

HUNGARIAN SPIRITS PALINKA AS A “HUNGARICUM” II. THE EFFECT OF TAX-FREE PRODUCTION IN HUNGARY AND IN THE EUROPEAN UNION.

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Abstract: *Palinka is a traditional Hungarian fruit spirit prepared exclusively by the distillation of fruit mash or fruit pulp. As an alcohol product, it is subject to the Act CXXVII of 2003 on Excise Duties and Special Regulations on the Distribution of Excise Goods amended several times. The present government of Hungary pledged to grant the right of free palinka distillation again in the previous election campaign. As of 27 September 2010, the excise duty of subcontract-distillation was repealed, and the previously non-existent “official” home distillation was introduced, which resulted in explicit revenue losses for the state budget. The modification of the law mentions distillate instead of the word palinka. The difference between the two notions will be discussed in the present study. Presumably, lawmakers did not consider the fact that at the time of Hungary’s EU accession we entered into an agreement stipulating that the tax on subcontract-distillation should not be lower than 50% of the tax on alcohol products. Having been unable to agree on a solution to the problems in question, Brussels launched an infringement procedure against Hungary. Finally, Hungary was convicted; therefore, tax exemption or palinka distillation shall be ceased. This regulation came into force on 01 January 2015. The reactions of those who used the services of subcontract distillation were negative; turnover plunged by approximately 85% compared to the year of 2014. The present research will present the amendments concerning home distillers due from 2016 and the elements of the bill intended to amend the Act LXXIII. of 2008.*

Keywords: *subcontract-distillation, excise duties, Excise Act, infringement procedure, home-distillation, palinka, distillate (JEL CODE: K34, L51, L66)*

Introduction

Palinka. This seven-letter short word is mentioned increasingly frequently in various media. Almost everybody has memories about the first or the latest “meeting” with the spirits at parties, during visits to relatives in the country, on the occasions of pig-killings, palinka festivals or dinners. Through christening and marriage ceremonies, Palinka accompanies human life from birth to death.

Since the transformation of the regime (1989), producers and tourism industry professionals have made great efforts to revive traditional Hungarian palinka culture. We talk increasingly more about the “Renaissance” of Hungarian palinka. Evidently, the onset cannot be attributed to a single year, but the review of the past two decades reveals that the 1990s saw a slow process of awakening and preparation, whereas the 2000s a spectacular revival and a series of successes in the history of Hungarian palinka. As of 01 June 2002, merely spirits produced from 100% fruits shall be labelled “palinka”.

The EU has introduced the range of products bearing a protected geographical indication, including eight Hungarian

palinka types up to the present. Furthermore, there exists a Hungarian protected local regional indication, compiled by the Program of Traditions, Tastes and Regions (Le Groupement Européen d’Interet Economique Euroterroirs), listing 15 Hungarian palinka types and liqueurs. Following the preparation and discussion of the Palinka Act in the second half of 2008, the Hungarian Palinka Act was drawn up at the end of this year, comprising further restrictions compared to the EU legislation.

The starting point of the Renaissance of Hungarian palinka was clearly the annual national, later international Kisusti (fruit palinka) festival organized in the framework of Gyula Days started in April 2000. Since then, the number of similar events has been on the rise, e.g. palinka days are arranged in Budapest, Kecskemet as well palinka competitions in local revenues e.g. in Kisvarda, Doge.

The conference of Distilling Industries Association and Product Board for the Distilling Industry and Hungarian Free Radical Society on 29 September 2000 in Hotel Gellert, entitled “Lifestyle and Enjoyment of life at the millennium” constituted a turning point in attitudes towards palinka.

Scientific evidences were revealed at the conference about

the positive effects of alcohol (e.g. the effects of binding harmful free radicals), about moderate alcohol consumption, and naturally about the positive public attitude towards palinka. Since 2004, Palinka Trade Guild has organized workshops in Agard, where domestic producers were provided assistance in terms of professional knowledge and business trips in their decision-making and seeking possibilities.

Those committed to excellent palinka established The Association of "Palinka Order of Knighthood" in January 2004, where the first members were knighted at the V. International Kisusti Palinka Festival in Gyula, in April 2004. Further professional-social organizations are the following: Distilling Industries Association, Palinka Trade Guild, Association of National Palinka Distillers and Association of South-Eastern Hungarian Distillers.

The Hungarian Palinka Order of Knighthood declared St Michael's day, 6th December the day of palinka.

Similarly to the celebration of new wine, the festivity of "new palinka on 6th December" was found out and the traditional plum day for the public (usually held towards the end of September) was labelled the celebration of "new palinka".

