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Spirit drinks: Definition, labelling and geographical indications

In December 2016, the European Commission proposed to replace Regulation (EC) No 110/2008 – the Spirit Drinks Regulation – with a new one, with the aim of aligning it with the Treaty on the Functioning of the European Union (TFEU). The proposal mainly involves grouping the provisions adopted by the Commission into delegated and implementing acts. In addition, it replaces the existing procedures for the protection of geographical indications (GIs) of spirit drinks with new ones, modelled on the recently updated procedures for quality schemes applied to agricultural products and foodstuffs.

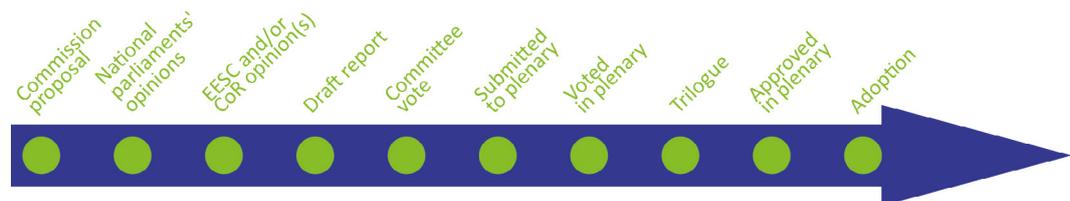
According to spirits industry representatives, the proposal contained some substantive changes that needed to be studied in detail to determine their impact.

The Committee on the Environment, Public Health and Food Safety (ENVI) was responsible for the file in the European Parliament. A provisional agreement was reached at the third trilogue meeting, on 27 November 2018. The agreement was confirmed by the Special Committee on Agriculture in December 2018 and approved in the ENVI committee on 22 January 2019. A plenary vote in the EP was held on 13 March 2019. The act was signed on 17 April and the regulation published in the Official Journal on 17 May 2019.

Proposal for a Regulation of the European Parliament and of the Council on the definition, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs and the protection of geographical indications for spirit drinks

COM(2016) 750, 1.12.2016, 2016/0392(COD), Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')

Committee responsible:	Environment, Public Health and Food Safety (ENVI)
Rapporteur:	Pilar Ayuso (EPP, Spain)
Shadow rapporteurs:	Susanne Melior (S&D, Germany); Bolesław G. Piecha (ECR, Poland); Ulrike Müller (ALDE, Germany); Lynn Boylan (GUE/NGL, Ireland); Piernicola Pedicini (EFDD, Italy); Mireille D'Ornano (EFDD, France)
Procedure completed.	Regulation (EU) 2019/787, OJ L 130, 17.5.2019, pp. 1-54.



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Third edition
The 'EU Legislation in Progress' briefings are updated at key stages throughout the legislative procedure. Please note this document has been designed for on-line viewing.



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Introduction

The main aim of the Commission's proposal is to replace the existing [Regulation \(EC\) No 110/2008](#)¹ on spirit drinks (the 'Spirit Drinks Regulation') with a new one, aligned with the Treaty on the Functioning of the European Union (TFEU) as regards the powers it confers on the European Commission. The new regulation would essentially divide the provisions which the Commission adopts under the existing regulation, with some to be subject to delegated and some to implementing acts.

Spirit drinks are among the products covered by an EU protective scheme based on geographical indication (GI, see below). The rules concerning the protection of these products have recently been updated and harmonised by [Regulation \(EU\) 1151/2012](#) on quality schemes for agricultural products and foodstuffs, which has also completely revised the GI management procedures applicable to them. The proposed regulation would make GI management procedures for spirit drinks more homogenous with those in place for foodstuffs, while keeping the specific character of the GI scheme for spirit drinks unchanged.

Although it is not part of the regulatory fitness and performance programme (REFIT), the proposal also aims to simplify and clarify the existing regulation. According to the Commission, the purpose and scope of the existing regulation would remain unchanged; just a few technical adjustments will be introduced and some changes will be made to its structure and wording.

Existing situation

The Spirit Drinks Regulation defines spirit drinks as alcoholic beverages possessing particular organoleptic qualities and having a minimum alcoholic strength of 15 % volume.² Spirit drinks are produced by distilling naturally fermented products and/or macerating plant materials in ethyl alcohol of agricultural origin; by adding flavourings to ethyl alcohol or distillates; or by mixing a spirit drink with another drink. Only agricultural raw materials are permitted; no alcohol of synthetic origin is allowed.

