

Commission Implementing Regulation (EU) 2019/34 of 17 October 2018 laying down rules for the application of 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, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks

CHAPTER III

TRADITIONAL TERMS

SECTION 1

Applications for protection

Article 21

Application for protection

1 The application for protection of a traditional term shall be communicated to the Commission by the competent authorities of the Member States or those of the third countries or by the representative professional organisations established in third countries in accordance with Article 30(3).

2 In the case of a request submitted by a representative professional organisation established in a third country, the applicant shall communicate the information regarding the representative professional organisation and its members to the Commission in accordance with Article 30(3). The Commission shall make this information public.

SECTION 2

Objection procedure

Article 22

Submission of an objection

1 A Member State, third country, or any natural or legal person having a legitimate interest may submit an objection to the application for protection of a traditional term within two months of the date of publication, in the *Official Journal of the European Union*, of the implementing act referred to in Article 28(3) of Delegated Regulation (EU) 2019/33.

2 An objection shall be communicated to the Commission in accordance with Article 30(3).

Article 23

Documents supporting an objection

1 A duly substantiated objection shall contain details of the facts, evidence and comments submitted in support of the objection, accompanied by the relevant supporting documents.

2 If the objection is based on the existence of an earlier trade mark of reputation and renown, the objection shall be accompanied by:

- a proof of the filing or the registration of the earlier trade mark or proof of its use; and
- b proof of its reputation and renown.

The information and evidence to be produced in support of the use of an earlier trade mark shall comprise particulars of the location, duration, extent and nature of the use made of the earlier trade mark, and of its reputation and renown.

3 If the details of the prior right(s) claimed, ground(s), facts, evidence or comments, or the supporting documents, referred to in paragraphs 1 and 2, have not been produced at the date of submission of the objection or if details or documents are missing, the Commission shall inform the authority or person that lodged the objection accordingly and shall invite them to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the objection as inadmissible. The decision to reject the objection as inadmissible shall be notified to the authority or person that lodged the objection and to the Member State or the third-country authorities or the representative professional organisation established in the third country in question.

Article 24

Submission of observations by the parties

1 Where the Commission communicates an objection which is not rejected in accordance with Article 23(3) to the applicant that submitted the application for protection, the applicant shall file observations within a period of two months from the issuance date of such communication.

2 Where so requested by the Commission in the course of its scrutiny of an objection, the parties shall provide comments on the communications received from the other parties, if appropriate, within a period of two months from the issuance date of such request.

SECTION 3

Protection of traditional terms

Article 25

Registration

1 Upon the entry into force of a decision conferring protection over a traditional term, the Commission shall record the following data in the electronic register of protected traditional terms:

- a the name to be protected as a traditional term;
- b the type of traditional term according to Article 112 of Regulation (EU) No 1308/2013;
- c the language referred to in Article 24 of Delegated Regulation (EU) 2019/33;
- d the grapevine product category or categories concerned by the protection;
- e a reference to the national legislation of the Member State or third country in which the traditional term is defined and regulated, or to the rules applicable to wine producers in the third country, including those originating from representative trade organisations, in the absence of national legislation in those third countries;
- f a summary of the definition or conditions of use;
- g the name of the country or countries of origin;
- h the date of inclusion in the register.

2 The electronic register of protected traditional terms shall be made available to the public.

Article 26

Enforcement of the protection

For the purposes of the application of Article 113 of Regulation (EU) No 1308/2013, where there is unlawful use of protected traditional terms, competent national authorities, on their own initiative or at the request of a party, shall take all measures to prevent or stop the marketing, including any export, of the products in question.

SECTION 4

Modification and cancellation

Article 27

Modification request

1 Articles 21 to 24 shall apply *mutatis mutandis* to a request to modify a protected traditional term.

2 Where the Commission approves a modification to a traditional term, it shall record the new specifications with effect from the date of entry into force of the implementing act approving the modification.

Article 28

Cancellation request

- 1 A request to cancel the protection of a traditional term shall contain:
 - a the reference to the traditional term it refers to;
 - b the name and contact details of the natural or legal person seeking cancellation;
 - c a description of the legitimate interest of the natural or legal person that lodged the cancellation request;
 - d an indication of the grounds for cancellation, referred to in Article 36 of Delegated Regulation (EU) 2019/33;
 - e the details of the facts, evidence and comments in support of the cancellation request.

It may be accompanied by supporting documents, where relevant.

- 2 If detailed information concerning the grounds, facts, evidence and comments, as well as the supporting documents referred to in paragraph 1, have not been furnished at the same time as the cancellation request, the Commission shall inform the author of the cancellation request accordingly and shall invite him to remedy the deficiencies noted within a period of two months.

If the deficiencies are not remedied before the time limit expires, the Commission shall deem the cancellation request inadmissible and shall reject it. The decision deeming the request inadmissible shall be notified to the author of the cancellation request.

Article 29

Scrutiny of a cancellation request

- 1 If the Commission does not deem the cancellation request to be inadmissible in accordance with Article 28(2), it shall communicate the cancellation request to the Member State or the third-country authorities or the applicant established in the third country in question and shall invite him to file observations within two months from the issuance date of such invitation. Any observations received within this two months period shall be communicated to the author of the request.

In the course of the examination of a cancellation request, the Commission shall invite the parties to submit comments on the communications received from the other parties within a period of two months from the issuance date of such request.

- 2 If the Member State or the third-country authorities or the applicant established in the third country in question or the author of a cancellation request does not file any comments in response, or does not respect the time periods, the Commission shall rule on the request.

- 3 A decision to cancel the protection of the traditional term concerned shall be taken by the Commission on the basis of the evidence available to it. It shall consider whether the grounds referred to in Article 36 of Delegated Regulation (EU) 2019/33 are fulfilled.

The decision to cancel the protection of the traditional term shall be notified to the author of the cancellation request and to the Member State or the third-country authorities in question.

- 4 Where multiple cancellation requests are lodged in respect of a traditional term and where it can be concluded from a preliminary examination of one or more such requests that

it is no longer possible to continue to protect a traditional term, the Commission may suspend the other cancellation procedures. The Commission shall notify the parties that submitted the other cancellation requests of any decision affecting them which was taken in the course of the procedure.

Where a decision cancelling a traditional term is adopted, cancellation procedures which have been suspended shall be deemed to be closed and the authors of the cancellation requests in question shall be duly informed.

5 When a decision cancelling a traditional term takes effect, the Commission shall remove the name from the register, while maintaining a record of the cancellation.