

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

## CHAPTER I

### INTRODUCTORY PROVISION

#### *Article 1*

##### **Subject matter**

This Regulation lays down rules supplementing Regulation (EU) No 1308/2013 concerning protected designations of origin, protected geographical indications and traditional terms, in addition to labelling and presentation in the wine sector as regards:

- (a) applications for protection;
- (b) the objection procedure;
- (c) restrictions of use of protected designation of origin and protected geographical indications
- (d) amendments to product specifications and modifications of traditional terms;
- (e) cancellation of protection;
- (f) labelling and presentation.

## CHAPTER II

### PROTECTED DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS

#### *SECTION 1*

##### ***Application for protection***

#### *Article 2*

##### **Name to be protected**

1 The name to be protected as a designation of origin or geographical indication shall be registered only in the languages which are or were historically used to describe the specific product in the demarcated geographical area.

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2 The name of a designation of origin or a geographical indication shall be registered in its original script. Where the original script is not in Latin characters, a transcription in Latin characters shall be registered together with the name in its original script.

### *Article 3*

#### **Applicant**

A single producer may be deemed an applicant within the meaning of Article 95(1) of Regulation (EU) No 1308/2013 if it is shown that:

- (a) the person concerned is the only producer willing to submit an application; and
- (b) the demarcated geographical area possesses characteristics which differ appreciably from those of neighbouring areas or the characteristics of the product are different from those produced in neighbouring areas.

The circumstance by which a protected designation of origin or geographical indication consists of or contains the name of the holding of the single applicant producer shall not prevent other producers from using that name provided that they comply with the product specification.

### *Article 4*

#### **Additional requirements for product specifications**

1 The description of the grapevine products shall indicate the relevant category or categories of grapevine products from amongst the categories set out in Part II of Annex VII to Regulation (EU) No 1308/2013.

2 Where the product specification indicates that packaging, including bottling, shall take place within the demarcated geographical area or within an area in the immediate proximity of the demarcated area in question, it shall also include a justification showing why, in the specific case, the packaging must take place in the particular geographical area to safeguard quality, to ensure the origin or to ensure control, taking into account Union law, in particular that on the free movement of goods and the free provision of services.

### *Article 5*

#### **Derogations concerning production in the demarcated geographical area**

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

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

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

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

#### *Article 6*

### **National procedure**

When forwarding an application for protection to the Commission in accordance with Article 96(5) of Regulation (EU) No 1308/2013, a Member State shall include a declaration that it considers that the application lodged by the applicant meets the conditions for protection under Subsection 2 of Section 2 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013 and the provisions adopted pursuant thereto and that it certifies that the single document referred to in Article 94(1)(d) of Regulation (EU) No 1308/2013 is a faithful summary of the product specification.

Member States shall inform the Commission of admissible objections received in the national procedure. Member States shall keep the Commission informed of any national judicial proceedings possibly affecting the application for protection.

#### *Article 7*

### **Joint applications**

Where joint applications for the protection of a name as designation of origin or geographical indication, as referred to in Article 95(3) of Regulation (EU) No 1308/2013, are submitted, the related preliminary national procedures, including the objection stage, shall be carried out in all the Member States concerned.

#### *Article 8*

### **Transitional national protection**

1 A Member State may, on a transitional basis only, grant protection to a name at national level, with effect from the date upon which an application for protection has been forwarded to the Commission.

Such transitional national protection shall cease on the date upon which either a decision on protection under Regulation (EU) No 1308/2013 is taken or the application is withdrawn.

2 Where a name is not protected under this Regulation, the consequences of such national protection shall be the sole responsibility of the Member State concerned. The measures taken by Member States under paragraph 1 shall have no effect on intra-Union or international trade.

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## Article 9

### Admissibility of the application

1 Applications for protection are considered admissible if they are submitted in accordance with Articles 94, 95 and 96 of Regulation (EU) No 1308/2013 and Article 3 and Article 5(3) of Implementing Regulation (EU) 2019/34 and if they are duly completed.

An application for protection shall be considered to be duly completed when it complies with Article 94(1) and (3) of Regulation (EU) No 1308/2013 and Article 2 of Implementing Regulation (EU) 2019/34 and if the single document is duly completed.

The single document summarising the product specification, referred to in Article 94(1)(d) of Regulation (EU) No 1308/2013 shall be considered to be duly completed when it complies with the requirements listed in Article 5(1) and (2) of Implementing Regulation (EU) 2019/34. The product specification shall be considered duly completed when it complies with the requirements set out in Article 94(2) of Regulation (EU) No 1308/2013.

2 If the Commission considers that an application is inadmissible, it shall inform the competent authorities of the Member State or those of the third country or the applicant established in a third country of the reasons grounding the finding of inadmissibility.

3 At least once a month the Commission shall make public the list of names for which it has received applications for protection as designations of origin or geographical indications, the name of the applicant Member State or third country and the date of submission of the application.

## Article 10

### Scrutiny of the application

An examination of the application by the Commission, as referred to in Article 97(2) of Regulation (EU) No 1308/2013, shall consist of a check that there are no manifest errors in the application. When examining the application the Commission shall examine the single document in particular. The examination should be completed within a period of 6 months. Where this period is exceeded, the Commission shall inform the applicant in writing of the reasons for the delay.

## SECTION 2

### Objection procedure

## Article 11

### Admissibility and grounds of objection

1 For the purposes of Article 98 of Regulation (EU) No 1308/2013 a substantiated statement of objection shall be admissible where:

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- a it is received by the Commission within the deadline set out in Article 98 of Regulation (EU) No 1308/2013;
  - b it complies with the requirements set out in Article 8(1) of Implementing Regulation (EU) 2019/34;
- and:
- c it shows that the application for protection or amendment to the product specification or for cancellation of the protection is incompatible with the rules on designations of origin and geographical indications because:
    - (i) it would conflict with Articles 92 to 95, 105 or 106 of Regulation (EU) No 1308/2013 and with the provisions adopted pursuant thereto;
    - (ii) the registration of the proposed name would conflict with Article 100 or 101 of Regulation (EU) No 1308/2013;
    - (iii) the registration of the proposed name would jeopardise the rights of a trade mark holder or of a user of a fully homonymous name or of a compound name, one term of which is identical to the name to be registered, or the existence of partially homonymous names or of other names similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(3) of Regulation (EU) No 1308/2013.

The grounds of objection shall be assessed in relation to the territory of the Union.

Where an objection is filed by a natural or legal person, the duly substantiated statement of objection shall be admissible only if it shows the legitimate interest of the objector.

2 Where the Commission considers that the objection is inadmissible, it shall inform the authority or natural or legal person that objected of the reasons grounding the finding of inadmissibility.

## *Article 12*

### **Objection procedure**

1 If the Commission considers that the objection is admissible it shall invite the authority or natural or legal person that lodged the objection and the authority or natural or legal person that lodged the application for protection to engage in appropriate consultations for a period of three months. The invitation shall be issued within a period of four months from the date on which the application for protection, to which the substantiated statement of objection relates, is published in the *Official Journal of the European Union* and it shall be accompanied by a copy of the substantiated statement of objection. At any time during these three months, the Commission may, at the request of the authority or natural or legal person that lodged the application, extend the deadline for the consultations by a maximum of three months.

2 The authority or person that lodged the objection and the authority or person that lodged the application for protection shall start such consultations without undue delay. They shall provide each other with the relevant information to assess whether the application for protection complies with the conditions of this Regulation and of Regulation (EU) No 1308/2013.

3 If the parties reach an agreement, either the applicant established in the third country or the authorities of the Member State or of the third country from which the application for

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protection was lodged shall notify the Commission of the results of the consultations carried out and of all the factors which enabled that agreement to be reached, including the opinions of the parties. If the details published in accordance with Article 97(3) of Regulation (EU) No 1308/2013 have been substantially amended, the Commission shall repeat the scrutiny referred to in Article 97(2) of that Regulation after a national procedure ensuring adequate publication of those amended details has been carried out. Where, following the agreement, there are no amendments to the product specification or where the amendments are not substantial, the Commission shall adopt a decision in accordance with Article 99 of Regulation (EU) No 1308/2013 conferring protection on the designation of origin or geographical indication.