Additionally, the regulation defines different spirit drinks, classifying them into 47 categories listed in its Annex II (such as rum, whisky, fruit spirit, liqueur, gin, pastis or vodka). Annex II also lists the ingredients that may be used for producing each spirit drink, including the maturation periods required and the minimum alcoholic strength by volume.

The regulation lays down some specific labelling and presentation rules, for example on labelling the raw materials used and on indicating the maturation period.

The Spirit Drinks Regulation also protects the geographical indication (GI)³ of spirit drinks. At EU level, unitary protection of geographical indications is currently provided for wines, spirits and aromatised wines,

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 and repealing Council Regulation (EEC) No 1576/89.

2 Except for egg liqueur or 'advocaat', the minimum alcoholic strength of which is 14 % by volume.

3 The geographical indication identifies a spirit drink as originating in a country, region or locality where a particular quality, reputation or other characteristic of the product is essentially attributable to its geographical origin. Natural, human and



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and for agricultural products and foodstuffs.⁴ Geographical indications for spirit drinks are registered in Annex III of the Spirit Drinks Regulation, and feature names such as Scotch Whisky, Irish Whiskey, Whisky español, Grappa, Estonian vodka and Ouzo of Kalamata. There are currently about [240 established GIs](#)⁵ for spirit drinks, which are also contained in the [E-Spirit-Drinks](#) database maintained by the Commission.

To register a geographical indication, entities from both EU and non-EU countries must submit an application to the Commission. The application must include a technical file containing information such as the description of the spirit drink, the definition of the geographical area, a description of the method for obtaining the spirit drink, as well as any requirements laid down by European, national or regional provisions.

The Spirit Drinks Regulation applies to all spirit drinks placed on the market in the EU, whether produced in the EU or in third countries, as well as to those produced in the EU for export.

Parliament's starting position

At the time when the current Spirit Drinks Regulation was being [negotiated](#), agreeing on a definition of vodka and on whisky names were among the key issues on the agenda. In a compromise between the Parliament and the Council, MEPs settled on a definition of vodka that would allow the drink to be produced from any agricultural material, such as grapes, rice or any other agricultural product, provided that they are appropriately labelled.⁶ The Parliament voted for existing geographical names for whisky to remain valid. These may be supplemented by additional descriptions, such as 'single malt' and/or 'Highland' for Scotch whisky, if they are regulated at national or regional level or are included in the technical specifications.

In a [resolution](#) of 13 March 2013,⁷ the Parliament opposed the adoption of a draft implementing regulation, in which the Commission proposed to insert a definition of absinthe which included a minimum level of anethole and thujone. Absinthe is not defined as a product category, but is produced in many Member States with differing traditional recipes, depending on the herbal plants available in the region, and therefore with differing anethole levels. The Parliament considered that the producers of absinthe variations should either have abstained from using the term 'absinthe' or changed their long-standing recipes, if the regulation had been adopted. The Parliament also considered the stipulation of a minimum thujone level as part of an absinthe definition to be in contradiction to the current paradigm for dealing with this potentially harmful substance.

process factors contribute to these distinctive characteristics.

4 In addition to the Spirit Drinks Regulation, these provisions are laid down in [Regulation \(EU\) No 1308/2013](#) (the 'Single CMO Regulation'); [Regulation \(EU\) No 251/2014](#) on aromatised wine products, and [Regulation \(EU\) 1151/2012](#) on agricultural products and foodstuffs (the 'Quality Regulation').

5 In July 2016, the Commission undertook an extensive 'cleaning' of Annex III, [removing](#) 87 established GIs for which no technical file had been submitted by the deadline of 20 February 2015.

6 The ENVI Committee's position had suggested that for vodka to qualify as being traditional, it should only be made from grain, potatoes or sugar beet molasses.

7 European Parliament resolution of 13 March 2013 on the draft Commission implementing regulation amending Annexes II and III to Regulation (EC) No 110/2008 of the European Parliament and the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks (2013/2524(RPS)).



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In a [resolution](#) from April 2015, the Parliament urged the Commission to draw up a new alcohol strategy and emphasised the need for at least the calorie content of alcoholic beverages to be clearly stated on labels as soon as possible. The Parliament also acknowledged that in some EU regions the artisanal production of alcoholic drinks is a cornerstone of local tourism. Parliament called on the Commission and the Member States to devise appropriate strategies and intensify controls in order to tackle the problem of alcohol counterfeiting, as well as illegal and black-market sales of alcohol, which have particularly negative effects for the most disadvantaged sections of society and for young people, and to protect geographical indications within the EU and globally through international trade agreements.



