Commission Delegated Regulation (EU) 2020/1275 of 6 July 2020 amending Delegated Regulation (EU) 2020/592 on temporary exceptional measures derogating from certain provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council to address the market disturbance in the fruit and vegetables and wine sectors caused by the COVID-19 pandemic and measures linked to it

COMMISSION DELEGATED REGULATION (EU) 2020/1275

of 6 July 2020

amending Delegated Regulation (EU) 2020/592 on temporary exceptional measures derogating from certain provisions of Regulation (EU) No 1308/2013 of the European Parliament and of the Council to address the market disturbance in the fruit and vegetables and wine sectors caused by the COVID-19 pandemic and measures linked to it

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 1234/2007[(1)], and in particular Article 219(1) in conjunction with Article 227 thereof,

Whereas:

(1) Commission Delegated Regulation (EU) 2020/592[(2)] introduced a number of derogations to existing rules to help the fruit and vegetables and wine sectors cope with the impact of the COVID-19 pandemic.

(2) Due to the COVID-19 pandemic, in the year 2020, many recognised producer organisations and associations of producer organisations in the fruit and vegetables sector are facing difficulties in implementing their approved operational programmes. Some of the approved actions and measures will not be implemented in 2020 and therefore part of operational funds will not be spent. Other recognised producer organisations and associations of producer organisations are amending their operational programmes with a view to implementing actions and measures to address the impact of the COVID-19 pandemic in the fruit and vegetables sector, such as crisis management measures. Flexibility regarding the implementation of operational programmes has already been provided for in Delegated Regulation (EU) 2020/592.

(3) The implementation of Delegated Regulation (EU) 2020/592 has shown that further measures are necessary to enable recognised producer organisations and associations of producer organisations, to manage their operational funds, in particular where they have modified their operational programmes based on that Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1275. (See end of Document for details)*

(4) Recognised producer organisations and associations of producer organisations need to be able to redirect funds, including Union financial assistance within the operational fund to the actions and measures that are necessary to address the consequences of the COVID-19 pandemic. To ensure that recognised producer organisations and associations of producer organisations are able to do this, it is necessary to increase in the year 2020 the limit of Union financial assistance laid down in Article 34(1) of Regulation (EU) No 1308/2013 from 50 % to 70 % of the actual expenditure incurred.

(5) Delegated Regulation (EU) 2020/592 introduced a number of derogations from existing rules in the wine sector which were aimed at providing some relief to the wine producers and help them cope with the impact of the COVID-19 pandemic. However, since the publication of Delegated Regulation (EU) 2020/592, the situation of the wine sector has further worsened.

(6) Wine stocks at the beginning of marketing year 2019-2020 were at their highest level since 2009. In May 2020, exports of wine to third countries by the largest producing Member States have dropped by between 22 % and 63 % in volume below those of May 2019. Wine consumption has been severely affected by consequences linked to the COVID-19 pandemic, such as the closure of borders, the closure of the hospitality and catering industry, and the interruption of all touristic activities. All these elements are continuously causing wine surpluses to grow and are putting pressure on the market and on prices.

(7) The situation is not expected to improve rapidly, even with hospitality activities partially resuming in the Union. Re-opening of restaurants is generally subject to social distancing requirements, which means that restaurants and bars are not able to accommodate the same number of customers as before the measures put in place to address the COVID-19 pandemic. According to estimates of the hospitality and catering industry, 30 % of restaurants might not re-open at all. In many Member States, there are still restrictions in place regarding the size of social gatherings, including private celebratory events such as weddings, where traditionally wine is consumed. Restricted contact is still recommended or imposed and citizens are not prepared to resume their previous social activities because the COVID-19 pandemic is still ongoing. Consequently, despite the relaxation of certain rules imposed during the lockdown, in June 2020 the situation is not yet back to normal, which is likely to continue.

(8) Consequently, given the duration of the restrictions imposed by Member States to address the COVID-19 pandemic and the continuation of their effects, the long term economic impacts on the main outlets for the products of the wine sector and their negative effects on the demand for wine have continued and deteriorated.

(9) In view of this particularly severe market disturbance and of the accumulation of difficult circumstances in the wine sector, starting with the imposition by the United States of tariffs on the imports of Union wines in October 2019 and continuing with the restriction measures due to the worldwide COVID-19 pandemic and their still on-going consequences, the wine sector is experiencing exceptional difficulties, including of a financial nature. This has an impact on the planning, implementation and execution of

the operations under the support programmes in the wine sector because operators are suffering from a greatly reduced cash flow in relation to normal years.

(10) The implementation of the measures to address the crisis and the increases in maximum Union contribution introduced by Delegated Regulation (EU) 2020/592 have shown to be insufficient to improve the financial situation of the operators in the wine sector. In particular, they are not able to compensate for the severe loss of income resulting from the crisis.

(11) Taking account of these circumstances, beneficiaries should be able to receive advance payments under the measures introduced by Delegated Regulation (EU) 2020/592, i.e. 'distillation of wine in case of crisis' and 'aid for crisis storage of wine'. These advances should cover 100 % of the amount of the Union support and should be paid provided that a guarantee of an amount at least equal to 110 % of the advance has been lodged. This is intended to guarantee that as much wine as possible can be withdrawn from the market under these two measures during financial year 2020, while helping the beneficiaries concerned with their cash-flow and providing flexibility which will allow more beneficiaries to carry out operations under these two measures. Moreover, allowing the payment of advances of 100 % will allow Member States to use efficiently their yearly financial allocation and compensate the delays in implementation of the measures due to the COVID-19 pandemic.