4 If no agreement is reached, either the applicant established in the third country or the authorities of the Member State or of the third country, from which the application for protection was lodged shall notify the Commission of the results of the consultations carried out and of all the related information and documents. The Commission shall adopt a decision in accordance with Article 99 of Regulation (EU) No 1308/2013 either conferring protection or rejecting the application.

### *Article 13*

#### **Restrictions on the use of protected designations of origin and protected geographical indications**

1 Without prejudice to Article 102 of Regulation (EU) No 1308/2013, the Commission may adopt implementing acts granting a transitional period of up to five years to enable products originating in a Member State or a third country, the designation of which consists of or contains a name that contravenes Article 103(2) of Regulation (EU) No 1308/2013, to continue to use the designation under which they were marketed.

The granting of such transitional period is conditional upon the submission of an admissible statement of objection under Article 96(3) or Article 98 of Regulation (EU) No 1308/2013 showing that the decision conferring protection over the name would jeopardise the existence:

- a of an entirely identical name or of a compound name, one term of which is identical to the name to be registered; or
- b of partially homonymous names or of other names similar to the name to be registered which refer to grapevine products which have been legally on the market for at least five years preceding the date of the publication provided for in Article 97(3) of Regulation (EU) No 1308/2013.

2 The Commission may adopt implementing acts extending the transitional period referred to in paragraph 1 up to 15 years in duly justified cases where it is shown that:

- a the designation referred to in paragraph 1 has been in legal use consistently and fairly for at least 25 years before the application for protection was submitted to the Commission;
- b the purpose of using the designation referred to in paragraph 1 has not, at any time, been to profit from the reputation of the registered name and it is shown that the consumer has not been nor could have been misled as to the true origin of the product.

3 When using a designation referred to in paragraphs 1 and 2, the indication of the country of origin shall clearly and visibly appear on the labelling.

4 To overcome temporary difficulties, with the long-term objective of ensuring that all producers in the area concerned comply with the product specification, a Member State may grant protection for a transitional period, starting from the date on which the application is

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forwarded to the Commission, on condition that the operators concerned have legally marketed the grapevine products in question using the names concerned continuously for at least the five years prior to the lodging of the application to the authorities of the Member State and that these temporary difficulties had been raised in the national objection procedure referred to in Article 96(3) of Regulation (EU) No 1308/2013. The transitional period shall be as short as possible and shall not exceed 10 years.

The first subparagraph shall apply *mutatis mutandis* to a protected geographical indication or protected designation of origin referring to a geographical area situated in a third country, with the exception of the objection procedure.

Such transitional periods shall be indicated in the application file referred to in Article 94(1) of Regulation (EU) No 1308/2013.

### SECTION 3

#### *Amendments to product specifications*

##### *Article 14*

#### **Types of amendments**

1 For the purposes of Article 105 of Regulation (EU) No 1308/2013 amendments to a product specification are classified into two categories as regards their importance: amendments requiring an objection procedure at Union level ('Union amendments'), and amendments to be dealt with at Member State or third country level ('standard amendments').

An amendment is considered to be a Union amendment where:

- a it includes a change in the name of the protected designation of origin or protected geographical indication;
- b it consists of a change, a deletion or an addition of a category of grapevine product, as referred to in Part II of Annex VII to Regulation (EU) No 1308/2013;
- c it could potentially void the link referred to in point (a)(i) or in point (b)(i) of Article 93(1) of Regulation (EU) No 1308/2013;
- d it entails further restrictions on the marketing of the product.

Applications for Union amendments submitted by third countries or by third country producers shall contain proof that the requested amendment complies with the laws on the protection of designations of origin or geographical indications in force in that third country.

All other amendments are considered standard amendments.

2 For the purposes of Article 105 of Regulation (EU) No 1308/2013, a temporary amendment is a standard amendment concerning a temporary change in the product specification resulting from the imposition of obligatory sanitary and phytosanitary measures by the public authorities or linked to natural disasters or adverse weather conditions formally recognised by the competent authorities.

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## Article 15

### Procedure for Union amendments to product specifications

1 An application for approval of a Union amendment to a product specification, as defined in Article 14 of this Regulation, shall follow the procedure laid down in Article 94 and Articles 96 to 99 of Regulation (EU) No 1308/2013, in Sections 1, 2 and 3 of Chapter II of this Regulation and in Sections 1, 2 and 3 of Chapter II of Implementing Regulation (EU) 2019/34 *mutatis mutandis*.

2 Where, based on the examination carried out pursuant to Article 97(2) of Regulation (EU) No 1308/2013, the Commission considers that the conditions required under Article 97(3) of that Regulation are met, it shall publish the application for a Union amendment referred to in Article 9(1) of Implementing Regulation (EU) 2019/34 in the *Official Journal of the European Union*, C series. The final decision on the approval of the amendment shall be adopted without applying the examination procedure referred to in Article 229(2) of Regulation (EU) No 1308/2013 unless an admissible objection has been lodged or the application for amendment is rejected, in which case the second paragraph of Article 99 of that Regulation shall apply.

3 An application for approval of Union amendments shall contain Union amendments exclusively. If an application for Union amendments also contains standard or temporary amendments the procedure for Union amendments shall apply only to the Union amendments. The standard or temporary amendments shall be deemed as not submitted.

4 In examining the applications for amendment, the Commission shall focus on the proposed amendments.

## Article 16

### Admissibility of applications for Union amendment

1 Applications for approval of a Union amendment to a product specification are considered admissible if they are submitted in accordance with Article 105 of Regulation (EU) No 1308/2013 and with Article 3 and Article 9(2) of Implementing Regulation (EU) 2019/34 *mutatis mutandis*, and if they are duly completed.

An application for approval of a Union amendment to a product specification shall be considered to be duly completed where it is comprehensive and exhaustive and where it complies with the requirements set out in Article 2 and Article 9(1) of Implementing Regulation (EU) 2019/34.

The approval by the Commission of an application for approval of a Union amendment to a product specification shall only cover the amendments submitted in the application itself.

2 If the application is considered inadmissible, the competent authorities of the Member State or those of the third country or the applicant established in a third country shall be informed of the reasons for the inadmissibility.



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## Article 17

### Standard amendments

1 Standard amendments shall be approved and made public by Member States to which the geographical area of the designation of origin or geographical indication relates.

Applications for approval of a standard amendment to a product specification shall be submitted to the authorities of the Member State to whom the geographical area of the designation or indication relates. Applicants shall satisfy the conditions laid down in Article 95 of Regulation (EU) No 1308/2013. If the application for approval of a standard amendment to a product specification does not come from the applicant which had submitted the application for protection of the name or names to which the product specification refers, the Member State shall give that applicant the opportunity to comment on the application, if that applicant still exists.

The application for a standard amendment shall provide a description of the standard amendments, provide a summary of the reasons for which the amendments are required and demonstrate that the proposed amendments qualify as standard in accordance with Article 14 of this Regulation.

2 Where the Member State considers that the requirements of Regulation (EU) No 1308/2013 and the provisions adopted pursuant thereto are met, it may approve and make public the standard amendment. The approval decision shall include the modified consolidated single document, where relevant, and the modified consolidated product specification.

The standard amendment shall be applicable in the Member State once it has been made public. The Member State shall communicate standard amendments to the Commission not later than one month following the date on which the national decision of approval was made public.

3 Decisions approving standard amendments concerning grapevine products originating in third countries shall be taken in accordance with the system in force in the third country concerned and shall be communicated to the Commission by a single producer within the meaning of Article 3 or a group of producers having a legitimate interest, either directly to the Commission or via the authorities of that third country, not later than one month following the date they are made public.

4 The communication of standard amendments shall be considered to be duly completed when it complies with Article 10 of Implementing Regulation (EU) 2019/34.

