by using appropriate oenological procedures and practices can be placed up for sale and placed on the market (Article 21).

The wine, since the time of ancient Rome, must have its own quality, but also must be produced by the virtue of standards, so the question of what kind of wine classes exists in the Republic of North Macedonia is not excluded. The Law on Wine recognizes the following classes of wine as products: young wine, wine suitable for making table wine, table wine, regional wine, wine of controlled origin, wine of controlled and guaranteed origin, liqueur wine, sparkling wine, carbonated wine, semi-sparkling wine, carbonated semi-sparkling wine, wine vinegar, wine sediment and wine stone, wine fortified for distillation, wine distillate and wine from overripe

⁵² Official Gazette of the Republic of Macedonia no. 50/2010, 53/2011, 06/2012, 104/2011, 64/2012, 23/2013, 106/2013, 188/2013, 149/2015, 39/2016, 172/2016, 174/2016, 70/2018 and 235/2019. Hereinafter: the law.

⁵³ In this direction, here could be a remark from the authors that refers to R. Serbia. In a sense, the Serbian Law on wine, Article 5, gives a better solution for the definition of wine. Article 5 states that wine is an agri-food product. This definition of the term "wine" in neighbouring Serbia, without any favouring of the laws and the legislations, the authors believe that it has significance because, ultimately, wine is a product derived from the agricultural crop (plant).

grapes (Article 3). The definition of the mentioned wines, respectively wine products, are not missing from the legal narrative. The determination of the alcohol expressed in percentages that should contain the wine and the mechanism of vinification are also included in the legal narrative.

The legislator sets strict rules that must be followed if the final goal is the required quality of the wine. If these set of rules are fulfilled, in that case, the wine can reach the markets and be available to wine consumers and consumers in general. In the Republic of North Macedonia, part of these strict rules refer to the ban of certain products that cannot be used in the process of wine production, and the legislator specifically enumerates that fresh grapes, must, must in fermentation, concentrated must be refined concentrated must, fermented must be interrupted by the addition of alcohol, grape juice and concentrated grape juice from import cannot be used for wine production or added to wine during the process of making wine (Article 22, paragraph 1). To protect the quality of wine, the law prohibits the addition of sucrose into the wine, and an exception to this rule exists only in cases of the production of sparkling wines (Article 22, paragraph 2). The protection of the wine and the preservation of its quality is reflected in the following prohibition: production of wine with re-fermentation of the *comminus* (Article 22, paragraph 3). Through Article 22 and paragraphs 1, 2 and 3, the impression which is inevitably gained is: the legislator and the state pay special attention to the quality of wine, and to this impression can be added the fact that indicates that only 10% of the total wine production in the country remains for domestic markets.

There is an absence of a clear definition of a wine producer in the law, but it states that the wine producer is a natural or legal person (Article 30).⁵⁴ There are conditions enumerated that must be fulfilled if a natural or legal person wants, as an activity, to have wine production. Undoubtedly, these strict conditions are referred to: availability of appropriate premises and equipment, employment of at least one person with high education in the field of winemaking or viticulture or engagement of the same person regardless of whether the winemaker is a natural or a legal entity, and it depends on whether the production capacity exceeds one hundred or fifty thousand litres per year. The law imposes the obligation for every natural or legal person who meets the conditions for wine production to make an entry in the Register of wine producers⁵⁵, and specifically, it is stated that anyone who wants to be a wine producer must not be deleted from the Register in the previous calendar year. Finally, the legal or natural person, in accordance with Article 30 of this Law, must not have due financial obligations for the purchased wine grapes.

At the end of this chapter of the paper, attention will be paid to the penal provisions prescribed by the Law on Wine, which refer to wine producers. The seriousness of the state and the seriousness of the legislator in relation to the wine and wine production is reflected in the part of these penal provisions. The norms for the penal provisions can be found in articles 59 to 64-a and, at the initial reading, one gets the impression that the legislator really, through this law, wants the final product - the wine to have all the necessary properties related to its quality in order to create and produce a product that is competitive on the markets, both domestic and foreign.

The fines for the committed misdemeanours are in the range of fifteen to six thousand Euros in Denar counter value, depending on the gravity of the committed misdemeanour and depending

⁵⁴ Perhaps, the law should clearly state that this is a natural or legal person engaged in wine production, as is the case in the Serbian Law on wine.

⁵⁵ The manner, procedure and deletion from this Register is kept by the competent Ministry of Agriculture, Forestry and Water Economy of the Republic of North Macedonia.

on who committed the misdemeanour. Undoubtedly, the linear punishment from the legal entity to the responsible person (or natural person) and whether it is a large, medium or small company engaged in wine production is another contribution to the serious intention of the legislator to create a quality and competitive product. Even the temporary misdemeanour sanction - a ban on performing an activity for a period of three months to three years - supports the opinion about the seriousness that the authors gained during the research for this paper.

