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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.: C(2021) 4116 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 11.6.2021 amending Delegated Regulation (EU) 2019/33 as regards the modification of traditional terms in the wine sector

Delegations will find attached document C(2021) 4116 final.

Encl.: C(2021) 4116 final



Brussels, 11.6.2021
C(2021) 4116 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 11.6.2021

**amending Delegated Regulation (EU) 2019/33 as regards the modification of traditional
terms in the wine sector**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Commission Delegated Regulation (EU) 2019/33 lays down rules concerning the application for protection, modification and cancellation of traditional terms in the wine sector. This Regulation is based on the empowerment of the Commission laid down in Regulation (EU) No 1308/2013 to adopt delegated and implementing acts in respect of traditional terms and repealed and replaced Regulation (EC) No 607/2009. In the context of the alignment of the existing rules with the new legal framework, an omission has occurred as regards the procedures for the modification of traditional terms.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The consultation of experts from the 27 Member States has been carried out on 9 February 2021 within the Expert Group for the Common Organisation of Agricultural Markets - Wine.

During this meeting, the Commission services presented the draft Regulation amending the rule concerning the procedures for the modification of traditional terms. The experts did not express any observations on its content or raise comments.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

This Delegated Regulation contains provisions modifying Article 34(1) of Delegated Regulation (EU) 2019/33 as regards the possibilities to modify a traditional term. Some of those modification possibilities, which already existed in Regulation (EC) No 607/2009, were involuntarily omitted in the repealing Regulation (EU) 2019/33.

In particular, the amendment of Article 34(1) will allow again to modify a traditional term itself as well as to extend or limit the list of wines with a protected designation of origin or protected geographical indication that can use a traditional term. Moreover, it will restore the flexibility previously granted to producers to adapt their production practices to changing environmental or climate conditions.

In order to grant equal treatment of the applications for modification of a traditional term submitted under Delegated Regulation (EU) 2019/33, this Regulation shall apply retroactively from 14 January 2019.

COMMISSION DELEGATED REGULATION (EU) .../...

of 11.6.2021

amending Delegated Regulation (EU) 2019/33 as regards the modification of traditional terms 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 Article 114 thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2019/33², which replaced and repealed Commission Regulation (EC) No 607/2009³, lays down rules supplementing Regulation (EU) No 1308/2013 as regards protection, cancellation and modification of traditional terms.
- (2) Article 34 of Delegated Regulation (EU) 2019/33 lays down that the modification of a registered traditional term may only concern the elements referred to in points (b), (c) and (d) of Article 26(1), of that Regulation, which refer respectively to the type of the traditional term, the language in which the traditional term is expressed and the grapevine product category concerned by its use.
- (3) However, Article 42a of Regulation (EC) No 607/2009 provided for a longer list of possible modifications. In particular, it included the possibility to modify the traditional term itself, the language in which the traditional term is indicated, the wine or wines concerned and the summary of the definition or conditions of use of the traditional term. The modification possibilities under Regulation (EC) No 607/2009 were therefore broader and allowed wine producers to extend or limit, for example, the list of wines with protected designations of origin or protected geographical indications authorised to use a traditional term or to amend the conditions for the use of a traditional term, including the production methods of the concerned wines.

¹ OJ L 347, 20.12.2013, p. 671.

² Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation (OJ L 9, 11.1.2019, p. 2).

³ Commission Regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (OJ L 193, 24.7.2009, p. 60).

- (4) The provisions of Delegated Regulation (EU) 2019/33 concerning traditional terms were drafted with the intention of ensuring continuity of the common framework related to traditional terms established under Regulation (EC) No 607/2009, while completing and clarifying the existing procedures whenever necessary. Article 34 of Delegated Regulation (EU) 2019/33 makes direct references to the elements of a duly completed application form, as set out in Article 26(1) of that Regulation. However, due to an involuntary omission, point (a) of Article 26(1), referring to the name of the concerned traditional term, point (e) of Article 26(1), referring to the summary of the definition and conditions of use and point (f) of Article 26(1), referring to the protected designations of origin or protected geographical indications concerned, were not mentioned in the list set out in Article 34, even though these elements were included in Article 42a of Regulation (EC) No 607/2009. This has the unintended consequence that the possibilities for modifying a traditional term are restricted to modifying the type of traditional term, the language and the grapevine product category concerned.
- (5) In practical terms, the current wording of the first paragraph of Article 34 hinders the possibility to extend the use of a traditional term to new protected designations of origin or geographical indications or to exclude from the list of wines authorised to use a traditional term those that no longer comply with its conditions of use. Moreover, it does not allow, for example, to adapt the production methods mentioned in the specifications of a traditional term in case those methods evolve due to the changing environmental or climate conditions.
- (6) To correct this unintended omission and restore the flexibility granted to holders of traditional terms under Regulation (EC) No 607/2009, the list of possible modifications of a registered traditional term referred to in the first paragraph of Article 34 of Delegated Regulation (EU) 2019/33 should be extended to include the elements referred to in points (a), (e) and (f) of Article 26(1) of that Regulation.
- (7) Delegated Regulation (EU) 2019/33 should therefore be amended accordingly.
- (8) For reasons of legal clarity and in order to ensure equal treatment of all applications for modification of a registered traditional term, this Regulation should apply retroactively from 14 January 2019,

HAS ADOPTED THIS REGULATION:

Article 1

Article 34 of Delegated Regulation (EU) 2019/33 is replaced by the following:

'Article 34

Modification of a traditional term

An applicant satisfying the conditions of Article 25 may apply for approval of a modification of a registered traditional term concerning the elements referred to in points (a) to (f) of Article 26(1).

Articles 26 to 31 shall apply mutatis mutandis to applications for modification.’

Article 2

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

It shall apply from 14 January 2019.

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

Done at Brussels, 11.6.2021

For the Commission
The President
Ursula VON DER LEYEN