5 In the event that the standard amendment implies a modification of the single document, the Commission shall publish the description of the standard amendment referred to in Article 10 of Implementing Regulation (EU) 2019/34 and the modified single document in the *Official Journal of the European Union*, C series, within three months from the date on which the communication is received from the Member State, third country or third country single producer or group of producers.

6 In the event that the standard amendment does not imply a modification of the single document, the Commission shall make public, via the information systems referred to in Article 32 of Implementing Regulation (EU) 2019/34, the description of the standard amendment within three months from the date on which the communication is received from the Member State, third country or applicant established in the third country.

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7 Standard amendments shall be applicable in the territory of the Union once they have been published in the *Official Journal of the European Union*, C series or made public by the Commission in the information systems referred to in Article 32 of Implementing Regulation (EU) 2019/34.

8 If the geographical area covers more than one Member State, the Member States concerned shall apply the procedure for standard amendments separately for the part of the area which falls within their territory. The standard amendment shall be applicable only after the last national decision of approval becomes applicable. The Member State last approving the standard amendment shall send the Commission the communication referred to in paragraph 4 not later than one month following the date on which its decision approving the standard amendment is made public.

If one or more of the Member States concerned do not adopt the national decision of approval referred to in the first subparagraph, any of Member States concerned may submit an application under the Union amendment procedure. Such a rule shall also apply *mutatis mutandis* when one or more of the concerned countries is a third country.

#### Article 18

### Temporary amendments

1 Temporary amendments shall be approved and made public by Member States to which the geographical area of the designation of origin or geographical indication relates. They shall be communicated to the Commission together with the reasons supporting the temporary amendments not later than one month following the date on which the national decision of approval was made public. A temporary amendment is applicable in the Member State once it has been made public.

2 Where the geographical area covers more than one Member State, the procedure for temporary amendment applies separately in the Member States concerned for the part of the area which falls within their territory. Temporary amendments shall be applicable only when the last national decision of approval becomes applicable. The Member State last approving the temporary amendment shall communicate it to the Commission not later than one month following the date upon which its decision of approval is made public. This rule applies, *mutatis mutandis*, also when one or more of the countries concerned is a third country.

3 Temporary amendments concerning grapevine products originating in third countries shall be communicated to the Commission, together with the reasons supporting the temporary amendments, by a single producer within the meaning of Article 3 or a group of producers having a legitimate interest, either directly or via the authorities of that third country, not later than one month following their approval.

4 The communication of temporary amendments shall be considered to be duly completed when it contains all the elements referred to in Article 11 of Implementing Regulation (EU) 2019/34.

5 The Commission shall make public such amendments within three months from the date on which the communication is received from the Member State, third country or third country single producer or group of producers. A temporary amendment is applicable in the territory of the Union once it has been made public by the Commission.

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## SECTION 4

### ***Cancelling a protected designation of origin or geographical indication***

#### *Article 19*

#### **Cancellation procedure**

Requests to cancel a protected designation of origin or geographical indication, as referred to in Article 106 of Regulation (EU) No 1308/2013, shall follow the procedure laid down in Article 94 and Articles 96 to 99 of that Regulation together with provisions of Sections 1, 2 and 4 of Chapter II of this Regulation and of Sections 1, 2, 4 and 5 of Chapter II of Implementing Regulation (EU) 2019/34 *mutatis mutandis*.

The Commission shall publish the cancellation request referred to in Article 13 of Implementing Regulation (EU) 2019/34 in the *Official Journal of the European Union*, C series.

#### *Article 20*

#### **Grounds for cancellation**

For the purposes of Article 106 of Regulation (EU) No 1308/2013 compliance with the product specification shall also be deemed not to be ensured where no product bearing the protected name has been placed on the market for at least seven consecutive years.

#### *Article 21*

#### **Admissibility of cancellation requests**

1 For the purpose of Articles 106 of Regulation (EU) No 1308/2013 a substantiated cancellation request shall be admissible where:

- a the cancellation request complies with the requirements set out in Article 13(1) of Implementing Regulation (EU) 2019/34; and
- b the cancellation request is based on the grounds referred to in Article 106 of Regulation (EU) No 1308/2013.

2 Where the Commission considers that the cancellation request is not admissible it shall inform the Member State or third country authority or the natural or legal person that submitted the request of the reasons supporting the finding of inadmissibility.

3 Substantiated statements of objection to cancellation shall be admissible only where they show commercial reliance by an interested person on the registered name.

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## SECTION 5

### *Use of symbols, indications and abbreviations*

#### *Article 22*

#### **Temporary labelling and presentation**

After an application for protection of a designation of origin or a geographical indication has been forwarded to the Commission, producers may indicate it in labelling and presentation, and use national logos and indications, in compliance with Union law and in particular Regulation (EU) No 1169/2011.

Union symbols indicating the protected designation of origin or the protected geographical indication, the Union indications ‘protected designation of origin’ or ‘protected geographical indication’ and the Union abbreviations ‘PDO’ or ‘PGI’ may appear on the labelling only after the publication of the decision conferring protection on that designation of origin or geographical indication.

Where the application is rejected, any grapevine products labelled in accordance with the first subparagraph may be marketed until the stocks are exhausted.

#### *Article 23*

#### **Derogations from the obligation to use the term ‘protected designation of origin’ on labels**

In accordance with Article 119(3) of Regulation (EU) No 1308/2013, references to the terms ‘protected designation of origin’ may be omitted for wines bearing the following protected designations of origin:

- (a) Greece:  
Σάμος (Samos);
- (b) Spain:  
Cava, Jerez, Xérès or Sherry, Manzanilla;
- (c) France:  
Champagne;
- (d) Italy:  
Asti, Marsala, Franciacorta;
- (e) Cyprus:  
Κουμανδάρια (Commandaria);
- (f) Portugal:  
Madeira or Madère, Port or Porto.

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## CHAPTER III

### TRADITIONAL TERMS

#### SECTION 1

#### *Applications for protection and examination procedure*

##### *Article 24*

#### **Language and spelling of the traditional term**

- 1 A traditional term shall be registered:
  - a in the official language or regional language of the Member State or third country from which the term originates; or
  - b in the language used in trade for this term.
- 2 A traditional term shall be registered with its original spelling and in its original script. Where the original script is not in Latin characters, a transcription in Latin characters shall be registered together with the name in its original script.

##### *Article 25*

#### **Applicants**

- 1 Competent authorities of the Member States or third countries or representative professional organisations established in third countries may apply for the protection of a traditional term.
- 2 ‘Representative professional organisation’ shall mean any producer organisation or association of producer organisations having adopted the same rules, operating in the area of one or more wine designations of origin or geographical indications where it includes in its membership at least two thirds of the producers established in the area in which it operates and accounts for at least two thirds of the production of that area. A representative professional organisation may lodge an application for protection only for grapevine products which it produces.

##### *Article 26*

#### **Admissibility of the application**

- 1 Applications for protection are considered admissible where they are submitted in compliance with Article 25 of this Regulation and Article 21 and Article 30(3) of Implementing Regulation (EU) 2019/34 and are duly completed.

An application shall be considered to be duly completed where it contains the following information:

- a the name to be protected as a traditional term;
- b the type of traditional term, whether it falls under Article 112(a) or (b) of Regulation (EU) No 1308/2013;

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- c the language in which the name to be protected as a traditional term is expressed;
- d the grapevine product category or categories concerned;
- e a summary of the definition and conditions of use;
- f the protected designations of origin or protected geographical indications concerned.

2 The application shall be accompanied by a copy of the legislation of the Member State concerned or rules applicable to wine producers in the third country or countries concerned, governing the use of the term in question, and a reference to the publication of that legislation or those rules.

3 If the application is not duly completed or if the documents referred to in paragraph 2 have not been provided with the application, the application shall be inadmissible.

4 Where the application is inadmissible, the authorities of the Member State or those of the third country or the applicant established in the third country in question shall be informed of the reasons for its inadmissibility and that they are entitled to submit another application duly completed.

