



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 12 March 2014
(OR. en)**

7636/14

**AGRI 200
AGRIFIN 30
AGRIORG 36
DELECT 56**

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 11 March 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 1446 final

Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 11.3.2014
supplementing Regulation (EU) No 1308/2013 of the European Parliament
and of the Council by amending Commission Regulation (EC) No 555/2008
as regards new measures under the national support programmes in the wine
sector

Delegations will find attached Commission document C(2014) 1446 final.

Encl.: C(2014) 1446 final



Brussels, 11.3.2014
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 11.3.2014

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 555/2008 as regards new measures under the national support programmes in the wine sector

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (Single CMO Regulation) empowers the Commission to adopt delegated acts.

The purpose of this delegated act is to lay down rules concerning three new elements introduced by the reform of the Single CMO Regulation concerning the national support programmes in the wine sector. This is a sub-measure of the measure of promotion measure concerning promotion of wine in Member States and a measure of innovation in the wine sector, and an extension of the measure on restructuring and conversion of vineyards to cover replanting of vineyards following mandatory grubbing-up for health or phytosanitary reasons.

This delegated act amends Commission Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector. By doing so, the newly introduced or newly extended measures are integrated in the regime for national support programmes in the sector of wine, and the relevant provisions of Regulation (EC) No 555/2008 apply to them. The relevant provisions are included in Titles I on introductory provisions, Title II on support programmes, Title V on controls in the wine sector and Title VI on general, transitional and final provisions.

The adoption of this delegated act entails no financial implications.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Consultations, involving experts from all the 28 Member States have been carried within the Experts Group for Wine. The first meeting held on 14 October 2013 was organised to launch discussion on the shape of the new measure. The meeting allowed for a first presentation of the Commission's ideas on the scope of this act and a first exchange of views. A second meeting of the Experts Group was held on 28 October 2013. At the meeting the draft text was presented for the first time. The exercise consisted in clarifying the Commission's approach and hearing experts' views. The draft was then refined taking into account the observations and comments made orally in the meeting and/or sent in writing to the Commission after that meeting. A third meeting of the Experts Group was held on 12 November 2013 and a last meeting took place on 28 November 2013 for final refinement of the text. The draft progressive versions of the present act were transmitted to the European Parliament and to the Council when convening the Experts Group meetings.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The act contains the provisions supplementing certain parts of Single CMO Regulation (EU) No 1308/2013 that are necessary to ensure appropriate implementation of the new measures under the national support programmes for wine.

First of all, Section 1 is renamed "Promotion". Within this section, a sub-section 1 is created to cover "Promotion in third countries" and a sub-section 2 concerning "Promotion of wine in the Member States" is inserted. The latter is composed as follows: Article 5b clarifies the eligible operations, Article 5c provides for characteristics and conditions of the information message, Article 5d establishes the duration of operations and Article 5e foresees a possibility to grant advance payments. Article 5f provides for a demarcation with rural development and promotion of agricultural products to avoid double-financing. Lastly, a new sub-section 3 is inserted concerning the rules for both the promotion of wine in third countries and the promotion in the Member State. It consists of Article 5g, which clarifies that under certain conditions personnel costs and general costs related to projects are eligible.

Secondly, Article 6a is inserted, which allows Member States to include in their national support programmes a possibility to support replanting of vineyards following mandatory grubbing-up for health or phytosanitary reasons. It specifies certain conditions that need to be fulfilled, it fixes a ceiling on the expenditure for this measure and introduces a demarcation to avoid double funding of the same operations under the Directive [2000/29/EC](#).

Finally, a new Section 6a regarding innovation in the wine sector is inserted. Article 20a provides for the eligible operations and lists the eligible beneficiaries. Article 20b establishes the demarcation with other support schemes i.e. rural development and research framework programme.