The House of Hungarian Palinka opened its doors on 31 October 2003 in Budapest, where the best Hungarian palinka types are available. Its range includes the 650 products of approximately 50 domestic distillers. An increasing number of palinka museums are established, just to mention a few of them: Palinka Museum in Izsak and Zwack Kecskemet Manufacture and Museum. So-called "palinka-trails" have been created with touristic programs of several events along them, offering visits to local distilleries, e.g. the Szatmar-Bereg plum-trail.

Hungarian palinka went through considerable changes in the past decades. It no longer belonged to the "village drink" category, but developed into a Hungaricum, our national spirit. Meanwhile, several acts and provisions were drafted that stipulated the manufacture of palinka and at the same time influenced distillers' activities.

Materials and methods

The present study is mostly based on secondary research; therefore, I gained an understanding of the most essential provisions, statutes, laws and their amendments. I prepared tables to present the changes of excise tax proceeds by using the data of the central budget. As my family and I are also engaged in an enterprise of subcontract palinka distillation, I have relevant professional experience and obtained my own data from subcontract distillation activities back for the previous five years. Moreover, I personally experienced the impact of the changes of the legislative environment exerted on enterprises; in this way, I am capable of monitoring the direct feedback of subcontract distillers' clients.

Legislative background

The several decades-long competition between alcoholic beverages and palinka was interrupted by the No. 1-3-1576 decree of *Codex Alimentarius Hungaricus*, which introduced a provision about the uniqueness, the special features and the

recognition of the quality of palinka. Under this provision, palinka shall be distinguished from rectified, pure alcohol-based, fruit flavoured alcohol products from 01 06 2002. After this date, a distillate fermented from exclusively 100% fruits shall be labelled palinka.

The exclusive right to use the registered product name "palinka" was adopted by the European Union in 2004. From that date, the brand name "palinka" referring to fruit and grape marc shall be exclusively used by Hungary, whereas "barackpalinka (apricot brandy)" by four Austrian provinces (Low-Austria, Styria, the Burgenland and Vienna).

The general rules stipulating the definition, denomination and packing of alcoholic drinks produced and marketed in the territory of the European Community and the protected geographical indication of alcoholic drinks are set forth by the current Directive 110/2008/EC of the European Parliament and the European Council. Under the directive, palinka, as a representative drink of Hungary shall be protected. The directive classifies alcoholic beverages into several categories.

The decree is in accordance with the Joint Order No. 94/2008 (VII.24) FVM-SZMM (Ministry of Agriculture – Ministry of Social Affairs and Labour), a transitional provision, which regulated the use of palinka product name pending Palinka Law's entry into force.

Excise tax

The tax represents a service required by the executive power, without compensation, to cover the financial resources of public spending in order to meet common social needs (e.g. national defence, education, public health, motorways, sports, etc.), according to the extent which itself has established.

Initial taxation forms date back to earlier times. Institutionalized taxation, although in a different form, existed already from the end of ancient times, the establishment of statehood.

At first, taxes included some kinds of consumables or products. Typically, in the past and in the present, excise taxes relate to widely used products in large quantity, the consumption of which is partially influenced by the rate of the tax.

Excise taxation has a very long tradition, although its meaning was generally specified by actual consumer habits, tendencies of legislative and economic policy. The definition of the "excise" notion is not uniform; its synonyms comprise expressions such as "regale" (iura regalia), exclusive sale or monopoly. The word "excise" itself is the translation of the German expression "Gefäll". In a wider sense, it embraces all state revenues based on the rights of its sovereignty; more narrowly, it means economic and financial "regales", i.e. customs duties and excise taxes. Excise taxes also included, among others, salt, lottery, tobacco, wine and spirits. (Simon-Pozsgai-Kis-Boros, 2006)

Following the political transformation in Hungary, more lax regulation and supervision prompted corrupt practices. There has been an increase in the volume of illegal products placed on the market by tax evasion and state revenues from taxes dropped proportionately.

With respect to highly taxed excise goods that are outstanding sources of income for the state, a regulation was enacted by the Act LVIII. of 1993 on excise legislation and supervision effective from 01 July 1993. The aim of the law was to ensure state revenues by creating equal competition conditions with regard to excise goods. Under the Act, revenues were paid into the state budget not as excise, but as consumption taxes.

Act CIII. of 1997 on the specific rules on excise taxes and the distribution of excise goods was introduced as a requirement of the harmonization of laws by the European Union to recover the tax more efficiently and safely. Since when it entered into force on 01 January 1998, state deduction was made by way of excise taxes and excise tax replaced the role of various payment obligations levied on excise goods.

Hungary joined the European Union on 01 May 2004, and the accession brought about obligatory changes with regard to excise regulations. The Act CXXVII of 2003, which is currently in force, was adopted to ensure full satisfaction of European legal standards.