#### *Article 27*

#### **Conditions of validity**

1 An application for the protection of a traditional term shall be deemed valid if the name for which the protection is sought:

- a fulfils the requirements of a traditional term as defined in Article 112 of Regulation (EU) No 1308/2013 as well as the requirements laid down in Article 24 of this Regulation;
- b consists exclusively of either:
  - (i) a name traditionally used in trade in a large part of the territory of the Union or of the third country in question, to distinguish specific categories of grapevine products referred to in Article 92(1) of Regulation (EU) No 1308/2013; or
  - (ii) a reputed name traditionally used in trade in at least the territory of the Member State or third country in question, to distinguish specific categories of grapevine products referred to in Article 92(1) of Regulation (EU) No 1308/2013;
- c has not become generic, and
- d is defined and regulated in the Member State's legislation or subject to conditions of use as provided for by rules applicable to wine producers in the third country in question, including those emanating from representative professional organisations.

Point (b) shall not apply to traditional terms referred to in Article 112(a) of Regulation (EU) No 1308/2013.

2 For the purposes of paragraph (1) (b), traditional use means:

- a use amounting to a period of at least five years in case of terms filed in the official language or regional language of the Member State or third country where the term originates;
- b use amounting to a period of at least 15 years in case of terms filed in the language used for trade.

3 For the purposes of paragraph (1)(c), a name that has become 'generic' means the name which, although it relates to a specific production method or ageing method, or the quality,

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colour, type of place, or a particular event linked to the history of a grapevine product, has become the common name of that product in the Union.

### *Article 28*

#### **Scrutiny by the Commission**

1 The date of submission of an application for protection of a traditional term shall be the date on which the application is received by the Commission.

2 The Commission shall examine whether the application for protection meets the conditions laid down in this Chapter.

3 Where the Commission considers that the conditions laid down in Articles 26 and 27 are met, it shall adopt an implementing act concerning the publication, in the *Official Journal of the European Union*, of the application for protection.

4 If an application for the protection of a traditional term does not meet the conditions laid down in this Chapter, the Commission shall inform the applicant of the grounds for refusal, setting a deadline for the withdrawal or modification of the application or for the submission of comments.

5 If the obstacles are not remedied by the applicant within the deadline referred to in paragraph 4, the Commission shall adopt an implementing act rejecting the application in accordance with Article 115(2) of Regulation (EU) No 1308/2013.

### *SECTION 2*

#### ***Objection procedure***

### *Article 29*

#### **Submission of an objection**

The date of submission of an objection shall be the date on which the objection is received by the Commission.

### *Article 30*

#### **Admissibility and grounds of objection**

- 1 A substantiated objection shall be admissible where:
- a it is submitted by any Member State or third country, or any natural or legal person having a legitimate interest;
  - b it is received by the Commission within the deadline provided for in Article 22(1) of Implementing Regulation (EU) 2019/34;
  - c it demonstrates that the application for protection is incompatible with the rules on traditional terms because it does not comply with Article 27 of this Regulation or because the registration of the name proposed would conflict with Article 32 or 33 of this Regulation.

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2 An objection that is deemed admissible shall be notified to the Member State or the third country authorities or the representative professional organisation in the third country in question.

### *Article 31*

#### **Scrutiny of an objection**

1 Where the Commission does not reject the objection in accordance with Article 23(3) of Implementing Regulation (EU) 2019/34, it shall communicate the objection to the applicant that submitted the application and shall invite the applicant to file observations within the time period referred to in Article 24(1) of Implementing Regulation (EU) 2019/34. Any observations received within this period shall be communicated to the objector.

In the course of its scrutiny of an objection, the Commission shall request the parties to provide comments, if appropriate, within the time period referred to in Article 24(2) of Implementing Regulation (EU) 2019/34, on the communications received from the other parties.

2 Where the applicant or the objector do not file any observations in response, or where the time periods for filing observations and for submitting comments referred to in Article 24 of Implementing Regulation (EU) 2019/34 are not respected, the Commission shall proceed to rule on the objection.

3 A decision to reject or recognise the traditional term in question shall be taken by the Commission on the basis of the evidence available to it. The Commission shall consider whether the conditions referred to or laid down in Articles 27, 32 or 33 of this Regulation are fulfilled. A decision to reject the traditional term shall be notified to the objector and to the applicant.

4 Where multiple objections are lodged, a preliminary examination of one or more such objections may prevent an application for protection from proceeding. In these circumstances, the Commission may suspend the other objection procedures. The Commission shall inform the other objectors of any decision affecting them which was taken in the course of the procedure.

Where an application is rejected, objection procedures which have been suspended shall be deemed to be closed and the objectors concerned shall be duly informed.

### *SECTION 3*

#### ***Protection***

### *Article 32*

#### **Relationship with trade marks**

1 The registration of a trade mark that contains or consists of a traditional term which does not respect the definition and conditions of use of that traditional term as referred to in Article 112 of Regulation (EU) No 1308/2013, and that relates to a product falling under one of the categories listed in Part II of Annex VII thereto shall be:

- a refused if the application for registration of the trade mark is submitted after the date of submission of the application for protection of the traditional term to the Commission and the traditional term is subsequently protected; or



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b invalidated.

2 A name shall not be protected as a traditional term where, in the light of a trade mark's reputation and renown, such protection is liable to mislead the consumer as to the true identity, nature, characteristic or quality of the grapevine product.

3 Without prejudice to paragraph 2, a trade mark referred to in paragraph 1 which has been applied for, registered or established by use in good faith, where national legislation so provides, in the territory of the Union, prior to the date of protection of the traditional term in the country of origin, may continue to be used and renewed notwithstanding the protection of a traditional term, provided that no grounds for the trade mark's invalidity or revocation exist under Directive 2008/95/EC of the European Parliament and of the Council<sup>(1)</sup>, Directive (EU) 2015/2436 of the European Parliament and of the Council<sup>(2)</sup> or under Regulation (EU) 2017/1001 of the European Parliament and of the Council<sup>(3)</sup>.

In such cases, the use of the traditional term shall be permitted alongside the relevant trade marks.

### *Article 33*

#### **Homonyms**

1 A term for which an application for protection is submitted and which is wholly or partially homonymous with a traditional term already protected under Article 113 of Regulation (EU) No 1308/2013 shall be registered with due regard to local and traditional usage and the risk of confusion.

A homonymous term which misleads consumers as to the nature, quality or the true origin of the grapevine products shall not be registered even if the term is accurate.

A registered homonymous term may be used only if there is a sufficient distinction in practice between the homonym registered subsequently and the term already in the register, having regard to the need to treat the producers concerned in an equitable manner and the need to avoid misleading the consumer.

2 Paragraph 1 shall apply *mutatis mutandis* for traditional terms protected before 1 August 2009 which are wholly or partially homonymous with a protected designation of origin or geographical indication or a wine grape variety name or its synonym listed in Annex IV.

### *SECTION 4*

#### ***Modification and cancellation***

### *Article 34*

#### **Modification of a traditional term**

An applicant satisfying the conditions of Article 25 may apply for approval of a modification of a registered traditional term concerning the elements referred to in points (b), (c) and (d) of Article 26(1).

Articles 26 to 31 shall apply *mutatis mutandis* to applications for modification.

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### Article 35

#### **Cancellation of a traditional term**

In accordance with Article 115(2) of Regulation (EU) No 1308/2013, the Commission may, on a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, adopt implementing acts cancelling the protection of a traditional term.

Articles 26 to 31 shall apply *mutatis mutandis* to applications for cancellation.

### Article 36

#### **Grounds for cancellation**

The protection of a traditional term shall be cancelled where:

- (a) the traditional term no longer meets the requirements laid down in Articles 27, 32 or 33;
- (b) compliance with the corresponding definition and conditions of use is no longer ensured.

### Article 37

#### **Admissibility of a cancellation request**

- 1 A substantiated cancellation request shall be admissible where:
  - a it was submitted to the Commission by a Member State, a third country or a natural or legal person having a legitimate interest; and
  - b it is based on one of the grounds referred to in Article 36.

The duly substantiated cancellation request shall be admissible only if it demonstrates the legitimate interest of the applicant.

