

TOBACCO INDUSTRY

2.00

WHITE BOOK BALANCE SCORE CARD

Recommendations:	Introduced in the WB:	Significant progress	Certain progress	No progress
It is necessary for all the relevant public institutions, led by the working group for combating tobacco smuggling, to continue to focus on efficient implementation of the Law in order to combat the illegal tobacco market, which has a significant negative effect on all of society. The Foreign Investors Council also supports efforts of the Serbian Government in combating the illicit trade in tobacco and tobacco products and proposes the formation of a special department within the Prosecutor's Office which would be responsible for excise goods	2013		√	
Continue with the practice of open dialogue between the Government of the Republic of Serbia and the tobacco industry in all important matters concerning business conditions in the market of tobacco products. The Foreign Investors Council strongly supports this kind of dialogue, per the principles of participation, transparency, accountability, effectiveness, and coherence	2017		√	
Efficient implementation of the Law on Advertising. The Council believes that the regulator must ensure efficient implementation of the rules in the field of advertising of tobacco products that would create a level playing field for all market participants	2016		√	
The existing Tobacco Law, although satisfactory, requires certain adjustments that may be efficiently achieved through amendments to the existing Law. Additionally, certain problems in the practical application of the Law should be eliminated. Given that these changes are not of such a nature that they would require a change of the entire legal framework, the FIC supports limited amendments of the Tobacco Law, currently being drafted	2014		√	
The Foreign Investors Council strongly supports Serbia's European integration process and the harmonization of domestic legislation with the EU acquis. That said, the FIC also believes that the alignment with the Tobacco Products Directive (2014/40/EU) should be postponed until Serbia's accession to the EU, taking into account the current state of the tobacco product market in Serbia, the substantial changes to the regulations and the additional obligations imposed by the Directive on legitimate market participants, and the significant transition period envisaged for the Member States themselves, reflecting the complexity of the Directive. In addition, such an approach would allow Serbia, until its entry to the EU, to learn from all the positive and negative experiences which have resulted from the implementation of the Directive in other Member States (which are yet to be seen) and to opt for the solutions it deems most appropriate	2015		√	

CURRENT SITUATION

The tobacco industry is consistently one of the strongest and most robust sectors of the Serbian economy. Export revenues from tobacco and tobacco products are constantly at high levels, reaching almost EUR 255 million in 2018. At the same time, fiscal revenues from the sale of tobacco products contributed more than 10% of total budget revenues in Serbia in the previous year (projected revenues

from excise tax on tobacco products amount to more than RSD 102.1 billion). The three leading global tobacco companies continued to invest in further development of their manufacturing facilities in Serbia, with the level of foreign investment in the tobacco industry exceeding EUR 1.2 billion, which is a clear indicator of long-term business commitments in Serbia. At the same time, the tobacco industry in Serbia has a wide range of donor-funded programmes, whose value has reached EUR 20 million, so far.

Considering Serbia's aspirations toward European Union (EU) membership and the economic value of the tobacco industry, the importance of having a predictable fiscal and regulatory environment, one that is gradually being harmonized with EU directives in this field, is crucial for ensuring the sustainability and further development of the industry.

It is important to underline that projections in the Serbian budget for 2019 indicate that the tobacco market will drop by 3%, which is a significant indicator that the sector with such an important contribution to Serbia's GDP needs to be provided with predictable and transparent business climate and enabled to take an active part in the process of developing related legislation and regulations. On the illegal market, the share of illegal cut tobacco is still more or less constant, while the share of illegal cigarettes is on the rise.

POSITIVE DEVELOPMENTS

As it was referred in the previous edition of the White Book, the adoption of a multi-year excise tax plan for cigarettes and tobacco products (the current excise calendar entered into force on 1 January 2017 and will be valid until the end of 2020). This plan was envisaged by the Law on Excise Taxes and is one of the most significant legislative achievements in the tobacco field and a further step in the direction of the gradual harmonization with relevant EU Directive (2011/64/EU). Open dialogue with all stakeholders is of crucial importance given the significance of the tax policy in the field of tobacco and its predictability for both state revenues and the tobacco industry.

