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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	ANNEXES to the COMMISSION DELEGATED REGULATION (EU) No .../.. supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings

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Delegations will find attached the document C(2014) 9810 final ANNEXES 1 to 2.

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Brussels, 15.12.2014  
C(2014) 9810 final

ANNEXES 1 to 2

**ANNEXES**

**to the**

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

**supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the  
Council as regards the scheme of authorisations for vine plantings**

## ANNEX I

### **Rules relating to the eligibility criterion listed in Article 64(1)(c) of Regulation (EU) No 1308/2013 and the additional criterion referred to Article 2(1) of this Regulation**

#### **A. Criterion referred to in Article 64(1)(c) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(1)(c) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if one of the following conditions is met:

- (1) the area(s) to be newly planted is/are intended for the production of wines with the specific protected designation of origin of the area concerned; or,
- (2) where the area(s) to be newly planted is/are not intended for the production of wines with the specific protected designation of origin, the applicant shall undertake the following commitments:
  - (a) not to use or market any of the grapes produced in those newly planted areas for the production of wines with a protected designation of origin, where those areas are located within areas eligible for that purpose;
  - (b) not to grub-up and replant with the aim of making the replanted area become eligible for the production of grapes for wines with the specific protected designation of origin.

The applicants shall undertake the commitments referred to in point (2) during a limited period of time to be fixed by the Member State, which may not go beyond 31 December 2030.

#### **B. Additional criterion referred to in Article 2(1) of this Regulation**

The additional criterion referred to in Article 2(1) of this Regulation shall be considered as being fulfilled if one of the following conditions is met:

- (1) the area(s) to be newly planted is/are intended for the production of wines with the specific protected geographical indication of the area concerned; or,
- (2) where the area(s) to be newly planted is/are not intended for the production of wines with the specific protected geographical indication, the applicant shall undertake the following commitments:
  - (a) not to use or market any of the grapes produced in those newly planted areas for the production of wines with a protected geographical indication, where those areas are located within areas eligible for that purpose;

- (b) not to grub-up and replant with the aim of making the replanted area become eligible for the production of grapes for wines with the specific protected geographical indication.

The applicants shall undertake the commitments referred to in point (2) during a limited period of time to be fixed by the Member State, which may not go beyond 31 December 2030.

## ANNEX II

### **Rules relating to the priority criteria listed in Article 64(2)(a) to (h) of Regulation (EU) No 1308/2013 and the additional criteria referred to in Article 2(3) of this Regulation**

#### **A. Criterion referred to in Article 64(2)(a) of Regulation (EU) No 1308/2013**

- (1) Legal persons, irrespective of their legal form, shall be considered to comply with this criterion, if one of the following conditions is met:
  - (a) a natural person who is setting up vine plantings for the first time and who is established as head of the holding ('new entrant') exercises effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks. Where several natural persons, including a person(s) who is not a new entrant(s), participate in the capital or management of the legal person, the new entrant shall be capable of exercising such effective and long-term control either solely or jointly together with other persons; or
  - (b) where a legal person is solely or jointly controlled by another legal person, the conditions set out in point (a) shall apply to any natural person having control over that other legal person.

The conditions laid down in points (a) and (b) shall apply *mutatis mutandis* in respect of a group of natural persons regardless the legal status granted to such a group and its members by national law.

- (2) Member States may decide to add the additional condition that the applicant shall be a natural person who is no more than 40 years of age in the year of submission of the application ('young producer').

Legal persons referred to in point 1 shall be considered to comply with the additional condition mentioned in the first subparagraph of this point, if the natural person referred to in points (1)(a) and (b) is no more than 40 years of age in the year of submission of the application.

The conditions laid down in the second subparagraph shall apply *mutatis mutandis* in respect of a group of natural persons referred to in the second subparagraph of point (1).

- (3) Member States may require that the applicants undertake during a period of five years not to rent or sell the area(s) newly planted to another natural or legal person.

Where the applicant is a legal person or a group of natural persons, Member States may also require the applicant, during a period of five years, not to transfer the exercise of effective and long-term control of the holding in terms of decisions related to management, benefits and financial risks to another person(s) unless that person or those persons met the conditions of points (1) and (2) that applied at the time of granting the authorisations.

## **B. Criterion referred to in Article 64(2)(b) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(b) of Regulation No 1308/2013 shall be considered as being fulfilled if one of the following conditions is met:

- (1) The applicant undertakes to comply, for a minimum period of five to seven years, with the rules on organic production laid down in Regulation (EC) No 834/2007<sup>1</sup> and where applicable Regulation (EC) No 889/2008<sup>2</sup> for the area(s) to be newly planted or for the entire farm holding. Such period shall not go beyond 31 December 2030.

Member States may consider that the criterion is fulfilled where applicants are already wine growers<sup>3</sup> at the time of submitting the application, and have effectively applied the rules on organic production referred to in the first subparagraph to the whole area planted with vines in the respective holding for at least five years before the submission of the application.