2 Where the Commission considers that the cancellation request is not admissible it shall inform the authority or person that sent the request of the reasons for inadmissibility.

3 The Commission shall make the cancellation request available to the authorities and persons affected in accordance with Article 30(4) of Implementing Regulation (EU) 2019/34.

4 Substantiated statements of objection to cancellation requests shall be admissible only if they show continued commercial reliance on the registered name by an interested person.

### Article 38

#### **Rules concerning traditional terms used in third countries**

1 The definition of traditional terms provided for in Article 112 of Regulation (EU) No 1308/2013 shall apply *mutatis mutandis* to terms traditionally used in third countries for grapevine products covered by geographical indications or designations of origin under the legislation of those third countries.

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2 Grapevine products originating in third countries whose labels bear traditional indications other than the traditional terms listed in the electronic database ‘E-Bacchus’, referred to in Article 25(1) of Implementing Regulation (EU) 2019/34, may use these traditional indications on wine labels in accordance with the rules applicable in the third countries concerned, including those emanating from representative professional organisations.

## SECTION 5

### Article 39

#### Existing protected traditional terms

A traditional term which is protected under Regulation (EC) No 607/2009 shall automatically be protected under this Regulation.

## CHAPTER IV

### LABELLING AND PRESENTATION

#### SECTION 1

##### Compulsory particulars

### Article 40

#### Presentation of compulsory particulars

1 Compulsory particulars referred to in Article 119 of Regulation (EU) No 1308/2013 shall appear in the same field of vision on the container, in such a way as to be simultaneously legible without having to turn the container, in indelible characters and shall be clearly distinguishable from surrounding text or graphics.

[<sup>X12</sup> By way of derogation from paragraph 1, the compulsory particulars referred to in Article 41(1), the indication of the importer and the lot number may appear outside the field of vision referred to in that paragraph.]

3 The size of the characters of the particulars referred to in paragraph 1 of this Article and in Article 41(1) must be equal to or greater than 1,2 mm, regardless of the character format used.

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#### Editorial Information

- X1** Substituted by Corrigendum to Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (Official Journal of the European Union L 9 of 11 January 2019).

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#### Article 41

### Application of certain horizontal rules

1 For the purposes of indicating certain substances or products causing allergies or intolerances, as referred to in Article 21 of Regulation (EU) No 1169/2011, the terms concerning sulphites/sulfites, eggs and egg-based products and milk and milk-based products that shall be used are those listed in Part A of Annex I.

2 The terms referred to in paragraph 1 may be accompanied by the relevant pictogram shown in Part B of Annex I.

#### Article 42

### Marketing and export

1 Grapevine products whose label or presentation does not conform to the corresponding conditions laid down in this Regulation shall not be marketed within the Union or exported.

2 By way of derogation from Subsection 3 of Section 2 and Section 3 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013, where grapevine products are to be exported, Member States may permit particulars and presentations which conflict with Union labelling and presentation rules in force if such particulars or presentations of the grapevine products are required by the legislation of the third country in question. These particulars may appear in languages other than the official languages of the Union.

3 By way of derogation from Subsection 3 of Section 2 and Section 3 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013, where grapevine products are to be consumed on board of airplanes, Member States may permit presentations which conflict with Union presentation rules in force if such presentations of the grapevine products are necessary for security reasons.

#### Article 43

### Prohibition of lead-based capsules or foil

The closing devices for grapevine products referred to in points (1) to (11), (13), (15) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013 shall not be enclosed in lead-based capsules or foil.

#### Article 44

### Actual alcoholic strength

The actual alcoholic strength by volume referred to in Article 119(1)(c) of Regulation (EU) No 1308/2013 shall be indicated in percentage units or half units.

The figure shall be followed by the ‘% vol’ symbol and may be preceded by the words ‘actual alcoholic strength’, ‘actual alcohol’ or ‘alc’. As regards partially fermented grape must or new wine still in fermentation, the indication of the actual alcoholic strength may be replaced or completed by the figure of the total alcoholic strength

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followed by the ‘% vol’ symbol and preceded by the words ‘total alcoholic strength’ or ‘total alcohol’.

Without prejudice to the tolerances set for the reference analysis method used, the strength shown may not differ by more than 0,5 % vol from that given by analysis. However, the alcoholic strength of grapevine products with protected designations of origin or geographical indications stored in bottles for more than three years, sparkling wines, quality sparkling wines, aerated sparkling wines, semi-sparkling wines, aerated semi-sparkling wines, liqueur wines and wines of overripe grapes, without prejudice to the tolerances set for the reference analysis method used, may not differ by more than 0,8 % vol from that given by analysis.

#### Article 45

### Indication of provenance

1 The indication of provenance as referred to in Article 119(1)(d) of Regulation (EU) No 1308/2013 shall be indicated as follows:

- a for grapevine products referred to in points (1), (3) to (9), (15) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013, the words ‘*wine of (...)*’, ‘*produced in (...)*’, ‘*product of (...)*’ or ‘*sekt of (...)*’ shall be used, or expressed in equivalent terms supplemented by the name of the Member State or third country where the grapes are harvested and turned into wine;
- b the words ‘*European Union wine*’ or ‘*blend of wines from different countries of the European Union*’, or expressed in equivalent terms in the case of wine resulting from a blending of wines originating in a number of Member States;
- c the words ‘*European Union wine*’ or ‘*wine obtained in (...) from grapes harvested in (...)*’ citing the names of Member States in question, for wines made in a Member State from grapes harvested in another Member State;
- d the words ‘*blend from (...)*’, or expressed in equivalent terms, supplemented by the names of the third countries in question, in the case of wine resulting from a blending of wines originating in a number of third countries;
- e the words ‘*wine obtained in (...) from grapes harvested in (...)*’ citing the names of the third countries in question, for wines made in a third country from grapes harvested in another third country.

By way of derogation from point (a) of the first subparagraph, for grapevine products referred to in points (4), (5) and (6) of Part II of Annex VII to Regulation (EU) No 1308/2013 that do not bear a protected designation of origin or geographical indication, the indication referred to in that point (a) may be replaced by the indication ‘*produced in (...)*’, or expressed in equivalent terms, supplemented by the name of the Member State where the second fermentation took place.

[<sup>X1</sup>The first and second subparagraphs are without prejudice to Articles 46 and 55.]

2 The indication of provenance, as referred to in Article 119(1)(d) of Regulation (EU) No 1308/2013, for grapevine products referred to in points (2), (10), (11) and (13) of Part II of Annex VII to Regulation (EU) No 1308/2013 shall be indicated as follows:

- a ‘*must of (...)*’ or ‘*must produced in (...)*’ or expressed in equivalent terms, supplemented by the name of the Member State;
- b ‘*blend made from the produce of two or more European Union countries*’ in the case of coupage of grapevine products produced in two or more Member States;

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- c ‘*must obtained in (...) from grapes harvested in (...)*’ in case of grape must which has not been made in the Member State where the grapes used were harvested.

3 As regards the United Kingdom and the provisions laid down in points (a) and (c) of paragraph 1 and in points (a) and (c) of paragraph 2, the name of the Member State may be replaced by the name of the relevant individual country forming part of the United Kingdom in which grapes used to make the grapevine product are harvested.

#### **Editorial Information**

- X1** Substituted by [Corrigendum to Commission Delegated Regulation \(EU\) 2019/33 of 17 October 2018 supplementing Regulation \(EU\) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation \(Official Journal of the European Union L 9 of 11 January 2019\)](#).