In the case of distillates produced by home distillation, the taxable amount is the amount of alcohol calculated by the yield coefficient out of the volume expressed in raw material in hectolitre (in the case of grape wine, in volume) that is reported to tax authorities. As for subcontract distillation, the responsible executive of the distillery will declare the value of hectolitre degree and the subcontract distillation client shall pay the excise duty accordingly.

Amendment of palinka excise tax

The Act LVIII. of 1993 declares that in terms of all the produced volume, the tax rate of subcontract alcohol distillation is 40% of the consumption tax stipulated by the Act of Consumption regarding the hectolitre degree of fruit spirits.

Table 1: Amendment of tax rates stipulated by the Act CIII. of 1977. Source: Danku, 2011

Period	Tax rate over tax base			
	Alcohol product	Subcontract distillation		
		Product quantity with reduced tax	Up to the product quantity with reduced tax	Above the product quantity with reduced tax
1998.01.01 - 1998.12.31	1270 HUF	100 HLD	390 HUF	970 HUF
1999.01.01 - 1999.12.31	1400 HUF	50 HLD	500 HUF	1120 HUF
2000.01.01 - 2000.12.31	1500 HUF	50 HLD	540 HUF	1250 HUF
2001.01.01 - 2001.12.31	1590 HUF	50 HLD	594 HUF	1375 HUF
2002.01.01 - 2002.12.31	1670 HUF	50 HLD	635 HUF	1515 HUF
2003.01.01 - 2003.12.31	1670 HUF	50 HLD	770 HUF	1670 HUF
2004.01.01 - 2004.04.30	1920 HUF	50 HLD	885 HUF	1920 HUF

The Act CIII. of 1997 came into force on 01 January 1998. On the strength of (1) § 43, the tax base of palinka is, yet, "the volume of alcohol product given in hectolitre degree. Hectolitre degree means ethyl alcohol of 100% alcohol by volume measured under 20 °C." At that time, the preferential volume was 100 hld, i.e. tax reduction applied for the distillation of 200 litres of palinka of 50% alcohol content. This volume has dropped to 50 HLD since 1999.

Table 2: The amendment of excise tax rates stipulated by the Act CXXVII. of 2003. Source: Danku, 2011, completed

Period	Tax rate over tax base			
	Alcohol product	Subcontract distillation		
		Product quantity with reduced tax	Up to the product quantity with reduced tax	Above the product quantity with reduced tax
2004.05.01 - 2005.12.31	192000 HUF	50 litres	96000 HUF	192000 HUF
2006.01.01 - 2006.08.31	220600 HUF	50 litres	110300 HUF	220600 HUF
2006.09.01 - 2009.06.30	236000 HUF	50 litres	118000 HUF	236000 HUF
2009.07.01 - 2009.12.31	251000 HUF	50 litres	125500 HUF	251000 HUF
2010.01.01 - 2010.09.26	276000 HUF	50 litres	138050 HUF	276100 HUF
2010.09.27 - 2012.12.31	276000 HUF	50 litres	0 HUF	276100 HUF
2013.01.01 - 2014.12.31.	333385 HUF	50 litres	0 HUF	333385 HUF
2015.01.01 -	333385 HUF	50 litres	167000 HUF	333385 HUF

Table 2. presents the constraint to meet the requirements of EU procedures, i.e. the reduced tax rate shall not go below 50% of the prevailing excise tax rate. The effective Act of CXXVII. of 2003 (Excise Act) came into force after Hungary's accession to the EU. The volume the reduced tax rate applied for decreased to 50 litres of fruit spirit, which is equivalent to 86 litres of 50% degree palinka. The "golden age" of subcontract distillation was the period between 27 September 2010 and 31 December 2014 when clients were not compelled to pay an excise tax on the produced quantity. This fact revived subcontract distillation activities massively. The amendment in 2010 replaced the word "palinka" with "distillate" in the law.

Palinka or distillate?

The difference between the two names is merely manifested in regulation. As far as we pour distillate into a glass and palinka into the other one, no possible difference can be detected in terms of type, taste, odour or even quality. What is the determinant of what we drink, then: distillate or palinka?

In case of home distillation or subcontract distillation, the end product is a distillate, whereas the end product in a commercial distillery is labelled palinka, although the base materials, the process of production and the applied technologies are the same. Before the introduction of home

distillation, there was no difference between the names of spirits fermented in subcontract distillation and commercial distillation. When the distillate (alcohol product) produced during subcontract distillation is sold to warehouse keepers and then released for free circulation, legally it becomes palinka again.

What is the practical significance of the “distillate” label? It was presumably introduced to protect the palinka, which was declared to become a Hungaricum. To what extent this label serves its protection is the subject of long future debate.

According to certain experts who take great efforts to declare palinka as a Hungaricum claim that home distillation bears a negative impact on the recognition of palinka. The poor quality distillate produced without expertise in the home will be sold under the name “palinka” for financial gain in several ways. The consumption of such a product will not be expedient in the full-scale rollout of palinka. Whoever tastes this poor quality spirit first, will not seek to enjoy original palinka afterwards.