COMMISSION DELEGATED REGULATION (EU) No .../..

of 11.3.2014

supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council by amending Commission Regulation (EC) No 555/2008 as regards new measures under the national support programmes in the wine sector

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 points (b), (c), (e), (f) and (h) of Article 53 thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 has repealed and replaced Council Regulation (EC) No 1234/2007² and contains, in Section 4 of Chapter II of Part II of Title I, rules on national support programmes in the wine sector. While most of the rules laid down in that Section ensure the continuation of the rules applicable to the national support programmes in the wine sector under Regulation (EC) No 1234/2007, certain new rules were also laid down. Those new rules introduce three new elements, namely the promotion of wine in Member States as a parallel sub-measure to the existing promotion on wine on third country markets, a measure of innovation in the wine sector, as well as an extension of the measure on the restructuring and conversion of vineyards to cover the replanting of vineyards following mandatory grubbing-up for health or phytosanitary reasons. The rules need to be established concerning the content of those new elements.
- (2) Commission Regulation (EC) No 555/2008³ lays down rules as regards the national support programmes in the wine sector provided for in Regulation (EC) No 1234/2007. In order to supplement the new rules laid down in Regulation (EU) No 1308/2013, the appropriate provisions should be introduced in Regulation (EC) No 555/2008.

¹ 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 Regulation (EC) No 555/2008 of 27 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 on the common organisation of the market in wine as regards support programmes, trade with third countries, production potential and on controls in the wine sector (OJ L 170, 30.6.2008, p. 1).

- (3) Article 45(1)(a) of Regulation (EU) No 1308/2013 provides for specific support for the promotion of wine in Member States. It is necessary to establish eligibility criteria under this new sub-measure so that it may be included in the national support programmes. Such criteria should be consistent with similar measures in other schemes, and in particular those on information and the promotion of agricultural products on the internal market provided for in Council Regulation (EC) No 3/2008⁴.
- (4) In order to ensure the implication of the wine sector which has the necessary structure and expertise, it is necessary to specify that a public body cannot be the only beneficiary of the sub-measure of for the promotion of wine in the Member States.
- (5) The promotion of wine in the Member States must comply with Union competition rules. Therefore, it should be specified that the information conveyed through the sub-measure for the promotion of wine may not be brand-oriented or encourage the consumption of any specific wines.
- (6) In order to inform and protect consumers, it should be specified that any information for consumers as regards the impact on health of a product promoted in the Member States needs to have a recognised scientific basis and need to be accepted by the competent national authorities responsible for public health in the Member State where the operations are carried out.
- (7) The duration of the operations carried out in the Member States in Member States should also be laid down and it should be in line with the duration of the information and promotion programmes financed under Regulation (EC) No 3/2008.
- (8) Taking into account the specific nature of the measure for the promotion of wine in the Member States and in the light of the experience gained during the implementation of the promotion of wine in third countries under the national support programmes and of the scheme for the information and promotion of agricultural products on the internal market, rules for the eligibility of personnel costs and overheads incurred by the beneficiary in the execution of such measures should be established.
- (9) In order to facilitate the implementation of operations supported under the sub-measure for the promotion of wine in the Member States and taking into account the duration of those operations, it should be possible for payments to be made in advance of an execution of an entire operation or a part of it, provided that a security is lodged to ensure that the operation is executed.
- (10) In order to avoid the double funding of operations eligible under Article 45 of Regulation (EU) No 1308/2013, paragraphs 1 and 2 of Article 2 of Regulation (EC) No 3/2008 and the promotion measures funded under Article 16 of Regulation (EC) No 1305/2013 of the European Parliament and the Council⁵, Member States should introduce clear demarcation criteria in the national support programmes.

⁴ Council Regulation (EC) No 3/2008 of 17 December 2007 on information provision and promotion measures for agricultural products on the internal market and in third countries (OJ L 3, 5.1.2008, p. 1).

⁵ Regulation (EC) No 1305/2013 of 17 December 2013 of the European Parliament and the Council on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) (OJ L 347, 20.12.2013, p.487).