Proposal

Preparation of the proposal

According to the explanatory memorandum of the proposal, no impact assessment was considered necessary, as the proposed changes in terms of wording and structure, and the few technical adaptations would not affect the substance of the existing regulation. Furthermore, the associations of spirit drinks producers had been consulted in the [civil dialogue group](#) meetings and, according to the Commission, their main concerns had been taken into consideration.

The changes the proposal would bring

The [proposal](#) replaces the existing procedures for the management (concerning the application, amendment, registration, opposition and cancellation) of geographical indications in the spirit drinks sector with new procedures modelled on the recently updated procedures for agricultural products and foodstuffs, laid down in Regulation (EU) No 1151/2012. To this end, Chapter III of the existing regulation, dedicated to geographical indications, has been modified.

As regards procedures, the proposal also includes new provisions concerning joint applications and oppositions mirroring those set out in Commission Regulation (EU) No 664/2014⁸ and Commission Regulation (EU) No 668/2014.⁹

Some of the elements currently included in Commission Implementing Regulation (EU) No 716/2013¹⁰ laying down rules for the application of the Spirit Drinks Regulation, were considered to be essential and were therefore introduced in the proposal as part of the basic act. These concern the definitions and use of compound terms¹¹ and allusions.¹²

The ways in which geographical indications for spirit drinks are registered has also been reviewed. Annex III of the current Spirit Drinks Regulation, listing the geographical indications of spirit drinks, has been deleted. Instead, according to article 30 of the proposed regulation, the Commission will adopt implementing acts establishing and maintaining a 'publicly accessible updated electronic register' of recognised geographical

8 [Commission Delegated Regulation \(EU\) No 664/2014](#) of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules.

9 [Commission Implementing Regulation \(EU\) No 668/2014](#) of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs.

10 [Commission Implementing Regulation \(EU\) No 716/2013](#) of 25 July 2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

11 'Compound term' means the combination of the terms of a sales denomination (name) of a spirit drink with the name of one or more foodstuffs, or the term 'liqueur'.

12 'Allusion' means the direct or indirect reference to one or more spirit drinks.



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indications of spirit drinks. The Commission would also adopt implementing acts laying down detailed rules on the form and content of the register.

Technical definitions concerning, for example, ethyl alcohol, sweeteners, flavourings and colours, have been gathered in Annex I of the proposal. References to regulations and directives in force have been updated. Some of the definitions previously included in Annex I (such as 'labelling' and 'presentation'), have been revised and moved to article 2.

The legal basis of the regulation has been extended to Article 43(2) TFEU, in addition to Article 114(1) under the current regulation, to emphasise the strong link to the agricultural sector.

The proposed delegated powers of the Commission are detailed in articles 5, 16, 38, 41, 43 and 46(2), and its implementing powers in articles 17 and 39.

Transitional measures are listed in article 46, providing, inter alia, that spirit drinks produced before the date of application of the new regulation may continue to be placed on the market until stocks are exhausted, and that the Commission may adopt delegated acts to facilitate the transition in case of unexpected difficulties.

Recital 24 of the proposed regulation refers to the [Interinstitutional Agreement on Better Law-Making](#) of 13 April 2016, which states that 'to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.'

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Views

Advisory committees

The legal basis provides for mandatory consultation of the European Economic and Social Committee (EESC). The EESC adopted its [opinion](#), drafted by the rapporteur Peter Schmidt (Workers – Group II, Germany) at its plenary session of 29-30 March 2017. In its opinion, the EESC acknowledges the complexity of the realignment exercise and welcomes the clarification and improvements in areas such as rules related to the labelling of compound terms, allusions and mixture of spirit drinks, as well as the optional labelling of the origin of raw materials. The EESC welcomes the clarification of the rules and procedures concerning the geographical indications. It stresses the importance of the place in which the product is distilled and manufactured, and underlines that the change of terminology that has been introduced should not imply any major modifications for the sector. The EESC also suggests some improvements on presentation and labelling.

National parliaments

The deadline for submission of reasoned opinions by the [national parliaments](#) was 10 March 2017. Several Member State parliaments have examined the proposal.

The Italian Senate sent a [reasoned opinion](#). It considers that the proposal introduces innovative elements into the existing legal framework, by replacing the existing procedures for managing geographical indications of spirit drinks and provides for powers to be delegated to the European Commission that lie outside of the scope of Article 290 TFEU, thereby exceeding the sole purpose of aligning the rules. The Senate gives numerous examples of issues where the delegated powers do not appear to be restricted only to 'non-essential' elements of the legislative act.