However, the other side states that the introduction of home distillation will not exert any negative influences on the consumption of original palinka. Home distilleries can also produce good quality distillates, which might foster civilized palinka consumption.

As time goes by, the answer will be given by experience from supervisions and sales data. Statistics, revenue data will serve as the basis of decision-making whether home distillation is an advantage or a disadvantage for the popularity of palinka.

At the same time, the palinka label can also be given to a distillate made in subcontract or home distillation if it completely meets the requirements set forth by the Act of Palinka. Therefore, it can be stated that each palinka is a distillate, but not each distillate is palinka.

Amendments to the regulation of palinka distillation and its effects in 2010-2015

Following the ban of 90 years, home distillation has become licenced since 27 September 2010. The amendment of the Excise Act authorized the home fermentation of distillates by using raw materials, including fruits and substances derived from fruits. For example, the fruit pulp is regarded as a raw material derived from fruit.

“Home distillation shall be carried out by the home distiller

- in his residence or his orchard,
- by using a distilling equipment of maximum 100 L cubic capacity developed specifically for the related purpose,
- the licenced annual volume is maximum 2hL of pure alcohol – the equivalent of 400 L of 50 % vol. alcohol.” (Panyik, 2013)

Home distillers are natural persons above 18 years who prepare distillates from raw materials from their own orchards by using their own distilling equipment. A distillate from home distillation or subcontract distillation can be sold provided that the home distiller has a small farm business

registration number and intends to sell his product on his farm or in the framework of the “village table” services; furthermore, within an area of maximum 40 km in a straight line, in the territory of Hungary, at fairs or market places. His intent in this regard shall be announced at least three working days before the onset of his sales activity to the competent National Tax and Customs Administration (NTC) authority, under the condition of the payment of 100% excise tax rate (1670 HUF/litre, palinka of 50%) and the placement of distillate tax stamps obtained from the authority on the distillates to be placed on the market.

The Act XC. of 2010 also authorized the production of tax-exempt distillate. Hence, a theoretical taxation difference was identified between home distillation and subcontract distillation. Whereas the first one was exempted from taxation, 0 HUF tax was levied on the latter. As for the assumptions of a state secretary of rural development, approximately ten thousand individuals distilled palinka in the after the amendment of the law (I8).

However, some found “grandpa’s copper pot” in the attic that could not meet neither safety nor quality requirements, not to mention the lack of required expertise. Distillates prepared in this way (it shall not be labelled palinka!) might pose several health risks. Distilling equipment in shops is relatively costly, they are worth purchasing merely by a partnership (by the joint efforts of numerous home distillers, but the law does not permit this). Home-built distilling equipment is subject to authorization before construction. Unauthorized palinka distillation shall be confiscated by the NTC and excise penalty shall be levied on it.

Back at the date of our EU accession, Hungary requested and received the advantage on the basis of which the country may apply a 50% lower excise tax rate for subcontract palinka distillation. At the same time, the system of subcontract palinka fermentation is a Hungarian speciality within the European Union. Its reconsideration is due to take place in 2015 (I1).

Tax-free palinka distillation proved to be a golden opportunity for subcontract distillers. The number of people who could afford subcontract distillates increased, and they had to pay the fee of 5-900 HUF per litre. Subcontract distilleries prospered, several non-operating ones reopened and a number of new ones were established, inducing a competition among subcontract distilleries. There were some, e.g. our own distillery that tried to gain market with lower prices, whereas others offered extra services, such as the distillery in Nyirtas, where producers had to transport their fruits and against some extra charge all the necessary activities were carried out from mash preparation and tending to palinka bottling.

Laszlo Piros, the grand master of The Hungarian Palinka Order of Knighthood claims, “the loss of the budget tax caused by the exemption and 0 tax rates is to be compensated by all taxpayers under different legal titles. 0 tax rate in itself accounts for 10-12 billion HUF annual budget loss on average, which amounts to 45-50 billion HUF for four years. Approximately 20% of alcoholic drinks prepared in

subcontract distilleries may be sold illegally, and the ratio of distillates sold by home distillers is presumably the same. For this reason, in the past four years, the 3 million litres of palinka of 50 alcohol degree sold in trade and catering dropped to 1.5 million, prompting the bankruptcy of about one hundred family businesses since 2010. (I2)

The abolishment of palinka excise tax exerted a negative impact on state budget revenues. In 2008 5.3 billion, in 2009 about 8.1 billion, in 2010 merely 2.8 billion, whereas in 2011 just 15 million HUF revenues were obtained from subcontract distillation tax. In 2012 revenues on these grounds amounted to 15.6 million HUF. The amendment adversely affected distilleries that prepared palinka for sales as their fermented volume decreased significantly. “From January 2014 to April 2014 subcontract distillation brought revenues of only five million HUF for the state budget and the sum total of the whole year remained under 17 million HUF. This compares to more than 600 million obtained from subcontract distillation tax during four months in this year (2015).” (I3)

