

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)

Article 1

Regulation (EC) No 1234/2007 is hereby amended as follows:

1. in Article 1, paragraph 2 shall be deleted;
2. the following point shall be inserted in the first paragraph of Article 3:
 - (ca) 1 August to 31 July of the following year for the wine sector;;
3. Article 55 shall be amended as follows:
 - (a) the heading shall be replaced by the following:

Article 55

Quota systems and production potential;
 - (b) the following paragraph shall be inserted:
 - 2a. In relation to the wine sector, rules concerning production potential as regards unlawful plantings, transitional planting rights as well as a grubbing-up scheme shall apply in accordance with the provisions set out in Section IVa.;
4. the Title of Section IV of Chapter III of Title I of Part II shall be replaced by the following:

Section IV Procedural rules concerning sugar, milk and potato starch quotas;
5. in Article 85, the introductory words shall be replaced by the following:

The Commission shall adopt detailed rules for the application of Sections I to IIIa which may relate, in particular, to;;
6. the following Section shall be added to Chapter III of Title I of Part II:

Section IVa

Production potential in the wine sector

Subsection I

Unlawful plantings

Article 85a

Unlawful plantings planted after 31 August 1998

- 1 Producers shall grub up at their own cost areas planted with vines without a corresponding planting right, where applicable, after 31 August 1998.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

2 Pending grubbing-up in accordance with paragraph 1, grapes and products made from grapes from areas referred to in that paragraph may be put into circulation only for the purposes of distillation at the exclusive expense of the producer. The products resulting from distillation may not be used in the preparation of alcohol having an actual alcoholic strength by 80 % volume or less.

3 Without prejudice, where applicable, to earlier penalties imposed by Member States, Member States shall impose penalties on producers who have not complied with this grubbing-up obligation graduated according to the severity, extent and duration of the non-compliance.

4 The end of the transitional ban on new plantings on 31 December 2015, as provided for in Article 85g(1), shall not affect the obligations provided for in this Article.

Article 85b

Obligatory regularisation of unlawful plantings planted before 1 September 1998

1 Producers shall, against the payment of a fee and not later than 31 December 2009, regularise areas planted with vines without a corresponding planting right, where applicable, before 1 September 1998.

Without prejudice to any proceedings under clearance of accounts, the first subparagraph shall not apply to areas regularised on the basis of Article 2(3) of Regulation (EC) No 1493/1999.

2 The fee referred to in paragraph 1 shall be determined by Member States. It shall be equivalent to at least twice the average value of the corresponding planting right in the region concerned.

3 Pending regularisation under paragraph 1, grapes or products made from grapes from areas referred to in that paragraph may be put into circulation only for the purpose of distillation at the exclusive expense of the producer. The products may not be used in the preparation of alcohol having an actual alcoholic strength of 80 % volume or less.

4 Unlawful areas referred to in paragraph 1 which are not regularised in accordance with that paragraph by 31 December 2009 shall be grubbed up by the producers concerned at their own expense.

Member States shall impose penalties, graduated according to the severity, extent and duration of the non-compliance, on producers who do not comply with this grubbing-up obligation.

Pending the grubbing-up referred to in the first subparagraph, paragraph 3 shall apply *mutatis mutandis*.

5 The end of the transitional ban on new plantings on 31 December 2015, as provided for in Article 85g(1), shall not affect the obligations provided for in paragraphs 3 and 4.

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Article 85c

Verification of non-circulation or distillation

- 1 In relation to Article 85a(2) and Article 85b(3) and (4), Member States shall require proof of non-circulation of the products concerned or, where the products concerned are distilled, the submission of distillation contracts.
- 2 Member States shall verify non-circulation and distillation referred to in paragraph 1. They shall impose penalties in case of non-compliance.
- 3 Member States shall notify the Commission of the areas subject to distillation and the corresponding volumes of alcohol.

Article 85d

Accompanying measures

Areas referred to in the first subparagraph of Article 85b(1), as long as they are not regularised and areas referred to in Article 85a(1) shall not benefit from any national or Community support measures.

Article 85e

Implementing measures

Detailed rules for the implementation of this Subsection shall be adopted by the Commission.

Those rules may include:

- (a) details on the communication requirements of Member States, including possible reductions of the budget allocations referred to in Annex Xb in case of non-compliance;
- (b) details on the penalties to be imposed by Member States in case of non-compliance with the obligations laid down in Articles 85a, 85b and 85c.

Subsection II

Transitional planting right regime

Article 85f

Duration

This Subsection shall apply until 31 December 2015.

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Article 85g

Transitional prohibition on planting vines

- 1 Without prejudice to Article 120a(1) to (6) and in particular paragraph 4 thereof, the planting of vines of wine grape varieties classifiable according to Article 120a(2) shall be prohibited.
- 2 Grafting-on of wine grape varieties classifiable according to Article 120a(2) to varieties other than wine grape varieties referred to in that Article shall also be prohibited.
- 3 Notwithstanding paragraphs 1 and 2, plantings and grafting-on as referred to in those paragraphs shall be allowed if covered by:
 - a a new planting right, as provided for in Article 85h;
 - b a replanting right, as provided for in Article 85i;
 - c a planting right granted from a reserve, as provided for in Articles 85j and 85k.
- 4 The planting rights referred to in paragraph 3 shall be granted in hectares.
- 5 Member States may decide to maintain the prohibition referred to in paragraph 1 in their territory or parts of their territory until 31 December 2018 at the latest. In such cases the rules governing the transitional planting right regime as laid down in this Subsection, including this Article, shall apply accordingly in the given Member State.

Article 85h

New planting rights

- 1 Member States may grant new planting rights to producers in respect of areas:
 - a intended for new plantings carried out under measures for land consolidation or measures concerning compulsory purchases in the public interest adopted under national law;
 - b intended for experimental purposes;
 - c intended for graft nurseries; or
 - d whose wine or vine products are intended solely for the consumption by the wine-grower's household.
- 2 New planting rights granted shall be:
 - a exercised by the producer to whom they are granted;
 - b used before the end of the second wine year after the one in which they were granted;
 - c used for the purposes for which they were granted.

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Article 85i

Replanting rights

1 Member States shall grant replanting rights to producers who have grubbed up an area planted with vines.

However, grubbed-up areas for which a grubbing-up premium is granted in accordance with Subsection III shall not generate replanting rights.

2 Member States may grant replanting rights to producers who undertake to grub up an area planted with vines. In such cases, the grubbing-up of the pledged area shall be carried out at the latest at the end of the third year after which new vines for which the replanting rights had been granted have been planted.

3 Replanting rights granted shall correspond to the equivalent of the grubbed-up area in terms of pure crop.

4 Replanting rights shall be exercised on the holding in respect of which they were granted. Member States may further stipulate that such replanting rights may be exercised only on the area where the grubbing-up was carried out.

5 By way of derogation from paragraph 4, Member States may decide that replanting rights may be transferred, in whole or in part, to another holding in the same Member State in the following cases:

- a part of the holding concerned is transferred to that other holding;
- b areas on that other holding are intended for:
 - (i) the production of wines with a protected designation of origin or a protected geographical indication; or
 - (ii) the cultivation of graft nurseries.

Member States shall ensure that the application of the derogation provided for in the first subparagraph does not lead to an overall increase in production potential on their territory, in particular when transfers are made from non-irrigated to irrigated areas.

6 Paragraphs 1 to 5 shall apply *mutatis mutandis* to rights similar to replanting rights acquired under prior Community or national legislation.

7 Replanting rights granted under Article 4(5) of Regulation (EC) No 1493/1999 shall be used within the periods provided for therein.

Article 85j

National and regional reserve of planting rights

1 In order to improve management of the production potential, Member States shall create a national reserve or regional reserves of planting rights.

2 Member States which have established national or regional reserves of planting rights under Regulation (EC) No 1493/1999 may maintain those reserves as long as they apply the transitional planting right regime in accordance with this Subsection.

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3 The following planting rights shall be allocated to national or regional reserves if they are not used within the prescribed period:

- a new planting rights;
- b replanting rights;
- c planting rights granted from the reserve.

4 Producers may transfer replanting rights to national or regional reserves. The conditions of such transfer, where necessary in return for a payment from national funds, shall be determined by the Member States taking into account the legitimate interests of the parties.

5 By way of derogation from paragraph 1, Member States may decide not to implement a reserve system provided that they can prove that an effective alternative system for managing planting rights exists throughout their territory. The alternative system may, where necessary, derogate from the relevant provisions of this Subsection.

The first subparagraph shall also apply to Member States which cease the operation of national or regional reserves under Regulation (EC) No 1493/1999.

Article 85k

Granting planting rights from the reserve

1 Member States may grant rights from a reserve:

- a without payment, to producers who are under 40 years of age, who possess adequate occupational skills and competences, who are setting up for the first time and who are established as the head of the holding;
- b against payment into national or, if appropriate, regional funds, to producers who intend to use the rights to plant vineyards the production of which has an assured outlet.

Member States shall define the criteria for setting the amounts of the payment referred to in point (b) of the first subparagraph, which may vary depending on the final intended product of the vineyards concerned and on the residual transitional period during which the prohibition on new plantings, as provided for in Article 85g(1) and (2), applies.

2 Where planting rights granted from a reserve are used, Member States shall ensure that:

- a the location and the varieties and the cultivation techniques used guarantee that the subsequent production is adapted to market demand;
- b the yields concerned are typical of the average in the region, in particular where planting rights originating in non-irrigated areas are used in irrigated areas.

3 Planting rights granted from a reserve which are not used before the end of the second wine year after the one in which they were granted shall be forfeited and re-allocated to the reserve.

4 Planting rights in a reserve which are not disbursed before the end of the fifth wine year following their allocation to the reserve shall be extinguished.

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5 If regional reserves exist in a Member State, the Member State may lay down rules permitting the transfer of planting rights between regional reserves. If both regional and national reserves exist in a Member State, the Member State may also allow for transfers between those reserves.

Transfers may be subject to a reduction coefficient.

Article 85l

De minimis

This Subsection shall not apply in Member States where the Community planting right regime did not apply by 31 December 2007.