The [Irish Oireachtas](#) did not have any subsidiarity concerns, but submitted a political contribution to the EU institutions, recommending the inclusion of an annex to the regulation listing all geographical indications for spirit drinks as of the present date.

Stakeholders' views¹³

[Spirits Europe](#), representing the European spirit sector, notes that the proposal contains numerous changes compared to the current law, some of which are stylistic but others more substantive. Therefore, the proposal needs to be scrutinised in detail to determine its impact. In its [initial views](#) regarding the update, Spirits Europe emphasises that as GIs cover the most widely traded spirits on the global market, so it is essential that they get adequate protection there. It notes that some definitions have been altered or revised and asks if the new wording provides the same protection. Spirits Europe is critical of the new language regime,

¹³ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal.

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warning that the new regulation precludes the possibility to add a GI name in another language. This could threaten EU exports. New GIs would be registered only in the language of their country of origin, which would put them at a disadvantage and could cause difficulties for trade. Spirits Europe is also surprised by the disappearance of the list of GI spirits, which had previously been included in the annex, and says it is not convinced about the legal certainty of the plan to publish a part of the regulation in the Official Journal and to make the rest accessible on-line only.



Legislative process

For Parliament, the Committee on the Environment, Public Health and Food Safety (ENVI) was in charge of the dossier, and appointed Pilar Ayuso (EPP, Spain) as rapporteur. The [draft report](#) was completed in June 2017. The International Trade (INTA) Committee adopted its opinion on 27 October and the Agriculture and Rural Development (AGRI) Committee on 21 November 2017.

The ENVI committee voted on the report, and on the 520 amendments tabled to the Commission proposal, on 24 January 2018. The [report](#) was adopted by 54 votes in favour, and 1 against.

The committee considers it important that the prerogatives Parliament already had under the legislation in force be maintained in the alignment process, and makes amendments in order to safeguard these rights. Instead of implementing acts, the Commission should use delegating acts, for example when registering new names. The committee supports replacing Annex III of the Spirit Drinks Regulation with an electronic register, similar to those established for protected geographical indications for wine and foodstuffs. The committee considers that the Parliament must be involved in any changes made to the register.

Notably, the committee adopted a compromise amendment proposing EU maximum sweetening limits for different categories of spirit drinks. For example, rum may be sweetened by up to 20 grams per litre of final product (expressed as invert sugar), and vodka may not contain more than 10 grams of sweetening substances per litre. The Commission proposal left this aspect to the legislation of the Member States.

The committee also wants to reinstate the possibility to allow the translation of the geographical indication, when this is a legal requirement of the importing country.

The Parliament voted on the amendments to the proposal, and on a mandate to start trilogue negotiations on 1 March 2018. The issue was then referred back to the committee responsible for interinstitutional negotiations.

In the Council, the preparatory body dealing with the issue is the working party on wines and alcohol. The Special Committee on Agriculture (SCA) discussed the proposal on 4 December 2017. On 23 April 2018, the Council Presidency got a mandate to start trilogues. Trilogue negotiations took place on 24 May and 27 June 2018, with the third trilogue meeting, held on 27 November, leading to a [provisional agreement](#) between the Council and the Parliament. The Special Committee on Agriculture confirmed the agreement on 10 December 2018, and the ENVI committee approved the text on 22 January 2019. Meanwhile, the Commission [notified](#) the new provisions to the Committee on Technical barriers to Trade of the World Trade Organization (WTO).

The main features of the new regulation as agreed between the institutions include clarification of the production and labelling rules, including the definition of maximum sweetening limits for a number of spirit drink categories at EU level; improving the labelling rules that apply in cases where spirit drinks are combined with other food products; better protection of geographical indications against trademarks; creation of a publicly accessible register of Member States' control authorities; preserving more traditional production methods, and shortening the time period for treating applications.



After the vote in the European Parliament plenary at first reading on 13 March 2019, the regulation was formally adopted by the Council. The Presidents of the European Parliament and of the Council signed the act on 17 April 2019, and it was published in the [Official Journal](#) on 17 May. The new regulation entered into force on 24 May and will apply in full from 25 May 2021, although certain provisions (mostly on GIs) apply as of 8 June 2019.



References

EP supporting analysis

Parliament's secretariat has not yet finalised any other publication focusing on this specific proposal.

Other sources

[Spirit drinks: definition, presentation and labelling; use of names in the presentation and labelling of other foodstuffs; protection of geographical indications](#), European Parliament, Legislative Observatory (OEIL).

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