



Brussels, 12.3.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 12.3.2019

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishes a Union framework for categories of grapevine products, oenological practices and the applicable restrictions at the Union's level.

Regulation (EU) No 1308/2013 of the European Parliament and the Council empowers the Commission to adopt delegated and implementing acts setting out marketing standards for wine.

Regulation (EU) No 606/2009 needs to be aligned to the Treaty on the Functioning of the European Union. The purpose of this delegated act is therefore to supplement Regulation (EU) No 1308/2013 as regards the rules to be followed for the production of wines including the oenological practices, the limits and conditions for the sweetening of wines and the derogations to the maximum sulphur dioxide and the volatile acidity content.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 28 Member States have been carried out within the Group of Experts under the single common organisation of the markets.

During these meetings, the Commission presented amended versions of the text taking broadly into account the observations and comments made in each of the meetings or sent in writing to the Commission services. The experts of the European Parliament were involved as observers in those discussions.

The Commission services had also several meetings with the wine sector stakeholders, both bilaterally and in the context of the Civil Dialogue Group for wine.

This consultation process led to a broad consensus on the draft Delegated Regulation.

The draft delegated regulation was posted in the Better Regulation portal from 21st December 2018 to 18th January 2019 and received feedback from 3 organizations. This feedback raised one main issue that was discussed already with Member States when preparing the legislation: The addition as an authorized oenological practice of 'ageing in wood container' that obtained a majority of favorable comments during the Expert Group meetings and was therefore maintained. The other issues are adaptations to the Annex IA on authorized oenological practices in particular regarding Flotation, Tannins, PVPP, CMC and Lactic bacteria. Based on the remarks from the 3 organizations, corrections were made where appropriate. Some requests from the organizations could not be addressed for the following reasons: one request goes against a modification made upon Member States' request that was accepted; coherence with other EU Regulations has to be ensured. The files of the OIV Code of oenological practices referred to in this Delegated Regulation, are mandatory in the same way as those that were taken up in the deleted appendixes of Regulation (EC) No 606/2009. Whereas clauses 5, 6, 7 and 8 give details on the clarification and simplifications brought by this aligned Delegated Regulation regarding the reference to OIV files.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This delegated act contains provisions supplementing certain rules of Regulation (EU) No 1308/2013 that are necessary to ensure the proper functioning of the internal market for grapevine products. In particular, it sets out the legal framework for the oenological processes

and compounds that are authorised for the production of all the categories of grapevine products listed in Part II of Annex VII to Regulation (EU) No 1308/2013.

The delegated act provides derogations to the acceptable limits for sulphur dioxides and volatile acidity.

The delegated act clarifies and simplifies the existing provisions. It also increases consistency between this Regulation and the Code of Oenological Practices of the International Organisation of Vine and Wine (OIV c) as regards Part A of Annex I to this Regulation.

The delegated act repeals the relevant provisions of Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions.

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard 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 1234/2007¹, and in particular Article 75(2) and Article 80(4) thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 repealed and replaced Council Regulation (EC) No 1234/2007². Section 1 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013 lays down rules on the categories of grapevine products, oenological practices and the applicable restrictions and empowers the Commission to adopt delegated and implementing acts in that respect. In order to ensure the smooth functioning of the wine market in the new legal framework, certain rules have to be adopted by means of such acts. Those acts should replace the provisions of Commission Regulation (EC) No 606/2009³ which should therefore be repealed.
- (2) Part II of Annex VII to Regulation (EU) No 1308/2013 listing the categories of grapevine products provides that wine is to have a total alcoholic strength of not more than 15 % volume. However, by way of derogation, that limit may be increased to 20 % volume for wines produced without enrichment in certain wine-growing areas. These areas should be defined.
- (3) Articles 80 and 83 of Regulation (EU) No 1308/2013 and Annex VIII thereto lay down general rules on oenological practices and processes and refer to detailed rules to be adopted by the Commission. The permitted oenological practices including the methods for sweetening wines should be defined in a clear and precise manner, and

¹ 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 agriculture products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

² Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

³ Commission Regulation (EC) No 606/2009 of 10 July 2009 laying down certain detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions (OJ L 193, 24.7.2009, p. 1).

limits on the use of certain substances that may be used for wine-making and the conditions for using some of those substances for wine-making should be laid down.

