

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

PART II

INTERNAL MARKET

TITLE II

RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER I

Rules concerning marketing

Section 2

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

Subsection 1

Introductory provisions

Article 92

Scope

[^{X1} Rules on designations of origin, geographical indications and traditional terms laid down in this Section shall apply to the products referred to in points 1, 3 to 6, 8, 9, 11, 15 and 16 of Part II of Annex VII.]

- 2 The rules referred to in paragraph 1 shall be based on:
- a protecting the legitimate interests of consumers and producers;
 - b ensuring the smooth operation of the internal market in the products concerned; and
 - c promoting the production of quality products referred to in this Section, whilst allowing national quality policy measures.

Editorial Information

- X1** Substituted by Corrigendum to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (Official Journal of the European Union L 347 of 20 December 2013).

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1308/2013 of the European Parliament and of the Council. 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)

Subsection 2

Designations of origin and geographical indications

Article 93

Definitions

- 1 For the purposes of this Section, the following definitions shall apply:
 - a "a designation of origin" means the name of a region, a specific place or, in exceptional and duly justifiable cases, a country used to describe a product referred to in Article 92(1) fulfilling the following requirements:
 - (i) the quality and characteristics of the product are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;
 - (ii) the grapes from which the product is produced come exclusively from that geographical area;
 - (iii) the production takes place in that geographical area; and
 - (iv) the product is obtained from vine varieties belonging to *Vitis vinifera*;
 - b "a geographical indication" means an indication referring to a region, a specific place or, in exceptional and duly justifiable cases, a country, used to describe a product referred to in Article 92(1) fulfilling the following requirements:
 - (i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;
 - (ii) at least 85 % of the grapes used for its production come exclusively from that geographical area;
 - (iii) its production takes place in that geographical area; and
 - (iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.
- 2 Certain traditionally used names shall constitute a designation of origin where they:
 - a designate a wine;
 - b refer to a geographical name;
 - c fulfil the requirements referred to in points (a)(i) to (iv) of paragraph 1; and
 - d have undergone the procedure conferring protection on designations of origin and geographical indications laid down in this Subsection.
- 3 Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Union in accordance with the rules laid down in this Subsection.
- 4 Production as referred to in point (a)(iii) of paragraph 1 shall cover all the operations involved, from the harvesting of the grapes to the completion of the wine-making processes, with the exception of any post-production processes.

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5 For the purpose of the application of point (b)(ii) of paragraph 1, the maximum 15 % share of grapes which may originate outside the demarcated area shall originate from the Member State or third country in which the demarcated area is situated.

Article 94

Applications for protection

1 Applications for protection of names as designations of origin or geographical indications shall include a technical file containing:

- a the name to be protected;
- b the name and address of the applicant;
- c a product specification, as referred to in paragraph 2; and
- d a single document summarising the product specification referred to in paragraph 2.

2 The product specification shall enable interested parties to verify the relevant conditions of production relating to the designation of origin or geographical indication.

The product specification shall at least consist of:

- a the name to be protected;
- b a description of the wine or wines:
 - (i) in respect of a designation of origin, the principal analytical and organoleptic characteristics;
 - (ii) in respect of a geographical indication, the principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;
- c where applicable, the specific oenological practices used to make the wine or wines, as well as the relevant restrictions on making them;
- d the demarcation of the geographical area concerned;
- e the maximum yields per hectare;
- f an indication of the wine grape variety or varieties that the wine or wines are obtained from;
- g the details bearing out the link referred to in point (a)(i) or, as the case may be, in point (b)(i) of Article 93(1);
- h applicable requirements laid down in Union or national legislation or, where provided for by Member States, by an organisation which manages the protected designation of origin or the protected geographical indication, having regard to the fact that such requirements must be objective, non-discriminatory and compatible with Union law;
- i the name and address of the authorities or bodies verifying compliance with the provisions of the product specification, and their specific tasks.

3 Where the application for protection concerns a geographical area in a third country, it shall contain, in addition to the elements provided for in paragraphs 1 and 2, proof that the name concerned is protected in its country of origin.

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Article 95

Applicants

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

2 Producers may apply for protection only for wines which they produce.

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

Article 96

Preliminary national procedure

1 Applications for protection of a designation of origin or a geographical indication for wines originating in the Union shall be subject to a preliminary national procedure.