### *Article 46*

#### **Indication of the bottler, producer, importer and vendor**

1 For the purposes of the application of Article 119(1)(e) and (f) of Regulation (EU) No 1308/2013 and of this Article:

- a ‘*bottler*’ means a natural or legal person or a group of such persons established in the European Union and carrying out bottling or having bottling carried out on their behalf;
- b ‘*bottling*’ means putting the product concerned in containers of a capacity *not* exceeding 60 litres for subsequent sale;
- c ‘*producer*’ means a natural or legal person or a group of such persons by whom or on whose behalf the processing of the grapes or of the grape musts into wine or the processing of grape must or wine into sparkling wines, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wines is carried out;
- d ‘*importer*’ means a natural or legal person or group of such persons established in the Union assuming responsibility for bringing into circulation non-Union goods within the meaning of Article 5(24) of Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>(4)</sup>;
- e ‘*vendor*’ means a natural or legal person or a group of such persons, not covered by the definition of producer, purchasing and then putting sparkling wines, aerated sparkling wines, quality sparkling wines or quality aromatic sparkling wines into circulation;
- f ‘*address*’ means the indications of the local administrative area and the Member State or third country in which the premises or head office of the bottler, producer, vendor or importer is situated.

2 The name and address of the bottler shall be supplemented either:

- a by the words ‘*bottler*’ or ‘*bottled by (...)*’, which may be supplemented by terms referring to the producer's holding, or
- b by terms, whose conditions of use are defined by Member States, where bottling of grapevine products with protected designation of origin or geographical indication takes place:
  - (i) on the producer's holding, or

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- (ii) on the premises of a producer group, or
- (iii) in an enterprise located in the demarcated geographical area or in the immediate proximity of the demarcated geographical area concerned.

In case of contract bottling, the indication of the bottler shall be supplemented by the words ‘*bottled for (...)*’ or, where the name, address of the person who has carried out the bottling on behalf of a third party are indicated, by the words ‘*bottled for (...) by (...)*’.

Where bottling takes place in another place than that of the bottler, the particulars referred to in this paragraph shall be accompanied by a reference to the exact place where the operation took place and, if it is carried out in another Member State, the name of that State. These requirements do not apply where bottling is carried out in a place of immediate proximity to that of the bottler.

In case of containers other than bottles, the words ‘*packager*’ and ‘*packaged by (...)*’ shall replace the words ‘*bottler*’ and ‘*bottled by (...)*’ respectively, except when the language used does not indicate by itself such a difference.

3 The name and address of the producer or vendor shall be supplemented by the terms ‘*producer*’ or ‘*produced by*’ and ‘*vendor*’ or ‘*sold by*’, or equivalent.

Member States may decide to:

- a make it compulsory to identify the producer;
- b to authorise the replacement of the words ‘*producer*’ or ‘*produced by*’ by the words listed in Annex II.

4 The *name* and address of the importer shall be preceded by the words ‘*importer*’ or ‘*imported by (...)*’. For grapevine products imported in bulk and bottled in the Union, the name of the importer may be replaced or supplemented by the indication of the bottler, in accordance with paragraph 2.

5 The indications referred to in paragraphs 2, 3 and 4 may be grouped together if they concern the same natural or legal person.

One of these indications may be replaced by a code determined by the Member State in which the bottler, producer, importer or vendor has its head office. The code shall be supplemented by a reference to the Member State in question. The name and address of another natural or legal person involved in the commercial distribution other than the bottler, producer, importer or vendor indicated by a code shall also appear on the wine label of the product concerned.

6 Where the name or the address of the bottler, producer, importer or vendor consists of or contains a protected designation of origin or geographical indication, it shall appear on the label:

- a in characters which are no more than half the size of those used either for the protected designation of origin or geographical indications or for the designation of the category of the grapevine product concerned; or
- b by using a code as provided for in the second subparagraph of paragraph 5.

Member States may decide which option applies to grapevine products produced in their territories.

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#### Article 47

### **Indication of the sugar content on sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine**

- 1 The terms listed in Part A of Annex III to this Regulation indicating the sugar content shall appear on the label of the grapevine products provided for in Article 119(1)(g) of Regulation (EU) No 1308/2013.
- 2 If the sugar content of the grapevine products, expressed in terms of fructose, glucose and sucrose, justifies the use of two of the terms listed in Part A of Annex III, only one of those two terms shall be chosen.
- 3 Without prejudice to the conditions of use described in Part A of Annex III, the sugar content may not differ by more than 3 grams per litre from what appears on the product label.

#### Article 48

### **Specific rules for aerated sparkling wine, aerated semi-sparkling wine and quality sparkling wine**

- 1 The terms ‘*aerated sparkling wine*’ and ‘*aerated semi-sparkling wine*’ as referred to in Part II of Annex VII to Regulation (EU) No 1308/2013 shall be supplemented in characters of the same type and size by the words ‘*obtained by adding carbon dioxide*’ or ‘*obtained by adding carbon anhydride*’, even where Article 119(2) of Regulation (EU) No 1308/2013 applies.
- 2 Paragraph 1 shall not apply when the language used indicates by itself that carbon dioxide has been added.
- 3 For quality sparkling wines, the reference to the category of the grapevine product may be omitted for wines whose labels include the term ‘*Sekt*’.

## SECTION 2

### **Optional particulars**

#### Article 49

### **Vintage year**

- 1 The vintage year referred to in Article 120(1)(a) of Regulation (EU) No 1308/2013 may appear on the labels of grapevine products referred to in points (1) to (11), (13), (15) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013, provided that at least 85 % of the grapes used to make those products have been harvested in the year in question. This does not include:
  - a any quantity of grapevine products used in sweetening, ‘*expedition liqueur*’ or ‘*tirage liqueur*’; or
  - b any quantity of grapevine product as referred to in point (3)(e) and (f) of Part II of Annex VII to Regulation (EU) No 1308/2013.



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2 For the purposes of paragraph 1, grapevine products that do not bear a protected designation of origin or a geographical indication but which bear an indication of the vintage year on their label, shall be certified according to Article 12 of Commission Implementing Regulation (EU) 2018/274<sup>(5)</sup>.

3 For grapevine products traditionally obtained from grapes harvested in January or February, the vintage year to appear on the label of grapevine products shall be that of the previous calendar year.

#### Article 50

##### **Name of wine grape variety**

1 The names of the wine grape varieties or their synonyms referred to in Article 120(1) (b) of Regulation (EU) No 1308/2013, used for the production of grapevine products referred to in points (1) to (11), (13), (15) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013, may appear on the label of those products under the conditions laid down in points (a) and (b), if they are produced in the Union, or under the conditions laid down in points (a) and (c), if they are produced in third countries.

a The names of the wine grape varieties or their synonyms may be indicated under the following conditions:

- (i) if only one wine grape variety or its synonym is named, at least 85 % of the product must have been made from that variety, not including:
  - any quantity of grapevine products used in sweetening, ‘expedition liqueur’ or ‘tirage liqueur’, or
  - any quantity of grapevine product referred to in point (3)(e) and (f) of Part II of Annex VII to Regulation (EU) No 1308/2013;
- (ii) if two or more wine grape varieties or their synonyms are named, 100 % of the product concerned must have been made from these varieties, not including:
  - any quantity of grapevine products used in sweetening, ‘expedition liqueur’ or ‘tirage liqueur’, or
  - any quantity of grapevine product referred to in point (3)(e) and (f) of Part II of Annex VII to Regulation (EU) No 1308/2013;

The wine grape varieties must appear on the label in descending order of the proportion used and in characters of the same size.

b For grapevine products produced in the Union, the names of the wine grape varieties or their synonyms shall be those specified in the wine grape varieties classification referred to in Article 81(2) of Regulation (EU) No 1308/2013.

For Member States exempted from the classification obligation as provided for in Article 81(3) of Regulation (EU) No 1308/2013, the names of the wine grape varieties or synonyms shall be those specified in the ‘International list of vine varieties and their synonyms’ managed by the International Organisation of Vine and Wine.

c For grapevine products originating in third countries, the conditions of use of the names of the wine grape varieties or their synonyms shall comply with the rules applicable to wine producers in the third country concerned, including those emanating from representative professional organisations, and the names of the wine grape varieties or their synonyms shall be those specified in the list of at least one of the following organisations:

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- (i) the International Organisation of Vine and Wine;
- (ii) the International Union for the Protection of New Varieties of Plants;
- (iii) the International Board for Plant Genetic Resources.