Article 85m

Stricter national rules

Member States may adopt stricter national rules in respect of the award of new planting rights or replanting rights. They may require that the respective applications and the relevant information to be supplied therein be supplemented by additional information necessary for monitoring the development of production potential.

Article 85n

Implementing measures

Detailed rules for the implementation of this Subsection shall be adopted by the Commission.

Those rules may in particular include:

- (a) provisions to avoid excessive administrative charges when applying the provisions of this Subsection;
- (b) the co-existence of vines pursuant to Article 85i(2);
- (c) the application of the reduction coefficient referred to in Article 85k(5).

Subsection III

Grubbing up scheme

Article 85o

Duration

The provisions of this Subsection shall apply until the end of the wine year 2010/2011.

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Article 85p

Scope and definition

This Subsection lays down the conditions under which vine-growers shall receive a premium in exchange for grubbing up vines (hereinafter referred to as the grubbing-up premium).

Article 85q

Conditions of eligibility

The grubbing-up premium may be granted only if the area concerned complies with the following conditions:

- (a) it did not receive Community or national support for restructuring and conversion-type measures within the 10 wine years preceding the grubbing-up request;
- (b) it did not receive Community support under any other common market organisation within the five wine years preceding the grubbing-up request;
- (c) it is tended;
- (d) it is not smaller than 0,1 hectares. However, if a Member State so decides, that minimum size may be 0,3 hectares in certain administrative regions of that Member State in which the average of the area planted with vines of a wine holding exceeds one hectare;
- (e) it has not been planted in violation of any applicable Community or national legislation; and
- (f) it is planted with a wine grape variety classifiable according to Article 120a(2).

Notwithstanding point (e) of the first paragraph, areas regularised in accordance with Article 2(3) of Regulation (EC) No 1493/1999 and Article 85b(1) of this Regulation shall be eligible for the grubbing-up premium.

Article 85r

Amount of the grubbing-up premium

1 Scales for the grubbing-up premiums to be granted shall be fixed by the Commission.

2 The specific amount of the grubbing-up premium shall be established by Member States within the scales referred to in paragraph 1 and on the basis of the historical yields of the holding concerned.

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Article 85s

Procedure and budget

- 1 Interested producers shall submit applications for the grubbing-up premium to the respective authorities in Member States not later than 15 September of each year. Member States may fix an earlier date than 15 September provided that it is later than 30 June and that they take into due account, where applicable, their application of the exemptions provided for in Article 85u.
- 2 Member States shall carry out administrative controls concerning the applications received, process eligible applications and notify to the Commission by 15 October each year the total area and amounts covered by those applications split by regions and by yield ranges.
- 3 The maximum annual budget for the grubbing-up scheme is set out in Annex Xd.
- 4 By 15 November each year, the Commission shall set a single percentage for acceptance of the amounts notified if the total amount notified to the Commission by Member States exceeds the available budget resources, regard being had, where applicable, to the application of Article 85u(2) and (3).
- 5 By 1 February each year, Member States shall accept the applications:
 - a for the areas applied for in their entirety if the Commission has not set a percentage as referred to in paragraph 4; or
 - b for the areas resulting from the application of the percentage referred to in paragraph 4 based on objective and non-discriminatory criteria and in accordance with the following priorities:
 - (i) Member States shall give priority to applicants whose application for the grubbing-up premium covers their entire vineyard;
 - (ii) Member States shall give second priority to applicants who are not less than 55 years old, or older, where Member States so provide.

Article 85t

Cross-compliance

Where farmers are found not to have complied on their holding, at any time during three years from payment of the grubbing-up premium, with the statutory management requirements and the good agricultural and environmental condition referred to in Articles 3 to 7 of Regulation (EC) No 1782/2003, the amount of the payment shall, where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

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Article 85u

Exemptions

1 A Member State may decide to reject any further applications referred to in Article 85s(1) once the accumulated grubbed-up area on its territory reaches 8 % of its area planted with vines as referred to in Annex Xe.

A Member State may decide to reject any further applications referred to in Article 85s(1) for a region once the accumulated grubbed-up area in that region reaches 10 % of the region's area planted with vines.

2 The Commission may decide to stop the application of the grubbing-up scheme in a Member State if, taking into account the pending applications, continued grubbing-up would lead to a cumulated grubbed-up area of more than 15 % of the Member State's total area planted with vines as referred to in Annex Xe.

3 The Commission may decide to stop the application of the grubbing-up scheme in a Member State for a given year if, taking into account the pending applications, continued grubbing-up would lead to a grubbed-up area of more than 6 % of the Member State's total area planted with vines as referred to in Annex Xe in that particular year of the scheme's operation.

4 Member States may declare vines in mountain and steep-slope areas ineligible for the grubbing-up scheme in accordance with conditions to be determined by the Commission.

5 Member States may declare areas ineligible for the grubbing-up scheme where application of the scheme would be incompatible with environmental concerns. Areas thus declared ineligible shall not exceed 3 % of the total area planted with vines as referred to in Annex Xe.

6 Greece may declare areas planted with vines on the Aegean islands and the Greek Ionian islands, with the exception of Crete and Eubia, ineligible under the grubbing-up scheme.

7 The grubbing-up scheme set out in this Subsection shall not apply in the Azores, Madeira and the Canary Islands.

8 Member States shall grant producers in the areas ineligible or declared ineligible under paragraphs 4 to 7 priority under other support measures laid down in this Regulation in respect of the wine sector, in particular, where applicable, the restructuring and conversion measure under the support programmes and rural development measures.

Article 85v

De minimis

This Subsection shall not apply in Member States where wine production does not exceed 50 000 hectolitres per wine year. This production shall be calculated on the basis of the average production during the previous five wine years.

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Article 85w

Complementary national aid

Member States may grant complementary national aid not exceeding 75 % of the applicable grubbing-up premium in addition to the grubbing-up premium granted.

Article 85x

Implementing measures

Detailed rules for the implementation of this Subsection shall be adopted by the Commission.

Those rules may in particular include:

- (a) details on the conditions of eligibility referred to in Article 85q, in particular as regards proof that areas were properly tended in 2006 and 2007;
 - (b) the premium scales and amounts referred to in Article 85r;
 - (c) the criteria for exemptions as referred to in Article 85u;
 - (d) the reporting requirements of Member States concerning the implementation of the grubbing-up scheme, including penalties in case of delays in reporting and the information which Member States give to producers concerning the availability of the scheme;
 - (e) the reporting requirements as regards complementary national aid;
 - (f) deadlines for payments.;
7. the following Section shall be inserted in Chapter IV of Title I of Part II:

Section IVb

Support programmes in the wine sector

Subsection I

Introductory provisions

Article 103i

Scope

This Section lays down the rules governing the attribution of Community funds to Member States and the use of those funds by Member States through national support programmes (hereinafter referred to as support programmes) to finance specific support measures to assist the wine sector.

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Article 103j

Compatibility and consistency

1 Support programmes shall be compatible with Community law and consistent with the activities, policies and priorities of the Community.

2 Member States shall be responsible for the support programmes and ensure that they are internally consistent and drawn up and implemented in an objective manner, taking into account the economic situation of the producers concerned and the need to avoid unjustified unequal treatment between producers.

Member States shall be responsible for providing for and carrying out the necessary controls and penalties in case of non-compliance with the support programmes.

3 No support shall be granted:

- a for research projects and measures to support research projects;
- b for measures which are contained in Member States' rural development programmes under Regulation (EC) No 1698/2005.

Subsection II

Submission and content of support programmes

Article 103k

Submission of support programmes

1 Each producer Member State referred to in Annex Xb shall submit to the Commission a draft five-year support programme containing measures in accordance with this Section.

Support programmes that became applicable in accordance with the first subparagraph of Article 5(1) of Regulation (EC) No 479/2008 shall continue to apply under this Regulation.

The support measures in the support programmes shall be drawn up at the geographical level which the Member States deem most appropriate. Before being submitted to the Commission, the support programme shall be subject to consultation with the competent authorities and organisations at the appropriate territorial level.

Each Member State shall submit one single draft support programme which may accommodate regional particularities.

2 Support programmes shall become applicable three months after their submission to the Commission.

However, if the submitted support programme does not comply with the conditions laid down in this Section, the Commission shall inform the Member State thereof. In such a case, the Member State shall submit a revised support programme to the Commission. The revised support programme shall become applicable two months

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after its notification unless an incompatibility persists in which case this subparagraph shall apply.

3 Paragraph 2 shall apply *mutatis mutandis* to changes in respect of support programmes submitted by Member States.

4 Article 103l shall not apply where a Member State's only measure in a support programme consists of the transfer to the Single Payment Scheme referred to in Article 103o. In such case, Article 188a(5) shall apply only in relation to the year in which the transfer takes place and Article 188a(6) shall not apply.

Article 103l

Content of support programmes

Support programmes shall consist of the following elements:

- (a) a detailed description of the measures proposed as well as their quantified objectives;
- (b) the results of consultations held;
- (c) an appraisal showing the expected technical, economic, environmental and social impact;
- (d) a schedule for implementing the measures;
- (e) a general financing table showing the resources to be deployed and the envisaged indicative allocation of the resources between the measures in accordance with ceilings provided for in Annex Xb;
- (f) the criteria and quantitative indicators to be used for monitoring and evaluation as well as the steps taken to ensure that the support programmes are implemented appropriately and effectively; and
- (g) the designation of competent authorities and bodies responsible for implementing the support programme.

Article 103m

Eligible measures

- 1 Support programmes shall contain one or more of the following measures:
- a Single Payment Scheme support in accordance with Article 103o;
 - b promotion in accordance with Article 103p;
 - c restructuring and conversion of vineyards in accordance with Article 103q;
 - d green harvesting in accordance with Article 103r;
 - e mutual funds in accordance with Article 103s;
 - f harvest insurance in accordance with Article 103t;
 - g investments in accordance with Article 103u;
 - h by-product distillation in accordance with Article 103v;
 - i potable alcohol distillation in accordance with Article 103w;
 - j crisis distillation in accordance with Article 103x;

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k use of concentrated grape must in accordance with Article 103y.

