

Paper prepared for the 126th EAAE Seminar

New challenges for EU agricultural sector and rural areas.

Which role for public policy?

Capri (Italy), June 27-29, 2012



**The alignment of European Law
in pre-candidate countries:
the case of Bosnia and Herzegovina wine law**

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The alignment of European Law in pre-candidate countries: the case of Bosnia and Herzegovina wine law

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Abstract

The purpose of this paper is to examine mechanism of Europeanisation through the creation process example of a new wine law in Bosnia and Herzegovina (BiH), combining domestic wine regulations and EU legislative frameworks. We will analyze criteria and implications of Europeanization process, focusing on mechanism of assistance to candidate and pre-candidate countries. The aim is to understand the genesis of the conflict that hinders the development process and represents a barrier to trade liberalization. Adoption of law in BiH, as well as ordinances and regulations for its implementation and enforcement, is a precondition for a harmonized legal framework and competitive rules for the agriculture sector. For the analysis, we used dimensions of integrations and institutionalism theories as lenses to explore this processes. This approach is the one of the theoretical perspectives that has won converts and provided in many cases a useful tool for analyzing EU integration.

Keywords: Europeanisation, integration, wine, Bosnia and Herzegovina

JEL classification: K

1. INTRODUCTION

Bosnia and Herzegovina (BiH) is a potential candidate country for European Union (EU) accession following the Thessaloniki European Council of June 2003¹.

BiH has made limited progress in aligning its legislation and policies with EU standards. The major problems encountered are reported and implemented from the legal framework of existing EU Regulations. The basic issues are discrepancies between its provisions and non-existence of implementing measures, instruments and structures which can ensure its efficient implementation. Implementing legislation for agriculture sector was adopted even if there has been no progress on setting up the state level Ministry of Agriculture².

Adoption of law in BiH, as well as ordinances and regulations for its implementation and enforcement is a precondition for harmonized legal framework and domestic rules. It will also contribute to overcome some of the face trade problems. The absence of a wine law prohibiting the production of wine based on imported grapes, except for table wines without geographical origin, makes it possible to increase the import of cheap grapes that are burdened by non-tariff restrictions.

*The authors wish to thank Italian Cooperation Office of Italy Embassy in Sarajevo and in particular dr. Santa Molè

¹The Thessaloniki European Council in June 2003 reiterated its determination to fully and effectively support the EU perspective of the western Balkan countries, which would become an integral part of the EU. The “Thessaloniki agenda for the Western Balkans: Moving towards European Integration” enhanced the stabilization and association process with elements from the enlargement process as twinning, allowing participation in selected Community programmers and EU partnerships (Moussis, 2007).

²Extract from the Communication from the Commission to the Council and the European Parliament “Enlargement Strategy and Main Challenges 2010-2011”, COM (2010)660 final.

The paper analyzes mechanism of Europeanisation³ in BiH and the process of creation of a new wine law combining domestic wine regulations and EU legislative frameworks within a territory on politically and socially difficult.

We will analyze the criteria and implication of Europeanisation process of EU accession with focus on mechanism for assistance to candidate and potential candidate countries as BiH with the aim to understand the genesis of the conflict that slows down the development process and represents a barrier to trade liberalization. The agricultural protection level that maximizes total political support is strongly affected by structural changes in policies and economic.

For the analysis, we used dimensions of integrations and institutionalism theories as lenses for exploring this processes. The problem of political integration was focus on political scientists, philosophers and historians for a long time.

The idea that political integration creates competition between different rent seekers has a rich intellectual history (Bro and Ruta, 2007)⁴.

Institutionalisation can be defined as “*the process whereby social processes, obligations or actualities come to take on a rule like status in social thought and action*” (Mayer and Rowan, 1991). This implies that all the participants in a political process understand and accept the rules of that process, and that struggles over the framework within which politics takes place have been settled. Institutionalisms focus on the opportunities for institutional change created by crises, when everything “comes up for grabs” and political actors are searching for answers to the new problems they face. Crises can bring on abrupt institutional change, because they present leaders with an opportunity to enact new plans and realize new ideas by embedding them in the institutions they establish (Georges, 2001).