Legal dispute between Hungary and the EU

Under the Directive of 92/83/EEC “member states may obtain permission for the application of reduced tax rates or tax exemption with regard to certain regional and traditional products”, provided it ensures that competition in the internal market is not distorted. Reduced tax rate is to be applied with regard to small-scale distilleries; nevertheless, it shall not be under 50% of the national excise tax rate. Hungary infringed this directive with the abolishment of the excise tax of palinka distillation; therefore, the EU launched an infringement procedure against Hungary.

“If the Commission considers that a member state failed to comply with its obligations resulting from agreements, first it gives the country an opportunity to comment and then it sends its reasoned opinion on the issue in the related country. If the concerned country does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice.” (TFEU. Article 258.)

Right after the permission of free palinka distillation, on 28 September 2010, the Commission sent a letter to Hungarian authorities to obtain information about certain stipulations of the excise tax and their compatibility with European legislation.

Hungary tried to justify the disputed stipulations and regarded them compatible with the objectives set forth by Directive 92/83EEC.

On 29 September 2011, the Commission sent a letter of formal notice to Hungary under Article 258 of the FEU Treaty in which it disputed the compatibility of certain stipulations in the Excise Tax Act with EU legislation. According to the Commission, as the Excise Tax Act fails to levy an excise tax on ethyl alcohol produced by subcontract distillation under certain circumstances, and grants tax exemption from the excise tax for the production of ethyl alcohol by individuals, it does not respect the Act of 19-21 of Directive 92/83EEC interpreted with respect to Article (1) Act 3. and Article (7) Act 22. The European Committee expressed doubts concerning the lack of stipulations that the mash owner should also be the fruit producer.

In its reply, Hungary repeated its answer of 30 November 2011 and underlined the significance of the traditional distillation of “palinka” and the various kinds of distillates referred to as such.

The Commission replied that under article 16 of Directive 92/83/EEC “member states may obtain permission for the application of reduced tax rates or tax exemption with regard to certain regional and traditional products“, provided it ensures that competition in the internal market is not distorted”. Hungary, however, claimed that as the minutes of debates of the “Ecofin” Council meeting on 27 July 1992 about the structure of the excise tax of alcohol and alcoholic beverages revealed, the members states where tax exemption was traditionally granted for private individuals with regard to small-quantity alcohol production, might retain this exemption.

On 22 June 2012, the Commission issued its reasoned opinion, repeated its arguments in the letter of notice and, therefore, requested Hungary to bring the necessary measures required by meeting the obligations set forth in the letter of notice at the latest within two months.

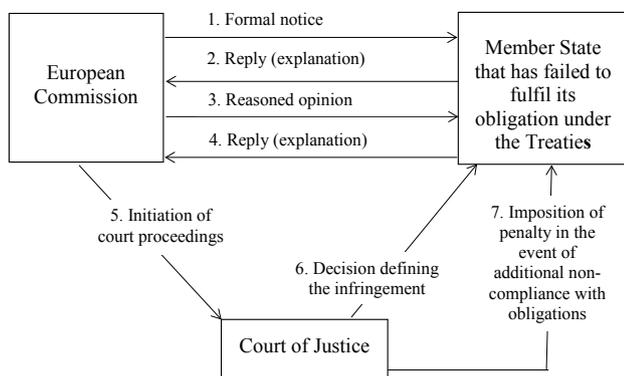
In its reply, Hungary reserved its position and challenged the infringement of EU law.

As the reply was not deemed satisfactory by the Committee, it decided to bring an action which was registered as received on 14 March 2013.

In April 2014, Hungary was convicted for the abolishment of taxes levied on home and subcontract distillates. The contested laws had to be harmonized with EU laws. Hence, the Excise Tax was amended and came into force on 1 January 2015.

As of 1 January 2015, 835 HUF tax is levied on one litre of 50% alcohol degree palinka, (above the allowed limit of 86 litres with reduced tax, 200% tax is payable). As a result, of the elimination of reduced excise palinka tax, the annual turnover of subcontract distilleries has plunged drastically