2 Support programmes shall not contain other measures than the ones listed in Articles 103o to 103y.

Article 103n

General rules concerning support programmes

1 The allocation of the available Community funds as well as the budgetary limits are provided for in Annex Xb.

2 Community support shall only relate to eligible expenditure incurred after the submission of the relevant support programme as referred to in Article 103k(1).

3 Member States shall not contribute to the costs of measures financed by the Community under the support programmes.

4 By way of derogation from paragraph 3, Member States may grant national aid in accordance with the relevant Community rules on State aid for the measures referred to in Articles 103p, 103t and 103u.

The maximum aid rate as laid down in the relevant Community rules on State aids shall apply to the global public financing, including both Community and national funds.

Subsection III

Specific support measures

Article 103o

Single Payment Scheme and support to vine-growers

1 Member States may provide support to vine-growers by allocating to them payment entitlements within the meaning of Chapter 3 of Title III of Regulation (EC) No 1782/2003 in accordance with point O of Annex VII to that Regulation.

2 Member States intending to make use of the possibility referred to in paragraph 1 shall foresee such support in their support programmes, including, as regards subsequent transfers of funds to the Single Payment Scheme, by way of changes to those programmes in accordance with Article 103k(3).

3 Once effective, support as referred to in paragraph 1 shall:

- a remain in the Single Payment Scheme and no longer be available, or be made available under Article 103k(3), for the measures listed in Articles 103p to 103y in subsequent years of the operation of the support programmes;
- b commensurately reduce the amount of funds available for measures listed in Articles 103p to 103y in the support programmes.

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Article 103p

Promotion on third-country markets

- 1 Support under this Article shall cover information or promotion measures concerning Community wines in third countries, thereby improving their competitiveness in those countries.
- 2 The measures referred to in paragraph 1 shall relate to wines with a protected designation of origin or a protected geographical indication or wines with an indication of the wine grape variety.
- 3 The measures referred to in paragraph 1 may consist only of:
 - a public relations, promotion or advertisement measures, in particular highlighting the advantages of the Community products, especially in terms of quality, food safety or environmental friendliness;
 - b participation at events, fairs or exhibitions of international importance;
 - c information campaigns, in particular on the Community systems covering designations of origin, geographical indications and organic production;
 - d studies of new markets, necessary for the expansion of market outlets;
 - e studies to evaluate the results of the information and promotion measures.
- 4 The Community contribution to promotion activities shall not exceed 50 % of the eligible expenditure.

Article 103q

Restructuring and conversion of vineyards

- 1 The objective of measures relating to the restructuring and conversion of vineyards shall be to increase the competitiveness of wine producers.
- 2 The restructuring and conversion of vineyards shall be supported in accordance with this Article only if Member States submit the inventory of their production potential in accordance with Article 185a(3).
- 3 Support for the restructuring and conversion of vineyards may only cover one or more of the following activities:
 - a varietal conversion, including by means of grafting-on;
 - b relocation of vineyards;
 - c improvements to vineyard management techniques.

The normal renewal of vineyards which have come to the end of their natural life shall not be supported.
- 4 Support for the restructuring and conversion of vineyards may only take the following forms:
 - a compensation to producers for the loss of revenue due to the implementation of the measure;
 - b contribution to the costs of restructuring and conversion.

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- 5 Compensation to producers for the loss of revenue as referred to in paragraph
 4(a) may cover up to 100 % of the relevant loss and take either of the following forms:
- a notwithstanding Subsection II of Section IVa of Chapter III of Title I of Part II setting out the transitional planting right regime, the permission for both old and new vines to coexist for a fixed period which shall not exceed three years, until the end of the transitional regime concerning planting rights;
 - b financial compensation.

- 6 The Community contribution to the actual costs of the restructuring and conversion of vineyards shall not exceed 50 %. In regions classified as convergence regions in accordance with Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund⁽¹⁾, the Community contribution to the costs of restructuring and conversion shall not exceed 75 %.

Article 103r

Green harvesting

- 1 For the purposes of this Article, green harvesting means the total destruction or removal of grape bunches while still in their immature stage, thereby reducing the yield of the relevant area to zero.

- 2 Support for green harvesting shall contribute to restoring the balance of supply and demand in the market in wine in the Community in order to prevent market crises.

- 3 Support for green harvesting may be granted as compensation in the form of a flat rate payment per hectare to be determined by the Member State concerned.

The payment shall not exceed 50 % of the sum of the direct costs of the destruction or removal of grape bunches and the loss of revenue related to such destruction or removal.

- 4 The Member States concerned shall establish a system based on objective criteria to ensure that the green harvesting measure does not lead to compensation of individual wine producers in excess of the ceiling referred to in the second subparagraph of paragraph 3.

Article 103s

Mutual funds

- 1 Support for the setting up of mutual funds shall provide assistance to producers seeking to insure themselves against market fluctuations.

- 2 Support for the setting up of mutual funds may be granted in the form of temporary and degressive aid to cover the administrative costs of the funds.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 103t

Harvest insurance

- 1 Support for harvest insurance shall contribute to safeguarding producers' incomes where these are affected by natural disasters, adverse climatic events, diseases or pest infestations.
- 2 Support for harvest insurance may be granted in the form of a financial Community contribution which must not exceed:
 - a 80 % of the cost of the insurance premiums paid for by producers for insurance against losses resulting from adverse climatic events which can be assimilated to natural disasters;
 - b 50 % of the cost of the insurance premiums paid for by producers for insurance against:
 - (i) losses referred to in point (a) and against other losses caused by adverse climatic events;
 - (ii) losses caused by animals, plant diseases or pest infestations.
- 3 Support for harvest insurance may only be granted if the insurance payments concerned do not compensate producers for more than 100 % of the income loss suffered, taking into account any compensation the producers may have obtained from other support schemes related to the insured risk.
- 4 Support for harvest insurance shall not distort competition in the insurance market.

Article 103u

Investments

- 1 Support may be granted for tangible or intangible investments in processing facilities, winery infrastructure and marketing of wine which improve the overall performance of the enterprise and concern one or more of the following:
 - a the production or marketing of products referred to in Annex XIb;
 - b the development of new products, processes and technologies related to the products referred to in Annex XIb.
- 2 Support under paragraph 1 at its maximum rate shall be limited to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises⁽²⁾. For the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006 and the French overseas departments, no size limits shall apply for the maximum rate. For enterprises that are not covered by Article 2(1) of Title I of the Annex to Recommendation 2003/361/EC with less than 750 employees or with a turnover of less than EUR 200 million, the maximum aid intensity shall be halved.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

3 The eligible expenditure shall exclude the elements referred to in Article 71(3)(a), (b) and (c) of Regulation (EC) No 1698/2005.

4 The following maximum aid rates in relation to the eligible investment costs shall apply to the Community contribution:

- a 50 % in regions classified as convergence regions in accordance with Regulation (EC) No 1083/2006;
- b 40 % in regions other than convergence regions;
- c 75 % in the outermost regions in accordance with Regulation (EC) No 247/2006;
- d 65 % in the smaller Aegean islands within the meaning of Regulation (EC) No 1405/2006.

5 Article 72 of Regulation (EC) No 1698/2005 shall apply *mutatis mutandis* to support referred to in paragraph 1 of this Article.

Article 103v

By-product distillation

1 Support may be granted for the voluntary or obligatory distillation of by-products of wine making which has been carried out in accordance with the conditions laid down in point D of Annex XVb.

The amount of aid shall be fixed per % volume and per hectolitre of alcohol produced. No aid shall be paid for the volume of alcohol contained in the by-products to be distilled which exceeds 10 % in relation to the volume of alcohol contained in the wine produced.

2 The maximum applicable aid levels shall be based on collection and processing costs and fixed by the Commission.

3 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

Article 103w

Potable alcohol distillation

1 Support may be granted, in the form of a per-hectare aid, until 31 July 2012 to producers, for wine which is distilled into potable alcohol.

2 The relevant contracts concerning the distillation of wine as well as the relevant proofs of delivery for distillation shall be submitted before support is granted.

Article 103x

Crisis distillation

1 Support may be granted until 31 July 2012 for voluntary or obligatory distillation of surplus wine decided upon by Member States in justified cases of crisis

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

so as to reduce or eliminate the surplus and at the same time ensure supply continuity from one harvest to the next.

2 The maximum applicable aid levels shall be fixed by the Commission.

3 The alcohol resulting from the supported distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

4 The share of the available budget used for the crisis distillation measure shall not exceed the following percentage shares as calculated against the globally available funds laid down in Annex Xb per Member State in the respective budget year:

- 20 % in 2009,
- 15 % in 2010,
- 10 % in 2011,
- 5 % in 2012.

5 Member States may increase the available funds for the crisis distillation measure beyond the annual ceilings given in paragraph 4 by way of contributing national funds in accordance with the following limits (expressed in terms of percentage of the respective annual ceiling given in paragraph 4):

- 5 % in the wine year 2010,
- 10 % in the wine year 2011,
- 15 % in the wine year 2012.

Member States shall, where applicable, notify the Commission of the addition of national funds referred to in the first subparagraph and the Commission shall approve the transaction before such funds are made available.

Article 103y

Use of concentrated grape must

1 Support may be granted until 31 July 2012 to wine producers who use concentrated grape must, including rectified concentrated grape must, to increase the natural alcoholic strength of products in accordance with the conditions laid down in Annex XVa.

2 The amount of the aid shall be fixed per % volume potential alcoholic strength and per hectolitre of the must used for enrichment.

3 The maximum applicable aid levels for this measure in the different wine growing zones shall be fixed by the Commission.

Article 103z

Cross-compliance

Where farmers are found not to have complied on their holding, at any time during three years from payment under the support programmes for restructuring and conversion or at any time during one year from payment under the support programmes for green harvesting, with the statutory management requirements and the good agricultural and environmental condition referred to in Articles 3 to 7

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of Regulation (EC) No 1782/2003, the amount of the payment shall, where non-compliance is the result of an action or omission directly imputable to the farmer, be reduced or cancelled, partially or wholly depending on the severity, extent, permanence and repetition of the non-compliance, and the farmer shall, where applicable, be ordered to reimburse it in accordance with the conditions set out in those provisions.