The current Law on Advertising contains very restrictive provisions on the advertising of tobacco products, even in comparison to many countries of the EU. However, some of its provisions are more precise compared to the previous version, thus diminishing the possibility of arbitrary interpretations and difficulties in the implementation of the Law, for both the relevant inspection services and the tobacco industry. The Foreign Investors Council (FIC) encourages the efficient application of the Law on Advertising, which will enable a level playing field for all market participants.

In December 2018 significant amendments to the Tobacco Law were enacted, providing a stronger regulatory framework for all participants in the tobacco sector's supply chain. There are novelties such as: defining tobacco pro-

cessors, enabling the outsourcing of tobacco processing as well as allowing trade in tobacco products between wholesalers.

The clearly expressed readiness of the highest state authorities to combat illegal activities in the market and declaring 2017 and 2018 the "Year of the fight against the grey economy," are a clear and positive step forward in this area. Accordingly, the Government of Serbia has established a Working Group on Combating Tobacco Smuggling, chaired by the Director of the Police.

The first results are reflected in the increase in the volume of seizures, primarily of illegal tobacco, but also illegal cigarettes. However, the increased activity of bodies controlling the application of regulations will remain without effect if not accompanied by appropriate court rulings.

REMAINING ISSUES

Illegal trade in tobacco products – The trend of rising revenues from excise tax on tobacco and tobacco products, registered in previous years, is continuing. Nevertheless, despite market stabilization, the illegal cut tobacco market still has an evident impact, jeopardizing the viability of the entire supply chain within the tobacco industry, as well as employment and GDP, which are directly affected by the tobacco products supply chain. Moreover, illegal tobacco products have a negative impact on consumers because of their unknown origin, uncontrolled manufacturing, storage, and transportation conditions, their availability to minors, the absence of statutory health warnings, the illegal advertising, and similar. The Government of Serbia is investing great efforts in combating the illicit trade in tobacco products, which is evident primarily through the seized quantities of tobacco and cigarettes. According to the Ministry of Interior's data, 21 metric tons of fine cut tobacco and 175,000 cartons of illegal cigarettes were seized in 2018. Also, the number of procedures initiated by the Ministry of Interior against various offenders in the illicit trade of tobacco and tobacco products has increased, reflecting a more serious approach in this field. However, there still is a clear lack of adequate reaction from prosecutors and courts.

Recent amendments to the Law on Tobacco introduced a new category of tobacco processors, which requires a strict implementation of control mechanisms, as stipulated in the law itself.

FIC RECOMMENDATIONS

- It is necessary for all relevant public institutions, led by the working group for combating tobacco smuggling, to continue to focus on an efficient implementation of the law in order to combat the illegal tobacco market, which has a significant negative effect on all of society. The Foreign Investors Council also supports efforts of the Serbian Government in combating the illicit trade in tobacco and tobacco products and proposes once again the formation of a special department within the Prosecutor's Office which would be responsible for excise goods.
- Continue with the open dialogue between the Government of Serbia and the tobacco industry in all important matters concerning business conditions in the tobacco product market. The Foreign Investors Council strongly supports this kind of dialogue, based on the principles of participation, transparency, accountability, effectiveness, and coherence.
- Timely organized dialogue between the tobacco industry and relevant state institutions about the new excise calendar.
- Efficient implementation of the Law on Advertising. The Council believes that the regulator must ensure an efficient implementation of the rules in the field of advertising of tobacco products that would create a level playing field for all market participants.
- Current tobacco regulation and legislation is mostly in line with relevant EU directives, while in some cases, such as the advertising of tobacco products, the regulation is even more rigorous than in the EU. Therefore, in the process of further harmonization with the EU framework the Council would suggest the introduction of a transitional period for the introduction of new regulations taking into account market specifics. This transitional period was enabled in a majority of EU member states given the complexities of the Directive itself and requirements for an adequate level of administrative capacities for its implementation.