Neo institutionalism studies the features of the economy institutional structures that contribute the developments of social and welfare. Each school of the new institutionalism emphasises different causes of institutional change⁵: the possibilities for institution-building during critical junctures; the diffusion of ideas; leadership; institutional isomorphism; broader socio-economic change; manoeuvring within existing institutions. Neo institutionalism would provide a logical perspective for examining institutional change (March and Olsen, 1984; Meyer, Boli *et.al.*, 1987).

³ There have been several definitions of Europeanization, often depicted as a constant “*interaction between the national and the European levels*” (Risse *et al.* 2001); as “*a merger of the top-down and bottom-up perspectives*” (Börzel and Risse, 2003). The most popular and complete is tied to Radaelli (2000, 2003a, 2006) that defines Europeanization as “*processes of (a) construction (b) diffusion and (c) implementation of formal and informal rules, procedures, policy paradigms, styles, “ways of doing things,” and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic discourse, identities, political structures and public policies*”.

⁴ In *The Rise and Decline of Nations*, Olson (1982) observes that integration “*the shift to a new institution of the right to take at least some important decisions in economic policy*” reduces the power of organized interest groups. A recent literature focuses on how and why institutions evolve on the integration processes of institutional reproduction.

⁵ Skowronek (1982) argued that the development of certain kinds of institutions at a certain time as a response to the existence of certain conditions as “*domestic or international crises, class conflicts, and the evolving complexity of routine social interactions*”, p.10. Thelen and Steinmo in 1992, explain that institutional change can also result from deliberate political strategies to transform structural parameters to win long-term political advantage and that change *within* institutions can occur if broader socio-economic or political change makes existing institutions more salient.

This approach is one theoretical perspective that has won converts and in many cases provided a useful tool for analyzing European integration (Gorges, 2007). The role of EU and local political actors is crucial: institutions are outlines, norms and human devised regulations that allow and constrain the behavior of the social actors and make social life predictable and significant (North, 1990, DiMaggio and Powell, 1991).

In this scenario, the institutional environment should create opportunities to investment and, at the same time, should be an incentive for the different economic agents that finds convenient to invest moving forward process of development and Europeanization.

1.1. Mechanisms and criteria for EU accession process

For the past 50 years the EU has simultaneously pursued integration and enlargement, increasing from 6 to the present 27 MS and from a population of less than 200 million to more than 500 million people. Currently, the EU is dealing with 5 candidate countries⁶ and 4 potential candidates⁷.

The basic conditions for enlargement are laid out in articles 6 and 49 of the Treaty of EU. A European State which has applied to join the EU can become a member only when it has been confirmed that it meets the membership criteria agreed at the Copenhagen European Council in June 1993.

These criteria relate to the stability of institutions guaranteeing democracy, the rule of law, respect of human rights and protection of minorities. The economy development must be sufficient to withstand the competitive pressure in the internal market, and the ability to assume not only the rights but also the obligations under the Treaties⁸. The Copenhagen criteria include the whole range of policies and measures that constitute the *acquis communautaire*⁹ of the Union that candidate countries must adopt, implement and enforce. This requires the administrative capacity to transpose EU legislation into national law, to implement it and to effectively enforce it through appropriate administrative and judicial structures.

The EU assists candidate and potential candidate countries in their progressive alignment with the standards and policies of the EU. The assistance for alls candidate supports a wide range of institution-building measures. On the one hand it supports them in their efforts to strengthen democratic institutions and the role of law, reform public administration, support the development, cooperation and reconstruction. On the other hand, EU assistance contributes to sustainable development and poverty reduction in all these countries.