Subsection IV

Procedural provisions

Article 103za

Implementing measures

The measures necessary for the implementation of this Section shall be adopted by the Commission.

Those measures may include, in particular:

- (a) the format of presentation of the support programmes;
 - (b) rules concerning changes to support programmes after they have become applicable;
 - (c) detailed rules for the implementation of the measures provided for in Articles 103p to 103y;
 - (d) the conditions under which assistance through Community funds is to be communicated and publicised.;
8. the heading of Chapter I of Title II of Part II shall be replaced by the following:
CHAPTER I Rules concerning marketing and production;
 9. the heading of Section I of Chapter I of Title II of Part II shall be replaced by the following:
Section I Marketing rules;
 10. the following Articles shall be inserted:

Article 113c

Marketing rules to improve and stabilise the operation of the common market in wines

1. In order to improve and stabilise the operation of the common market in wines, including the grapes, musts and wines from which they derive, producer Member States may lay down marketing rules to regulate supply, particularly by way of implementing decisions taken by the inter-branch organisations referred to in Articles 123(3) and 125o.

Such rules shall be proportionate to the objective pursued and shall not:

- a relate to any transaction after the first marketing of the produce concerned;

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- b allow for price fixing, including where prices are set for guidance or recommendation;
 - c render unavailable an excessive proportion of the vintage that would otherwise be available;
 - d provide scope for refusing to issue the national and Community certificates required for the circulation and marketing of wines where such marketing is in accordance with those rules.
- 2 The rules referred to in paragraph 1 must be brought to the attention of operators by publication *in extenso* in an official publication of the Member State concerned.
- 3 The reporting obligation referred to in Article 125o(3) shall also apply in respect of the decisions or actions taken by the Member States in accordance with this Article.

Article 113d

Specific provisions for the marketing of wine

- 1 A designation for a category of a grapevine product as provided for in Annex XIb may be used in the Community only for the marketing of a product which conforms to the corresponding conditions laid down in that Annex.
- However, notwithstanding Article 118y(1)(a), Member States may allow the use of the term “wine” if:
- a it is accompanied by the name of a fruit in the form of a composite name to market products obtained by the fermentation of fruit other than grapes; or
 - b it is part of a composite name.
- Any confusion with products corresponding to the wine categories in Annex XIb shall be avoided.
- 2 Categories of grapevine products listed in Annex XIb may be modified by the Commission in accordance with the procedure referred to in Article 195(4).
- 3 Except for bottled wine in respect of which there is evidence that bottling was performed before 1 September 1971, wine produced from wine grape varieties listed in the classifications drawn up in accordance with the first subparagraph of Article 120a(2) but not conforming to one of the categories laid down in Annex XIb, shall be used only for consumption by individual wine-producers’ households, for the production of wine vinegar or for distillation.;
11. the following Sections shall be inserted in Chapter I of Title II of Part II:

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Section Ia

Designations of origin, geographical indications and traditional terms in the wine sector

Article 118a

Scope

- 1 Rules relating to designations of origin, geographical indications and traditional terms laid down in this Section shall apply to the products referred to in paragraphs 1, 3 to 6, 8, 9, 11, 15 and 16 of Annex XIb.
- 2 The rules referred to in paragraph 1 shall be based on:
 - a protecting of legitimate interests of:
 - (i) consumers; and
 - (ii) producers;
 - b ensuring the smooth operation of the common market in the products concerned; and
 - c promoting the production of quality products, whilst allowing national quality policy measures.

Subsection I

Designations of origin and geographical indications

Article 118b

Definitions

- 1 For the purposes of this Subsection, the following definitions shall apply:
 - a “designation of origin” means the name of a region, a specific place or, in exceptional cases, a country used to describe a product referred to in Article 118a(1) that complies with the following requirements:
 - (i) its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;
 - (ii) the grapes from which it is produced come exclusively from this geographical area;
 - (iii) its production takes place in this geographical area; and
 - (iv) it is obtained from vine varieties belonging to *Vitis vinifera*;
 - b “geographical indication” means an indication referring to a region, a specific place or, in exceptional cases, a country, used to describe a product referred to in Article 118a(1) which complies with the following requirements:

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;
 - (ii) at least 85 % of the grapes used for its production come exclusively from this geographical area;
 - (iii) its production takes place in this geographical area; and
 - (iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.
- 2 Certain traditionally used names shall constitute a designation of origin where they:
 - a designate a wine;
 - b refer to a geographical name;
 - c meet the requirements referred to in paragraph 1(a)(i) to (iv); and
 - d undergo the procedure conferring protection on designations of origin and geographical indications laid down in this Subsection.
- 3 Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Community in accordance with the rules laid down in this Subsection.

Article 118c

Content of applications for protection

- 1 Applications for protection of names as designations of origin or geographical indications shall include a technical file containing:
 - a the name to be protected;
 - b the name and address of the applicant;
 - c a product specification as referred to in paragraph 2; and
 - d a single document summarising the product specification referred to in paragraph 2.
- 2 The product specification shall enable interested parties to verify the relevant conditions of production of the designation of origin or geographical indication.

It shall consist at least of:

 - a the name to be protected;
 - b a description of the wine(s):
 - (i) for wines with a designation of origin, its principal analytical and organoleptic characteristics;
 - (ii) for wines with a geographical indication, its principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;
 - c where applicable, the specific oenological practices used to make the wine(s) as well as the relevant restrictions on making the wine(s);
 - d the demarcation of the geographical area concerned;

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- e the maximum yields per hectare;
- f an indication of the wine grape variety or varieties the wine(s) is obtained from;
- g the details bearing out the link referred to in Article 118b(1)(a)(i) or, as the case may be, in Article 118b(1)(b)(i);
- h applicable requirements laid down in Community or national legislation or, where foreseen by Member States, by an organisation which manages the protected designation of origin or the protected geographical indication, having regard to the fact that such requirements shall be objective, and non-discriminatory and compatible with Community law;
- i the name and address of the authorities or bodies verifying compliance with the provisions of the product specification and their specific tasks.

Article 118d

Application for protection relating to a geographical area in a third country

1 Where the application for protection concerns a geographical area in a third country, it shall contain in addition to the elements provided for in Article 118c, proof that the name in question is protected in its country of origin.

2 The application shall be sent to the Commission, either directly from the applicant or via the authorities of the third country concerned.

3 The application for protection shall be filed in one of the official languages of the Community or accompanied by a certified translation into one of those languages.

Article 118e

Applicants

1 Any interested group of producers, or in exceptional cases a single producer, may apply for the protection of a designation of origin or geographical indication. Other interested parties may participate in the application.

2 Producers may lodge an application for protection only for wines which they produce.

3 In the case of a name designating a trans-border geographical area or a traditional name connected to a trans-border geographical area, a joint application may be lodged.

Article 118f

Preliminary national procedure

1 Applications for protection of a designation of origin or a geographical indication of wines in accordance with Article 118b originating in the Community shall be subject to a preliminary national procedure in accordance with this Article.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

2 The application for protection shall be filed with the Member State in which territory the designation of origin or geographical indication originates.

3 The Member State shall examine the application for protection in order to verify whether it meets the conditions set out in this Subsection.

The Member State shall carry out a national procedure ensuring adequate publication of the application and providing for a period of at least two months from the date of publication within which any natural or legal person having a legitimate interest and resident or established on its territory may object to the proposed protection by lodging a duly substantiated statement with the Member State.

4 If the Member State considers that the designation of origin or geographical indication does not meet the relevant requirements or is incompatible with Community law in general, it shall reject the application.

5 If the Member State considers that the relevant requirements are met, it shall:

- a publish the single document and the product specification at least on the Internet; and
- b forward to the Commission an application for protection containing the following information:
 - (i) the name and address of the applicant;
 - (ii) the single document referred to in Article 118c(1)(d);
 - (iii) a declaration by the Member State that it considers that the application lodged by the applicant meets the conditions required; and
 - (iv) the reference to publication, as referred to in point (a).

This information shall be forwarded in one of the official languages of the Community or accompanied by a certified translation into one of those languages.

6 Member States shall introduce the laws, regulations or administrative provisions necessary to comply with this Article by 1 August 2009.

7 Where a Member State has no national legislation concerning the protection of designations of origin and geographical indications, it may, on a transitional basis only, grant protection to the name in accordance with the terms of this Subsection at national level with effect from the day the application is lodged with the Commission. Such transitional national protection shall cease on the date on which a decision on registration or refusal under this Subsection is taken.

Article 118g

Scrutiny by the Commission

1 The Commission shall make the date of submission of the application for protection of the designation of origin or geographical indication public.

2 The Commission shall examine whether the applications for protection referred to in Article 118f(5) meet the conditions laid down in this Subsection.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

3 Where the Commission considers that the conditions laid down in this Subsection are met, it shall publish in the *Official Journal of the European Union* the single document referred to in Article 118c(1)(d) and the reference to the publication of the product specification referred to in Article 118f(5).

Where this is not the case, the Commission shall decide, in accordance with the procedure referred to in Article 195(4), to reject the application.

Article 118h

Objection procedure

Within two months from the date of publication provided for in the first subparagraph of Article 118g(3), any Member State or third country, or any natural or legal person having a legitimate interest, resident or established in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by lodging a duly substantiated statement relating to the conditions of eligibility as laid down in this Subsection with the Commission.

In the case of natural or legal persons resident or established in a third country, such statement shall be lodged, either directly or via the authorities of the third country concerned, within the time limit of two months referred to in the first paragraph.

Article 118i

Decision on protection

On the basis of the information available to the Commission, the Commission shall decide, in accordance with the procedure referred to in Article 195(4), either to confer protection on the designation of origin or geographical indication which meets the conditions laid down in this Subsection and is compatible with Community law, or to reject the application where those conditions are not satisfied.

Article 118j

Homonyms

1 A name, for which an application is lodged, and which is wholly or partially homonymous with that of a name already registered under this Regulation concerning the wine sector, shall be registered with due regard for local and traditional usage and for any risk of confusion.