Figure 1: Conduct of infringement procedure



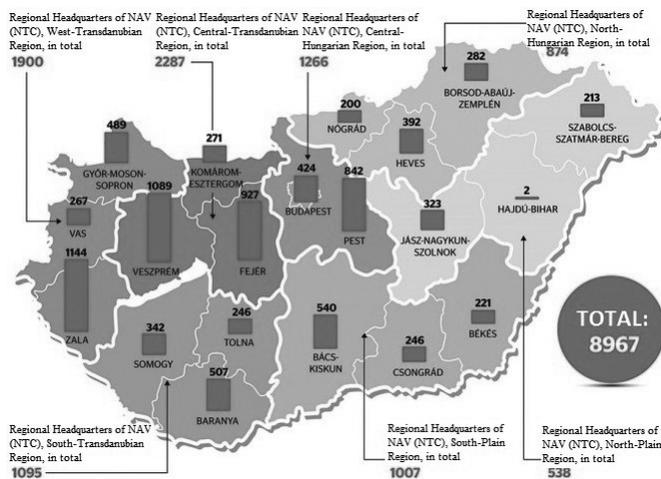
Source: Author’s own development, (based on Horvath Z, 2007)

compared to data from 2014. Whereas in the first five months of 2014 5.7 million litres were sold, in 2015 merely 930 thousand litres have been traded, which represents a reduction of approximately 85%. The decline of distillation activity can stem from various reasons. In the past years people who were never eligible to prepare palinka, could also legally carry out distillation activities. Those who exploited the opportunities provided by tax-free distillation could pile considerable stocks, and they have no problems with urgent stock replacement. The Palinka tax might deter many from subcontract distillation who might end up with illegal home palinka distilling. In the meantime, the volume of distillates produced by large-scale distilleries increased by 25%.

Rules of home distillation have changed. The ownership of the distillation equipment shall be registered by the concerned municipality and in the event of distillation within the given year, home distillers must pay a flat tax of 1000 HUF. Whereas previously home distillers could produce 400 litres of 50% distillate (naturally, with the payment of tax above the volume of 86 litres), this year the authority must be notified about the amount above 86 litres and it must be destroyed, as agreed with the concerned authority.

The number of registered distillation equipment was approximately nine thousand. The following figure shows the distribution of this equipment by county.

Figure 2: Distribution of registered home distillation equipment by county.



Source: 17

The figure presents many interesting data. Most conspicuously, Hajdu-Bihar country registered merely two pieces of distilling equipment. It is also remarkable that only 213 pieces of equipment were registered in Szabolcs-Szatmár-Bereg County, regarded to be the “pantry” of the country, with three types of distillates bearing a protected geographical indication and with several orchards. The greatest number of distilling pots, more than 1000 pieces, were registered in Zala County. In my opinion, even a multiple of the number of registered - therefore, illegal and unregistered distilling equipment - can be found in the country.

In February 2015, another infringement procedure was launched by the EU related to the palinka law, with regard to the fact that the tax for home distillers remained much below the required minimum value – subject to the decision of the government.

Amendments due from 2016

From January 2016 new amendments will be introduced in the regulation of home distillation. As a result of the discussions with Brussels, the Hungarian government will also be forced to impose a tax on home distillation. Home distillation will remain possible in the future without preliminary notification obligation; however, the purchase of the distillation excise tax stamp shall be obligatory. Home distillers shall have to pay a tax of 700 HUF on distillates of 42% alcohol content. The comparison of this number to the tax rate of subcontract distillation clearly shows that the two values are equal, as in subcontract distillation the amount of payable tax is 1670 HUF/hld (one hld = 1 litre of 100% alcohol). On this basis, if, for example, a distillate of 50% alcohol degree is prepared either by home distillers or by subcontract distillers, the amount of payable tax will be 835 HUF per litre. After each distillation process minimum five, at most 86 tax stamps shall be bought, i.e. in return for the payment of 3500 HUF anybody can claim that his home distilled palinka is legal. Instead of NTC, notaries of municipalities will be in charge of the supervision of home distillers. Tax stamps will be suitable to verify the origin of products, i.e. they will be accepted for palinka competition nominations. The notary can first send a notice to the home distiller in the event of the lack of preliminary notification or if he produced his distillate without purchasing the required tax stamps. “A fine up to two hundred thousand HUF can only be considered if despite repeated notifications, the private individual fails to comply with his statutory obligation. The state customs authority will initiate proceedings in the case of illegitimate sales” (Tamas Jakubasz, 2015). The provision will enter into legal force from January 2016.

The government seeks to amend the Act LXXIII. of 2008 on palinka, grape-marc palinka and the Palinka National Council (Palinka Law). On mixed fruit palinka products, only the element of minimum 10% may be listed on the label, in terms of image and text. The compulsory maturation period, previously 3 months, will be abolished. The amount of mandatory use-up for embedded “agyas” palinka types will be reduced, for fresh fruits from 10 to 5 kg (by 100 litres) and for dried fruits from 5 kg to 2 kg. In this case, however, the maturation period of 3 months is left unchanged. My personal experience suggests that to attain the required taste and colour, often 1-2 weeks are enough. The amendment of the law will wipe out the notion of “opalinka” (ancient palinka). Earlier, the name referred to fruit and fruit marc palinka matured for at least a year in a wooden barrel of smaller than 1000 litres or for at least 2 years in a wooden barrel of 1000 litres or more, respectively. The maturation period has to be documented on the site of maturation in a controllable way.