When we talk about the penal provisions that are prescribed by this law, we must mention the specificity that could be attributed to this law. Namely, in this law, in addition to the misdemeanour provisions, criminal liability and a crime are recognized. Pursuant to Article 59-c, imprisonment is prescribed. So, this law recognizes a crime that is sanctioned with imprisonment of one to five years. Imprisonment is imposed for the responsible person of the wine producer who placed the wine on the market if: he submitted an unreliable report (Article 30), used financial means contrary to the report (Article 35-a, paragraph 3), did not submit the report within the required deadline (Article 35-a, paragraph 4) or it was untrue (Article 35-a, paragraph 4). This article also benefits to the general impression of the seriousness of the legislator and the intention to produce a quality product that is placed on the market.

Both the modern times and the contemporary, current law that is in power in the state do not exclude wine from the legal regulation and has its legal aspect in the contemporary laws and regulations in the Republic of North Macedonia.

IV. LEGAL ASPECT OF WINE THROUGH SEGMENTED REVIEW IN THE CRIMINAL CODE IN THE REPUBLIC OF NORTH MACEDONIA

A large number of human activities aimed at human well-being, unintentionally or unconsciously cause harmful consequences aimed at the person or the environment in which he lives in.⁵⁶ It is assumed that with the prohibition imposed in Article 22⁵⁷ of the Law on Wine and the oenological means (Article 24, Law on wine) and procedures that are approved, the state and the legislator aim to protect the person as the final consumer and consumers of the wine product. The legislator and the state also, through the standardized prohibitions and approved oenological means, aim to protect human health and above all aim to avoid the consequences that would occur with the application of the Criminal Code⁵⁸ of the Republic of North Macedonia.

Inevitably, the question arises: what if the wine is produced on the contrary of the established oenological means and procedures and, at the same time, harmful consequences arose which will be endangered or damaged the health of the people who consumed that wine? The answer to this question comes from the Criminal Code, which is clear and decisive.

The Criminal Code of the Republic of North Macedonia, in chapter 21, regulates the crimes against human health. Appropriate criminal sanctions are prescribed for these crimes. The

⁵⁶ Aleksandra Jovanović, Ekološki kriminalitet i ekološki delikti u pravu Republike Srbije, *Ecologica*, 6p. 87, Beograd, 2017. crp. 517-519.

⁵⁷ Article 22, 1) Fresh grapes, must, fermented must, concentrated must purified concentrated must, fermented must be interrupted by the addition of alcohol, grape juice and concentrated imported grape juice may not be used for the production of wine or to be added to wine in the Republic of North Macedonia. (2) The addition of sucrose to wine is prohibited, except for the production of sparkling wines. (3) The production of wine with re-fermentation of the commin is prohibited.

⁵⁸ Official Gazette of the Republic of Macedonia "no. 37/96, no. 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139 / 08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 27 / 14, 28/14, 115/14, 132/14, 196/15, 226/15, 97/17 and 248/18.

protective object of these crimes is human health, and, from them, the consequence arises - a danger to human life. Article 213 of the Criminal Code refers to the production and placing on the market harmful food and other products. Clearly and itemized, in this article, several punishments (sanctions) are listed: imprisonment from three months to three years, imprisonment for up to six months or a fine. These penalties apply to those who produce for sale, selling or otherwise place on the market harmful⁵⁹ food products or beverages⁶⁰ or personal hygiene care products, or other harmful products which will cause danger to the life or health of people (Article 213 paragraph 1). Hence, any wine producer who places on the market spoiled wine or wine with flaw or inaccuracy faces these penalties, and the object of the crime is any harmful food product or beverage.

If the criminal offence mentioned in the same article is committed through negligence⁶¹, the second paragraph prescribes imprisonment of up to six months or a fine. Through these two paragraphs of the same article, the intent⁶² ⁶³ is "hidden", so rightly, the judges of the criminal courts examine whether in committing this crime, from the aspect of wine production⁶⁴ (an alcoholic beverage), intent or negligence⁶⁵ existed⁶⁶. Examining whether there is intent or negligence is crucial. The placing on the market wine with certain flaws and inaccuracy that are fatal to human health, and a crime is being committed by negligence, in this case, the Criminal Code offers the mildest punishment of all listed punishments in Article 213. Hence, if this crime is committed by negligence the perpetrator is facing imprisonment for up to six months. This penalty is also prescribed with an "or" in a sense of alternative punishment- a fine⁶⁷, which is not the case with the provided penalties in the previous paragraph.