- (2) The applicant undertakes to comply with one of the following guidelines or certification schemes going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, for a minimum period of five to seven years which in any case shall not go beyond 31 December 2030:
  - (a) crop or sector-specific guidelines for integrated pest management which are appropriate for wine-growing in accordance with Article 14(5) of Directive 2009/128/EC of the European Parliament and of the Council<sup>4</sup>, where such guidelines exist;
  - (b) national certification schemes for integrated production which are appropriate for wine-growing;
  - (c) national or regional environmental schemes certifying compliance with environmental legislation in relation with soil and/or water quality, biodiversity, landscape preservation, climate change mitigation and/or adaptation to climate change, and which are relevant for wine-growing.

The certification schemes mentioned in points (b) and (c) shall certify that the farmer observes practices on its holding which comply with the nationally

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<sup>1</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

<sup>2</sup> Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p.1).

<sup>3</sup> As defined in Article 2(a) of Commission Regulation (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept (OJ L 128, 27.5.2009, p. 15).

<sup>4</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p.71).

defined rules for integrated production or the objectives mentioned in point (c). This certification shall be performed by certification bodies that are accredited in accordance with Chapter II of Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>5</sup> and comply with the relevant harmonised standards for 'Conformity assessment – Requirements for bodies certifying products, processes and services' or 'Conformity assessment – requirements for bodies providing audit and certification of management systems'.

Member states may consider that the criterion is fulfilled where applicants are already wine growers at the time of submitting the application and have effectively applied the guidelines or certification schemes referred to in the first subparagraph, to the whole area planted with vines in the respective holding for at least five years before the submission of the application.

- (3) Where the rural development programme(s) of Member States includes a specific "agri-environment-climate" type of operation(s) laid down in Article 28 of Regulation (EU) No 1305/2013 of the European Parliament and the Council<sup>6</sup> which is applicable to areas planted with vines with relevance to the specific area indicated in the application, and provided that sufficient funds are available, the applicant is eligible and undertakes to apply for that type of operation(s) for the area to be newly planted and to comply with the commitments set in the respective rural development programme(s) for that specific "agri-environment-climate" type of operation(s).
- (4) The specific land parcel(s) identified in such application is located in slopes with terraces.

Member States may also require that producers undertake, during a minimum period of five to seven years, not to grub-up and replant in areas not complying with those conditions. Such period shall not go beyond 31 December 2030.

### **C. Criterion referred to in Article 64(2)(c) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(c) of Regulation No 1308/2013 shall be considered as being fulfilled if all of the following conditions are met:

- (1) the specific land parcel(s) identified in the application came into the possession of the applicant due to exchanges with another land parcel(s) planted with vines in the framework of a land consolidation project;
- (2) the land parcel(s) identified in the application is not planted with vines, or is planted with vines occupying a smaller surface than the one(s) lost as a result of the implementation of such land consolidation project;

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<sup>5</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

<sup>6</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

- (3) the total area for which the authorisation is requested does not exceed the difference, if any, between the area planted with vines in the previously owned land parcel(s) and the one identified in the application.

#### **D. Criterion referred to in Article 64(2)(d) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(d) of Regulation No 1308/2013 shall be considered as being fulfilled if the specific land parcel(s) identified in the application is located in one of the following types of areas:

- (1) areas affected by dryness, with a ratio of the annual precipitation to the annual potential evapotranspiration of less than 0.5;
- (2) areas with a shallow rooting depth of less than 30 cm;
- (3) areas with unfavourable soil texture and stoniness, according to the definition and thresholds laid down in Annex III of Regulation (EU) No 1305/2013 of the European Parliament and the Council<sup>7</sup>;
- (4) areas in steep slopes exceeding at least 15%;
- (5) areas located in mountain areas which are above at least 500 m altitude, excluding high plains;
- (6) areas located in the outermost regions of the Union referred to in Article 349 TFEU and in the smaller Aegean islands as defined in Regulation (EU) No 229/2013 of the European Parliament and of the Council<sup>8</sup> or in small islands with a total land area not exceeding 250 km<sup>2</sup> and characterized by structural or socio-economic constraints.

Member States may also require that producers undertake, during a minimum period of five to seven years, not to grub-up and replant in areas which do not face natural or other specific constraints. Such period shall not go beyond 31 December 2030.

Member States may, at the latest until 2018, decide to exclude one or more of the areas listed in the first subparagraph for the compliance with this priority criterion where they are not in a position to assess such compliance in an effective manner.

#### **E. Criterion referred to in Article 64(2)(e) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(e) of Regulation No 1308/2013 shall be considered as being fulfilled if the economic sustainability of the respective project is

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<sup>7</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

<sup>8</sup> Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).



established on the basis of one or more of the following standard methodologies of financial analysis for agricultural investment projects:

- (1) Net Present Value (NPV)
- (2) Internal Rate of Return (IRR)
- (3) Benefit-Cost Ratio (BCR)
- (4) Payback Period (PP)
- (5) Incremental Net Benefit (INB)

The methodology shall be applied in a way that is adapted to the type of applicant.

Member States shall further require the applicant to establish the new vine planting according to the technical characteristics identified in the application.