⁶ Croatia, the Former Yugoslav Republic of Macedonia, Iceland, Montenegro and Turkey.

⁷ Albania, Bosnia and Herzegovina, Serbia as well as Kosovo under UNSCR 1244/99.

⁸ The accession process is based on objective criteria and the application of the principle of equal treatment of all applicant countries. Progression towards accession depends on the capacity of the applicant country to undertake the necessary reforms to align its political, institutional, legal, administrative and economic systems with the rules, standards, policies and practices in the Union.

⁹ The *acquis* is constantly evolving and contains: the principles and political objectives of the Treaties on which the Union is founded; legislation and decisions adopted pursuant to the Treaties, and the case law of the Court of Justice; other acts, legally binding or not; joint actions, common positions, declarations, conclusions and other acts within the framework of the common foreign and security policy (etc).

The Instrument for Pre-accession Assistance (IPA) represents one of the instruments directly supporting EU External Aid policies.¹⁰ A distinction is made between candidate and potential candidate countries. Assistance for candidate countries additionally focuses on the adoption and implementation of the full *acquis* and prepares candidate countries for the implantation of the EU agricultural and cohesion policy.

IPA¹¹ is programmed according five components as 1) Transition assistance and Institution Building; 2) Cross-Border Cooperation; 3) Regional Development; 4) Human Resource Development; 5) Rural Development. The first two components are accessible to all beneficiary, the others are accessible only to candidate countries. With the Rural Development component of the IPA, candidate countries will be assisted through IPARD or Instrument for Pre-Accession Assistance in Rural Development. The main objectives are to provide assistance for the implementation of the *acquis* concerning the CAP and to contribute to the sustainable adaptation of the agricultural sector and rural areas in the candidate country¹².

Exceptional trade measures were introduced for western Balkan countries to promote stability, security and prosperity trough progressive integration into an EU mainstream (Schimmelfenning, 2008). In February 2008, the Council reiterated its commitment to fully and effectively support the European perspective for the Western Balkans¹³.

2. Bosnia and Herzegovina's structure: political problems of alignment

BiH, one of the sovereign republics that constituted the former Socialist Republic of Yugoslavia, is located in the western part of the Balkan Peninsula. BiH was formed from two historical regions: Bosnia in the north, with Sarajevo as its chief city¹⁴ (with an estimated population of 308,558 (530,000 pre-conflict) and Herzegovina in the south, with Mostar as its chief city (with a population of approximately 105,000)¹⁵.

Before the breakup of Yugoslavia in 1991, BiH was one of Yugoslavia's six republics.

The complicated political arrangements agreed to at Dayton Peace Accords (DPA) put an end to the 1992-1995 devastation war and brought peace and stability to BiH gave a large amount of autonomy to the entities, designed a power-sharing arrangement for the whole country and allowed local communities a wide range of governmental functions.¹⁶ The DPA

¹⁰ European Commission Proposal for a Regulation of the European Parliament and of the Council on the Instrument for Pre-accession Assistance (IPA II). Brussels, 7.12.2011 COM(2011) 834 final.

¹¹ The EU Commission Communication of June 2011 "A budget for Europe 2020" proposed to allocate an amount of 14 110.100.000 euro to the new Instrument for Pre-accession Assistance for the period 2014-2020.

¹² These aims are to be met by implementation of 9 different measures under 3 priority axes: first for improving market efficiency and implementing community standard; secondly are preparatory actions for implementation of the agri-environmental measures and Leader; thirdly for rural economy development.

¹³ The EU Commission reported on progress made in the candidate and potential candidate countries in its enlargement strategy papers of 2006 and 2007 - COM(2006) 649, 8.11.2006, and COM(2007) 663, 6.11.2007.

¹⁴ Sarajevo is also the capital of the Federation of BiH and center of the Sarajevo Canton.