A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.

The use of a registered homonymous name shall be subject to there being a sufficient distinction in practice between the homonym registered subsequently and the name already on the register, having regard to the need to treat the producers concerned in an equitable manner and the need not to mislead the consumer.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

2 Paragraph 1 shall apply *mutatis mutandis* if a name, for which an application is lodged, is wholly or partially homonymous with a geographical indication protected as such under the legislation of Member States.

Member States shall not register non-identical geographical indications for protection under their respective legislation on geographical indications if a designation of origin or geographical indication is protected in the Community by virtue of the Community law relevant to designations of origin and geographical indications.

3 Save as otherwise provided for in Commission implementing measures, where the name of a wine grape variety contains or consists of a protected designation of origin or a protected geographical indication, that name shall not be used for the purposes of labelling the products covered by this Regulation.

4 The protection of designations of origin and geographical indications for products covered in Article 118b shall be without prejudice to protected geographical indications applying in relation to spirit drinks within the meaning of Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks⁽³⁾ and vice versa.

Article 118k

Grounds for refusal of protection

1 Names that have become generic shall not be protected as a designation of origin or geographical indication.

For the purposes of this Subsection, a “name that has become generic” means the name of a wine which, although it relates to the place or the region where this product was originally produced or marketed, has become the common name of a wine in the Community.

To establish whether or not a name has become generic, account shall be taken of all relevant factors, in particular:

- a the existing situation in the Community, notably in areas of consumption;
- b the relevant Community or national legislation.

2 A name shall not be protected as a designation of origin or geographical indication where, in the light of a trademark’s reputation and renown, protection is liable to mislead the consumer as to the true identity of the wine.

Article 118l

Relationship with trademarks

1 Where a designation of origin or a geographical indication is protected under this Regulation, the registration of a trademark corresponding to one of the situations referred to in Article 118m(2) and relating to a product falling under one of the categories listed in Annex XIb shall be refused if the application for registration of the trademark is submitted after the date of submission of the application for protection of the designation of origin or geographical indication to the Commission and the designation of origin or geographical indication is subsequently protected.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

Trademarks registered in breach of the first subparagraph shall be invalidated.

- 2 Without prejudice to Article 118k(2), a trademark the use of which corresponds to one of the situations referred to in Article 118m(2), which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in the territory of the Community before the date on which the application for protection of the designation of origin or geographical indication is submitted to the Commission, may continue to be used and renewed notwithstanding the protection of a designation of origin or geographical indication, provided that no grounds for the trademark's invalidity or revocation exist as specified by the First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks⁽⁴⁾ or by Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade⁽⁵⁾.

In such cases the use of the designation of origin or geographical indication shall be permitted alongside the relevant trademarks.

Article 118m

Protection

- 1 Protected designations of origins and protected geographical indications may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.
- 2 Protected designations of origins and protected geographical indications and the wines using those protected names in conformity with the product specification shall be protected against:
- a any direct or indirect commercial use of a protected name:
 - (i) by comparable products not complying with the product specification of the protected name; or
 - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;
 - b any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
 - c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;
 - d any other practice liable to mislead the consumer as to the true origin of the product.
- 3 Protected designations of origin or protected geographical indications shall not become generic in the Community within the meaning of Article 118k(1).
- 4 Member States shall take the steps necessary to stop unlawful use of protected designations of origin and protected geographical indications as referred to in paragraph 2.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 118n

Register

The Commission shall establish and maintain an electronic register of protected designations of origin and protected geographical indications for wine which shall be publicly accessible.

Article 118o

Designation of competent control authority

- 1 Member States shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Chapter in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on the official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules⁽⁶⁾.
- 2 Member States shall ensure that any operator complying with this Subsection is entitled to be covered by a system of controls.
- 3 Member States shall inform the Commission of the competent authority or authorities referred to in paragraph 1. The Commission shall make their names and addresses public and update them periodically.

Article 118p

Verification of compliance with specifications

- 1 In respect of protected designations of origin and protected geographical indications relating to a geographical area within the Community, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:
 - a the competent authority or authorities referred to in Article 118o(1); or
 - b one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

The costs of such verification shall be borne by the operators subject to it.

- 2 In respect of protected designations of origin and protected geographical indications relating to a geographical area in a third country, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:
 - a one or more public authorities designated by the third country; or
 - b one or more certification bodies.
- 3 The certification bodies referred to in paragraphs 1(b) and 2(b) shall comply with, and from 1 May 2010 be accredited in accordance with, the European standard

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

- 4 Where the authority or authorities referred to in paragraphs 1(a) and 2(a) verify compliance with the product specification, they shall offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks.

Article 118q

Amendments to product specifications

- 1 An applicant satisfying the conditions of Article 118e may apply for approval of an amendment to the product specification of a protected designation of origin or a protected geographical indication, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area referred to in point (d) of the second subparagraph of Article 118c(2). Applications shall describe and give reasons for the amendments requested.

- 2 Where the proposed amendment involves one or more amendments to the single document referred to in Article 118c(1)(d), Articles 118f to 118i shall apply *mutatis mutandis* to the amendment application. However, if the proposed amendment is only minor, the Commission shall decide, in accordance with the procedure referred to in Article 195(4), whether to approve the application without following the procedure laid down in Article 118g(2) and Article 118h and in the case of approval, the Commission shall proceed to the publication of the elements referred to in Article 118g(3).

- 3 Where the proposed amendment does not involve any change to the single document, the following rules shall apply:
- a where the geographical area is in a given Member State, that Member State shall express its position on the amendment and, if it is in favour, shall publish the amended product specification and inform the Commission of the amendments approved and the reasons for them;
 - b where the geographical area is in a third country, the Commission shall determine whether to approve the proposed amendment.

Article 118r

Cancellation

The Commission may decide, in accordance with the procedure referred to in Article 195(4), at its own initiative or at the duly substantiated request of a Member State, of a third country or of a natural or legal person having a legitimate interest, to cancel the protection of a designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Articles 118f to 118i shall apply *mutatis mutandis*.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 118s

Existing protected wine names

1 Wine names, which are protected in accordance with Articles 51 and 54 of Regulation (EC) No 1493/1999 and Article 28 of Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products⁽⁷⁾, shall automatically be protected under this Regulation. The Commission shall list them in the register provided for in Article 118n of this Regulation.

2 Member States shall, in respect of existing protected wine names referred to in paragraph 1, transmit to the Commission:

- a the technical files as provided for in Article 118c(1);
- b the national decisions of approval.

3 Wine names referred to in paragraph 1, for which the information referred to in paragraph 2 is not submitted by 31 December 2011, shall lose protection under this Regulation. The Commission shall take the corresponding formal step of removing such names from the register provided for in Article 118n.

4 Article 118r shall not apply in respect of existing protected wine names referred to in paragraph 1.

The Commission may decide, until 31 December 2014, at its own initiative and in accordance with the procedure referred to in Article 195(4), to cancel protection of existing protected wine names referred to in paragraph 1 if they do not meet the conditions laid down in Article 118b.

Article 118t

Fees

Member States may charge a fee to cover their costs, including those incurred in examining applications for protection, statements of objections, applications for amendments and requests for cancellations under this Subsection.

Subsection II

Traditional terms

Article 118u

Definitions

1 “Traditional term” means a term traditionally used in Member States for products referred to in Article 118a(1) to designate:

- a that the product has a protected designation of origin or a protected geographical indication under Community or national law;

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- b the production or ageing method or the quality, colour, type of place, or a particular event linked to the history of the product with a protected designation of origin or a protected geographical indication.
- 2 Traditional terms shall be recognised, defined and protected by the Commission.

Article 118v

Protection

- 1 A protected traditional term may only be used for a product which has been produced in conformity with the definition referred to in Article 118u(1).
Traditional terms shall be protected against unlawful use.
Member States shall take the steps necessary to stop the unlawful use of protected traditional terms.
- 2 Traditional terms shall not become generic in the Community.

Section Ib

Labelling and presentation in the wine sector

Article 118w

Definition

For the purposes of this Section:

- (a) “labelling” means any words, particulars, trademarks, brand name, pictorial matter or symbol placed on any packaging, document, notice, label, ring or collar accompanying or referring to a given product;
- (b) “presentation” means any information conveyed to consumers by virtue of the packaging of the product concerned, including the form and type of bottles.

Article 118x

Applicability of horizontal rules

Save as otherwise provided for in this Regulation, Directive 89/104/EEC, Council Directive 89/396/EEC of 14 June 1989 on indications or marks identifying the lot to which a foodstuff belongs⁽⁸⁾, Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling presentation and adversity of foodstuffs⁽⁹⁾ and Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007 laying down rules on nominal quantities for pre-packed products⁽¹⁰⁾ shall apply to the labelling and presentation of products falling within their scopes.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 118y

Compulsory particulars

- 1 Labelling and presentation of the products referred to in paragraphs 1 to 11, 13, 15 and 16 of Annex XIb marketed in the Community or for export shall contain the following compulsory particulars:
 - a the designation for the category of the grapevine product in accordance with Annex XIb;
 - b for wines with a protected designation of origin or a protected geographical indication:
 - (i) the term “protected designation of origin” or “protected geographical indication”; and
 - (ii) the name of the protected designation of origin or the protected geographical indication;
 - c the actual alcoholic strength by volume;
 - d an indication of provenance;
 - e an indication of the bottler or, in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, the name of the producer or vendor;
 - f an indication of the importer in the case of imported wines; and
 - g in the case of sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine, an indication of the sugar content.
- 2 By way of derogation from paragraph 1(a) the reference to the category of the grapevine product may be omitted for wines whose labels include the name of a protected designation of origin or a protected geographical indication.
- 3 By way of derogation from paragraph 1(b) the reference to the terms “protected designation of origin” or “protected geographical indication” may be omitted in the following cases:
 - a where a traditional term as referred to in Article 118u(1)(a) is displayed on the label;
 - b where, in exceptional circumstances to be determined by the Commission, the name of the protected designation of origin or protected geographical indication is displayed on the label.

