

Brussels, XXX
[...] (2022) XXX draft

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

amending Commission Delegated Regulation (EU) 2019/33 as concerns provisions on protected denominations of origin and protected geographical indications for wine and on the presentation of compulsory particulars for grapevine products and laying down rules for the indication and designation of ingredients for grapevine products

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EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021¹ has amended certain provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013². The obligation to indicate the durability date for partly de-alcoholised and de-alcoholised wines with an actual alcoholic strength by volume of less than 10 % as well as the list of ingredients for all grapevine products has been introduced. Certain provisions concerning the designations of origin and the geographical indications in the wine sector laid down in Commission Delegated Regulation (EU) 2019/33³ have been added to Regulation (EU) No 1308/2013.

Regulation (EU) No 1308/2013 empowers the Commission to adopt delegated acts to lay down rules for the indication and designation of ingredients for grapevine products, on the presentation and use of labelling particulars and on the conditions to be followed in respect of an application for the protection of a designation of origin or geographical indication, scrutiny by the Commission, the objection procedure, and procedures for amendment, cancellation and conversion of protected designations of origin or protected geographical indications.

The purpose of this delegated act is to amend accordingly the existing Commission Delegated Regulation (EU) 2019/33 supplementing Regulation (EU) No 1308/2013 as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 27 Member States have been carried out as a preparation for and during the meetings of the Expert Group for the Common Organisation of Agricultural Markets – Wine held (virtually) on 29 April 2022.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The delegated act is based on Articles 109(3), point (b) and 122 of Regulation (EU) No 1308/2013 and should be adopted by means of the procedure in accordance with Article 227 of the same Regulation.

¹ Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021, amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

² Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

³ Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (OJ L 9, 11.1.2019, p. 2).

This Regulation provides the necessary amendments to Commission Delegated Regulation 2019/33 to complete the rules of Regulation (EU) No 1308/2013 on the derogation for the durability date to appear in the same field of vision on the container of grapevines products and the rules on the indication of the ingredients list for grapevine products. In addition, it provides the necessary technical amendments to make Commission Delegated Regulation (EU) 2019/33 consistent with Regulation (EU) No 1308/2013 by deleting the provisions that were moved into Regulation (EU) No 1308/2013.

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amending Commission Delegated Regulation (EU) 2019/33 as concerns provisions on protected denominations of origin and protected geographical indications for wine and on the presentation of compulsory particulars for grapevine products and laying down rules for the indication and designation of ingredients for grapevine products

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007⁴, and in particular Articles 109(3), point (b) and 122 thereof,

Whereas:

- (1) Regulation (EU) 2021/2117 of the European Parliament and of the Council⁵ has amended Regulation (EU) No 1308/2013.
- (2) In the context of that amendment, the provisions of Articles 6, 12, 14, 15, 20 and 22 of Commission Delegated Regulation (EU) 2019/33⁶ have been inserted in Articles 96, 98, 97, 105, 106 and 106a of Regulation (EU) No 1308/2013. For the sake of clarity and ease of use for the operators, Articles 6, 12, 14, 15, 20 and 22 of Delegated Regulation (EU) 2019/33 should be deleted and references to these Articles changed.
- (3) Following the addition of a new paragraph 3 in Article 97 of Regulation (EU) No 1308/2013, the existing paragraph 3 of that Article became paragraph 4. Following the addition of new points, points (a)(iii) and (b)(iii) of Article 93(1) of Regulation (EU) No 1308/2013 became points (a)(iv) and (b)(iv) of that Article respectively. References in Delegated Regulation (EU) 2019/33 to those Articles of Regulation (EU) No 1308/2013 should be adjusted accordingly.
- (4) For all grapevine products that have undergone a de-alcoholisation treatment and have an actual alcoholic strength by volume of less than 10%, Regulation (EU) 2021/2117 introduced the date of minimum durability as a compulsory particular within the meaning of Article 119(1) of Regulation (EU) No 1308/2013. However, in accordance with the requirements of Regulation (EU) No 1169/2011 of the European Parliament

⁴ OJ L 347, 20.12.2013, p. 671.

⁵ Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021, amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

⁶ Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (OJ L 9, 11.1.2019, p. 2).

and of the Council⁷ that are applicable to all foodstuffs, it is appropriate to establish that the date of minimum durability, whenever displayed on the container, does not have to appear in the same field of vision as required for other compulsory particulars referred to in Article 119 of Regulation (EU) No 1308/2013.

- (5) Moreover, Regulation (EU) 2021/2117 introduced also the list of ingredients referred to in Article 9(1), point (l), of Regulation (EU) No 1169/2011 as a new compulsory particular within the meaning of Article 119(1) of Regulation (EU) No 1308/2013. Regulation (EU) 2021/2117 also empowered the Commission to adopt delegated acts laying down specific rules for the indication and designation of ingredients for the application of this new requirement laid down in Article 119(1), point (i) of Regulation (EU) No 1308/2013.
- (6) In order to enable the smooth implementation of the obligation to indicate the list of ingredients, it is appropriate to clarify the specific rules that should apply to grapevine products.
- (7) The relevant requirements of Regulation (EU) No 1169/2011 concerning ingredients lists also apply to grapevine products. However, in order to reflect the specificities of the grapevine products, it is appropriate to establish certain provisions which are only applicable to them.
- (8) In order to clarify the terms that should be used for the ingredients of grapevine products, it should be indicated the legal text where additives and processing aids permitted for their production are laid down.
- (9) Since grapevine products are always produced on the basis of grapes, it is appropriate to allow the use of a single term to indicate the raw material in the list of ingredients irrespective of whether the winemaker has used them as fresh grapes or as fresh grape must. In fact, the consistent use of the term ‘grapes’ in the ingredients lists for grapevine products allows an harmonised, comprehensible and clear information for consumers.
- (10) The addition of grape must, concentrated grape must or rectified concentrated grape must is authorised under Union law for enrichment, as sweeteners, in the tirage liqueur and in the expedition liqueur of certain grapevine products. In order to facilitate the understanding of consumers and the management of ingredients lists for winemakers, it is appropriate to allow the use of the term ‘grape must’ to cover also concentrated grape must or rectified concentrated grape must.
- (11) The oenological practice consisting in the addition of an expedition liqueur is also used to confer specific organoleptic properties to a sparkling wine. Therefore, winemakers are often reticent to disclose its exact composition, which is regarded as a commercial recipe. Since the possible constituents of the expedition liqueur are regulated in Annex II of Commission Delegated Regulation (EU) 2019/934⁸, which represents an