(12) Delegated Regulation (EU) 2020/592 provided also for the possibility for Member State to grant national payments complementing the Union support for the measures 'distillation of wine in case of crisis' and 'aid for crisis storage of wine' because, as a consequence of the effects of the COVID-19 pandemic, it is necessary to withdraw from the market the highest possible quantities of wine that were neither consumed, sold or exported during the period of the pandemic. The national payments make it possible to maximise these quantities in addition to those that can be supported under the budget limits fixed for the support programmes in the wine sector. Delegated Regulation (EU) 2020/592 provided further that those additional national payments are subject to state aid rules. However, this obligation has proven to make it impossible for certain Member States to grant national payments and implement the measures introduced by Delegated Regulation (EU) 2020/592 in an efficient way. It is therefore appropriate to amend Delegated Regulation (EU) 2020/592 to ensure that Article 211(2)(a) of Regulation (EU) No 1308/2013, which provides that payments made by Member States are not subject to state aid rules, applies to those measures.

(13) Among the derogations introduced by Delegated Regulation (EU) 2020/592, the Union contribution to the actual costs of the measures set out in Articles 46(6), 47(3), 49(2) and 50(4) of Regulation (EU) No 1308/2013 was temporarily increased by 5 % or 10 %.

(14) Furthermore, prior to Delegated Regulation (EU) 2020/592, Commission Implementing Regulation (EU) 2020/132[(3)] introduced, by way of derogation from Article 45(3) of Regulation (EU) No 1308/2013, a temporary increase by 10 % of the Union contribution to the actual costs of the measure 'promotion' to address the difficult situation in the export markets following the imposition by the United States of tariffs on imports of Union wine in October 2019.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2020/1275. (See end of Document for details)*

(15) Increasing the Union contribution represents a form of financial support, which, however, does not require additional Union financing since the budgetary limits for the support programmes in the wine sector laid down in Annex VI to Regulation (EU) No 1308/2013 continue to apply. Member States may thus decide to allocate higher amounts to the measures in question only within the yearly budget provided for in that Annex. The increased financial rates are aimed, therefore, at providing support to the sector in the given unstable market situation without having to mobilise additional funds in the first place.

(16) However, the first reactions of the sector presented to the Commission by the Wine and Spirits Intergroup of the European Parliament and by the representatives of the European wine sector have indicated that the above increases in the maximum Union contribution to the measure 'promotion', introduced by Implementing Regulation (EU) 2020/132, and to the measures 'restructuring and conversion of vineyards', 'green harvesting', 'harvest insurance' and 'investments', introduced by Delegated Regulation (EU) 2020/592, have not been sufficient to allow most of the potential beneficiaries to implement these measures in 2020. The amounts spent under the budgetary limits for the national support programmes from 16 October 2019 up to the end of April 2020 are below the usual average of expenditure between 16 October and the end of April of the following year.

(17) It is apparent that the lockdown measures taken in the Member States over the last few months have worsened the situation since, inter alia, the restrictions in movements of goods and people, introduced to fight the COVID-19 pandemic, have prevented operators from applying for funding under the support programmes in the wine sector and beneficiaries from implementing their selected operations. As a result, Member States have spent a very small amount of their budgetary allocation for financial year 2020.

(18) In view of the unprecedented combination of circumstances and the resulting market disturbance, it is necessary to provide more financial support to operators to help them through these economically challenging times. This flexibility is financially possible due to the availability of funds reserved for the support programmes in the wine sector that have remained unspent until now and that, due to the budgetary annuality, would be lost otherwise.

(19) In order to provide the necessary support to the wine sector and to help potential beneficiaries to implement measures under the national support programme for the wine sector, which aim at strengthening their market position and are necessary to help their recovery after the crisis, it is appropriate to derogate from Articles 45(3), 46(6), 47(3), 49(2) and 50(4) of Regulation (EU) No 1308/2013 for the duration of this measure. The derogations should provide for a temporary increase by 20 % of the maximum Union contribution to the measure 'information', as laid down in Article 45(3) of Regulation (EU) No 1308/2013, and by additional 10 % to the measure 'promotion', as currently laid down in Implementing Regulation (EU) 2020/132, and to the measures 'restructuring and conversion of vineyards', 'green harvesting', 'harvest insurance' and 'investments', as currently laid down in Delegated Regulation (EU) 2020/592. This will

provide beneficiaries with further financial relief by lowering the beneficiaries' own contribution and help Member States to use a maximum of their available budget.

(20) To avoid discrimination, the possibility for beneficiaries to request advance payments of 100 % for crisis distillation and storage and the possibility for Member States to complement the Union contribution for those measures with national payments, without those payments being subject to state aid rules, should apply retroactively as of the entry into force of Delegated Regulation (EU) 2020/592. For the same reason and also to ensure the coherent application of all measures, the Union contribution to applications which have been selected under the measures 'information and promotion', 'restructuring and conversion of vineyards', 'green harvesting', 'harvest insurance' and 'investments' after the entry into force of Delegated Regulation (EU) 2020/592 and not later than 15 October 2020 may be increased retroactively, and subject to the respect of the state aid rules, where applicable.

(21) Delegated Regulation (EU) 2020/592 should therefore be amended accordingly.

(22) In view of the need to take immediate action, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2020/592

Delegated Regulation (EU) 2020/592 is amended as follows:

(1) Article 1 is replaced by the following:

Article 1

Temporary derogations from Articles 33(3) and 34(1) of Regulation (EU) No 1308/2013

By way of derogation from the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013, the limit of one third of expenditure for crisis prevention and management measures under the operational programme referred to in that provision shall not apply in the year 2020.

By way of derogation from Article 34(1) of Regulation (EU) No 1308/2013, the Union financial assistance to the operational fund in the year 2020 shall not exceed the amount of the Union financial contribution to operational funds approved by Member States for the year 2020 and shall be limited to 70 % of the actual expenditure incurred.;

(2) Article 2 is replaced by the following: