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## Germany

**Post:** Berlin

### Constitutional Court Supports Wine Check-off Program

**Report Categories:**

Wine

Competitor

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**Report Highlights:**

The German Federal Constitutional Court (Bundesverfassungsgericht -BVerfG) rejected a constitutional complaint by 16 German wine-growers against a check-off program called "German Wine Fund" (Deutscher Weinfonds - DWF). The wine-growers took initial legal action against the DWF in June 2009, because they considered compulsory contributions and mandatory payments as unconstitutional. The BVerfG's decision ended a long-term conflict between both parties.

**General Information:**

On June 24, 2014, the German Federal Constitutional Court (Bundesverfassungsgericht -BVerfG) rejected a constitutional complaint by 16 German wine-growers against the German wine fund (Deutscher Weinfonds - DWF). The wine-growers took initial legal action against the DWF in June 2009, because they considered compulsory contributions and mandatory payments as unconstitutional. The BVerfG's decision ended a long-term conflict between both parties.

When the wine-growers' lawsuit remained unsuccessful in German lower courts, they took the case to the highest BVerfG which ruled the financing of DWF to be compliant with the constitution on June 24, 2014. The BVerfG justified its refusal of the constitutional complaint by referring to the special conditions in the wine sector. Additionally, the decision underscored the DWF's essential efforts to secure and improve the German wine industry [3, 4].

**Comment:** This ruling is noteworthy as in a similar complaint in 2009, the BVerfG ruled against German national agricultural market promotion fund (Absatzfonds). The Absatzfond and its implementing Central Market Promotion Agency (CMA) carried out market promotion for all agricultural products except wine, wood, and seafood. As a result of the 2009 ruling, the CMA was dissolved and German market promotion has been rather fragmented since. (For further information please see GAIN report GM9009 <http://apps.fas.usda.gov/gainfiles/200903/146327393.pdf>)

**Industry Reactions**

Monika Reule, executive board of the DWF, welcomed the court's decision, because it indirectly approved of the generic marketing efforts and legitimates the financing of German wine. Also, Federal Minister of Food and Agriculture, Christian Schmidt, spoke in favor of the court's ruling [4]. He called the decision a very important step to end an ongoing argument between both parties. He urged DWF and wine-growers to collaborate closely to ensure the success of the German wine industry. Peter Winter, President of the Association of German Wine Exporters, says the court's ruling improves the image of the DWF.

Wine-growers, in contrast, perceive the annual compulsory contributions as unnecessary, because they would not directly benefit from them. Several voices preferred to even substitute the DWF's work on commercial support by another organization so that less costs would arise [5, p. 8].

**Background**

The DWF was founded in Mainz, 1961, to ensure the quality of German wine. In cooperation with The German Wine Institute (Deutsches Weininstitut - DWI) and the German Wine Academy (Deutsche Weinakademie GmbH - DWA), it promotes sales of the German wine industry in order to secure the quality of German wine. The DWI establishes promotion material, holds trainings for wine-growers, and organizes fairs and events to promote German wine. The public institution is based on the Federal German wine law and under legal oversight of the Federal Ministry of Food and Agriculture (Bundesministerium fuer Ernaehrung und Landwirtschaft - BMEL) [1].

The DWF is financed by compulsory contributions of the German wine industry. Wine-growers owning more than 5 Ar ( $1 \text{ Ar} = 100 \text{ m}^2 = 0.025 \text{ acres}$ ) of wine yards have to pay an annual compulsory fee of 0.67 Euro per Ar. Companies selling wine or sparkling wine have a 60.00 Euro tax allowance, but must pay 0.67 Euro per each additional hectoliter wine ( $1 \text{ hectoliter} = 100 \text{ l}$ ). As a result and depending on the annual harvest the DWF's yearly budget can reach up to 10 million Euros [2, 1]. The DWI is financed by its own business activities and grants from the DWF. The economic plan of the DWI is approved by the BMEL.

## References:

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- [3] Der Winzer, "Finanzierung des Deutschen Weinfonds entspricht der Verfassung," 2014. [Online]. Available: <http://www.der-winzer.at/?id=2500%2C5350146%2C%2C>. [Accessed 09 July 2014].
- [4] Bundesministerium fuer Ernaehrung und Landwirtschaft, "Finanzierung des Deutschen Weinfonds ist verfassungskonform," Press Release, 24 June 2014.
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