

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 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.

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.

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Changes to legislation: There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/33. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

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.

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

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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.

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.

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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.

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