Article 118z

Optional particulars

- 1 Labelling and presentation of the products referred to in Article 118y(1) may in particular contain the following optional particulars:
 - a the vintage year;
 - b the name of one or more wine grape varieties;
 - c in the case of wines other than those referred to in Article 118y(1)(g), terms indicating the sugar content;

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- d for wines with a protected designation of origin or a protected geographical indication, traditional terms as referred to in Article 118u(1)(b);
- e the Community symbol indicating the protected designation of origin or the protected geographical indication;
- f terms referring to certain production methods;
- g for wines bearing a protected designation of origin or a protected geographical indication, the name of another geographical unit that is smaller or larger than the area underlying the designation of origin or geographical indication.

2 Without prejudice to Article 118j(3), as regards the use of particulars referred to in paragraph 1(a) and (b) for wines without a protected designation of origin or a protected geographical indication:

- a Member States shall introduce laws, regulations or administrative provisions to ensure certification, approval and control procedures so as to guarantee the veracity of the information concerned;
- b Member States may, on the basis of non-discriminatory and objective criteria and with due regard to loyal competition, for wine produced from wine grape varieties on their territory, draw up lists of excluded wine grape varieties, in particular if:
 - (i) there is a risk of confusion for consumers as to the true origin of the wine due to the fact that the given wine grape variety forms an integral part of an existing protected designation of origin or a protected geographical indication;
 - (ii) the relevant controls would not be cost effective due to the fact that the given wine grape variety represents a very small part of the Member State vineyard;
- c mixtures of wines from different Member States shall not give rise to labelling of the wine grape variety or varieties unless the Member States concerned agree otherwise and ensure the feasibility of the relevant certification, approval and control procedures.

Article 118za

Languages

1 Compulsory and optional particulars referred to in Articles 118y and 118z shall, where expressed in words, appear in one or more of the official languages of the Community.

2 Notwithstanding paragraph 1, the name of a protected designation of origin or a protected geographical indication or a traditional term as referred to in Article 118u(1)(a) shall appear on the label in the language or languages for which the protection applies.

In the case of protected designations of origin or protected geographical indications or national specific designations using a non-Latin alphabet, the name may also appear in one or more official languages of the Community.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 118zb

Enforcement

The competent authorities of the Member States shall take measures to ensure that a product referred to in Article 118y(1) which is not labelled in conformity with this Section is not placed on, or is withdrawn from, the market.;

12. the following Section shall be inserted in Chapter I of Title II of Part II:

Section IIa

Production rules in the wine sector

Subsection I

Wine grape varieties

Article 120a

Classification of wine grape varieties

- 1 Products listed in Annex XIb and produced in the Community shall be made from wine grape varieties classifiable according to paragraph 2.

- 2 Subject to paragraph 3, Member States shall classify which wine grape varieties may be planted, replanted or grafted on their territories for the purpose of wine production.

Only wine grape varieties meeting the following conditions may be classified by Member States:

- a the variety concerned belongs to the *Vitis vinifera* or comes from a cross between the species *Vitis vinifera* and other species of the genus *Vitis*;
- b the variety is not one of the following: Noah, Othello, Isabelle, Jacquez, Clinton and Herbemont.

Where a wine grape variety is deleted from the classification referred to in the first subparagraph, grubbing-up of this variety shall take place within 15 years of its deletion.

- 3 Member States whose wine production does not exceed 50 000 hectolitres per wine year, calculated on the basis of the average production during the latest five wine years, shall be exempted from the classification obligation referred to in paragraph 2.

However, also in the Member States referred to in the first subparagraph, only wine grape varieties complying with paragraph 2(a) and (b) may be planted, replanted or grafted for the purpose of wine production.

- 4 By way of derogation from the first and second subparagraphs of paragraph 2 and the second subparagraph of paragraph 3, the planting, replanting or grafting

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of the following wine grape varieties shall be allowed for scientific research and experimental purposes:

- a wine grape varieties which are not classified as far as Member States referred to in paragraph 2 are concerned;
- b wine grape varieties which do not comply with paragraph 2(a) and (b) as far as Member States referred to in paragraph 3 are concerned.

5 Areas planted with wine grape varieties for the purpose of wine production planted in breach of paragraphs 2, 3 and 4 shall be grubbed up.

However, there shall be no obligation to grub up such areas where the relevant production is intended exclusively for consumption by the wine-producers' households.

6 Member States shall take the necessary measures to check compliance by producers with paragraphs 2 to 5.

Subsection II

Oenological practices and restrictions

Article 120b

Scope

This Subsection concerns the authorised oenological practices and the applicable restrictions applying to the production and commercialisation of products of the wine sector as well as the procedure for deciding on those practices and restrictions.

Article 120c

Oenological practices and restrictions

1 Only oenological practices authorised under Community law as laid down in Annex XVa or decided upon in accordance with Articles 120d and 120e shall be used in the production and conservation in the Community of products of the wine sector.

The first subparagraph shall not apply to:

- a grape juice and concentrated grape juice;
- b grape must and concentrated grape must intended for the preparation of grape juice.

2 Authorised oenological practices shall only be used for the purposes of ensuring proper vinification, proper preservation or proper refinement of the product.

3 Products of the wine sector shall be produced in the Community in accordance with the relevant restrictions laid down in Annex XVb.

4 Products covered by this Regulation, which have undergone unauthorised Community oenological practices or, where applicable, unauthorised national oenological practices or which contravene the restrictions laid down in Annex XVb, shall not be marketed in the Community.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 120d

Stricter rules decided by Member States

Member States may limit or exclude the use of certain oenological practices and provide for more stringent restrictions for wines authorised under Community law produced in their territory with a view to reinforcing the preservation of the essential characteristics of wines with a protected designation of origin or a protected geographical indication and of sparkling wines and liqueur wines.

Member States shall communicate those limitations, exclusions and restrictions to the Commission, which shall bring them to the attention of the other Member States.

Article 120e

Authorisation of oenological practices and restrictions

- 1 Except for the oenological practices concerning enrichment, acidification and de-acidification laid down in Annex XVa for the specific products covered therein as well as the restrictions listed in Annex XVb, the authorisation of oenological practices and restrictions as regards the production and conservation of products of the wine sector shall be decided by the Commission in accordance with the procedure referred to in Article 195(4).
- 2 Member States may allow the experimental use of unauthorised oenological practices under conditions to be determined by the Commission in accordance with the procedure referred to in Article 195(4).

Article 120f

Authorisation criteria

When authorising oenological practices in accordance with the procedure referred to in Article 195(4), the Commission shall:

- (a) base itself on the oenological practices recommended and published by the International Organisation of Vine and Wine (OIV) as well as on the results of experimental use of as yet unauthorised oenological practices;
- (b) take into account the protection of human health;
- (c) take into account the possible risk of consumers being misled due to their established expectations and perceptions, having regard to the availability and feasibility of informational means to exclude such risks;
- (d) allow the preservation of the natural and essential characteristics of the wine and not cause a substantial change in the composition of the product concerned;
- (e) ensure an acceptable minimum level of environmental care;
- (f) respect the general rules concerning oenological practices and restrictions laid down in Annexes XVa and XVb respectively.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 120g

Methods of analysis

The methods of analysis for determining the composition of the products of the wine sector and the rules whereby it may be established whether these products have undergone processes contrary to the authorised oenological practices shall be those recommended and published by the OIV.

Where there are no methods and rules recommended and published by the OIV, corresponding methods and rules shall be adopted by the Commission in accordance with the procedure referred to in Article 195(4).

Pending the adoption of such rules, the methods and rules to be used shall be the ones allowed by the Member State concerned.;

13. Article 121 shall be amended as follows:

- (a) the following points shall be added to the first paragraph:
 - (k) the rules concerning the designation of origin and geographical indications referred to in Subsection I of Section Ia, in particular derogations from the applicability of the rules and requirements laid down in that Subsection:
 - (i) in so far as pending applications for protection of designations of origin or geographical indications are concerned;
 - (ii) in so far as the production of certain wines with a protected designation of origin or a protected geographical indication in a geographical area in proximity of the geographical area where the grapes originate is concerned;
 - (iii) in so far as traditional production practices of certain wines with a protected designation of origin are concerned;
 - (l) the rules concerning traditional terms referred to in Subsection II of Section Ia in particular concerning:
 - (i) the procedure conferring protection;
 - (ii) the specific level of protection;
 - (m) the rules concerning labelling and presentation referred to in Section Ib, in particular:
 - (i) details on the indication of provenance of the relevant product;
 - (ii) the terms of use of the optional particulars listed in Article 118z;

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- (iii) specific requirements relating to the indications concerning the vintage year and the wine grape variety displayed on labels as referred to in Article 118z(2);
- (iv) further derogations in addition to those referred to in Article 118y(2) which provide that the reference to the category of the grapevine product may be omitted;
- (v) rules concerning protection to be conferred in relation to the presentation of a given product.;

(b) the following paragraphs shall be added:

The measures necessary for the implementation of the provisions concerning oenological practices and restrictions laid down in Subsection II of Section IIa and Annexes XVa and XVb, save as otherwise provided in those Annexes, shall be adopted by the Commission in accordance with the procedure referred to in Article 195(4).

The measures referred to in the third paragraph may include, in particular:

- (a) provisions to the effect that the Community oenological practices listed in Annex IV to Regulation (EC) No 1493/1999 are considered authorised oenological practices;
- (b) authorised oenological practices and restrictions, including enrichment, acidification and de-acidification concerning sparkling wines, quality sparkling wines and quality aromatic sparkling wines;
- (c) authorised oenological practices and restrictions concerning liqueur wines;
- (d) subject to point C of Annex XVb, provisions regulating the blending and coupage of musts and wines;
- (e) where Community rules on that matter do not exist, the purity and identification, specification of substances used in oenological practices;
- (f) administrative rules for carrying out the oenological practices authorised;
- (g) the conditions governing the holding, circulation and use of products not complying with Article 120c and possible exemptions from the requirements of that Article, as well as the establishment of criteria for the purpose of avoiding hardship in individual cases;
- (h) the conditions under which Member States may authorise the holding, circulation and use of products not complying with Subsection II of Section IIa other than Article 120c, or with provisions implementing that Subsection.;

14. the following paragraphs shall be added to Article 122:

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Member States may, as regards the wine sector, recognise producer organisations under the same conditions as those set out in points (b) and (c) of the first paragraph and which apply rules of association which require their members, in particular, to:

- (a) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;
- (b) provide the information requested by the producer organisation for statistical purposes, in particular on growing areas and market evolution;
- (c) pay penalties for infringement of obligations under the rules of association.