#### **F. Criterion referred to in Article 64(2)(f) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(f) of Regulation No 1308/2013 shall be considered as being fulfilled if the potential for increased competitiveness is established on the basis of one of the following considerations:

- (1) the areas to be newly planted by an existing wine grower may generate economies of scale due to a significant decrease in the unit costs specific to the newly planted area in relation to the average of already existing vineyards in the farm holding or the average situation of the region;
- (2) the areas to be newly planted by an existing wine grower may generate a better adaptation to the market demand due to an increase of prices obtained for the produce or an increase in market outlets in relation to the already existing vineyards in the farm holding or the average situation of the region;
- (3) the areas to be newly planted by a new entrant into the sector may allow for a farm production model which is more profitable than the average of the region.

Member States may further detail the considerations listed in points (1), (2) and (3).

Member States shall further require the applicant to establish the new vine planting according to the technical characteristics identified in the application.

#### **G. Criterion referred to in Article 64(2)(g) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(g) of Regulation No 1308/2013 shall be considered as being fulfilled if the land parcel(s) to be planted is located within the geographical area of production of an existing protected designation of origin or a protected geographical indication, if the grapes to be produced are intended for wines

with a protected designation of origin or a protected geographical indication, and one of the following conditions is met:

- (1) the land parcel(s) to be planted has better pedo-climatic characteristics, comparing to an average of other land parcels with vineyards complying with geographical indication specifications in the same region;
- (2) the grape variety(ies) or respective clone(s) to be planted is better adapted to the specific pedo-climatic characteristics of the land parcel(s) to be planted comparing to land parcels with vineyards complying with geographical indication specifications, with similar pedo-climatic characteristics and located in the same region, but established with other varieties or other clones of the same variety(ies);
- (3) the grape variety(ies) or respective clone(s) to be planted contribute to increase the diversity of grape varieties or clones of the existing varieties in the same geographical area of production of the protected designation of origin or the protected geographical indication;
- (4) the vine training system(s) to be used or the vineyard structure to be established in the newly planted area(s) has the potential to lead to a better quality of the grapes, comparing to the training systems and/or structures predominantly used in the same geographical area of production of the protected designation of origin or the protected geographical indication.

Member States may further detail the conditions referred to in points (1) to (4).

Member States shall further require the applicant to establish the new vine planting according to the technical characteristics identified in the application.

Member States may apply this priority criterion to applications for new plantings in an area that has been demarcated in the technical file accompanying an application for protection of a designation of origin or of a geographical indication which is under the preliminary national procedure or the period of scrutiny of the Commission. In that case, the conditions listed in points (1) to (4) apply *mutatis mutandis*.

#### **H. Criterion referred to in Article 64(2)(h) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(h) of Regulation No 1308/2013 shall be considered as being fulfilled if the size of the applicant's holding at the time of the application complies with thresholds to be established by Member States at national or regional level on the basis of objective criteria. Such thresholds shall be set at:

- (1) no less than 0.5 hectares for small size holdings;
- (2) no more than 50 hectares for medium size holdings;

Member States may further require compliance with one or more of the following conditions:

- (1) the size of the applicant's holding will be increased as a result of the new planting;
- (2) the applicant has already an area planted with vines, not benefiting from the exemptions laid down in Article 62(4) of Regulation No 1308/2013, at the time of submitting the application.

The thresholds referred to in point (1) and (2) of the first subparagraph shall be communicated to the Commission.

## **I. Additional criteria referred to in Article 2(3) of this Regulation**

### **I. "Prior behaviour of the producer"**

The additional criterion referred to in Article 2(3) of this Regulation shall be considered as being fulfilled if the applicant does not have vines planted without authorisation as referred to in Article 71 of Regulation (EU) No 1308/2013 or without a planting right as referred to in Articles 85a and 85b of Regulation (EC) No 1234/2007.

Member States may further require compliance with one or more of the following conditions:

- (1) no authorisation previously granted to the applicant in accordance with Article 64 of Regulation No 1308/2013 has expired due to non-utilisation;
- (2) the applicant has not failed to comply with any of the undertakings referred to in Parts (A) and (B) of Annex I, in Parts (A), (B), (D), (E), (F), (G) of this Annex and in point II of this Part;
- (3) the applicant does not have areas planted with vines which are no longer in production for a period of at least eight years.

### **II. "Non-profit organisations with a social purpose having received lands confiscated in cases of terrorism and other types of crime"**

The additional criterion referred to in Article 2(3) of this Regulation shall be considered as being fulfilled if the applicant is a legal person, irrespective of its legal form, and if the following conditions are met:

- (1) the applicant is a non-profit organisation which has solely a social purpose as its activity;

- (2) the applicant uses the confiscated land only to serve its social purposes pursuant to Article 10 of Directive 2014/42/EU of the European Parliament and of the Council<sup>9</sup>.

Member States may also require that the applicants complying with this criterion shall undertake during a period to be determined by the Member State not to rent or sell the area(s) newly planted to another natural or legal person. Such period shall not go beyond 31 December 2030.

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<sup>9</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39–50)