Commission Implementing Regulation (EU) 2019/34 of 17 October 2018 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, amendments to product specifications, the register of protected names, cancellation of protection and use of symbols, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards an appropriate system of checks

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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 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 110(1)(b), (c) and (e), Article 110(2), Article 111, Article 115(1) and Article 123 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008[(2)], and in particular Article 90(4) thereof,

Whereas:

(1) Regulation (EU) No 1308/2013 repealed and replaced Council Regulation (EC) No 1234/2007[(3)]. Sections 2 and 3 of Chapter I of Title II of Part II of Regulation (EU) No 1308/2013 lay down rules on designations of origin, geographical indications, traditional terms and labelling and presentation in the wine sector. Those Sections 2 and 3 also empower the Commission to adopt delegated and implementing acts in that respect. In order to ensure the smooth functioning of the wine market in the new legal framework, certain rules have to be adopted by means of such acts. Those acts should replace the provisions of Commission Regulation (EC) No 607/2009[(4)] which is repealed by Commission Delegated Regulation (EU) 2019/33[(5)].

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/34. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) Experience gained from the application of Regulation (EC) No 607/2009 has demonstrated that the current procedures for the registration, amendment and cancellation of designations of origin and geographical indications can be intricate, burdensome and time consuming. Regulation (EU) No 1308/2013 has created legal vacuums, in particular as regards the procedure to be followed in applications to amend product specifications. Rules of procedure concerning designations of origin and geographical indications in the wine sector are inconsistent with the rules applicable to quality schemes in the foodstuffs, spirit drinks and aromatised wines sectors of Union law. This gives rise to inconsistencies in how this category of intellectual property rights is implemented. These discrepancies should be addressed in light of the right to protection of intellectual property established in Article 17(2) of the Charter of Fundamental Rights of the European Union. This Regulation should therefore simplify, clarify, complete and harmonise the relevant procedures. Procedures should be modelled as far as possible on the efficient and well tested procedures for protecting intellectual property rights relating to agricultural products and foodstuffs laid down in Regulation (EU) No 1151/2012 of the European Parliament and of the Council[(6)], Commission Delegated Regulation (EU) No 664/2014[(7)] and Commission Implementing Regulation (EU) No 668/2014[(8)], and adapted to take account of the specificities of the wine sector.

(3) Designations of origin and geographical indications are intrinsically linked to the territory of Member States. National and local authorities have the best expertise and knowledge of the relevant facts. This should be reflected in the relevant procedural rules, having regard to the principle of subsidiarity set out in Article 5(3) of the Treaty on European Union.

(4) In the interest of clarity, certain steps of the procedure governing an application for protection of a designation of origin or geographical indication in the wine sector should be set out in detail.

(5) Additional rules on joint applications concerning more than one national territory should be laid down.

(6) In order to have uniform and comparable single documents, it is necessary to specify the minimum content that should be provided in those documents. In the case of designations of origin, particular emphasis should be placed on the description of the link between the quality and characteristics of the product and the particular geographical environment. In the case of geographical indications, particular emphasis should be placed on defining the link between a specific quality, reputation or other characteristics and the geographical origin of the product.

(7) The demarcated geographical area of designations of origin and geographical indications for which protection is sought should be described in the product specification in a detailed, precise and unequivocal way that enables producers, competent authorities and control bodies to operate on certain, conclusive and reliable bases.

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(8) In order to ensure the smooth functioning of the system, it is necessary to establish uniform rules concerning the rejection step of the procedure applying to applications for protection. Uniform rules are also required concerning the content of the applications for Union amendments, standard amendments and temporary amendments and concerning the content of the cancellation requests.

(9) For the sake of legal certainty, deadlines concerning the objection procedure should be fixed and criteria for the identification of the starting dates of those deadlines should be established.

(10) In order to ensure that uniform and efficient procedures are in place, forms for submitting applications, objections, amendments and cancellations should be provided.

(11) To ensure transparency and uniformity across Member States, it is necessary to adopt rules on the content and the form of the electronic register of protected designations of origin and protected geographical indications, established under Article 104 of Regulation (EU) No 1308/2013 ('the register'). The register is an electronic database stored within an information system, and is accessible to the public. All data related to protected designations of origin and protected geographical indications present in the earlier register established in the electronic database 'e-Bacchus', referred to in Article 18 of Regulation (EC) No 607/2009, should be entered in the register on the date of entry into force of this Regulation.

(12) Existing rules on the reproduction of the Union symbol for protected designations of origin and protected geographical indications for agricultural products and foodstuffs, laid down in Implementing Regulation (EU) No 668/2014 should be replicated to enable consumers to recognise wine bearing a protected designation of origin or protected geographical indication.