The previous law merely provided the opportunity to use a distinctive palinka tax stamp, and the new act would make its use obligatory. According to the amendment, the Palinka National Committee (PNC) becomes a public body with legal personality. Whereas previously two members of the Committee were delegated by the Minister of Agriculture, one by the Minister responsible for fiscal policy and ten members could represent professional organizations, after the amendment, PNC will exclusively include members with a right to vote delegated by professional organizations. Ministers' candidates shall act in a consultative capacity at meetings. The Minister responsible for fiscal policy will appoint the chairperson of the Committee. He seeks to cover the expenditure resulting from his administration at his disposal by revenues from the central budget and other resources (e.g. voluntary contributions). PNC is exempted from tax and social security contributions, its scope of authority will be extended, and it will have more tasks.

Conclusions and proposals

On the model of the famous Scotch whisky or French cognac, the professional dignity of Hungarian palinka can also be elevated internationally. High-quality, carefully designed advertisements can promote the popularity and fame of palinka.

Under Act LXXIII of 2008. (Palinka law) distillates can be labelled "palinka" which were matured for minimum three months by using fresh or dried fruits. In the first case, 100 palinka takes 10 kg, and in the latter, 5 kg dried fruits. Fruit "bedded" palinka types reach their required maturation within a short time, i.e. a couple of weeks. After this period, the distillate should be taken off the "bed" as further maturation would deteriorate its quality. The same applies to matured palinka types (stored for a long time) in wooden barrels, where the decree stipulates a minimum period of at least 6 months. Although in the event of matured palinka types the draft law comprises amendments, the definition of "embedded palinka" needs to be revised (Nagygyorgy, 2010).

Due to the fact that previously no notification obligation applied for distillate preparation in home distillation practice, the provision of clear evidence of its illegal possession became difficult. In 2010 producers were eligible to possess 50 litres; thereafter the related distillate volume increased annually by 50 litres. The possession of the distillate and the verification of its origin became easy through a simple declaration that is still accepted today. In cases where control is conducted in producer residences, during transport or in public places, it is sufficient if distillers give an oral statement ("take an oath") that they produced their distillates up to the volume of 50 l at home. Since there is no available information about the product, the controller must accept the declaration. Detection can be further hindered by the fact when there is no trace of the distillation equipment. Again, a declaration claiming that he damaged and dumped the equipment is sufficient. The only unlawful issue is the sale of the product about which he shall not provide information.

Subcontract distillation proved to be popular only for a couple of years, until the re-introduction of the excise tax, i.e. before January 2015. After this, the turnover of subcontract distillers decreased considerably, whereas the number of home distillation equipment increased. According to the Tax Office statement including municipality data, the number of registered distillation equipment was over 11 thousand in the country on 1 October 2015.

"Edit Krizl (Executive of Brill Palinka House, Palinka master consultant) claims that even up to 40 thousand equipment may be used in the country, and the number of the registered ones among them is only 11 thousand. Her opinion is that the introduction of alcohol tax of 835 HUF on subcontract distillation channels even those towards illegal practices who have complied with the rules so far in distilling their fruit mash." (16)

As for the National Association of Kisusti Palinka Distillers, it is pointless to fight against home distillation, and the advantages of subcontract distillation should rather be underlined. Professional training and information campaigns should be launched for home distillers calling attention to the right practices of home distillation instead of sounding the alarm bell about its dangers (explosion, intoxication, etc.) The economic feature of subcontract distillation is to be emphasized, highlighting the fact that it is too expensive for home distillers to purchase their own distillation equipment and they should take their fruit mash into subcontract distilleries.

The State Secretary of the Ministry of Agriculture responsible for Hungaricum states "the five "free" palinka seasons were not meaningless, people bought good palinka distilling equipment, exchanged their practices which increased palinka quality and exercised competitive pressure on subcontract distillers and producers as well." (15)

The impact of amendments of home distillation laws due by 2016 would be twofold. First, they would channel distillers to subcontract distillation, as the equivalent tax rate will be in effect; and second, it might lead to the massive increase in illegal palinka distillation activities. Regarding the mentality of an average Hungarian citizen, we are rather tax-evaders than taxpayers. As the control of distillation will be the task of the notary instead of NTC, the number of controls will be presumably insignificant. Only "well-wishers", neighbours and acquaintances can reveal illegal activities. Despite the opportunities provided by the state for legal distillation equipment purchases, I think numerous types are available in the market that are not fully compliant with quality requirements. Such as, for example, the pressure-cooker shaped equipment reminiscent of old illegal practices where the safety valve was replaced by a steam pipe, rendering it dangerous.