2 For the purposes of paragraph 1, a grapevine product that does not bear a protected designation of origin or a geographical indication but bears an indication of the grape variety on its label, shall be certified according to Article 12 of Implementing Regulation (EU) 2018/274.

In the case of sparkling wines and quality sparkling wines, the wine grape variety names used to supplement the description of the product, namely, ‘pinot blanc’, ‘pinot noir’, ‘pinot meunier’ or ‘pinot gris’ and the equivalent names in the other Union languages, may be replaced by the synonym ‘pinot’.

3 The wine grape variety names and their synonyms consisting of or containing a protected designation of origin or geographical indication which may appear on the label of a product bearing a protected designation of origin or geographical indication or geographical indication of a third country are those listed in Part A of Annex IV to this Regulation.

Part A of Annex IV may be modified by the Commission only to take into account established labelling practices of new Member States, following accession.

4 The wine grape variety names and their synonyms listed in Part B of Annex IV to this Regulation, that partially contain a protected designation of origin or geographical indication and directly refer to the geographical element of the protected designation of origin or geographical indication in question, may only appear on the label of a product bearing a protected designation of origin or geographical indication or geographical indication of a third country.

#### *Article 51*

#### **Specific rules for the indication of wine grape varieties on grapevine products that do not bear a protected designation of origin or geographical indication**

For grapevine products referred to in points (1) to (9) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013 that do not bear a protected designation of origin or protected geographical indication and provided that the conditions laid down in Article 120(2) of that Regulation are complied with, Member States may decide to use the terms ‘varietal wine’ supplemented by one or both of the following:

- (a) the name of the Member State(s) concerned;
- (b) the name of the wine grape variety(-ies).

For grapevine products referred to in the first paragraph not bearing a protected designation of origin, protected geographical indication or not having a geographical indication of a third country which bear the name of one or more wine grape varieties on their labels, third countries may decide to use the terms ‘varietal wine’ supplemented by the name(s) of the third country(ies) concerned.

Article 45 of this Regulation shall not apply in relation to the indication of the name(s) of the Member State(s) or third country(ies).

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In the case of the United Kingdom, the name of the Member State may be replaced by the name of the relevant individual country forming part of United Kingdom in which grapes used to make the grapevine products are harvested.

#### *Article 52*

### **Indication of the sugar content for grapevine products other than sparkling wine, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wine**

1 The sugar content expressed as fructose and glucose as provided for in Part B of Annex III to this Regulation, may appear on the label of the grapevine products other than those referred to in Article 119(1)(g) of Regulation (EU) No 1308/2013.

2 Where the sugar content of the grapevine products justifies the use of two of the terms listed in Part B of Annex III to this Regulation, only one of those two terms shall be chosen.

3 Without prejudice to the conditions of use described in Part B of Annex III to this Regulation, the sugar content may not differ by more than 1 gram per litre from what appears on the product label.

4 Paragraph 1 shall not apply to grapevine products referred to in points (3), (8) and (9) of Part II of Annex VII to Regulation (EU) No 1308/2013 provided that the conditions of the use of the indication of the sugar content are regulated by the Member States or established in rules applicable in the third country concerned, including, in the case of third countries, rules emanating from representative professional organisations.

#### *Article 53*

### **Terms referring to certain production methods**

1 In accordance with Article 120(1)(f) of Regulation (EU) No 1308/2013, grapevine products referred to points (1) to (11), (13), (15) and (16) of Part II of Annex VII to Regulation (EU) No 1308/2013 may bear indications referring to certain production methods. These indications may include the production methods referred to in this Article.

2 Only the terms used to refer to indications of certain production methods which are listed in Annex V shall be used to describe a grapevine product bearing a protected designation of origin or a protected geographical indication or bearing a geographical indication of a third country that has been fermented, matured or aged in a wood container. Member States and third countries may, however, establish other indications equivalent to those laid down in Annex V for such grapevine product.

Use of one of the indications referred to in the first subparagraph shall be permitted where the grapevine product has been aged in a wood container in accordance with the national rules in force, even when the ageing process continues in another type of container.

The indications referred to in the first subparagraph may not be used to describe a grapevine product that has been produced with the aid of oak chips, even in association with the use of wood containers.

3 The expression ‘bottle-fermented’ may be used only to describe sparkling wines bearing a protected designation of origin or a geographical indication of a third country or quality sparkling wines provided that:

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- a the product was made sparkling by a second alcoholic fermentation in a bottle;
- b the length of the production process, including ageing in the undertaking where the product was made, calculated from the start of the fermentation process designed to make the cuvée sparkling, has not been less than nine months;
- c the process of fermentation designed to make the cuvée sparkling and the presence of the cuvée on the lees lasted at least 90 days;
- d the product was separated from the lees by filtering in accordance with the racking method or by disgorging.

4 The expressions ‘bottle-fermented by the traditional method’ or ‘traditional method’ or ‘classical method’ or ‘classical traditional method’ may only be used to describe sparkling wines bearing a protected designation of origin or a geographical indication of a third country or quality sparkling wines provided the product:

- a was made sparkling by a second alcoholic fermentation in the bottle;
- b stayed without interruption in contact with the lees for at least nine months in the same undertaking from the time when the cuvée was constituted;
- c was separated from the lees by disgorging.

5 The expression ‘Crémant’ may only be used for white or ‘rosé’ quality sparkling wines bearing a protected designation of origin or a geographical indication of a third country provided:

- a the grapes shall be harvested manually;
- b the wine is made from must obtained by pressing whole or destemmed grapes. The quantity of must obtained shall not exceed 100 litres for every 150 kg of grapes;
- c the maximum sulphur dioxide content does not exceed 150 mg/l;
- d the sugar content is less than 50 g/l;
- e the wine complies with the requirements laid down in paragraph 4.

Without prejudice to Article 55, the term ‘Crémant’ shall be indicated on labels of quality sparkling wines in combination with the name of the geographical unit underlying the demarcated area of the protected designation of origin or the a geographical indication of a third country in question.

Point (a) of the first subparagraph and the second subparagraph shall not apply to producers who own trade marks containing the term ‘Crémant’ registered before 1 March 1986.

6 References to the organic production of grapes are governed by Council Regulation (EC) No 834/2007<sup>(6)</sup>.

#### Article 54

##### Indication of the holding

1 The terms referring to a holding listed in Annex VI, other than the indication of the name of the bottler, producer or vendor, shall be reserved for grapevine products with protected designations of origin or geographical indications.

Those terms shall only be used if the grapevine product is made exclusively from grapes harvested in vineyards exploited by that holding and the winemaking is entirely carried out on that holding.

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2 Member States shall regulate the use of their respective terms listed in Annex VI. Third countries shall establish the rules on use applicable to their respective terms listed in Annex VI, including those emanating from representative professional organisations.

3 The operators involved in the marketing of the grapevine product produced in such holding may only use the name of the holding for the labelling and presentation of that grapevine product if the holding in question agrees to that use.

#### Article 55

### **Reference to names of geographical units smaller or larger than the area underlying the protected designation of origin or geographical indication**

1 Pursuant to Article 120(1)(g) of Regulation (EU) No 1308/2013 and without prejudice to Articles 45 and 46, only a grapevine product bearing a protected designation of origin, protected geographical indication or a geographical indication of a third country may have a reference on the label to the name of a geographical unit that is smaller or larger than the area of that designation of origin or geographical indication.

2 Where reference is made to names of geographical units which are smaller than the area underlying the designation of origin or geographical indication, the area of the geographical unit in question shall be well defined by the applicant in the product specification and the single document. Member States may establish rules concerning the use of these geographical units.

For grapevine products produced in a smaller geographical unit the following applies:

- a at least 85 % of the grapes from which the grapevine product has been produced shall originate in that smaller geographical unit. This does not include:
  - (i) any quantity of grapevine products used in sweetening, ‘expedition liqueur’ or ‘tirage liqueur’,
  - (ii) any quantity of grapevine product referred to in point (3)(e) and (f) of Part II of Annex VII to Regulation (EU) No 1308/2013;
- b The remaining grapes used in the production shall originate in the geographical demarcated area of the designation of origin or geographical indication concerned.