¹⁵ http://ec.europa.eu/agriculture/analysis/external/applicant/bosnia_herzegovina_en.pdf

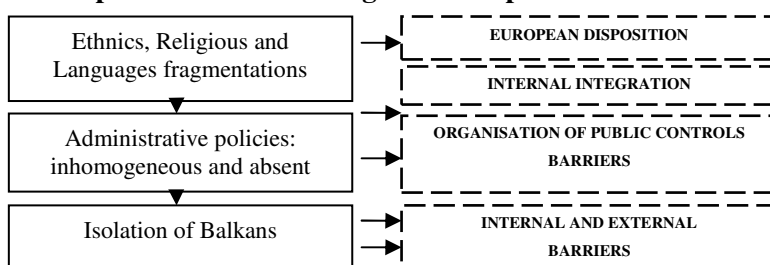
¹⁶ However the BiH Constitution, which is contained in Annex IV to the DPA, established a complex institutional architecture, which remains inefficient and is misused. *Commission staff working document, BiH 2010 Progress Report. Brussels, 09 November 2010 - SEC (2010) 1331.*

established three entities, Bosniak/Croat Federation (FBiH) (about 50 % of the territory) and the Bosnian Serb-led Republika Srpska or RS (49 % of the territory). Brčko District covers around one percent of the total territory. Ethnic differences primarily arise from religious differences. Religious have historically played a vital role in the feeling of belonging to a community. The Bosniaks are Islamic called Muslims in their common language. Serbs' groups are Orthodox and Croats' are Catholics. After fifteen years of the war, the country remains divided. Figure 1.1 represents mainly BiH problems that condition Europeanisation.

The feeling of membership is primarily based on ethnicity. Serbs and Croats do not feel connected to the Bosnian state: their first loyalty must be to respective national communities and local administrative structures created along ethnic lines. Only the Bosniak community, that not having a homeland which reference, considers it important united and multiethnic BiH.

The collapse of the Yugoslav state and the conflicts that followed triggered a series of processes which have exacerbated the differences. A typical example is offered by the language definition. From a point of view grammatical and idioms spoken in Bosnia, Croatia, Montenegro, Serbia may be considered variants of one language as Serbian-Croatian. Ethnic nationalism has led each group to claim their own language. Consequently Bosnia has three officers' languages: Bosnian, Serbian and Croatian.

Fig. 1.1 Political problems conditioning BiH Europeanisation



Source: own interpretation and elaboration

This logic of ethnic division also characterizes the legislative power and administrative structure. The Parliament is made by the House of Representatives and the House of Peoples, with the same powers.

The legislative process expected to be adopted laws must receive the consent of Parliamentarians from both entities. In addition, each of the three constituent groups can prevent the adoption of a measure calling for the preservation of their own "national life interest". It is sufficient that the majority of MPs of a constituent people is ruling against the draft legislation to prevent its approval.

The Bosnian political system is dominated by two main factors of division: a structural tension between central institutions and territorial institutions. The result is that the activities of central bodies are hampered by a series of constraints and decision-making processes are longer and may influence the Europeanisation.

The Bosnian's entity sees the existence of Republika Srpska as a result of ethnic cleansing committed during the war. They accepted only because it forced the Dayton Accords.

The President and the Bosnian Muslim representative in the tripartite have often called for the abolition of the Serb entity.

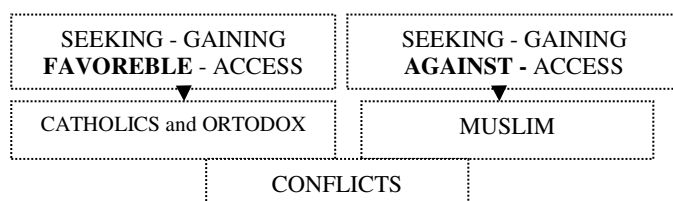
BiH is one of the few countries that do not have a state-level ministry responsible for issues related to the development of agriculture, food and rural development. Within the Ministry of Foreign Trade and Economic Relations (MoFTER), the Department of Agriculture is responsible for the sector policies. The role of MoFTER is to coordinate the activities of the entity ministries and coordinate activities with the EU.