(13) The added value of a protected designation of origin or a protected geographical indication is based on the value guarantees given to consumers. The scheme is only credible if it is accompanied by effective verification, control and auditing which includes a system of checks at all stages of production, processing and distribution, managed by the competent authorities designated by Member States in accordance with Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council[(9)]. In this context, it is necessary to have regard to the rules on checks, controls and audits provided for in Regulation (EC) No 882/2004 and adapt them for protected designations of origin and protected geographical indications operations in the wine sector.

(14) Rules should be established in respect of checks to be carried out on wines bearing a protected designation of origin or a protected geographical indication relating to a geographical area in a third country.

(15) The accreditation of control bodies should take place in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council[(10)] and should comply with International standards developed by the European Committee for Standardisation (CEN) and by the International Organisation for Standardisation (ISO). Accredited control bodies should comply with those standards in their operations.

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(16) In order to allow Cyprus sufficient time to adapt and align its control system with the provisions of Regulation (EC) No 765/2008, it is appropriate to grant it an exemption from the requirement to comply with the ISO standards for certification bodies for a period of two years from the date of entry into force of this Regulation.

(17) Member States should be authorised to charge a fee to operators to cover the costs incurred for the establishment and operation of the control system.

(18) In order to ensure consistency across Member States in how the names included in the register are protected against unfair uses and in how practices liable to mislead consumers are prevented, uniform conditions should be laid down concerning the actions to be implemented at Member States level in that regard.

(19) Member States should communicate the names and addresses of the competent authorities and control bodies to the Commission. To facilitate coordination and cooperation among the Member States with regard to the control systems in place for protected designations of origin and protected geographical indications, the Commission should make those names and addresses public. The competent authorities of third countries should send information to the Commission on the controls in force in those countries for names which benefit from protection in the Union with a view to checking the uniformity of the control system.

(20) For the sake of clarity, transparency and in the interest of ensuring uniform application of Union law, it is necessary to lay down specific technical provisions concerning the nature and the content of the checks to be carried out on an annual basis in addition to rules on cooperation between Member States in that regard, in particular by referring to the provisions of Commission Delegated Regulation (EU) 2018/273[11].

(21) To ensure that traditional terms for which protection is sought meet the conditions laid down in Regulation (EU) No 1308/2013, and in the interest of providing legal certainty, it is necessary to establish detailed rules on the procedures concerning applications for protection, objection, modification or cancellation of traditional terms of certain grapevine products. These rules should specify details as regards the content of the application as well as in relation to the relevant additional information and supporting documents required, the deadlines to be respected and communications between the Commission and the parties involved in each procedure.

(22) In order to allow consumers and trade operators to find out which traditional terms are protected in the Union, specific rules should be established concerning the registration and entry of traditional terms in the Union register. To ensure that the register is accessible to all, it should be accessible electronically.

(23) In view of the economic importance of traditional terms and in order to ensure that consumers are not misled, national authorities should take measures against any unlawful use of traditional terms and prohibit the marketing of such products.

(24) In the interests of effective administrative management and taking account of the experience acquired through the use of information systems put in place by the Commission, communications between the Member States and the Commission should

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be simplified and the information should be exchanged in accordance with Commission Delegated Regulation (EU) 2017/1183[(12)] and Commission Implementing Regulation (EU) 2017/1185[(13)].

(25) The Commission has put in place an information system 'E-Ambrosia' for the management of the applications for protection and for amendment of the product specification of protected designations of origin and geographical indications in the wine sector. Member States and the Commission should continue to use this system for the purposes of communication concerning the procedures related to applications for protection and for the approval of amendments. However, owing to a strict system of accreditation, this system should not be used for communications with Member States concerning the procedure for objections and cancellation requests and it should not be used for communications with third countries. Instead, for the procedure for objections and cancellation requests, Member States, the competent authorities and representative professional organisations of third countries, as well as natural or legal persons who have a legitimate interest under this Regulation should communicate with the Commission via electronic mail.

(26) Applications for registration, modification or cancellation of traditional terms are not yet managed through a centralised information system. Instead, those applications should continue to be submitted via email using the forms set out in Annexes VIII to XI. All other communication or exchange of information concerning traditional terms should also take place via email.

(27) The manner in which the Commission makes the information concerning protected designations of origin, protected geographical indications and traditional terms in the wine sector accessible to the public should be defined.

(28) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISION

Article 1

Subject matter

This Regulation lays down rules for the application of Regulations (EU) No 1306/2013 and (EU) No 1308/2013 respectively, concerning protected designations of origin, protected geographical indications and traditional terms, in the wine sector, as regards:

(a) applications for protection;

(b) the objection procedure;

(c) amendments to product specifications and modifications of traditional terms;