

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The information transmitted is intended only for the Member State or entity to which it is addressed for discussions and may contain confidential and/or privileged material.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Commission Implementing Regulation (EU) 2018/274 of 11 December 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, certification, the inward and outward register, compulsory declarations and notifications, and of Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks, and repealing Commission Implementing Regulation (EU) 2015/561

THE EUROPEAN COMMISSION,

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

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 485/2008¹, and in particular Article 62 (2)(a) and Article 89(6) thereof,

Whereas:

- (1) The wine sector is highly vulnerable to fraud as most of EU production is based on certified quality schemes (Protected Designation of Origin/Protected Geographical Indication), attracting significant value added. The main suspected violations are usurpation of origin such as selling wine without PDO/PGI labelled as a PDO/PGI, as well as addition of water or sugar. The economic impact of fraud in the wine sector is estimated at 1.3 billion € per year, 3.3% of the wine sector's sales. In 2018, it was the fourth food sector with the most fraud suspicious cases after fish and fish products, meat and meat products and fats and oils.
- (2) In addition to the direct economic impact, there is a potentially even greater risk of reputational damage to the wine sector if there were to be a major fraud incident. It could trigger a loss of consumer confidence and/or restrictions in trade damaging the overall interests of the European wine sector.

¹ OJ L 347, 20.12.2013, p. 549.

- (3) These amendments aim at improving the current legal framework for the wine analytical databank on isotopic data, providing better protection against fraud in the wine sector.
- (4) There are general delays or even no outcome to investigations of suspicious samples. In such cases, the European Joint Research Centre (JRC) should take the lead on the analysis or a reversal of the burden of proof if necessary.
- (5) Delays and consequent releases of the suspicious goods that may put in danger the reputation of EU wines and/or may decrease the tax income due to insufficient excise duty.
- (6) To improve the investigation procedure, the current rules should be reinforced. Deadlines should be included, at the expiry of which the competent authority in the territory of which the place of unloading is situated should be able to decide on the movement of the wine based on the available data including restricting free circulation of suspected goods on the market.
- (7) The JRC wine databank should better mirror the reality of the sector. Taking the last 5 years of EU production, the share of wines under quality schemes production follows a steady upwards trend reaching above 60% of total production. In the ongoing marketing season, 2019/20, the share is close to 70%. . Therefore, the JRC wine databank should refocus on PDO/PGI wines.
- (8) In general, any related outcome from the JRC wine databank is not disclosed. This is explained by the concern that making such information public would provide information to fraudsters who could use it to their advantage. Furthermore, the misuse of such information would harm the reputation of certain wines. This could be overcome by drafting an annual communication containing the most important results of the functioning of the databank in an anonymised way.
- (9) Sampling is a heavy burden for Member States and the databank is incomplete. In order to overcome Member States' difficulties in supplying timely and complete information, PDO/PGI boards should be involved and required to supply the relevant samples. A cooperation between these bodies and the JRC wine databank will be beneficial for both sites in order to avoid abuse of the reputation of PDO/PGI wines.
- (10) Control problems have been encountered linked to wine products transported in bulk, which are more susceptible to fraudulent practices than labelled bottled products fitted with a non-reusable closing device. Therefore, in cases where the competent authority is not timely informed via a computerised system or information system of the arrival of a consignment of wine products in bulk, measures should be taken to ensure that the competent authority at the place of unloading is in a position to perform the necessary controls before the product has left the premises of the importer. In cases where the competent authority decides not to perform controls, the importer should be allowed to dispatch the product from his premises immediately.
- (11) This Regulation should enter into force seven days after the day of its publication in the *Official Journal of the European Union*.
- (12) 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:

Article 1

Amendments to Implementing Regulation (EU) 2018/274

Implementing Regulation (EU) 2018/274 is amended as follows:

(1) Article 27 is amended as follows:

(a) paragraph 3 is replaced by the following (changes in bold):

"3. The number of samples to be taken each year for the databank is set out in Part II of Annex III. The selection of samples shall take account of the geographical situation of vineyards in the Member States listed in Part II of Annex III **and of the approved geographical indications per Member State or region**. Each year at least 25 % of the samples shall be taken from the same plots as in the previous year. The samples **of the grapes cultivated for the production of wines with geographical indication shall be taken by the Boards of the Protected Geographical Indications and of the Protected Denominations of Origin part of the recognised professional organisations as defined in Article 65 of Regulation 1308/2013.**";

(b) The following paragraph is inserted in paragraph (4):

"The body to which a request was sent i.e. the Member State designed laboratory should provide a result of the sample [1] month after the reception of the request. In case this is not possible for duly justified reasons the European Joint Research Centre (JRC) should provide the result to the requesting body.";

(2) Article 28 is amended as follows:

(a) paragraph 1 is amended by the following (changes in bold):

"1. The information contained in the analytical databank of isotopic data shall be made available on request to the laboratories designated by Member States, **national administrations, national courts and and to the Court of Justice of the European Union.**";

(b) the following paragraph 4 is inserted:

"4. The European Joint research centre as responsible authority for keeping the analytical databank of isotopic data, shall draft an annual report on the main results of the controls carried out by Member States based on the analytical databank for broad public dissemination.";

(3) The following Article 32a is added:

"Controls on unpackaged wine products

In the case of imports of unpackaged wine products not covered by a computerised system or information system referred to in the Article 14(1) of Regulation (EU) 2018/273², the competent authority in the territory of which the place of unloading is situated may request importers of consignments of unpackaged wine products to keep them on their premises, to enable controls, for up to 10 working days.

Upon request from the importer, the competent authority shall allow the dispatch of the products before the end of this period in cases where it decides not to carry out controls on the consignment in question.”;

Article 2

Entry into force and application

This Regulation shall enter into force seven days following the day 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,

For the Commission
The President
Ursula VON DER LEYEN

² Commission Delegated Regulation (EU) 2018/273 of 11 December 2017 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings, the vineyard register, accompanying documents and certification, the inward and outward register, compulsory declarations, notifications and publication of notified information, and supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council as regards the relevant checks and penalties, amending Commission Regulations (EC) No 555/2008, (EC) No 606/2009 and (EC) No 607/2009 and repealing Commission Regulation (EC) No 436/2009 and Commission Delegated Regulation (EU) 2015/560 (OJ L 58, 28.2.2018, p. 1)