Under this constitutional construction BiH is a sovereign state, with a decentralized political and administrative structure. Each of the entities has its own parliament and government with wide-ranging powers. Most powers are vested in the entities; the central government has responsibility for foreign policy, foreign trade, and monetary policy. The Federation is further divided into 10 cantons, each of which has control of policy in areas. Decisions of the central government and parliament are nominally taken by a majority, but any of the three main ethnic groups that can block a decision if it views it as against its vital interests.

Actually, there are three “agricultural ministries” (one for each entity) unconnected: on the one hand there is pressure to unify them, on the other the decisions go in the opposite direction. The complex structure of governance system remains a key challenge in ensuring equal realization of rights that would contribute to reduction in social exclusion, child poverty, discrimination and inequalities.¹⁷

As show in the following figure 1.2 two entities are mostly divided on the possibility of access. Generally speaking (with a risk of big error) on the one hand, catholic’s and orthodox entity sees the possibility of EU access as a condition for development and gaining for the State, on the other Muslim’s entity are against seeking and gaining to access. The result generates conflicts and internal divisions.

Fig. 1.2 The debate about EU access: conflicts and internal divisions



Source: Our elaboration

In the absence of a state ministry responsible for the common or horizontal framework conditions for agriculture and wine sector, different entity and cantons regulations cause unharmonized and uncertainty.

¹⁷ IPA National Programme 2010 – Bosnia and Herzegovina Fiche 2 “Social Protection and Inclusion III”http://ec.europa.eu/enlargement/pdf/bosnia_and_herzegovina/ipa/2010/part1/pf_02_ipa_2010_social_inclusion_fi nal_eud_en.pdf

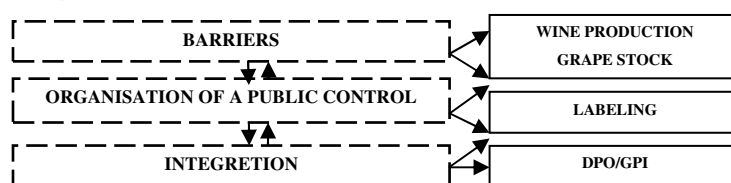
3. A new BiH wine law as an example of political integration solution

During the soviet regime period, high protection barriers against foreign trade were introduced that had constrained development and international competition. Higher level of fiscal barriers, customs barriers acted and administrative barriers as complicated bureaucratic procedures or technical and represented the zero point in the scale of multinational integration. As discussed above, the major problems encountered are implemented in the legal frameworks of EU integrations. The debate around EU standards as a potential barrier to trade for developing countries for export and regional trade of agriculture production has been with us for many decades. The problem is clearly still unresolved among governments, institutions and regulators.

As a pre-candidate country, BiH cannot take full advantage of IPA support. Although preparations are being made and should be accomplished by the time BiH becomes an EU candidate country, and when the implementation of the IPARD support for agricultural and rural development is started. It is important for the BiH agriculture sector that similar support is available in order to maintain its competitiveness. Adopting the common wine law will also contribute to overcoming some of the trade problems faced.

The main issues to solve are a mirror of the wider political items reflected in the example of wine regulation as show in figure the figure 1.3. The genesis of this law is complex. Last October 2011, European Commission (EUC) rejected the first proposal with a series of amendments. The EU Commission has sent their details for a new proposal. The discussion is still open and the policy bargaining powers has not yet concluded.

Fig. 1.3 The alignment's issues of BiH wine law



Source: Our elaboration

The work has permission to reset a broken law articulating the draft in three main areas.

Firstly, called *wine-production and grape stock*, represents all the procedures for registration and declaration of vineyards areas, annual production of grapes and wines, certification and verification of properties (chemicals, physicals and sensors) and institutions authorities with the EU criteria for sanctions and responsibilities.