- (11) Point (c) of Article 46(3) of Regulation (EU) No 1308/2013 provides for the extension of support measure relating to the restructuring and conversion of vineyards to the replanting of vineyards following mandatory grubbing-up for health or phytosanitary reasons. It is therefore necessary to provide for rules to enable the inclusion of such activity in the national support programmes and to fix a ceiling for expenditure. In order to ensure consistency with Union phytosanitary legislation, support should only be possible where such measures comply with Council Directive 2000/29/EC⁶. Furthermore, the expenditure for the replanting of vineyards should be limited to 15% of the total annual expenditure in each Member State in order to ensure that most of the funds spent for the measure of restructuring and conversion are used to improve the competitiveness of wine producers.
- (12) In order to avoid the double funding of operations of replanting of vineyards for health or phytosanitary reasons eligible under Article 46(3)(c) of Regulation (EU) No 1308/2013 the operation supported under Article 22, 23 and 24 of Directive 2000/29/EC and under Article 18(1) of Regulation (EC) No 1305/2013 Member States should introduce clear demarcation criteria in the national support programmes.
- (13) Article 51 of Regulation (EU) No 1308/2013 provides for the specific support measure for innovation in the wine sector in order to encourage the development of new products, processes and technologies concerning the products referred to in Part II of Annex VII to that Regulation and to increase the marketability and competitiveness of Union grapevine products. It is necessary to establish rules concerning the eligible operations under that new measure so that it may be included in the national support programmes.
- (14) To ensure the quality of the presented projects and the transfer of knowledge from the research to the wine sector, research and development centres should participate to the project supported by the beneficiaries of innovation measure.
- (15) The types of eligible investments under the innovation measure should also be set out. In particular it should be specified that simple replacement investments shall not be eligible expenditure so as to make sure that the aim of the measure, i.e. the development of new products, processes and technologies, is met by these supports.
- (16) In order to avoid the double financing of operations eligible under Article 51 of Regulation (EU) No 1308/2013, Articles 36, 61, 62 and 63 of Regulation (EC) No 1305/2013 and Regulation (EC) No 1291/2013 of the European Parliament and the Council⁷ Member States should introduce clear demarcation criteria in the national support programmes.
- (17) Regulation (EC) No 555/2008 should therefore be amended accordingly,

⁶ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.07.2000, p. 1).

⁷ Regulation (EC) No 1291/2013 of 11 December 2013 of the European Parliament and the Council establishing Horizon 2020 - The Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p.104).

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 555/2008 is amended as follows:

(1) In Title II, Chapter II is amended as follows:

(a) Section 1 is amended as follows:

(i) the Title of the Section is replaced by the following:

"Section 1

Promotion";

(ii) the following heading is inserted before Article 4:

"Sub-section 1

Promotion in third countries";

(iii) Article 5a is deleted;

(iv) the following sub-sections 2 and 3 are added:

"Sub-section 2

Promotion in the Member States

Article 5b

Eligible operations

1. The sub-measure of the promotion of Union wines referred to in Article 45(1)(a) of Regulation (EU) No 1308/2013 shall consist of information for consumers as regards:
 - (a) responsible consumption of wine and the risk associated with alcohol consumption;
 - (b) the Union scheme of protected designations of origin and protected geographical indications, in particular conditions and effects, in relation to the specific quality, reputation or other characteristics of wine due to its particular geographical environment or origin.
2. The information activities referred to in paragraph 1 may be carried out through information campaigns and through participation in events, fairs and exhibitions of national or Union importance.

3. Operations shall be eligible under the promotion measure provided that:
 - (a) they are clearly defined, describing the information activities and including the estimated cost;
 - (b) they comply with the legislation applicable in the Member State where they are carried out;
 - (c) the beneficiaries have resources to ensure that the measure is implemented effectively.
4. The beneficiaries shall be professional organisations, producer organisations, association of producer organisations, inter-branch organisations or public bodies. However, a public body shall not be the sole beneficiary of a promotion measure.

Article 5c

Characteristics of the information

1. The information referred to in Article 5b(1) shall be based on the intrinsic qualities of wine or its characteristics and shall not be brand-oriented or encourage the consumption of wine on the grounds of its specific origin. However, where information is disseminated for the purpose of Article 5b(1)(b), the origin of a wine may be indicated as part of the information operation.
2. All information concerning the effects of wine consumption on health and behaviour shall be based on generally accepted scientific data and shall be accepted by the national authority responsible for public health in the Member State where the operations are carried out.

