Commission Implementing Regulation (EU) 2015/11 of 6 January 2015 entering a name in the register of protected designations of origin and protected geographical indications (Kranjska klobasa (PGI))

COMMISSION IMPLEMENTING REGULATION (EU) 2015/11

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entering a name in the register of protected designations of origin and protected geographical indications (Kranjska klobasa (PGI))

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 Articles 15(2) and 52(3)(b) thereof,

Whereas:

(1) Regulation (EU) No 1151/2012 entered into force on 3 January 2013. It repealed and replaced Council Regulation (EC) No 510/2006[(2)].

(2) Pursuant to the first subparagraph of Article 6(2), the Slovenian application to register the name 'Kranjska klobasa' was published in the *Official Journal of the European Union*[(3)].

(3) Germany on 3 July 2012, Croatia on 16 August 2012 and Austria on 17 August 2012, submitted oppositions to the registration under Article 7(1) of Regulation (EC) No 510/2006.[(4)] The oppositions were deemed admissible.

(4) By letters dated 24 October 2012, the Commission invited the interested parties to engage in appropriate consultations to seek agreement among themselves within six months in accordance with their internal procedures.

(5) Slovenia and Germany on one side, and Slovenia and Austria on the other side, reached an agreement. In contrast no agreement was reached between Slovenia and Croatia.

(6) Given that no agreement was reached between Slovenia and Croatia, the Commission should adopt a decision in accordance with the procedure referred to in Article 52(3)(b) of Regulation (EU) No 1151/2012.

(7) Concerning the alleged failure of compliance with Article 2(1)(b) of Regulation (EC) No 510/2006, replaced by Article 5(2) of Regulation (EU) No 1151/2012, in respect of the delimitation of the geographical area, i.e. that the product does not originate in a specific place, region or country or that the consumer is misled, no obvious error was identified. With regard to the alleged failure concerning use of the name of a country which was allowed in exceptional cases, 'Kranjska' is not the name of a country but of a (former) region. Moreover, Regulation (EU) No 1151/2012 does not foresee for protected geographical indications the use of the name of a country in exceptional cases

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/11. (See end of Document for details)*

only. Concerning the allegation that the geographical area has no natural characteristics distinguishing it from neighbouring areas, there is no need to assess the substance of this allegation as this is not required by Regulation (EU) No 1151/2012.

(8) The terms‘Krainer’, ‘Käsekrainer’, ‘Schweinskrainer’, ‘Osterkrainer’ and ‘Bauernkrainer’ on the one hand, and the terms ‘Kranjska’ and ‘Kranjska kobasica’ on the other hand were found to be the names of similar sausages in German and Croatian language respectively and have common historic origins referring to the former Land of ‘Kranjska’ which no longer exists administratively today. As the names have common origins and given the visual similarities between the products, the application of the protection envisaged by Article 13 of Regulation (EU) No 1151/2012, and in particular point (b) of paragraph (1) thereof, could have the result that ‘Kranjska klobasa’, if registered, would prevent producers not complying with the product specification of ‘Kranjska klobasa’ from using the terms ‘Krainer’, ‘Käsekrainer’, ‘Schweinskrainer’, ‘Osterkrainer’, ‘Bauernkrainer’, ‘Kranjska’ and ‘Kranjska kobasica’.

(9) The evidence shows that the use of the terms ‘Krainer’, ‘Käsekrainer’, ‘Schweinskrainer’, ‘Osterkrainer’, ‘Bauernkrainer’, ‘Kranjska’ and ‘Kranjska kobasica’ referred to products having a common origin with ‘Kranjska klobasa’, was not meant to exploit the reputation of the latter name and that the consumer has not been or couldn't have been misled as to the true origin of the products. In addition, it was shown that these designations have been in legal use consistently and fairly for at least 25 years before the application for registration of the name ‘Kranjska klobasa’ was submitted to the Commission.

(10) However, it is to be noted that in German language, in two centuries time, the name ‘Krainer’, and its compound names have definitively lost the geographical link to the Carniola Region. This is confirmed by the fact that both in the agreements reached with Germany and Austria respectively Slovenia acknowledged that the use of the terms ‘Krainer’, ‘Käsekrainer’, ‘Schweinskrainer’, ‘Osterkrainer’ and ‘Bauernkrainer’ should not be understood as an abuse of the name ‘Kranjska klobasa’.

(11) For all the reasons above, in the interests of fairness and traditional usage, irrespectively of whether ‘Krainer’, ‘Käsekrainer’, ‘Schweinskrainer’, ‘Osterkrainer’, ‘Bauernkrainer’, ‘Kranjska’ and ‘Kranjska kobasica’ can be considered as generic under Article 41 of Regulation (EU) No 1151/2012 and provided that principles and rules applicable in the Union's legal order are respected, the free use of the terms ‘Krainer’, ‘Käsekrainer’, ‘Schweinskrainer’, ‘Osterkrainer’ and ‘Bauernkrainer’ should be maintained without time restrictions, and the use of the terms ‘Kranjska’ and ‘Kranjska kobasica’ should be allowed for the maximum transitional period foreseen by Article 15(2) of Regulation (EU) No 1151/2012.

(12) Article 6(1) of Regulation (EU) No 1151/2012 prohibits the registration of names that have become generic. The oppositions claimed that consumers in Austria, Croatia and Germany do not associate the names used on their market terms such as ‘Krainer’, ‘Krainer Wurst’, ‘Kranjska’ and ‘Kranjska kobasica’ with a particular origin. While the name proposed for registration is ‘Kranjska klobasa’, the evidence provided in the statements of opposition referred to the alleged general use of the term ‘Krainer’,

'Krainer Wurst', 'Kranjska' and 'Kranjska kobasica' in Austria, Croatia and Germany, and not to that of 'Kranjska klobasa'. The oppositions do not take into consideration the situation in Slovenia. No evidence has been provided in the statements of oppositions to show general usage comprising or including the name proposed for registration. Therefore, on the basis of information provided, the name 'Kranjska klobasa' cannot be considered to be generic and there is accordingly no failure of compliance with Article 6(1) of Regulation (EU) No 1151/2012.

(13) Whereas protection is granted for the term 'Kranjska klobasa' as a whole, the non-geographical component of that term may be used, and used in translation, throughout the Union, provided the principles and rules applicable in the Union's legal order are respected.

(14) In the light of the above, the name 'Kranjska klobasa' should be entered in the Register of protected designations of origin and protected geographical indications.

(15) 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 'Kranjska klobasa' (PGI) is registered.

The name in the first alinea identifies a product from class 1.2. Meat products (cooked, salted, smoked, etc.) of Annex XI of Commission Implementing Regulation (EU) No 668/2014[(5)].

Article 2

The terms 'Krainer', 'Käsekrainer', 'Schweinskrainer', 'Osterkrainer' and 'Bauernkrainer' may continue to be used within the territory of the Union, provided the principles and rules applicable in its legal order are respected.

The terms 'Kranjska' and 'Kranjska kobasica' may be used to designate sausages not complying with the specification for 'Kranjska klobasa' for a period of 15 years from the date of entry into force of this Regulation.

Article 3

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

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

Done at Brussels, 6 January 2015.

For the Commission

The President

Jean-Claude JUNCKER