The second area has centered attention on *wine labeling* that can be used in harmony with the EU provisions to allow the trade inside and outside the EUC.

Third area is focused on articulation of Denomination of Origin DOP and Indication of Origin IGP providing for the nature, purposes and characteristics of wine with specific origin and special conditions that exalt the importance of quality wines.

3.1 Barriers and integration

Within the World Trade Organization (WTO), traditional trade barriers such as tariffs are steadily being reduced, while food safety standards, regulations related to traceability, product certification, environmental standards and other regulations are increasing. The creation of a single EU market involves the introduction of a trading system at the external borders of the EU (Moussis, 2007). It includes import duties and should, in principle, stabilize the market. The trading system should be based on the Community's international obligations, particularly those arising from the agreements of WTO. A great number of trade barrier were hidden in regulations, such as consumer or environment protection standards, which varied from a State to another.

Their restrictive effects were often more damaging than customs duties and quantitative restrictions. The establishment of the common market first required the elimination of all import and export duties existing between MS (Swinnen, Vandemoortel, 2009).

In BiH, the one of problem concerns the products traceability. Traceability from the vineyard to the table needs to be ensured to support the production of quality wines. It is necessary to ensure traceability from the vineyard to the market.

Exports to neighboring countries (Croatia, Serbia) are burdened by non-tariff restrictions. The problem for exporters to the Croatian market is that all wines imported must pass an organoleptic sensory assessment conducted by the Croatian Department of Viticulture and Oenology. The sensory analyses are carried out by trained and authorized assessors. Following this assessment, exporters may be requested to reduce of the quality category of the wine¹⁸.

In such cases, importers are forced to attach labels on top of the original labels (for example quality wine with protected geographical origin). Labeling and presentation shall be done in accordance with general horizontal rules on labelling and presentation of food products. The result is serious damage to the reputation of BiH wine and eventually a loss of the market share. For the purposes, transparency and traceability provisions should be adopted as regards the indication of origin.

Other issue is the current illegal and uncontrolled import of grapes and wine from Macedonia. Some un-registered wine makers in BiH are using such products, which are ending up in bottles with fake labels, indicating that the wine is domestic and made from domestically grown grapes.

¹⁸ The Wine Sector in BiH, Preparation of IPARD Sector Analyses in Bosnia and Herzegovina GCP/BIH/007/EC Subregional Office for Central and Eastern Europe Food and Agriculture Organization

Taking into account the differences between products covered by the CMO wine and their markets, and the expectations of consumers, it is necessary to differentiate the products according to the rules, particularly as far as certain optional used for wines without a protected designation of origin or geographical indication which nevertheless bear the name of the grape and the year, provided they conform to a certification authority (or varietal wines). Therefore, to distinguish within the category of wines without PDO/PGI, those which fall under the category of varietal wines from those who do not benefit from this openness, there should be specific provisions for the use of optional, applicable on the one hand PDO and PGI for wines and other wines without PDO and PGI¹⁹. Regulation (EC) No 607/2009²⁰ said that products whose label or presentation does not conform to the corresponding conditions as laid down in this Regulation cannot be marketed in the EU or exported. Where the products concerned are to be exported, Member States may allow that particulars, which conflict with labelling rules as provided for by Community legislation, appear on the label of wines for export, when they are required by the legislation of the third country concerned.

3.2 A problem of integration between regional and sub-regional bodies: the organization of a public control system

Regulation (EC) No. 491/2008 lays down the general rules for protecting the designations of origin and geographical indications of certain wine sector products. PDO and PGI refer to the geographical names and the geographical qualifiers corresponding to the regions of production, used to designate the wines referred to in regulation, whose characteristics depend on the natural conditions, correlated to its viticulture characteristics.