It is clearly a great experience when a farmer can trace the steps of his fruits from farm to fork, in our case from fruit into a glass, palinka distillation needs some expertise. A considerable proportion of home distillers lacks this knowledge and understanding. There are several available alternatives for them to gain the required information. The education staff of

palinkafozes.com gives regular, short (one-day) lectures for a reduced price of 15.000 HUF. Anyone who seeks to receive in-depth knowledge on the subject may choose the Fruit Palinka Production NQR (National Qualifications Register) training, which enables its degree holders with the right of launching even an enterprise of subcontract distillation. The duration of training is 6 months; its fee is approximately 200.000 HUF. In a unique way, The Corvinus University, Budapest recognizes the diploma course of Palinka Master technical engineer/consultant, which provides the most comprehensive theoretical and practical information for palinka lovers. The tuition fee of the four-semester training is 1 million HUF in total. Being the responsible head of Hun-Dest Drink Kft. alcohol distillery, I graduated from both the OKJ course and the university diploma course. I find it imperative to emphasize that despite the few available books on this topic, palinka distillation activities are pointless to undertake in the absence of practical experience.

Summary

Palinka is a special product; its quality features are being increasingly recognized and appreciated by consumers. Our national drink went through considerable transformations in the past years, as it left the village environment behind and has become a Hungaricum, popular with young people. The abolishment of the excise tax in September 2010 was a key factor in its gaining ground in the country. Unfortunately, this tax-free period lasted only for some years since the law failed to meet the requirements of EU laws. This short period increased the number of subcontract distilleries and boosted their turnover. Even those people started to prepare the fruit mash who had never before been engaged in it. The set of rules laying down the regulations of home distillation has been established, but it is unclear despite the several amendments and in numerous cases, it leads to the production of questionable quality. To prevent this, campaigns are to be launched to highlight subcontracting opportunities and the availability of professional consultation. The budget deficit from excise tax losses will gradually recover. People need some years to accept their tax payment obligation and their previously accumulated stocks will run out. As of January 2016, the tax rate of home distillation will be equal to that of subcontract distillation currently. Consequently, some may return to distilleries whereas the majority will continue the practice of illegal palinka distillation.

References

- Danku S. (2011): A palinka, mint Hungaricum eloallitasa, adoztatasa, forgalmazasa. (Production, taxation and distribution of the palinka as a Hungaricum) Bp. 67 p.
- dr. Panyik G. (2013): Palinkafozes – Agyas palinka es likor keszítése. (Palinka distillation - making of “bedded” palinka and liqueur) Cser Publisher, 113 p.
- Horvath Z. (2007): Kezikonyv az Europai Uniorol (Handbook about the European Union), HVG-ORAC Journal Publisher Ltd., Bp. 658p.
- Jakubasz T. (2015): Sikerrel vivtuk meg a brüsszeli csatat (We have successfully fought our battle with Brussels). Hungarian Times, 2015. october 15. Publisher: Hungarian Times Publisher Ltd. Budapest.
- Nagygyorgy L. (szerk, 2010): Palinkakeszitesi alapismeretek (Palinka making basics). WESSLING International Research and Training Centre Non-profit Ltd., Bp, 130 p.
- Simon Z. - Pozsgai Z. - Kis J. - Boros S. (2006): Jovedeki alapok I. Adopolitika es az anyagi jogi szabalyozas (Excise basics I. Tax policy and material law regulation). VIVA Media Holding, Bp. 184 p.
- 11: http://mno.hu/migr_1834/financ_a_sarban-240765
- 12: <http://nepszava.hu/cikk/1016895-financialis-gondok-a-palinkabol>
- 13: http://www.palinkafozes.com/hirek/20150804_keves-palinka-keszul-berfozdekben
- 14: <http://magyaridok.hu/gazdasag/tovabb-el-szabad-palinkafozes-hagyomanya-54595/>
- 15: <http://pestisracok.hu/nem-bukott-el-a-palinka-szabadsagharcomondja-a-ps-nek-v-nemeth-zsolt/>
- 16: <http://www.teol.hu/tolna/kozelet/zarjegy-lesz-a-palinkan-635532>
- 17: http://www.palinkafozes.com/hirek/20150623_hazi-palinka-veget-ert-berfozdek-aranykora
- 18: http://www.palinkafozes.com/hirek/20111003_tizezren-foznek-palinkat-otthon
- TFEU. Article 258.
- Act LVIII. of 1993
- Act CIII. of 1997
- Act CXXVII. of 2003
- Act LXXIII. of 2008
- Act XC. of 2010
- Directive of 92/83/EEC
- Directive of 92/84/EEC
- Bill of alteration on the Act LXXIII. of 2008 on palinka, grape-marc palinka and the Palinka National Council (Palinka Law)