⁷ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 Text with EEA relevance (OJ L 304, 22.11.2011, p. 18).

⁸ Commission Delegated Regulation (EU) 2019/934 of 12 March 2019 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files (OJ L 149, 7.6.2019, p. 1).

exhaustive list, it should be allowed to refer to the term “expedition liqueur” only, in cases where the disclosure of the constituents will represent a disclosure of commercial recipe.

- (12) Delegated Regulation (EU) 2019/33 should therefore be amended accordingly.
- (13) In accordance with the last indent of Article 6 of Regulation (EU) 2021/2117, providing that the new points (i) and (j) of Article 119(1) on the list of ingredients and the date of minimum durability of partly de-alcoholised and de-alcoholised grapevine products with an actual alcoholic strength by volume of less than 10% only apply from 8 December 2023, also the related provisions laid down in this act should apply from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2019/33 is amended as follows:

- (1) Article 5 shall be replaced by the following:

‘Article 5

Derogations concerning production in the demarcated geographical area

1. By way of derogation from points (a)(iv) and (b)(iv) of Article 93(1) of Regulation (EU) No 1308/2013, and on condition that the product specification so provides, a product which has a protected designation of origin or geographical indication may be made into wine in any of the following locations:

- (a) in an area in the immediate proximity of the demarcated area in question;
- (b) in an area located within the same administrative unit or within a neighbouring administrative unit, in conformity with national rules;
- (c) in the case of a trans-border designation of origin or geographical indication, or where an agreement on control measures exists between two or more Member States or between one or more Member States and one or more third countries, in an area situated in the immediate proximity of the demarcated area in question.

2. By way of derogation from point (a)(iv) of Article 93(1) of Regulation (EU) No 1308/2013, and on condition that the product specification so provides, a product may be made into sparkling wine or semi-sparkling wine bearing a protected designation of origin beyond the immediate proximity of the demarcated area in question if this practice was in use prior to 1 March 1986.

3. By way of derogation from point (a)(iv) of Article 93(1) of Regulation (EU) No 1308/2013, with regard to liqueur wines with the protected designation of origin ‘Málaga’ and ‘Jerez-Xérès-Sherry’, the must of raisined grapes to which neutral alcohol of vine origin has been added to prevent fermentation, obtained from Pedro Ximénez vine variety, may come from the ‘Montilla-Moriles’ region.’;

- (2) Article 6 is deleted;

- (3) In Article 11, paragraph 1, point (c), (iii) shall be replaced by the following:

‘iii) the registration of the proposed name would jeopardise the rights of a trade mark holder or of a user of a fully homonymous name or of a compound name, one term of which is identical to the name to be registered, or the existence of partially homonymous names or of other names

similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(4) of Regulation (EU) No 1308/2013.’;

(4) Article 12 is deleted;

(5) In Article 13, paragraph 1, second subparagraph, point (b) shall be replaced by the following:

‘(b) of partially homonymous names or of other names similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(4) of Regulation (EU) No 1308/2013.’;

(6) Article 14 is deleted;

(7) Article 15 is deleted;

(8) In Article 17(1), the third subparagraph shall be replaced by the following:

‘The application for a standard amendment shall provide a description of the standard amendments, provide a summary of the reasons for which the amendments are required and demonstrate that the proposed amendments qualify as standard in accordance with the third subparagraph of Article 105 of Regulation (EU) No 1308/2013.’

(9) Article 20 is deleted;

(10) Article 22 is deleted;

(11) In Article 40, paragraph 2 is replaced by the following:

‘2. By way of derogation from paragraph 1, the following particulars may appear outside the field of vision referred to in that paragraph:

- (a) the substances or products causing allergies or intolerances referred to in Article 41(1) of this Regulation,
- (b) the indication of the importer,
- (c) the lot number, and
- (d) the date of minimum durability.’;

(12) the following Article is inserted:

‘Article 48a

List of ingredients

The list of ingredients for grapevine products shall be provided in conformity with Articles 18 to 20 of Regulation (EU) No 1169/2011, unless otherwise provided for in this Article.

The additives and, where appropriate, the processing aids to be included in the list of ingredients are those listed in Annex I, Part A, Table 2, to Delegated Regulation (EU) 2019/934.

The term ‘grapes’ shall be used to indicate the raw material used for the production of the grapevine product.

The term ‘grape must’ may replace the terms ‘concentrated grape must’ and ‘rectified concentrated grape must’.

The constituents of the expedition liqueur referred to in Section A, point 2, of Annex II to Delegated Regulation (EU) 2019/934 may be replaced by the term ‘expedition liqueur’, in

cases where the disclosure of the constituents will represent a disclosure of commercial recipe
..

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Points 11 and 12 of Article 1 shall apply from 8 December 2023.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
Ursula VON DER LEYEN