The following specific aims within the meaning of point (c) of the first paragraph may be pursued, in particular, in the wine sector:

- (a) promoting and providing technical assistance for the use of environmentally sound cultivation practices and production techniques;
- (b) promoting initiatives for the management of by-products of wine making and the management of waste in particular to protect the quality of water, soil and landscape and preserving or encouraging biodiversity;
- (c) carrying out research into sustainable production methods and market developments;
- (d) contributing to the achievement of support programmes as referred to in Section IVb of Chapter IV of Title I of Part II.;

15. Article 123(3) shall be amended as follows:

- (a) the introductory words and points (a) and (b) shall be replaced by the following:

Further to paragraph 1, Member States shall, with regard to the fruit and vegetables sector, and may, with regard to the wine sector, also recognise inter-branch organisations which:

- (a) are made up of representatives of economic activities linked to the production of, trade in, or processing of the products of the sectors referred to in the introductory words;
- (b) are formed on the initiative of all or some of the representatives referred to in point (a);;
- (b) point (c) shall be amended as follows:
 - (i) the introductory words shall be replaced by the following:

carry out one, and in the case of the fruit and vegetables sector, two or more, of the following activities in one or more regions of the Community, taking into account the interests of consumers, and, without prejudice to other sectors, in the wine sector taking into account public health and the interests of consumers.;
 - (ii) point (ii) shall be replaced by the following:
 - (ii) helping to coordinate better the way the products of the fruit and vegetables and the wine sectors are placed on

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the market, in particular by means of research and market studies;;

- (iii) point (iv) shall be replaced by the following:
 - (iv) exploiting to a fuller extent the potential of the fruit and vegetables produced, and the potential of production in the wine sector;;
- (iv) points (vii) and (viii) shall be replaced by the following:
 - (vii) developing methods and instruments for improving product quality at all stages of production and marketing and, as regards the wine sector, also vinification;
 - (viii) exploiting the potential of organic farming and protecting and promoting such farming as well as designations of origin, quality labels and geographical indications;;
- (v) point (x) shall be replaced by the following:
 - (x) with regard to the fruit and vegetables sector, laying down rules, as regards the production and marketing rules referred to in points 2 and 3 of Annex XVIa, which are stricter than Community or national rules;;
- (vi) the following point shall be added:
 - (xi) with regard to the wine sector:
 - providing information on particular characteristics of wine with a protected designation of origin or a protected geographical indication,
 - encouraging moderate and responsible consumption of wine and informing on the harm linked to hazardous consumption patterns,
 - carrying out promotion actions for wine, especially in third countries.;

16. the following Section shall be inserted in Chapter II of Title II of Part II:

Section Ib

Rules concerning producer and inter-branch organisations in the wine sector

Article 125o

Recognition

- 1 Member States may recognise producer and inter-branch organisations which have lodged an application for recognition with the Member State concerned and the application contains evidence that the entity:
- a as regards producer organisations:

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- (i) meets the requirements laid down in Article 122;
 - (ii) has a minimum number of members, to be laid down by the Member State concerned;
 - (iii) covers a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where the organisation operates;
 - (iv) can carry out its activities properly, both over time and in terms of effectiveness and concentration of supply;
 - (v) effectively enables its members to obtain technical assistance in using environmentally sound cultivation practices;
- b as regards inter-branch organisations:
- (i) meets the requirements laid down in Article 123(3);
 - (ii) carries out its activities in one or more regions in the territory concerned;
 - (iii) represents a significant share of the production of, or trade in, products covered by this Regulation;
 - (iv) does not engage in the production, processing or marketing of products of the wine sector.
- 2 Producer organisations recognised in accordance with Regulation (EC) No 1493/1999 shall be considered as recognised producer organisations under this Article.
- Organisations meeting the criteria set out in Article 123(3) and of paragraph (1)(b) of this Article, which have been recognised by Member States, shall be considered as recognised interbranch organisations under those provisions.
- 3 Articles 125b(2) and 125k(3) shall apply *mutatis mutandis* to producer and inter-branch organisations respectively in the wine sector. However:
- a the periods referred to in Articles 125b(2)(a) and 125k(3)(c) respectively shall be four months;
 - b the applications for recognition referred to in Articles 125b(2)(a) and 125k(3)(c) shall be lodged with the Member State where the organisation has its headquarters;
 - c the annual notifications referred to in Articles 125b(2)(c) and 125k(3)(d) respectively shall be made by 1 March each year.;
17. in Article 129, the second sentence shall be replaced by the following:
- ‘The tariff nomenclature resulting from the application of this Regulation, including, as the case may be, the definitions in Annex III and Annex XIb shall be included in the Common Customs Tariff.’;
18. the following point shall be inserted in Article 130(1):
- (ga) wine;;
19. the following Article shall be inserted:

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 133a

Special security in the wine sector

1 For juice and musts falling under CN codes 2009 61, 2009 69 and 2204 30 for which the application of the Common Customs Tariff duties depends on the import price of the product, the actual amount of that price shall be verified either by checking every consignment or by using a flat-rate import value calculated by the Commission on the basis of price quotations for the same products in the countries of origin.

Should the declared entry price of the consignment be higher than the flat-rate import value, if such applies, increased by a margin adopted by the Commission that may not exceed the flat-rate value by more than 10 %, a security must be lodged equal to the import duties determined on the basis of the flat-rate import value.

If the entry price of the consignment is not declared, the application of Common Customs Tariff shall be dependent on the flat-rate import value or on the application, under conditions to be determined by the Commission, of the relevant provisions of customs legislation.

2 Should derogations by the Council referred to in points B.5 or C of Annex XVb be applied to imported products, importers shall lodge a security for those products with the designated customs authorities at the time of release for free circulation. The security shall be released on presentation by the importer of proof, to the satisfaction of the customs authorities of the Member State of release for free circulation, that the musts were made into grape juice, used in other products outside the wine sector or, if vinified, have been appropriately labelled.;

20. in Article 141(1), the introductory words shall be replaced by the following:

An additional import duty shall apply to imports, subject to the rate of duty laid down in Articles 135 to 140a of one or more products of the cereals, rice, sugar, fruit and vegetables, processed fruit and vegetables, beef and veal, milk and milk products, pig meat, sheep meat and goat meat, eggs, poultry and bananas sectors, as well as of grape juice and grape must, in order to prevent or counteract adverse effects on the Community market which may result from those imports, if.;

21. the following Subsection shall be added to Section IV of Chapter II of Part III:

Subsection V

Special provisions for imports of wine

Article 158a

Special import requirements for wine

1 Save as otherwise provided for, in particular in agreements concluded pursuant to Article 300 of the Treaty, the provisions concerning designations of origin and geographical indications and labelling set out in Subsection I of Section Ia of Chapter I of Title II of Part II, as well as Article 113d(1) of this Regulation shall apply

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

to products falling under CN codes 2009 61, 2009 69 and 2204 which are imported into the Community.

- 2 Save as otherwise provided for in agreements concluded pursuant to Article 300 of the Treaty, products referred to in paragraph 1 of this Article shall be produced in accordance with oenological practices recommended and published by the OIV or authorised by the Community pursuant to this Regulation and its implementing measures.
- 3 The importation of the products referred to in paragraph 1 shall be subject to the presentation of:
- a a certificate evincing compliance with the provisions referred to in paragraphs 1 and 2, to be drawn up by a competent body, included on a list to be made public by the Commission, in the product's country of origin;
 - b an analysis report drawn up by a body or department designated by the product's country of origin, in so far as the product is intended for direct human consumption.
- 4 Detailed rules for the application of this Article shall be adopted by the Commission.;
22. the first subparagraph of Article 160(1) shall be replaced by the following:
- Where the Community market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may, at the request of a Member State or on its own initiative, fully or partially suspend the use of inward processing arrangements for the products of the cereals, rice, sugar, olive oil and table olives, fruit and vegetables, processed fruit and vegetables, wine, beef and veal, milk and milk products, pigmeat, sheepmeat and goatmeat, eggs, poultrymeat and agricultural ethyl alcohol sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.;
23. the following point shall be inserted in Article 161(1):
- (dc) wine;;
24. the first subparagraph of Article 174(1) shall be replaced by the following:
- Where the Community market is disturbed or is liable to be disturbed by outward processing arrangements, the Commission may, at the request of a Member State or on its own initiative, fully or partially suspend the use of outward processing arrangements for the products of the cereals, rice, fruit and vegetables, processed fruit and vegetables, wine, beef and veal, pigmeat, sheepmeat and goatmeat and poultrymeat sectors. If the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.;
25. Article 175 shall be replaced by the following:

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 175

Application of Articles 81 to 86 of the Treaty

Save as otherwise provided for in this Regulation, Articles 81 to 86 of the Treaty and implementation provisions thereof shall, subject to Articles 176 to 177 of this Regulation, apply to all agreements, decisions and practices referred to in Articles 81(1) and 82 of the Treaty which relate to the production of, or trade in, the products covered by this Regulation.;

26. Article 180 shall be replaced by the following:

Article 180

Application of Articles 87, 88 and 89 of the Treaty

Articles 87, 88 and 89 of the Treaty shall apply to the production of, and trade in, the products referred to in Article 1.

However, Articles 87, 88 and 89 of the Treaty shall not apply to payments made under Articles 44 to 48, 102, 102a, 103, 103a, 103b, 103e, 103ga, 104, 105, 182 and 182a, Subsection III of Section IVa of Chapter III of Title I of Part II and Section IVb of Chapter IV of Title I of Part II of this Regulation by Member States in conformity with this Regulation. Nevertheless, with regard to Article 103n(4) only Article 88 of the Treaty shall not apply.;

27. the following Article shall be added to Chapter II of Part IV:

Article 182a

National aid for distillation of wine in cases of crisis

- 1 From 1 August 2012, Member States may grant national aid to wine producers for the voluntary or mandatory distillation of wine in justified cases of crisis.