The Criminal code does not exclude criminal liability for legal entities⁶⁸, which in our case are wine producers. The difference does not exist whether small, medium or large companies committed the crime.⁶⁹ They will be punished. Paragraph 3, Article 213 of the Criminal Code, fully corresponds to the seriousness of the legislator and the state in promulgating the Law on Wine in the direction of protection of wine consumers and protection of their health.

⁵⁹ A quality that negatively affects human health.

⁶⁰ Although the perpetrator of this crime can be any person, for the purposes of this paper we consider only wine producers.

⁶¹ Божидар Марковић, Нехат Cулпа, Crimen, Časopis za krivične nauke, vol. XI 2/2020, стр.194-197

⁶² This crime is specific precisely of its two elements: consciousness and will. There are two types (form) of intent: direct intent (when the perpetrator is aware of his act and wants to do it) and eventual intent (when the perpetrator is aware that a forbidden consequence may occur due to his act or omission and perpetrator committed the crime anyway).

⁶³ Živko Topalović, Granične međe umišljaja i nehata, prvi deo, Crimen, Časopis za krivične nauke vol. I 1/2010 str. 91-119.

⁶⁴ The 1998 "Zozovaca" case is well known in Serbian court records. Although, in this trial, the subject was grape brandy containing methyl alcohol, where 56 people were poisoned and 46 died, still receives a court criminal solution according to Article 256 of the Criminal Code of the Republic of Serbia, which is a counterpart of Article 213 of the Criminal Code of Republic of North Macedonia.

⁶⁵ The volitional element is absent in this crime. So, the perpetrator of such an act neither wants the consequence nor does he accept its occurrence. Negligence can be: conscious and unconscious.

⁶⁶ Radosav Risimović, Razgraničenje eventualnog umišljaja i svesnog nehata, vol.13, br.3, 2018, str.89-103.

⁶⁷ Zoran Stojanović, Vezanost suda kaznenim rasponima novčane kazne, Crimen, Časopis za krivične nauke, vol.III 1/2012, str. 95-104

⁶⁸ Dragan Jovašević, Krivična odgovornost pravnih lica u Republici Srbiji, Vojno delo 3/2019, str.112-132.

⁶⁹ Žaklina Spalević, Krivična odgovornost pravnih lica, PRAVO-teorija i praksa 7-9/2011, str. 71-81.

As far as products and beverages harmful to human health are concerned, in our case, the wine, Article 213 of the Criminal code unequivocally requires confiscation of the products.

Presented in this manner, the criminal norms through the prism of wine indicate that this state cares for human health. The perpetrators of the crime are sanctioned and punished, especially in the area of producing wine with a flaw or inaccuracy, and thus a possibility is created for avoiding unintended consequences and death, which would eventually occur as a result of poisoning with alcoholic beverages (wine).

V. CONCLUSIONS

There is no doubt that wine and wine production are gaining great importance in the Republic of North Macedonia. Wine, as shown in this paper, has been known to man since ancient times. Through the segmented representation of wine in Roman law, it could be said that as early as Roman times it took an important place in society and it could be sold and inherited in accordance with the applied rules in Rome. It is indisputable that the Romans took care of its quality and manner of storage. The vessels - the famous amphorae, known in every part of the world, collected 26 litres of wine. Of course, other forms and types of vessels were also used and collected a certain quantity of wine. We must not fail to notice that the sale of the wine was in accordance with the distinctive rules and was sold in terms of its weight and size and was considered as a generic thing. After a brief look at wine in Roman law, one might get or confirm the impression that the "gift of the Gods" in Roman society had the primacy of merchandise and trade, a commodity that was used long before money was used as a means of payment.

After the review of the Law on Wine, specifically, the provisions dedicated to the wine, production and types of wine protected by the law, the impression is confirmed that the Republic of North Macedonia takes into account the production process and quality of wine, as well as its placement on markets. The wine of geographical origin, taking into account whether the wine is made from grape varieties that grow on Macedonian soil, the ban on using inappropriate oenological procedures and oenological means, confirm the acquired impression that the Republic of North Macedonia intends to bring the wine and its production to an enviable level as one of the leading products in the country. This law also shows the aspiration of the Republic of North Macedonia to introduce order in production, and this is reflected with the penal provisions. Fines, which are not small in value, allow us to think that all those companies that are serious or intend to engage in wine and its production, must follow a set of legal rules and measures to obtain a top product that has great importance for the state.

Finally, the Criminal Code and its Article 213 elaborated in this paper, largely indicate that the Republic of North Macedonia cares about human health, sanctions all intentional and unintentional mistakes made in the production of wine, and thus wants to retain the epithet "California in the Balkans" and protect the reputation of a producer of high-quality wines safe for the human health.

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