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

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

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

4 If the Member State assessing the application considers that the designation of origin or the geographical indication does not comply with the conditions laid down in this Subsection or is incompatible with Union law, it shall reject the application.

5 If the Member State assessing the application considers that the requirements are fulfilled, it shall carry out a national procedure which ensures adequate publication of the product specification at least on the Internet and forward the application to the Commission.

Article 97

Scrutiny by the Commission

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

2 The Commission shall examine whether the applications for protection as referred to in Article 94 meet the conditions laid down in this Subsection.

3 Where the Commission considers that the conditions laid down in this Subsection are met, it shall adopt implementing acts concerning the publication, in the *Official Journal of the European Union*, of the single document referred to in point (d) of Article 94(1) and of the

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reference to the publication of the product specification made in the course of the preliminary national procedure. Those implementing acts shall be adopted without applying the procedure referred to in Article 229(2) or (3).

4 Where the Commission considers that the conditions laid down in this Subsection are not met, it shall adopt implementing acts rejecting the application.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 98

Objection procedure

Within two months from the date of the publication of the single document as referred to in point (d) of Article 94(1), any Member State or third country, or any natural or legal person having a legitimate interest and resident or established in a Member State other than that applying for the protection or in a third country, may object to the proposed protection by submitting to the Commission a duly substantiated statement concerning the conditions of eligibility as laid down in this Subsection.

In the case of natural or legal persons resident or established in third countries, such a statement shall be submitted, either directly or via the authorities of the third country concerned, within the two month period referred to in the first paragraph.

Article 99

Decision on protection

On the basis of the information available to the Commission upon the completion of the objection procedure referred to in Article 98, the Commission shall adopt implementing acts either conferring protection on the designation of origin or geographical indication which meets the conditions laid down in this Subsection and is compatible with Union law, or rejecting the application where those conditions are not met.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 100

Homonyms

1 A name for which an application is submitted and which is wholly or partially homonymous with a name already registered under this Regulation shall be registered with due regard to local and traditional usage and any risk of confusion.

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

A registered homonymous name may be used only if there is a sufficient distinction in practice between the homonym registered subsequently and the name already in the

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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 if a name for which an application is submitted is wholly or partially homonymous with a geographical indication protected under the national law of Member States.

3 Where the name of a wine grape variety contains or consists of a protected designation of origin or a protected geographical indication, that name shall not be used for the purposes of labelling agricultural products.

In order to take into account existing labelling practices, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down exceptions from that rule.

4 The protection of designations of origin and geographical indications of products covered by Article 93 of this Regulation shall be without prejudice to protected geographical indications applying to spirit drinks as defined in Article 2 of Regulation (EC) No 110/2008 of the European Parliament and of the Council⁽⁴⁾.

Article 101

Additional grounds for refusal of protection

1 A name that has become generic shall not be protected as a designation of origin or a geographical indication.

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

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

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

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

Article 102

Relationship with trade marks

1 The registration of a trade mark that contains or consists of a protected designation of origin or a geographical indication which does not comply with the product specification concerned or the use of which falls under Article 103(2), and that relates to a product falling under one of the categories listed in Part II of Annex VII 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 designation of origin or geographical indication to the Commission and the designation of origin or geographical indication is subsequently protected; or
- b invalidated.

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2 Without prejudice to Article 101(2), a trade mark referred to in paragraph 1 of this Article which has been applied for, registered or established by use in good faith, if that possibility is provided for by the law concerned, in the territory of the Union either before the date of protection of the designation of origin or geographical indication in the country of origin, or before 1 January 1996, may continue to be used and renewed notwithstanding the protection of a designation of origin or geographical indication, 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⁽²⁾ or under Council Regulation (EC) No 207/2009⁽³⁾.

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

Article 103

Protection

1 A protected designation of origin and a protected geographical indication may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.

2 A protected designation of origin and a protected geographical indication, as well as the wine using that protected name in conformity with the product specifications, shall be protected against:

- a any direct or indirect commercial use of that protected name:
 - (i) by comparable products not complying with the product specification of the protected name; or
 - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;
- b any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated, transcribed or transliterated or accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
- c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, as well as the packing of the product in a container liable to convey a false impression as to its origin;
- d any other practice liable to mislead the consumer as to the true origin of the product.

