Commission Implementing Regulation (EU) 2017/1900 of 18 October 2017 entering a name in the register of protected designations of origin and protected geographical indications (Varaždinsko zelje (PDO))

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs[(1)], and in particular Article 52(3)(b) thereof,

Whereas:

(1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Croatia's application to register the name ‘Varaždinsko zelje’ as protected designation of origin was published in the *Official Journal of the European Union*[(2)].

(2) ‘Varaždinsko zelje’ is a cabbage product derived from the autochthonous conservation variety ‘Varaždinski kupus’ (*Brassica oleracea var. capitata f. alba*) produced in the administrative boundaries of Varaždin County in Croatia.

(3) On 7 October 2015 the Commission received the notice of opposition from Slovenia. The related reasoned statement of opposition was received by the Commission on 4 December 2015.

(4) Finding such opposition admissible, by letter dated 28 January 2016, the Commission invited Croatia and Slovenia to engage in appropriate consultations for a period of 3 months to seek agreement among themselves in accordance with their internal procedures.

(5) At the request of the applicant the deadline for consultation was extended for 3 additional months.

(6) No agreement was reached between the parties. The information concerning the appropriate consultations carried out between Croatian and Slovenian parties was duly provided to the Commission. Therefore, the Commission should adopt a decision in accordance with the procedure referred to in Article 52(3)(b) of Regulation (EU) No 1151/2012, taking into account the results of these consultations.

(7) In accordance with Article 10(1)(b) and (c) of Regulation (EU) No 1151/2012 the opponents alleged that the registration of ‘Varaždinsko zelje’ as a Protected Designation of origin is contrary to Article 6(2) of Regulation (EU) No 1151/2012 and that it would jeopardise the existence of an identical product's name which has been legally on the

market for more than 5 years preceding the date of the publication provided for in point (a) of Article 50(2).

(8) The name ‘Varaždinsko zelje’ is claimed to be in conflict with the homonymous name of a cabbage variety which is registered since 1967. The variety ‘Varaždinski’ was entered in the List of domestic or domesticated foreign seed varieties of agricultural plant species of the Socialist Federal Republic of Yugoslavia (SFRY) in 1967. Then, in 1989, it was registered in that same List as ‘Varaždinski kupus’/‘Varaždinsko zelje’. At present, this variety is listed in the Lists of all the states which have emerged after the dissolution of the SFRY. The Republic of Slovenia registered the variety ‘Varaždinski’/‘Varaždinsko’ after the independence. The Croatian variety ‘Varaždinski kupus’ and the Slovenian varieties ‘Varaždinsko 2’ and ‘Varaždinsko 3’ are all listed in the Common catalogue of varieties and vegetable species of the European Union.

(9) According to the opponent, the produce from these varieties is known as ‘Varaždinsko zelje’ in Slovenia, Serbia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro. In the Republic of Slovenia, Varaždinsko cabbage has allegedly been produced for more than 75 years. In particular, the market production of fresh Varaždinsko cabbage in Slovenia is estimated around 2 800-4 000 tonnes per year.

(10) In the opinion of the opponent, the registration of ‘Varaždinsko zelje’ could mislead Slovenian consumers, since producers and consumers in the Republic of Slovenia do not associate ‘Varaždinsko zelje’ with the origin or territory indicated in point 4 of the single document, but above all with quality and suitability for pickling.

(11) The opponent claims that the registration of the proposed name would jeopardise the existence of the identical Slovenian name ‘Varaždinsko zelje’ with regard to the variety, as to the products that were legally on the market of the Republic of Slovenia. Registration of the proposed name would result in economic damage for the producers of ‘Varaždinsko zelje’ in the Republic of Slovenia, since they would be forced to abandon production. This would also jeopardise production of seeds for two Slovenian varieties of cabbage that are registered in the Common Catalogue of the European Union, Varaždinsko 2 and Varaždinsko 3, since their product is sold in Slovenia as the cabbage Varaždinsko.

(12) The Commission has assessed the arguments provided in the reasoned statements of opposition and in the information provided to the Commission regarding the consultations between the interested parties and it has concluded that the name ‘Varaždinsko zelje’ should be registered as PDO.

(13) The requirements for the registration of ‘Varaždinsko zelje’ as PDO are fulfilled. The product has characteristics, in particular high total phenol and flavonoid content, high dry matter content and exceptionally high sugar content, which are essentially due to the natural and human factors of its particular geographical environment. The high dry matter content and exceptionally high sugar content of ‘Varaždinsko zelje’ are due to the production method, i.e. the fact that the product, which can tolerate low temperatures, is left in the field until late autumn. The high total phenol and flavonoid content in ‘Varaždinsko zelje’ is due to the product's genetic properties, as well as environmental and growing conditions. ‘Varaždinsko zelje’ is produced only from the

seed of the conservation variety 'Varaždinski kupus' entered in the EU variety register. The term 'conservation variety' indicates that the seed is produced only in the defined geographical area and nowhere else.

(14) As regards the claim concerning the misleading nature of the name, the Commission considers that the name refers to the area where the product is produced. It cannot per se mislead consumers on the origin of the product.

(15) As regards the claim that the name to be registered is homonymous with two registered cabbage varieties and that the registration jeopardises the existence of the produce from these varieties, which is known as Varaždinsko zelje, in Slovenia, Serbia, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Montenegro, the Commission observes that, as regards the product marketed in Slovenia, the term 'Varaždinsko', used as an attribution of 'zelie' (cabbage in Slovenian language), just denotes the variety of the cabbage. The name 'Varaždinsko zelje', as used in Slovenia, indicates that the product consists of a cabbage of the Varaždinsko variety. No evidence of the use of the name irrespectively of the cabbage variety was found. In the light of the above, the function of variety indicator of the term 'Varaždinsko' being predominant, the Commission considers not appropriate to grant a transitional period for the use of the Slovenian name 'Varaždinsko zelje' as such.

(16) However, the use on labelling of the names of the varieties Varaždinsko 2 and Varaždinsko 3, registered in the common Catalogue of Varieties of Vegetable Species of the European Union, is still allowed for seeds and cabbage products produced outside the geographical area without limitation of time. In accordance with Article 42 of Regulation (EU) No 1151/2012, notwithstanding the registration of the name 'Varaždinsko zelje' as PDO, the names Varaždinsko 2 and Varaždinsko 3 may be used on the labelling provided that the conditions listed thereto are met. In particular, for the cabbage product, the label should clearly show the indication of the country of origin and not include any allusion to Croatia. This will, in addition, guarantee the correct information of consumers in comparison with the product marketed under the registered PDO.

(17) In the light of the above, the name 'Varaždinsko zelje' should be entered in the Register of protected designations of origin and protected geographical indications.

(18) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Varaždinsko zelje' (PDO) is registered.

The name in the first paragraph identifies a product from class 1.6. Fruit, vegetables and cereals fresh or processed of annex XI of Commission Implementing Regulation (EU) No 668/2014[(3)].