Member States may decide, in the case of registered trade marks or trade marks established by use before 11 May 2002 which contain or consist of a name of a geographical unit which is smaller than the area underlying the designation of origin or geographical indication and geographical area references of the Member States concerned, not to apply the requirements laid down in points (a) and (b) of the second subparagraph.

3 The name of a geographical unit smaller or larger than the area underlying the designation of origin or geographical indication or a geographical area references shall refer to:

- a a locality or group of localities;
- b a local administrative area or part thereof;
- c a wine-growing sub-region or part thereof;
- d an administrative area.

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### SECTION 3

#### **Rules on certain specific bottle shapes and closures**

##### *Article 56*

#### **Conditions of use of certain specific bottle shapes**

To qualify for inclusion in the list of specific types of bottle set out in Annex VII, a bottle type shall meet the following requirements:

- (a) it shall have been exclusively, genuinely and traditionally used for the last 25 years for a grapevine product bearing a particular protected designation of origin or geographical indication; and
- (b) its use shall evoke for consumers a grapevine product bearing a particular protected designation of origin or geographical indication.

Annex VII sets out the conditions governing the use of the recognised specific types of bottles.

##### *Article 57*

#### **Rules on presentation for certain grapevine products**

1 Sparkling wine, quality sparkling wine and quality aromatic sparkling wine produced within the Union shall be marketed or exported in ‘sparkling wine’ type glass bottles closed with:

- a for bottles with a nominal volume more than 0,20 litres: a mushroom-shaped stopper made of cork or other material permitted to come into contact with foodstuffs, held in place by a fastening, covered, if necessary, by a cap and sheathed in foil completely covering the stopper and all or part of the neck of the bottle;
- b for bottles with a nominal volume content not exceeding 0,20 litres: any other suitable closure.

Other beverages produced in the Union shall not be marketed or exported in either ‘sparkling wine’ type glass bottles or with a closure as described in point (a) of the first subparagraph.

2 By way of derogation from the second subparagraph of paragraph 1, Member States may decide that other beverages may be marketed or exported in ‘sparkling wine’ type glass bottles or with a closure as described in point (a) of the first subparagraph of paragraph 1, or both, provided that they are traditionally bottled in such bottles and they do not mislead consumers with regard to the real nature of the beverage.

##### *Article 58*

#### **Additional provisions laid down by the producing Member States relating to labelling and presentation**

[<sup>X1</sup> Member States may render the use of the particulars referred to in Articles 49, 50, 52, 53 and 55 of this Regulation and Article 14 of Implementing Regulation (EU) 2019/34 compulsory, prohibited or limited for grapevine products bearing a protected designation of

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origin or geographical indication produced on their territory, by introducing conditions stricter than those laid down in this Chapter through the corresponding product specifications of those grapevine products.]

2 Member States may render it compulsory to use the particulars referred to in Articles 52 and 53 of this Regulation for grapevine products produced on their territory where those grapevine products do not bear a protected designation of origin or geographical indication.

3 For control purposes, Member States may decide to define and regulate particulars other than those listed in Articles 119(1) and 120(1) of Regulation (EU) No 1308/2013 for grapevine products produced in their territories.

4 For control purposes, Member States may decide to render Articles 118, 119 and 120 of Regulation (EU) No 1308/2013 applicable for grapevine products bottled in their territories but not marketed or exported yet.

#### **Editorial Information**

- X1** Substituted by [Corrigendum to Commission Delegated Regulation \(EU\) 2019/33 of 17 October 2018 supplementing Regulation \(EU\) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation \(Official Journal of the European Union L 9 of 11 January 2019\)](#).

## CHAPTER V

### GENERAL, TRANSITIONAL AND FINAL PROVISIONS

#### *Article 59*

#### **Procedural language**

All documents and information sent to the Commission in respect of an application for protection, an application for amendment of the product specification, the objection procedure and the cancellation procedure of a designation of origin or geographical indication in accordance with Articles 94 to 98 and Articles 105 and 106 of Regulation (EU) No 1308/2013, and of a traditional term, in accordance with Articles 25 to 31 and Articles 34 and 35 of this Regulation, shall be in one of the official languages of the Union or accompanied by a certified translation into one of those languages.

#### *Article 60*

#### **Repeal**

Regulation (EC) No 607/2009 is repealed.

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## Article 61

### Transitional measures

1 Articles 2 to 12 and Article 72 of Regulation (EC) No 607/2009 concerning the application for protection and temporary labelling shall continue to apply in respect of all applications for protection pending at the date of application of this Regulation.

2 Articles 13 to 16 of Regulation (EC) No 607/2009 concerning the objection procedure shall continue to apply to applications for protection for which the related single documents have already been published for opposition in the *Official Journal of the European Union* at the date of application of this Regulation.

3 Articles 21, 22 and 23 of Regulation (EC) No 607/2009 concerning the cancellation of protection shall continue to apply to requests for cancellation of protection pending at the date of application of this Regulation.

4 The provisions of this Regulation and of Implementing Regulation (EU) 2019/34 governing objections shall apply to pending applications for which a single document is published in the *Official Journal of the European Union* after the date of application of this Regulation.

5 Paragraphs 1, 2 and 3 shall apply, *mutatis mutandis* to the procedures concerning traditional terms for which an application for protection or a cancellation request are pending at the date of application of this Regulation.

6 Articles 20 and 72 of Regulation (EC) No 607/2009 concerning amendments to the product specification and temporary labelling shall continue to apply to both applications for amendment of a product specification which have already been published in the *Official Journal of the European Union* at the date of application of this Regulation and to applications for minor or non-minor amendments indicated by the Member States as fulfilling the requirements for a Union amendment.

As regards pending applications for amendment not covered by subparagraph 1, Member States' decisions to submit such amendments to the Commission shall be deemed as approval of a standard amendment in accordance with Article 17(2) of this Regulation.

Member States shall communicate the list of the pending amendments to the Commission via electronic mail within three months after the *date of application* of this Regulation. This list shall be divided into the following two groups:

- a amendments that are considered as fulfilling the requirements of a Union amendment;
- b amendments that are considered as fulfilling the requirements of a standard amendment.

The Commission shall publish the list of standard amendments per Member State in the *Official Journal of the European Union*, C series within three months of receiving each Member State's complete list and it shall make public the applications and the single documents related to those standard amendments.

7 The provisions of Regulation (EC) No 607/2009 shall continue to apply to applications for amendment of a traditional term which are pending at the date of application of this Regulation.



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8 Amendments to a product specification submitted to the competent authorities of a Member State on or after 1 August 2009 and transmitted by these authorities to the Commission before 30 June 2014, in accordance with Article 73(2) of Regulation (EC) No 607/2009, are deemed approved if they have been recognised by the Commission as bringing the product specification into compliance with Article 118c of Regulation (EC) No 1234/2007.

Amendments which have not been recognised by the Commission as bringing the product specification into compliance with Article 118c of Regulation (EC) No 1234/2007 shall be deemed applications for standard amendment and shall follow the transitional rules set out in paragraph 6 of this Article.

9 Grapevine products placed on the market or labelled in compliance with Regulation (EC) No 607/2009 may be marketed until existing stocks are exhausted.

10 The procedure set out in Article 118s of Regulation (EC) No 1234/2007 shall apply for any modification to the product specification submitted to a Member State on or after 1 August 2009 and sent to the Commission by that Member State before 31 December 2011.

#### *Article 62*

#### **Entry into force and application**

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

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

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- (1) Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks ([OJ L 299, 8.11.2008, p. 25](#)).
- (2) Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (Recast) ([OJ L 336, 23.12.2015, p. 1](#)).
- (3) Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark ([OJ L 154, 16.6.2017, p. 1](#)).
- (4) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ([OJ L 269, 10.10.2013, p. 1](#)).
- (5) Commission Implementing Regulation (EU) 2018/274 of 11 December 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561 ([OJ L 58, 28.2.2018, p. 1](#)).
- (6) Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 ([OJ L 189, 20.7.2007, p. 1](#)).

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