3 Protected designations of origin and protected geographical indications shall not become generic in the Union within the meaning of Article 101(1).

Article 104

Register

The Commission shall establish and maintain an electronic register of protected designations of origin and protected geographical indications for wine which shall be publicly accessible. Designations of origin and geographical indications pertaining to products of third countries that are protected in the Union pursuant to an international agreement to which the Union is a contracting party may be entered in the register. Unless specifically identified in that agreement as protected designations of origin

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within the meaning of this Regulation, such names shall be entered in the register as protected geographical indications.

Article 105

Amendments to product specifications

An applicant satisfying the conditions laid down in Article 95 may apply for approval of an amendment to the product specification of a protected designation of origin or of a protected geographical indication, in particular to take account of developments in scientific and technical knowledge or to redemarcate the geographical area referred to in point (d) of the second subparagraph of Article 94(2). Applications shall describe and state reasons for the amendments requested.

Article 106

Cancellation

The Commission may, on its own initiative or 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 designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 107

Existing protected wine names

1 Wine names referred to in Articles 51 and 54 of Council Regulation (EC) No 1493/1999⁽⁴⁾ and Article 28 of Commission Regulation (EC) No 753/2002⁽⁵⁾ shall be automatically protected under this Regulation. The Commission shall list them in the register provided for in Article 104 of this Regulation.

2 The Commission shall take the corresponding formal step of removing wine names to which Article 118s(3) of Regulation (EC) No 1234/2007 applies from the register provided for in Article 104 of this Regulation by means of implementing acts adopted without applying the procedure referred to in Article 229(2) or (3) of this Regulation.

3 Article 106 shall not apply to existing protected wine names referred to in paragraph 1 of this Article.

Until 31 December 2014, the Commission may, on its own initiative, adopt implementing acts cancelling the protection of existing protected wine names referred to in paragraph 1 of this Article if they do not meet the conditions laid down in Article 93.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

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4 For Croatia, the wine names published in the *Official Journal of the European Union*⁽⁶⁾ shall be protected under this Regulation, subject to a favourable outcome of the objection procedure. The Commission shall list them in the register provided for in Article 104.

Article 108

Fees

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

Article 109

Delegated powers

1 In order to take into account the specific characteristics of the production in the demarcated geographical area, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down:

- a the additional criteria for the demarcation of the geographical area; and
- b the restrictions and derogations concerning the production in the demarcated geographical area.

2 In order to ensure product quality and traceability, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which product specifications may include additional requirements.

3 In order to ensure the protection of the legitimate rights and interests of producers and operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on:

- a the type of applicant that may apply for the protection of a designation of origin or geographical indication;
- b the conditions to be followed in respect of an application for the protection of a designation of origin or geographical indication, scrutiny by the Commission, the objection procedure, and procedures for amendment, cancellation and conversion of protected designations of origin or protected geographical indications;
- c the conditions applicable to trans-border applications;
- d the conditions for applications concerning geographical areas in a third country;
- e the date from which a protection or an amendment to a protection shall apply;
- f the conditions related to amendments to product specifications.

4 In order to ensure an adequate level of protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 on restrictions regarding the protected name.

5 In order to ensure that economic operators and competent authorities are not unduly affected by the application of this Subsection as regards wine names which have been granted protection prior to 1 August 2009, or for which an application for protection has been made prior to that date, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down transitional rules concerning:

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- a wine names recognised by Member States as designations of origin or geographical indications by 1 August 2009, and wine names for which an application for protection has been made prior to that date;
- b wines placed on the market or labelled before a specific date; and
- c amendments to the product specifications.

Article 110

Implementing powers in accordance with the examination procedure

1 The Commission may adopt implementing acts laying down necessary measures concerning:

- a the information to be provided in the product specification with regard to the link between the geographical area and the final product;
- b the making of decisions on protection or rejection available to the public;
- c the establishment and the maintenance of the register referred to in Article 104;
- d the conversion from protected designation of origin to protected geographical indication;
- e the submission of trans-border applications.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

2 The Commission may adopt implementing acts laying down necessary measures concerning the procedure for the examination of applications for protection or for the approval of an amendment of a designation of origin or a geographical indication, as well as the procedure for requests for objection, cancellation, or conversion, and the submission of information related to existing protected wine names, in particular with respect to:

- a models for documents and the transmission format;
- b time limits;
- c the details of the facts, evidence and supporting documents to be submitted in support of an application or a request.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 111

Other implementing powers

Where an objection is deemed inadmissible, the Commission shall adopt an implementing act rejecting it as inadmissible. That implementing act shall be adopted without applying the procedure referred to in Article 229(2) or (3).