- 2 The aid referred to in paragraph 1 shall be proportionate and allow this crisis to be addressed.

- 3 The overall amount of aid available in a Member State in any given year for such aid shall not exceed 15 % of the globally available funds per Member State laid down in Annex Xb for that year.

- 4 Member States which wish to make use of the aid referred to in paragraph 1 shall submit a duly substantiated notification to the Commission. The Commission shall decide whether the measure is approved and aid may be granted.

- 5 The alcohol resulting from distillation referred to in paragraph 1 shall be used exclusively for industrial or energy purposes so as to avoid distortion of competition.

- 6 Detailed rules for the application of this Article may be adopted by the Commission.;

28. the following points shall be added to Article 184:

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

7. to the European Parliament and the Council by 31 December 2011 on the implementation of the promotion measures in the wine sector referred to in Article 103p;
 8. by the end of 2012 concerning the wine sector, in particular taking into account the experience gained with the implementation of the reform.;
29. the following Articles shall be inserted:

Article 185a

Vineyard register and inventory

1 Member States shall maintain a vineyard register which contains updated information on the production potential.

2 Member States in which the total area planted with vines of wine grape varieties classifiable according to Article 120a(2) is less than 500 hectares shall not be subject to the obligation laid down in paragraph 1.

3 Member States, which provide for the measure “restructuring and conversion of vineyards” in their support programmes in accordance with Article 103q, shall, on the basis of the vineyard register, submit to the Commission by 1 March each year an updated inventory of their production potential.

4 Detailed rules concerning the vineyard register and the inventory shall be adopted by the Commission, in particular with regard to their use concerning monitoring and control of the production potential and concerning the measurement of areas.

Any time after 1 January 2016, the Commission may decide that paragraphs 1 to 3 no longer apply.

Article 185b

Compulsory declarations in the wine sector

1 Producers of grapes for wine making and producers of must and wine shall declare to the competent national authorities each year the quantities produced from the last harvest.

2 Member States may require merchants of grapes for wine making to declare each year the quantities marketed from the last harvest.

3 Producers of must and wine, and merchants other than retailers, shall declare to the competent national authorities each year their stocks of must and wine, whether from the harvest of the current year or from the harvest of preceding years. Must and wine imported from third countries shall be stated separately.

4 Detailed rules for the application of this Article may be adopted by the Commission and may, in particular, include rules on penalties to be applied in case of non-compliance with the communication requirements.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 185c

Accompanying documents and register in the wine sector

1 The products of the wine sector shall be put into circulation within the Community only with an officially authorised accompanying document.

2 Natural or legal persons or groups of persons who hold products covered by the wine sector in the exercise of their trade, in particular producers, bottlers and processors, as well as merchants to be determined by the Commission, shall keep inwards and outwards registers in respect of those products.

3 Detailed rules for the application of this Article may be adopted by the Commission.

Article 185d

Designation of responsible national authorities for the wine sector

1 Without prejudice to any other provisions of this Regulation concerning the determination of competent national authorities, Member States shall designate one or more authorities which shall be responsible for ensuring compliance with Community rules in the wine sector. In particular, Member States shall designate the laboratories authorised to carry out official analyses in the wine sector. The designated laboratories shall meet the general criteria for the operation of testing laboratories set out in ISO/IEC 17025.

2 Member States shall inform the Commission of the names and addresses of the authorities and laboratories referred to in paragraph 1. The Commission, without the assistance of the Committee referred to in Article 195(1), shall make this information public.;

30. the following Article shall be inserted:

Article 188a

Reporting and evaluation in the wine sector

1 As concerns unlawful plantings planted after 31 August 1998, referred to in Article 85a, Member States shall communicate to the Commission by 1 March each year the areas which were planted with vines without a corresponding planting right after 31 August 1998, as well as the areas grubbed up in accordance with paragraph 1 of that Article.

2 As concerns the obligatory regularisation of unlawful plantings planted before 1 September 1998 referred to in Article 85b, Member States shall communicate to the Commission by 1 March of each of the relevant years:

- a the areas planted with vines without a corresponding planting right before 1 September 1998;
- b the areas regularised in accordance with paragraph 1 of that Article, the fees as provided for in that paragraph as well as the average value of the regional planting rights as provided for in paragraph 2 of that Article.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Member States shall, for the first time by 1 March 2010, communicate to the Commission the areas grubbed up in accordance with the first subparagraph of Article 85b(4).

The end of the transitional ban on new plantings on 31 December 2015 as provided for in Article 85g(1), shall not affect the obligations provided for in this paragraph.

- 3 As concerns aid applications in the context of the grubbing-up scheme set up in Subsection III of Section IVa of Chapter III of Title I of Part II, Member States shall notify the Commission by 1 March each year of the applications accepted, split by regions and by yield ranges, and the total amount of grubbing-up premiums paid by region.

For the preceding wine year, Member States shall notify the Commission by 1 December each year of:

- a the areas grubbed up, split by regions and by yield ranges;
- b the total amount of grubbing-up premiums paid by region.

- 4 As concerns exemptions from the eligibility for the participation in the grubbing-up scheme in accordance with Article 85u, Member States deciding to make use of the possibility provided for in paragraphs 4 to 6 of that Article shall communicate to the Commission by 1 August each year, concerning the grubbing-up measure to be implemented:

- a the areas declared ineligible;
- b the justification for ineligibility in accordance with Article 85u(4) and (5).

- 5 Member States shall submit to the Commission by 1 March each year, and for the first time by 1 March 2010, a report on the implementation of the measures provided for in their support programmes referred to in Section IVb of Chapter IV of Title I of Part II during the previous financial year.

Those reports shall list and describe the measures for which Community assistance under the support programmes was granted and shall, in particular, provide details on the implementation of the promotion measures referred to in Article 103p.

- 6 Member States shall, by 1 March 2011 and, a second time, by 1 March 2014, submit to the Commission an evaluation of the costs and benefits of the support programmes as well as an indication of how to increase their efficiency.

- 7 Detailed rules for the application of this Article shall be adopted by the Commission.;

31. the following Article shall be inserted:

Article 190a

Transfer of amounts available in the wine sector to rural development

- 1 The amounts fixed in paragraph 2, based on historical expenditure under Regulation (EC) No 1493/1999 for intervention measures to regulate agricultural markets as referred to in Article 3(1)(b) of Regulation (EC) No 1290/2005, shall be available as additional Community funds for measures in wine-producing regions under the rural development programming financed under Regulation (EC) No 1698/2005.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 2 The following amounts shall be available in the given calendar years:
- 2009: EUR 40 660 000,
 - 2010: EUR 82 110 000,
 - from 2011 onwards: EUR 122 610 000.

- 3 The amounts set in paragraph 2 shall be allocated among Member States in accordance with Annex Xc.;

32. the following paragraph shall be added to Article 194:

The Commission may also determine the rules on the measurement of areas in the wine sector ensuring uniform application of Community provisions as laid down in this Regulation. Such rules may, in particular, relate to controls and rules governing the specific financial procedures for the improvement of controls.;

33. the following Article shall be added to Part VI:

Article 194a

Compatibility with the integrated administration and control system

For the purposes of applying this Regulation in the wine sector, Member States shall ensure that the administration and control procedures, referred to in the first and the third paragraph of Article 194, which relate to areas, are compatible with the integrated administration control system (IACS) as regards the following elements:

- (a) the computerised database;
- (b) the identification systems for agricultural parcels referred to in Article 20(1) of Regulation (EC) No 1782/2003;
- (c) the administrative checks.

The procedures shall allow, without any problems or conflicts, a common functioning or the exchange of data with the IACS.;

34. Article 195 shall be amended as follows:

- (a) paragraph 1 shall be replaced by the following:

1. The Commission shall be assisted by the Management Committee for the Common Organisation of Agricultural Markets (hereinafter referred to as the Management Committee).;

- (b) the following paragraphs shall be added:

3. The Commission shall also be assisted by a Regulatory Committee.

4 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.;

35. Article 196 shall be replaced by the following:

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 196

Organisation of the Management Committee

The organisation of the meetings of the Management Committee referred to in Article 195(1) shall take into account, in particular, the scope of its responsibilities, the specificities of the subject to be dealt with, and the need to involve appropriate expertise.;

36. the following Article shall be inserted:

Article 203b

Transitional rules in the wine sector

The Commission may adopt the measures required to facilitate the transition from the arrangements provided for in Regulations (EC) No 1493/1999 and (EC) No 479/2008 to those laid down in this Regulation.;

37. the Annexes shall be amended as follows:

- (a) Part IIIa, the text of which appears in Annex I to this Regulation, shall be inserted in Annex III;
- (b) Annexes Xb, Xc, Xd and Xe, the text of which appears in Annex II to this Regulation, shall be inserted;
- (c) Annex XIb, the text of which appears in Annex III to this Regulation, shall be inserted;
- (d) Annexes XVa and XVb, the text of which appears in Annex IV to this Regulation, shall be inserted;
- (e) point 47, the text of which appears in Annex V to this Regulation, shall be added to Annex XXII.

Changes to legislation: Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (1) OJ L 210, 31.7.2006, p. 25.
- (2) OJ L 124, 20.5.2003, p. 36.?’;
- (3) OJ L 39, 13.2.2008, p. 16.
- (4) OJ L 40, 11.2.1989, p. 1.
- (5) OJ L 11, 14.1.1994, p. 1.
- (6) OJ L 165, 30.4.2004, p. 1.
- (7) OJ L 118, 4.5.2002, p. 1.
- (8) OJ L 186, 30.6.1989, p. 21.
- (9) OJ L 109, 6.5.2000, p. 29.
- (10) OJ L 247, 21.9.2007, p. 17.?’;

Changes to legislation:

Council Regulation (EC) No 491/2009, Article 1 is up to date with all changes known to be in force on or before 03 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulation partial repeal by [EUR 2013/1308](#) Regulation