Commission Implementing Regulation (EU) No 716/2013 of 25 July 2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks

COMMISSION IMPLEMENTING REGULATION (EU) No 716/2013

of 25 July 2013

laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks[(1)], and in particular Article 24(3) and Article 27 thereof,

Whereas:

(1) In order to clarify certain provisions of Regulation (EC) No 110/2008 and to ensure their uniform implementation in the Member States, detailed rules should be adopted, in particular as regards the use of compound terms, allusions, sales denominations and geographical indications for the presentation of spirit drinks.

(2) According to Article 10(1) and (2) of Regulation (EC) No 110/2008, a spirit drink or another foodstuff may, under certain conditions, bear in its presentation a compound term which includes the name of one of the categories listed in Annex II to Regulation (EC) No 110/2008 or one of the geographical indications listed in Annex III to that Regulation or may bear one or more allusions that include one or more of those categories or geographical indications. In order to ensure the uniform use of compound terms and allusions in Member States, it is necessary to establish detailed rules of their usage for the presentation of spirit drinks and other foodstuffs.

(3) When reference is made to a certain spirit drink in the presentation of a foodstuff, that spirit drink must fully comply with Regulation (EC) No 110/2008 and not be diluted. It is necessary to clarify the meaning of the term ‘dilution’ when referred to spirit drinks, since certain manufacturing processes should not be considered as dilution.

(4) To ensure that the conditions for the registration of geographical indications laid down in Regulation (EC) No 110/2008 are met, applications for registration should be examined by the Commission and detailed implementing rules on the application, examination, objection and cancellation procedures for geographical indications of spirit drinks should be established. To ensure a uniform implementation of those rules, models should be drawn up for the application for registration, the technical

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file, statement of objection, amendment of the technical file and cancellation of a geographical indication.

(5) In order to facilitate communication between the Commission and Member States and third countries in relation to registered geographical indications, Member States and third countries should communicate to the Commission the main specifications of the technical files of their geographical indications, besides the complete technical files.

(6) Restrictions concerning the packaging of a spirit drink with a geographical indication, such as the obligation to package the spirit drink in a defined geographical area, constitute restrictions to the free movement of goods and the freedom to provide services. Such restrictions should only be allowed if they are necessary, proportionate and suitable to protect the reputation of the geographical indication.

(7) A Union symbol for geographical indications of spirit drinks should be established in order to enable the consumer to identify certain spirit drinks the characteristics of which are linked to the origin of the drinks.

(8) Considering the time needed by the Member States to implement the measures related to the use of compound terms and allusions, the application of those measures should be deferred.

(9) The measures established in this Regulation are in accordance with the opinion of the Committee for Spirit Drinks,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 110/2008 as regards in particular:

(a) the use of compound terms and allusions as referred to in Article 10 of Regulation (EC) No 110/2008 in the description, presentation and labelling of a foodstuff;

(b) the geographical indications of the spirit drinks referred to in Article 15 of Regulation (EC) No 110/2008 and the use of a Union symbol for the geographical indications of spirit drinks.

Article 2

Definitions

For the purpose of this Regulation:

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(a) 'spirit drink category' means one of the categories 1 to 46 of Annex II to Regulation (EC) No 110/2008;

(b) 'geographical indication' means one of the geographical indications registered in Annex III to Regulation (EC) No 110/2008;

(c) 'compound term' means the combination of a term listed in categories 1 to 46 of Annex II to Regulation (EC) No 110/2008 or a geographical indication of a spirit drink, from which all the alcohol of the final product originates, with:

(i) the name of one or more foodstuffs other than those used for the production of that spirit drink in accordance with Annex II to Regulation (EC) No 110/2008, or adjectives deriving from those names; and/or

(ii) the term 'liqueur';

(d) 'allusion' means the direct or indirect reference to one or more spirit drink categories or geographical indications, other than the reference in a compound term or list of ingredients referred to in Article 9(9) of Regulation (EC) No 110/2008.