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Subsection 3

Traditional terms

Article 112

Definition

A "traditional term" means a term traditionally used in Member States for the products referred to in Article 92(1) to designate:

- (a) that the product has a protected designation of origin or a protected geographical indication under Union or national law; or
- (b) the production or ageing method or the quality, colour, type of place, or a particular event linked to the history of the product with a protected designation of origin or a protected geographical indication.

Article 113

Protection

1 A protected traditional term may only be used for a product which has been produced in conformity with the definition provided for in Article 112.

Traditional terms shall be protected against unlawful use.

2 Traditional terms shall be protected, only in the language and for the categories of grape vine products claimed in the application, against:

- a any misuse of the protected term, including where it is accompanied by an expression such as "style", "type", "method", "as produced in", "imitation", "flavour", "like" or similar;
 - b any other false or misleading indication as to the nature, characteristics or essential qualities of the product, placed on the inner or outer packaging, advertising material or documents relating to it;
 - c any other practice likely to mislead the consumer, in particular to give the impression that the wine qualifies for the protected traditional term.
- 3 Traditional terms shall not become generic in the Union.

Article 114

Delegated powers

1 In order to ensure an adequate level of protection, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 regarding the language and the spelling of the traditional term to be protected.

2 In order to ensure the protection of the legitimate rights and interests of producers and operators, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 establishing:

- a the type of applicants that may apply for the protection of a traditional term;

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- b the conditions of validity of an application for protection of a traditional term;
 - c the grounds for objecting to a proposed recognition of a traditional term;
 - d the scope of the protection, the relationship with trade marks, protected traditional terms, protected designations of origin or geographical indications, homonyms, or certain wine grape names;
 - e the grounds for cancellation of a traditional term;
 - f the date of submission of an application or of a request for objection or cancellation;
 - g the procedures to be followed in respect of an application for the protection of a traditional term, including scrutiny by the Commission, the objection procedure and the procedures on cancellation and modification.
- 3 In order to take into account the specific characteristics of trade between the Union and certain third countries, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 laying down the conditions under which traditional terms may be used on products from third countries and providing for derogations from Article 112 and Article 113(2).

Article 115

Implementing powers in accordance with the examination procedure

- 1 The Commission may adopt implementing acts laying down necessary measures concerning the procedure for the examination of applications for protection or for the approval of a modification of a traditional term, as well as the procedure for requests for objection or cancellation, in particular with respect to:
- a models for documents and the transmission format;
 - b time limits;
 - c the details of the facts, evidence and supporting documents to be submitted in support of the application or request;
 - d detailed rules on making protected traditional terms available to the public.
- 2 The Commission shall adopt implementing acts accepting or rejecting an application for protection of a traditional term or a request for a modification of the protected term or the cancellation of the protection of a traditional term.
- 3 The Commission shall adopt implementing acts providing for the protection of traditional terms in respect of which an application for protection has been accepted, in particular by classifying them in accordance with Article 112 and by publishing a definition and/or the conditions of use.
- 4 The implementing acts referred to in paragraphs 1, 2 and 3 of this Article shall be adopted in accordance with the examination procedure referred to in Article 229(2).

Article 116

Other implementing powers

Where an objection is deemed inadmissible, the Commission shall adopt an implementing act rejecting it as inadmissible. That implementing act shall be adopted without applying the procedure referred to in Article 229(2) or (3).

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- (1) Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks ([OJ L 39, 13.2.2008, p. 16](#)).
- (2) 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](#)).
- (3) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark ([OJ L 78, 24.3.2009, p. 1](#)).
- (4) Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine ([OJ L 179, 14.7.1999, p. 1](#)).
- (5) Commission Regulation (EC) No 753/2002 of 29 April 2002 laying down certain rules for applying Council Regulation (EC) No 1493/1999 as regards the description, designation, presentation and protection of certain wine sector products ([OJ L 118, 4.5.2002, p. 1](#)).
- (6) [OJ C 116, 14.4.2011, p. 12](#).

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