Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008

REGULATION (EU) 2019/787 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 17 April 2019

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 43(2) and 114(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EC) No 110/2008 of the European Parliament and of the Council[(3)] has proved successful in regulating the spirit drinks sector. However, in the light of recent experience and technological innovation, market developments and evolving consumer expectations, it is necessary to update the rules on the definition, description, presentation and labelling of spirit drinks and to review the ways in which geographical indications for spirit drinks are registered and protected.

(2) The rules applicable to spirit drinks should contribute to attaining a high level of consumer protection, removing information asymmetry, preventing deceptive practices and attaining market transparency and fair competition. They should safeguard the reputation which the Union's spirit drinks have achieved in the Union and on the world market by continuing to take into account the traditional practices used in the production of spirit drinks as well as increased demand for consumer protection and information. Technological innovation should also be taken into account in respect of spirit drinks, where it serves to improve quality, without affecting the traditional character of the spirit drinks concerned.

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(3) Spirit drinks represent a major outlet for the Union agricultural sector, and the production of spirit drinks is strongly linked to that sector. That link determines the quality, safety and reputation of the spirit drinks produced in the Union. That strong link to the agri-food sector should therefore be emphasised by the regulatory framework.

(4) The rules applicable to spirit drinks constitute a special case compared with the general rules laid down for the agri-food sector and should also take into account the traditional production methods in use in the different Member States.

(5) This Regulation should set out clear criteria for the definition, description, presentation and labelling of spirit drinks as well as for the protection of geographical indications, and should be without prejudice to the diversity of the official languages and alphabets in the Union. It should also set out rules on the use of ethyl alcohol and distillates of agricultural origin in the production of alcoholic beverages and on the use of the legal names of spirit drinks in the presentation and labelling of foodstuffs.

(6) In order to meet consumer expectations and to conform to traditional practices, ethyl alcohol and distillates used for the production of spirit drinks should be exclusively of agricultural origin.

(7) In the interests of consumers, this Regulation should apply to all spirit drinks placed on the Union market, whether produced in the Member States or in third countries. In order to maintain and improve the reputation on the world market of spirit drinks produced in the Union, this Regulation should also apply to spirit drinks produced in the Union for export.

(8) The definitions of and technical requirements for spirit drinks and the categorisation of spirit drinks should continue to take into account traditional practices. Specific rules for certain spirit drinks that are not included in the list of categories should also be laid down.

(9) Regulations (EC) No 1333/2008[(4)] and (EC) No 1334/2008[(5)] of the European Parliament and of the Council also apply to spirit drinks. However, it is necessary to lay down additional rules concerning colours and flavourings, which should only apply to spirit drinks. It is also necessary to lay down additional rules concerning the dilution and dissolution of flavourings, colours and other authorised ingredients, which should only apply to the production of alcoholic beverages.

(10) Rules should be laid down regarding the legal names to be used for spirit drinks that are placed on the Union market, in order to ensure that such legal names are used in a harmonised manner throughout the Union and to safeguard the transparency of information to consumers.

(11) Given the importance and complexity of the spirit drinks sector, it is appropriate to lay down specific rules on the description, presentation and labelling of spirit drinks, in particular as regards the use of legal names, geographical indications, compound terms and allusions in the description, presentation and labelling.

(12) Regulation (EU) No 1169/2011 of the European Parliament and of the Council[(6)] should apply to the description, presentation and labelling of spirit drinks, save as otherwise

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provided for in this Regulation. In that regard, given the importance and the complexity of the spirit drinks sector, it is appropriate to lay down in this Regulation specific rules on the description, presentation and labelling of spirit drinks that go beyond Regulation (EU) No 1169/2011. Those specific rules should also prevent the misuse of the term 'spirit drink' and of the legal names of spirit drinks, as regards products which do not meet the definitions and requirements laid down in this Regulation.

(13) In order to ensure the uniform use of compound terms and allusions in Member States and in order to provide consumers with adequate information, thereby protecting them from being misled, it is necessary to lay down provisions concerning their use for the purpose of presentation of spirit drinks and other foodstuffs. The purpose of such provisions is also to protect the reputation of the spirit drinks used in this context.

(14) In order to provide consumers with adequate information, provisions on the description, presentation and labelling of spirit drinks which qualify as mixtures or blends should be laid down.

(15) While it is important to ensure that in general the maturation period or age stated in the description, presentation and labelling of spirit drinks only refers to the youngest alcoholic component, to take account of traditional ageing processes in Member States, it should be possible to provide, by means of delegated acts, for a derogation from that general rule and for appropriate control mechanisms in relation to *brandies* produced using the traditional dynamic ageing system known as the '*criaderas y solera*' system or '*solera e criaderas*' system.

(16) For reasons of legal certainty and in order to ensure that adequate information is provided to consumers, the use of the names of raw materials or of adjectives as legal names for certain spirit drinks should not preclude the use of the names of such raw materials or of adjectives in the presentation and labelling of other foodstuffs. For the same reasons, the use of the German word '*-geist*' as the legal name of a category of spirit drinks should not preclude the use of that word as a fancy name to supplement the legal name of other spirit drinks or the name of other alcoholic beverages, provided that such use does not mislead the consumer.