Within the region of production more restricted areas can exist, referred to as sub regions, having specific environmental characteristics or which are traditionally renowned, designated with a specific geographical or historic-geographic or administrative name. Insofar as they are expressly foreseen and more rigidly regulated in the relative production protocols and insofar as they are only associated to the relative denomination of origin.

Specific rules should be established concerning the registration of designations of origin and geographical indications in BiH. Provisions should be made concerning the condition relating to the production in the demarcated area.

In order to preserve the particular character of wines with protected PDO and GPI and to approximate the legislation of BiH with a view to establishing a level playing field for competition within the EU, should be laid down a Community legal frameworks governing checks on such wines, with which the specific provisions adopted by the MS must comply.

¹⁹ PDO wines can include on the label the vine varieties or their synonyms, specific mentions, reference to particular vinification techniques and specific qualifications of the product. PGI wines can use in their labeling an indication to the vine varieties or their synonyms and to the color of the wine as long as such indications are foreseen in the production protocol.

²⁰ Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products.

Such checks should make it possible to improve the traceability of the products in question and to specify the aspects that checks must cover.

In order to prevent distortions of competition, checks should be carried out on an ongoing basis by independent bodies. Reg. 491/2009²¹ explain that for a better management of wine-growing potential, it is desirable that Member States communicate to the Commission an inventory of their production potential. The information contained in it should be based on the vineyard register, which should be maintained and regularly updated.

The EU requires MS to keep the vineyard register in order to manage the ban on new plants, restructuring and conversion of vineyards, and denomination of origin declaration. Vineyard register is organized on a regional basis with the same rules. The inclusion of vineyards to register is a prerequisite for changes to the growing potential and access to structural measures and market performance. MS shall ensure that the administration and control procedures (controls and administrative measures an administrative penalties and their reporting),²² which relate to areas, are compatible with the integrated administration control system²³.

In BiH are mostly absent institutions that regulate and govern the areas of production; organization that control the chemical, physical and sensory analyzes of wines from these areas.

Federation of BiH responsibilities for authorisation of wine trading are basically shared between cantons (quality and high quality wines) and municipalities (currently table wines).

Some activities of vineyard cadastre are started up. Register of wine producers does not exist as separate register; regardless the fact that only legally registered producers (registered companies or entrepreneurs) can apply and get permit to trade wine on year-by-year basis.

These permits are issued on the basis of laboratory analysis and comparing of those results with the product specification which is kept by the institution authorised for issuing permits for trading the wine. Control in the wine sector should be done by agricultural and trade inspections which, themselves, have lack of capacities.

Each of the critical issues above is an absolute requirement for the EU implementation, on pain of the verifiability of the statement on the label and therefore the inability to trade with the EU countries.

²¹ Council Regulation (EEC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine. Council Regulation (EC) No 491/2009 of 25 May 2009 amending Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation).

²² Council Regulation No.1234/2007 establishing a Common Organisation of Agricultural Markets and on specific provisions for certain agricultural products.

²³ The vineyard area planted for each permit shall contain: a) identification of the conductor, list and location of the vineyard planted, replanting rights allocated but not used, replanting rights held; b) identification of the vineyard parcel, using maps or land registry, the total area of vineyard parcel may be divided by characteristics of the vineyards; surfaces with screws not yet grafted; abandoned vineyard area; estimate of the areas corresponding to varieties of wine grapes; c) technical information, agronomic suitability productive; d) identification of natural or legal person or association to submit harvest declarations, production declaration, statement or stock declaration claim denomination of origin.

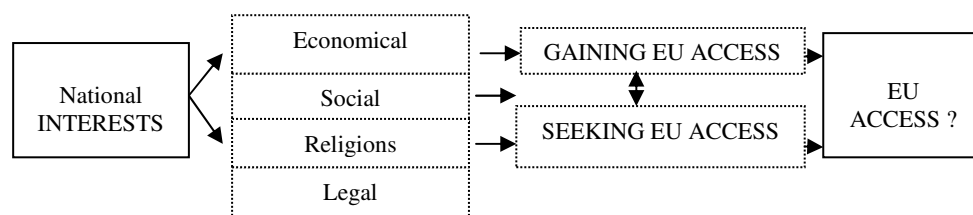
4. CONCLUSION

In the present work, on BiH wine law alignment, were addressed some typical questions on Neo institutionalist approach in terms of public and private choices. The decision to join or not a new institutional system is understood as "a set of fundamental rules of political, social and legal basis for establishing the production, distribution and exchange" (Davis and North, 1971).

The case study of EU's model of wine legislation corresponds to a larger problem of efficiency and equity resulting from an adaptation which institutional arrangement between economic units that governs the way in which these units can cooperate and/or compete with one another (Davis and North, 1971).

In this work, we have emphasized that social, economic and religious fragmentation (fig.1.4) influence and accentuate this uncertainty which finds its clearest expression in the more general question of EU integration and alignment with standards and rules.

Fig. 1.4 Bargaining: power, interests, tactics and outcomes



Source: our elaboration from Beyers' conceptual model (2004).

Every kind of public policy is confronted with a complexity of problems (uncertainty, asymmetric information and opportunism) that may hinder with high transaction costs, any attempt to change the "constitutional" status quo. Only when the transaction costs arising from a similar context of public policy exceeds a critical threshold, the expected benefits of an institutional change of the formal constraints may create sufficient incentives to implement policies.

The alignment of state control system on production and certification of BiH wines with denomination of origin is a perfect example. Accession to social norms and legal rules, especially if considered exogenous to Bosnian culture, represents the boundaries of "transaction" referred to the issue of control rights, and submission to a relationship of authority or, perhaps better, the decision to adopt a shared pattern of behavior (Grillo, 1995).

The transaction costs that arise are related to a) the creation or change of an institution, and (b) use of an institution or organization (Furebotn and Richter, 1991). Creation, protection and reform of institutions, are associated with the first type of transaction cost. The second type of cost as the activities of trade (implicit or explicit) take place within existing organizations or

institutions. “Without the appropriate institutions no market economy of significance is possible. If we knew more about our own economy” (Coase, 1992).

In the BiH’s case, the local public decision-maker (and his role as deputy representative of the private interests of the local wine producers) seems to escape, the advantage of the accession and integration with EU standards. *Even this doubt touches also the authors.*

The property rights of political actor were reflected in the formal system of constraints (laws, contracts, etc.) and sanction mechanisms.

Property rights refer to the ability to enjoy and dispose exclusively of certain scarce goods (tangible or intangible), tying individuals to other rules of conduct with penalties for non-compliance. Their value is directly linked to the security of mechanisms: the recognition and guarantee by others (external control), including State’s agents, and by the holders (internal control) are decisive in determining the total of transaction costs (Eggertsson, 1996).

Public action can be analyzed by studying the effects on transaction costs in those major areas of interaction and examining ways of definition, allocation and protection of the rights which derive from the different public policies. Every public policy can be seen as a political process through which rights are defined, attenuated, protected and redistributed among the different social actors “Governments operate by assigning, reassigning, modifying, or attenuating property rights...Regulation can easily be described from a property rights perspective. Governments regulate by creating and enforcing property rights and by more or less continuously modifying and changing the allocation of previously existing rights” (Benson and Baden, 1985).

The Neo-Institutionalist hypothesis that “institutions reduce the rate of uncertainty by creating regularity in everyday life” (North, 1994a) is not sufficient for local political actors. Contrary, it seems to prevail the possibility that the choice in the direction of EU integration and its “game’s rule” can hinder the formation of a precarious, order but finally reached. The result is an increase in social interaction’s uncertainty. In conclusion, it’s not completely clear, the advantage of EU guarantee and the relationship of transaction costs and benefits in rights of property of integration.

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Capri – 126th EAAE Seminar
New challenges for EU agricultural sector and rural areas.
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