- (4) Annex I A to Regulation (EC) No 606/2009 lists authorised oenological practices and processes. The list of authorised oenological practices should be clarified and its coherence should be improved. The list should also be supplemented to take account of technical progress. To improve clarity, the list should be divided into two tables separating oenological processes from oenological compounds.
- (5) Table 1 of Part A of Annex I to this Regulation should list the authorised oenological processes as well as the conditions and limits of their use. The authorised processes should be based on the relevant methods recommended by the International Organisation of Vine and Wine (OIV), as contained in the OIV files referred to in the table, and relevant Union legislation referred to in the table.
- (6) To ensure that producers of grapevine products using authorised oenological compounds are better informed and acquire a better understanding of relevant rules, Table 2 of Part A of Annex I to this Regulation should list the authorised oenological compounds as well as the conditions and limits of their use. The authorised oenological compounds should be based on the relevant compounds recommended by the OIV, as contained in the OIV files referred to in the table, and relevant Union legislation referred to in the table. The table should moreover clearly identify the international denomination, the E-number if available and/or the Chemical Abstracts Service (CAS) number of the compound. It should further include a classification of the compounds into two categories, according to their use as an additive or as a processing aid, which is necessary in particular for labelling purposes.
- (7) To simplify applicable rules and to ensure coherence between the rules laid down in this Regulation and international standards, the former practice of duplicating certain information contained in the files of the OIV Code of Oenological Practices by reproducing the contents in Appendices to Annex I should be discontinued. The conditions and limits of use should follow in principle OIV recommendations, unless additional conditions, limits and derogations to the OIV files are appropriate.
- (8) The Commission should publish in the Official Journal of the European Union the files of the OIV Code of Oenological Practices referred to in Annex I to this Regulation and ensure that the OIV files concerned are available in all official languages of the Union.
- (9) Annex I B to Regulation (EC) No 606/2009 lays down the maximum levels of sulphur dioxide in wines produced in the Union. The limits are aligned with the OIV limits, which are recognised internationally, and the derogations required for certain sweet wines produced in small quantities owing to their higher sugar content and to ensure their good conservation should be maintained. In the light of current scientific studies into the reduction and replacement of sulphites in wine and the sulphite intake from wine in the human diet, the maximum limits could be re-examined at a later date with a view to further reducing them.
- (10) The procedures by which Member States may authorise certain oenological practices and processes not provided for by Union rules for a defined period and for experimental purposes should be laid down.
- (11) The production of sparkling wines, quality sparkling wines and quality aromatic sparkling wines requires a number of specific practices in addition to the oenological

practices permitted for other grapevine products. For reasons of clarity, those practices should be listed in a separate Annex to this Regulation.

- (12) The production of liqueur wines requires a number of specific practices in addition to the oenological practices permitted for other grapevine products and the production of liqueur wines with a protected designation of origin has certain particularities. For reasons of clarity, those practices and restrictions should be listed in a separate Annex to this Regulation.
- (13) Coupage is a widespread oenological practice which can have a considerable impact on the quality of grapevine products. Therefore, in order to prevent abuse and to ensure high quality grapevine products whilst also promoting a more competitive sector, the practice should be defined and strictly regulated. As far as rosé wine production is concerned, for the same reasons, this practice should be regulated in particular for certain wines which are not subject to specifications.
- (14) Union rules on foodstuffs and the International Oenological Codex of the OIV already lay down specifications concerning purity and identification in relation to a large number of substances used in oenological practices. For the purposes of harmonisation and clarity, those specifications should be adhered to in the first instance and additional rules specific to the situation in the Union should also be provided for.
- (15) Wine products that do not comply with the provisions of Section 1 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013 or the provisions laid down in this Regulation may not be placed on the market and must be destroyed. However, some of these products may be permitted to be used for industrial purposes only and therefore the conditions for their use should be laid down so as to ensure adequate monitoring of their final use. In addition, to avoid financial losses for operators with stocks of certain products produced before the date of entry into force of this Regulation, provision should be made enabling products made in accordance with the rules in force before that date to be released for consumption.
- (16) Notwithstanding the general rule laid down in Section D of Part II of Annex VIII to Regulation (EU) No 1308/2013, the pouring of wine or grape must onto lees or grape marc or pressed 'aszú' or 'výber' pulp is an essential characteristic of the production of certain Hungarian and Slovak wines. The particular rules for such practice must be laid down in accordance with the national provisions in force in the Member States concerned on 1 May 2004.
- (17) In order to ensure the quality of the grapevine products, provision should be made for the implementation of the prohibition of over-pressing of grapes. Verifying the correct application of that prohibition requires there to be adequate monitoring of the by-products resulting from winemaking and their final use. To this end, rules on the minimum percentage of alcohol contained in the by-products after the pressing of grapes should be specified, as well as on the conditions for the mandatory disposal of by-products held by any natural or legal person or groups of persons, under the supervision of the competent authorities of the Member States. Since those conditions are directly linked to the winemaking process, they should be listed together with the oenological practices and applicable restrictions for the production of wine set out in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation lays down rules supplementing Regulation (EU) No 1308/2013 concerning wine-growing areas where the alcoholic strength may be increased, authorised oenological practices and restrictions applicable to the production and conservation of grapevine products, the minimum percentage of alcohol for by-products and their disposal, and publication of OIV files.