(17) In order to ensure that adequate information is provided to consumers and to enhance quality production methods, it should be possible for the legal name of any spirit drink to be supplemented by the term 'dry' or '*dry*', that is to say that term either translated in the language or languages of the relevant Member State, or untranslated as indicated in italics in this Regulation, if that spirit drink has not been sweetened. However, in line with the principle that food information is not to be misleading, particularly by suggesting that the food possesses special characteristics despite the fact that all similar foods possess such characteristics, this rule should not apply to spirit drinks that under this Regulation are not to be sweetened, even for rounding off the taste, in particular to *whisky* or *whiskey*. This rule should also not apply to *gin*, distilled *gin* and *London gin*, to which specific sweetening and labelling rules should continue to apply. Furthermore, it should be possible to label liqueurs characterised in particular by a tart, bitter, tangy, acerbic, sour or citrus taste, regardless of their degree of sweetening, as 'dry' or '*dry*'. Such labelling is not likely to mislead the consumer, since liqueurs are required to have

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a minimum sugar content. Accordingly, in the case of liqueurs, the term 'dry' or '*dry*' should not be understood to indicate that the spirit drink has not been sweetened.

(18) To take into account consumer expectations about the raw materials used for vodka especially in the traditional vodka-producing Member States, adequate information should be provided on the raw material used where vodka is made from raw materials of agricultural origin other than cereals or potatoes or both.

(19) In order to enforce and to check the application of the legislation relating to rules on ageing and labelling, and to combat fraud, the indication of the legal name and the maturation period of any spirit drink in electronic administrative documents should be made mandatory.

(20) In some cases, food business operators wish to indicate the place of provenance of spirit drinks other than geographical indications and trade marks to draw consumers' attention to the qualities of their product. Therefore, specific provisions on the indication of the place of provenance in the description, presentation and labelling of spirit drinks should be laid down. In addition, the obligation, laid down in Regulation (EU) No 1169/2011, to indicate the country of origin or the place of provenance of a primary ingredient, should not apply in the case of spirit drinks, even if the country of origin or the place of provenance of the primary ingredient of a spirit drink is not the same as the place of provenance indicated in the description, presentation or labelling of that spirit drink.

(21) In order to protect the reputation of certain spirit drinks, provisions should be laid down governing the translation, transcription and transliteration of legal names for export purposes.

(22) In order to ensure that this Regulation is applied consistently, Union reference methods should be established for the analysis of spirit drinks and of ethyl alcohol used in the production of spirit drinks.

(23) The use of lead-based capsules and lead-based foil to cover the closing devices of containers of spirit drinks should continue to be banned, in order to avoid any risk of contamination, in particular by accidental contact with such capsules or foil, and of environmental pollution from waste containing lead from such capsules or foil.

(24) Concerning the protection of geographical indications, it is important to have due regard to the Agreement on Trade-Related Aspects of Intellectual Property Rights ('TRIPS Agreement'), and in particular Articles 22 and 23 thereof, and to the General Agreement on Tariffs and Trade ('GATT Agreement') including Article V thereof on freedom of transit, which were approved by Council Decision 94/800/EC[(7)]. Within such legal framework, in order to strengthen geographical indication protection and to combat counterfeiting more effectively, such protection should also apply with regard to goods entering the customs territory of the Union without being released for free circulation, and placed under special customs procedures such as those relating to transit, storage, specific use or processing.

(25) Regulation (EU) No 1151/2012 of the European Parliament and of the Council[(8)] does not apply to spirit drinks. Rules on the protection of geographical indications of spirit

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drinks should therefore be laid down. Geographical indications should be registered by the Commission.

(26) Procedures for the registration, modification and possible cancellation of Union or third country geographical indications in accordance with the TRIPS Agreement should be laid down whilst automatically recognising the status of existing geographical indications that are protected in the Union. In order to make procedural rules on geographical indications consistent in all the sectors concerned, such procedures for spirit drinks should be modelled on the more exhaustive and well tested procedures for agricultural products and foodstuffs laid down in Regulation (EU) No 1151/2012, while taking into account specificities of spirit drinks. In order to simplify the registration procedures and to ensure that information for food business operators and consumers is electronically available, an electronic register of geographical indications should be established. Geographical indications protected under Regulation (EC) No 110/2008 should automatically be protected under this Regulation and listed in the electronic register. The Commission should complete the verification of geographical indications contained in Annex III to Regulation (EC) No 110/2008, in accordance with Article 20 of that Regulation.

(27) For reasons of consistency with the rules applicable to geographical indications for food, wine and aromatised wine products, the name of the file setting out the specifications for spirit drinks which are registered as a geographical indication should be changed from ‘technical file’ to ‘product specification’. Technical files submitted as part of any application under Regulation (EC) No 110/2008 should be deemed to be product specifications.

(28) The relationship between trade marks and geographical indications of spirit drinks should be clarified in relation to criteria for refusal, invalidation and coexistence. Such clarification should not affect rights acquired by holders of geographical indications at national level or that exist by virtue of international agreements concluded by Member States for the period before the establishment of the Union protection system pursuant to Council Regulation (EEC) No 1576/89[(9)].

(29) Preserving a high standard of quality is essential if the spirit drinks sector's reputation and value are to be maintained. Member State authorities should be responsible for ensuring that that standard of quality is preserved through compliance with this Regulation. The Commission should be able to monitor and verify such compliance in order to ascertain that this Regulation is being uniformly enforced. Therefore the Commission and the Member States should be required to share relevant information with each other.

(30) In applying a quality policy and in particular to attain a high level of quality of spirit drinks and diversity in the spirit drinks sector, Member States should be allowed to adopt rules on the production, description, presentation and labelling of spirit drinks produced in their territory that are stricter than those laid down in this Regulation.

(31) In order to take into account evolving consumer demands, technological progress, developments in the relevant international standards, the need to improve the economic conditions of production and marketing, traditional ageing processes, and the law of the