Article 5d

Duration of the support

The support for promotion operations shall last no longer than three years.

Article 5e

Advance payments

Member States may provide for support to be advanced before any operation has been implemented, provided that the beneficiary has lodged a security.

Article 5f

Demarcation with rural development and promotion of agricultural products

Member States shall introduce clear demarcation criteria in their national support programmes to ensure that no support is granted under Article 45(1)(a) of Regulation (EU) No 1308/2013 for the operations supported under other Union instruments.

Sub-section 3

Common rules

Article 5g

Eligible costs

1. Personnel costs of the beneficiary referred to in Articles 4 and 5b shall be considered eligible if they are incurred in relation to the preparation, implementation or follow-up of the particular supported promotion project, including the evaluation. This includes the costs of the personnel contracted by the beneficiary specifically on the occasion of the promotion project and the costs corresponding to the share of the working hours invested in the promotion project by permanent staff of the beneficiary.

Member States shall only accept personnel costs as eligible if the beneficiaries provide supporting documents setting out the details of the work actually carried out in relation to the particular supported promotion project.

2. Overheads incurred by the beneficiary shall be considered eligible if:
 - (a) they are related to the preparation, implementation or follow-up of the project, and;
 - (b) they do not exceed 4 % of the actual costs of implementing the projects.

Member States may decide whether those overheads are eligible on the basis of a flat rate or on the basis of the presentation of supporting documents. In the latter case, the calculation of those costs shall be based on the accounting principles, rules and methods used in the beneficiary's country where the beneficiary is established."

- (b) The following Article 6a is inserted:

"Article 6a

Replanting for health or phytosanitary reasons

1. Replanting of a vineyard following a mandatory grubbing-up for health or phytosanitary reasons on the instruction of a competent authority of a Member State referred to in Article 46(3)(c) of Regulation (EU) No 1308/2013 shall be eligible provided that the Member State:
 - (a) provides for that possibility in its national support programme;
 - (b) communicates to the Commission in the framework of the submission of the national support programme or its modification the list of harmful organisms covered by that measure as well as a summary of a related strategic plan established by the competent authority of the Member State concerned;
 - (c) complies with Council Directive 2000/29/EC.

2. The expenditure for replanting for health or phytosanitary reasons shall not exceed 15% of the total annual expenditure on restructuring and conversion of vineyards in the Member State concerned.
3. Member States shall introduce clear demarcation criteria in their national support programmes to ensure that no support is granted under Article 46(3)(c) of Regulation (EU) No 1308/2013 for operations supported under other Union instruments.

* Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1)."

- (c) The following Section 6a is inserted:

"Section 6a

Innovation

Article 20a

Eligible operations

1. The innovation in the wine sector referred to in Article 51 of Regulation (EU) No 1308/2013 shall consist of the development of the following:
 - (a) new products related to the wine sector or by-products of wine,
 - (b) new processes and technologies necessary for the development of grapewine products.
2. The eligible costs shall concern tangible and intangible investments for knowledge-transfer, preparatory operations and pilot studies.
3. The beneficiaries of support for innovation shall be producers of the products referred to in Part II of Annex VII to Regulation (EU) No 1308/2013 and wine producer organisations.

Research and development centres shall participate in the project supported by the beneficiaries. Interbranch organisations may be associated to the project.
4. Beneficiaries of support for innovation may request the payment of an advance from the paying agencies where that option is included in the national support programme. The payment of the advance shall be subject to a requirement to lodge a security.
5. Simple replacement investments shall not be eligible expenditure.

Article 20b

Demarcation with rural development and other legal regimes and financial instruments

Member States shall introduce clear demarcation criteria in their national support programmes to ensure that no support is granted under Article 51 of Regulation (EU) No 1308/2013 for operations supported under other Union instruments."

Article 2

Entry into force

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

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

Done at Brussels, 11.3.2014

For the Commission
The President
José Manuel BARROSO