CHAPTER II

RULES ON THE USE OF COMPOUND TERMS AND ALLUSIONS

Article 3

Compound terms

1 The term 'spirit drink' shall not be part of a compound term describing an alcoholic beverage.

2 A compound term describing an alcoholic beverage shall not consist of a combination of the term 'liqueur' with the name of one of the categories 33 to 40 of Annex II to Regulation (EC) No 110/2008.

3 A compound term shall not replace the sales denomination of a spirit drink.

4 The compound term describing an alcoholic beverage shall appear in uniform characters of the same font, size and colour. It shall not be interrupted by any textual or pictorial element which does not form part of it and shall not appear in a larger font size than that of the sales denomination.

Article 4

Allusions

The allusion to any spirit drink category or geographical indication, for the presentation of a foodstuff, shall not be in the same line as the sales denomination. For alcoholic beverages, the allusion shall appear in a font size smaller than those used for the sales denomination and compound term.

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Article 5

Dilution of a spirit drink

For the purpose of Article 10(2) of Regulation (EC) No 110/2008, the reduction of the alcoholic strength of a spirit drink below the minimum alcoholic strength established for that spirit drink in the corresponding category in Annex II to that Regulation, exclusively by the addition of water, shall be considered as dilution.

CHAPTER III

GEOGRAPHICAL INDICATIONS

Article 6

Application for the registration of a geographical indication

The application for registration of a geographical indication in Annex III to Regulation (EC) No 110/2008 shall be submitted to the Commission and consist of:

(a) the application form, according to the model set out in Annex I to this Regulation;

(b) the technical file, according to the model set out in Annex II to this Regulation;

(c) the main specifications of the technical file referred to in point (b).

Article 7

Trans-border applications

1 Where a trans-border geographical indication involves only Member States, the relevant application shall be submitted jointly or by one of the Member States in the name of the others. In the latter case, the application shall include a document from each of the other Member States concerned authorising the Member State forwarding the application to act on its behalf.

Where a trans-border geographical indication involves only third countries, the relevant application shall be submitted to the Commission either by one of the applicants on behalf of the others or by one of the third countries on behalf of the others and shall include:

a the proof of protection in the third countries concerned; and

b a document from each of the other third countries concerned authorising the third country submitting the application to act on its behalf.

Where a trans-border geographical indication involves at least one Member State and at least one third country, the application shall be submitted to the Commission by one of the Member States, third-country authorities or private entities from the third country in question and shall include:

a the proof of protection in the third countries concerned; and

b a document from each of the Member States or third countries concerned authorising the party forwarding the application to act on its behalf.

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2 The Member State or the third-country authority or the private entity from the third country in question which submits to the Commission a trans-border application shall become the consignee of any notification or decision issued by the Commission.

Article 8

Receipt of the application

1 The date of submission of an application shall be the date of its receipt by the Commission.

2 The Member State or the third-country authority or the private entity from the third country in question shall receive an acknowledgement of receipt indicating at least the following:

a the file number;

b the name to be registered;

c the number of pages received;

d the date of receipt of the application.

[F1 Article 8a

Submission and receipt of technical files for established geographical indications

1 The competent authorities of the Member States shall submit the technical files for established geographical indications referred to in Article 20(1) of Regulation (EC) No 110/2008 to the Commission using the information systems referred to in Annex VI.

The files shall be deemed to have been submitted on the date of their receipt by the Commission.

2 The Commission shall confirm receipt of the technical files to the competent authorities of the Member States through the information systems referred to in Annex VI. It shall attribute a file number to each file.

The confirmation of receipt shall include at least the following elements:

a the file number;

b the name concerned; and

c the date of receipt.

The Commission shall notify and make available information and remarks regarding the technical files using the information systems referred to in Annex VI.

3 Articles 4, 5, 6, 7 and 8 of Regulation (EC) No 792/2009 shall apply *mutatis mutandis* to the notification and making available of information, as referred to in paragraphs 1 and 2.

The notifications referred to in Article 4(2)(a)(ii) of Regulation (EC) No 792/2009 shall be made at the latest 10 days after the date of application of this Regulation.]

Textual Amendments

F1 Inserted by Commission Implementing Regulation (EU) No 1239/2014 of 19 November 2014 amending Regulation (EU) No 716/2013 laying down rules for the application of Regulation (EC) No