Article 2

Wine-growing areas where wines may have a maximum total alcoholic strength of 20 % vol.

The wine-growing areas referred to in the first indent of point (c) of the second paragraph of point (1) of Part II of Annex VII to Regulation (EU) No 1308/2013 shall be zones C I, C II and C III referred to in Appendix 1 to that Annex and the areas of zone B in which white wines with the following protected geographical indications may be produced: ‘Vin de pays de Franche-Comté’ and ‘Vin de pays du Val de Loire’.

Article 3

Authorised oenological practices

1. The authorised oenological practices and restrictions applicable to the production and conservation of grapevine products falling within the scope of Part II of Annex VII to Regulation (EU) No 1308/2013, referred to in Article 80(1) of that Regulation, are laid down in Annex I to this Regulation.

Table 1 of Part A of Annex I lays down the authorised oenological processes and the conditions and limits of their use.

Table 2 of Part A of Annex I lays down the authorised oenological compounds and the conditions and limits of their use.

2. The Commission shall publish the files of the OIV Code of Oenological Practices referred to in column 2 of Table 1 and in column 3 of Table 2 of Part A of Annex I to this Regulation in the *Official Journal of the European Union*, C series.

3. Part B of Annex I lays down the maximum sulphur dioxide contents of wines.

4. Part C of Annex I lays down the maximum volatile acid contents of wines.

5. Part D of Annex I lays down the rules on sweetening.

Article 4

Experimental use of new oenological practices

1. For experimental purposes, referred to in Article 83(3) of Regulation (EU) No 1308/2013, each Member State may authorise the use of certain oenological practices or processes not

provided for in that Regulation or in this Regulation, for a maximum of five years, on condition that:

- (a) the practices and processes concerned meet the requirements of the third subparagraph of Article 80(1) and Article 80(3)(b) to (e) of Regulation (EU) No 1308/2013;
- (b) such practices and processes are applied to quantities not exceeding 50 000 hectolitres per year for any one experiment;
- (c) the Member State concerned informs the Commission and the other Member States at the beginning of the experiment of the terms of each authorisation;
- (d) the processes shall be entered on the accompanying document referred to in Article 147(1) and in the register referred to in Article 147(2) of Regulation (EU) No 1308/2013.

‘Experiment’ means an operation or operations carried out in the context of a well-defined research project with a single experimental protocol.

2. The products obtained by the experimental use of such oenological practices and processes may be placed on the market of a Member State other than the Member State concerned provided the Member State authorising the experiment gives prior notification to the competent authorities of the Member State of destination of the terms of the authorisation and the quantities involved.

3. Within a period of three months following the end of the period referred to in paragraph 1, the Member State concerned shall forward to the Commission a report on the authorised experiment and the results thereof. The Commission shall notify the other Member States of those results.

4. Depending on these results, the Member State concerned may apply to the Commission for authorisation to continue the experiment, possibly with a larger quantity of products than in the original experiment, for a further maximum period of three years. The Member State concerned shall submit an appropriate file in support of its application. The Commission shall adopt a decision on the application in accordance with the procedure referred to in Article 229(2) of Regulation (EU) No 1308/2013.

5. The notification of information or documents to the Commission provided for in point (c) of paragraph 1 and in paragraphs 3 and 4 shall be made in accordance with Commission Delegated Regulation (EU) 2017/1183⁴.

Article 5

Oenological practices applicable to categories of sparkling wines

In addition to the oenological practices and restrictions of general application laid down in Regulation (EU) No 1308/2013 and in Annex I to this Regulation, the authorised specific oenological practices and restrictions, including enrichment, acidification and de-acidification, concerning sparkling wines, quality sparkling wines and quality aromatic sparkling wines, referred to in points (4), (5) and (6) of Part II of Annex VII to Regulation (EU) No 1308/2013 are listed in Annex II to this Regulation.

⁴ Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and the Council with regard to the notifications to the Commission of information and documents (OJ L 171, 4.7.2017, p. 100).

Article 6

Oenological practices applicable to liqueur wines

In addition to the oenological practices and restrictions of general application laid down in Regulation (EU) No 1308/2013 and in Annex I to this Regulation, the authorised specific oenological practices and restrictions concerning liqueur wines referred to in point (3) of Part II of Annex VII to Regulation (EU) No 1308/2013 are listed in Annex III to this Regulation.

Article 7

Definition of coupage

1. 'Coupage' referred to in point (h) of Article 75(3) and Section C of Part II of Annex VIII to Regulation (EU) No 1308/2013 means the mixing of wines or musts of different origins, different vine varieties, different harvest years or different categories of wine or of must.

2. The following shall be regarded as different categories of wine or must:

- (a) red wine, white wine and the musts or wines suitable for yielding one of these categories of wine;
- (b) wines without a protected designation of origin and wines without protected geographical indication, wines with a protected designation of origin (PDO) and wines with a protected geographical indication (PGI) as well as musts or wines suitable for yielding one of these categories of wine.

For the purposes of this paragraph, rosé wine shall be regarded as red wine.

3. The following processes shall not be regarded as coupage:

- (a) enrichment by the addition of concentrated grape must or rectified concentrated grape must;
- (b) sweetening.

Article 8

General rules on blending and coupage

1. A wine may be obtained by blending or coupage only where the constituents of that blending or coupage possess the required characteristics for obtaining wine and comply with Regulation (EU) No 1308/2013 and this Regulation.

Coupage of a non-PDO/PGI white wine with a non-PDO/PGI red wine cannot produce a rosé wine.

However, the second subparagraph does not exclude coupage of the type referred to therein where the final product is intended for the preparation of a cuvée as defined in point 12 of Part IV of Annex II to Regulation (EU) No 1308/2013 or intended for the production of semi-sparkling wines.

2. Coupage of a grape must or a wine which has undergone the oenological practice referred to in point 11.1 of Table 2 of Part A of Annex I to this Regulation with a grape must or a wine which has not undergone that practice shall be prohibited.

Article 9

The purity and identification specifications of substances used in oenological practices

1. Where they are not laid down by Commission Regulation (EU) No 231/2012⁵, the purity and identification specifications of substances used in the oenological practices referred to in Article 75(3)(f) of Regulation (EU) No 1308/2013 shall be those referred to in column 4 of Table 2 of Part A of Annex I to this Regulation.
2. The enzymes and enzymatic preparations used in the authorised oenological practices and processes listed in Part A of Annex I shall meet the requirements of Regulation (EC) No 1332/2008 of the European Parliament and of the Council⁶.

Article 10

Conditions governing the holding, circulation and use of products not complying with Article 80 of Regulation (EU) No 1308/2013 or this Regulation

1. Products referred to in the first subparagraph of Article 80(2) of Regulation (EU) No 1308/2013 shall not be marketed and shall be destroyed. However, Member States may authorise under certain conditions the use of certain of such products, the characteristics of which they shall determine, by distilleries or vinegar factories or for industrial purposes.
2. Such products may not be held without legitimate cause by producers or traders and they may be moved only to distilleries, vinegar factories, or establishments using them for industrial purposes or products or to elimination plants.
3. Member States may have denaturing agents or indicators added to wines referred to in paragraph 1 in order to make them more easily identifiable. Where justified, they may also prohibit the uses provided for in paragraph 1 and have the products destroyed.
4. Wine produced before 1 August 2009 may be offered or supplied for direct human consumption provided that it complies with the Union or national rules in force prior to that date.

Article 11

General rules applicable to the enrichment, acidification and deacidification of products other than wine

The authorised processes referred to in point 1 of Section D of Part I of Annex VIII to Regulation (EU) No 1308/2013 must be carried out in a single operation. However, Member States may permit some of these processes to be carried out in more than one operation where this improves the vinification of the products concerned. In such cases, the limits laid down in Annex VIII to Regulation (EU) No 1308/2013 shall apply to the whole operation concerned.

⁵ Commission Regulation (EU) No 231/2012 of 9 March 2012 laying down specifications for food additives listed in Annexes II and III to Regulation (EC) No 1333/2008 of the European Parliament and the Council (OJ L 83, 22.3.2012, p. 1).

⁶ Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97 (OJ L 354, 31.12.2008, p. 7).

Article 12

Pouring of wine or grape must onto lees or grape marc or pressed ‘aszú’/‘výber’ pulp

The pouring of wine or grape must onto lees or grape marc or pressed ‘aszú’/‘výber’ pulp, provided for in point 2 of Section D of Part II of Annex VIII to Regulation (EU) No 1308/2013, shall be carried out as follows, in accordance with the national provisions in force on 1 May 2004:

- (a) ‘Tokaji fordítás’ or ‘Tokajský forditáš’ shall be prepared by pouring must or wine on pressed ‘aszú’/‘výber’ pulp;
- (b) ‘Tokaji másolás’ or ‘Tokajský másolás’ shall be prepared by pouring must or wine on the lees of ‘szamorodni’/‘samorodné’ or ‘aszú’/‘výber’.

The products concerned must be from the same harvest year.

Article 13

Fixing a minimum percentage of alcohol for by-products

1. Subject to point 1 of Section D of Part II of Annex VIII to Regulation (EU) No 1308/2013, Member States shall fix a minimum percentage for the volume of alcohol that must be contained in the by-product, after its separation from wines, in relation to that contained in the wine produced. Member States may modulate that minimum percentage on the basis of objective and non-discriminatory criteria.

2. Where the relevant percentage fixed by Member States pursuant to paragraph 1 is not reached, the operator concerned shall deliver a quantity of wine from his own production that corresponds to the quantity needed to reach the minimum percentage.

3. For the purpose of determining the volume of alcohol contained in the by-products in relation to that contained in the wine produced, the standard wine natural alcoholic strengths by volume to be applied in the different wine-growing zones shall be:

- (a) 8,0 % for zone A;
- (b) 8,5 % for zone B;
- (c) 9,0 % for zone C I;
- (d) 9,5 % for zone C II;
- (e) 10,0 % for zone C III.

Article 14

Disposal of by-products

1. Producers shall withdraw the by-products of winemaking or of any other processing of grapes under supervision by the competent authorities of the Member States, subject to the requirements on delivery and registration laid down in Article 9(1)(b) of Delegated Regulation (EU) 2018/273 and Article 14(1)(b)(vii) and Article 18 of Commission Implementing Regulation (EU) 2018/274⁷, respectively.

⁷ 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

2. Withdrawal shall be carried out without delay and no later than at the end of the wine year in which the by-products were obtained, in compliance with applicable Union legislation, in particular as regards environmental protection.

3. Member States may decide that producers who, during the wine year in question, do not produce more than 50 hectolitres of wine or must themselves on their own premises are not required to withdraw their by-products.

4. Producers may fulfil the obligation of disposing of all or a part of the by-products of winemaking or any other processing of grapes by delivering the by-products to distillation. Such disposal of the by-products shall be certified by the competent authority of the Member State concerned.

5. Member States may decide that the delivery to distillation of all or a part of the by-products of winemaking or of any other processing of grapes is made compulsory for all or certain producers on their territory on the basis of objective and non-discriminatory criteria.

Article 15

Transitional arrangements

Stocks of grapevine products produced before the date of entry into force of this Regulation in accordance with the rules in force before that date may be released for human consumption.

Article 16

Repeal

Regulation (EC) No 606/2009 is repealed.

Article 17

Entry into force

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

2. It shall apply from [six months as of publication].

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

Done at Brussels, 12.3.2019

For the Commission
The President
Jean-Claude JUNCKER

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. 60).