

## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION DELEGATED REGULATION (EU) 2015/560

of 15 December 2014

**supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the scheme of authorisations for vine plantings**

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 <sup>(1)</sup>, and in particular Article 69 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 <sup>(2)</sup>, and in particular Article 64(6) thereof,

Whereas:

- (1) Regulation (EU) No 1308/2013 contains in Chapter III of Title I of Part II rules on a scheme of authorisations for vine plantings which repeal and replace the transitional planting rights regime set out in Subsection II of Section IVa of Chapter III of Title I of Part II of Council Regulation (EC) No 1234/2007 <sup>(3)</sup> as from 1 January 2016. This Chapter lays down rules concerning duration, management and control of the scheme of authorisations for vine plantings and empowers the Commission to adopt delegated acts concerning the management of the scheme. The transitional planting rights regime set out in Subsection II of Section IVa of Chapter III of Title I of Part II of Regulation (EC) No 1234/2007 remains applicable until 31 December 2015 in accordance with Article 230(1)(b)(ii) of Regulation (EU) No 1308/2013.
- (2) Article 62 of Regulation (EU) No 1308/2013 lays down the general requirement for the Member States to grant an authorisation for vine planting upon submission of an application by producers intending to plant or replant vines. However, paragraph 4 of that Article provides that certain areas are exempted from the scheme of authorisations for vine plantings and therefore from this general requirement. It is necessary to lay down rules concerning the conditions of application of that exemption. The areas intended for experimental purposes or for graft nurseries should only be used for the specified purposes in order to avoid the circumvention of the new scheme, and grapevine products made from such areas should not be marketed unless Member States consider there are no risks of market disturbance. Existing wine-growing experiments and graft nurseries should be allowed to continue, subject to the existing rules in order to ensure a smooth transition between the plantings

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 671.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 549.

<sup>(3)</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ L 299, 16.11.2007, p. 1).

rights regime and the new scheme of authorisations for vine plantings. The areas whose wine or vine products are intended solely for the consumption by the wine grower's household should benefit from such exemption since, under certain conditions, they do not contribute to market disturbances. For the same reason, such exemption should also be extended to organisations without a commercial activity complying with the same conditions. The areas established by a producer having lost a certain area planted with vines due to compulsory purchases in the public interest under national law should also benefit from the exemption given that the loss of the land planted with vines in such cases is independent from the will of the producer. A condition as regards the maximum surface of the new area should however be laid down, so as to avoid undermining the general objectives of the scheme of authorisations for vine plantings.

- (3) Article 64(1) and (2) of Regulation (EU) No 1308/2013 lays down rules concerning the granting of authorisations for new plantings and sets out eligibility and priority criteria that Member States may apply. Specific conditions associated to some of the eligibility and priority criteria should be established in order to establish a level playing field for their implementation and to avoid the circumvention of the system of authorisations by producers being granted authorisations. In addition, three new criteria should be added: a new eligibility criterion on the misappropriation of reputation of protected geographical indications; a new priority criterion favouring those producers that comply with the rules of the scheme and do not have abandoned vineyards in their holding; and a new priority criterion favouring non-profit organisations with a social purpose having received lands confiscated in case of terrorism and other types of crime. The new eligibility criterion responds to the need of protecting the reputation of specific geographical indications in a similar manner as the reputation of specific designations of origin, ensuring that they are not threatened by new plantings. The first new priority criterion favours certain applicants on the basis of their background that shows their respect for the rules of the authorisations scheme and that they are not applying for authorisations for new plantings while having areas planted with vines out of production which could generate authorisations for replanting. The second new priority criterion aims at favouring non-profit organisations with a social purpose having received lands confiscated in case of terrorism and other types of crime, in order to promote the social use of land that could risk otherwise being out of production.
- (4) Taking into account Article 118 of Regulation (EU) No 1306/2013 and in order to address natural and socio-economic differences and different growth strategies by the economic actors in those different areas within a particular territory, Member States should be permitted to apply the eligibility criteria and priority criteria referred to in Article 64(1) and (2) of Regulation (EU) No 1308/2013, as well as the new eligibility and priority criteria to be added by this Regulation, differently at regional level, for specific areas eligible for protected designation of origin, for specific areas eligible for protected geographical indication or for areas without a geographical indication. Such differences in the application of those criteria in the different areas of a particular territory should always be based on the differences between those areas.
- (5) In order to respond to cases of circumvention not anticipated by this act, Member States should adopt measures to avoid the circumvention of eligibility or priority criteria by applicants of authorisations where their actions are not already covered by the specific anti-circumvention provisions laid down in this Regulation with regard to the specific eligibility and priority criteria.
- (6) Article 66(2) of Regulation (EU) No 1308/2013 provides for the possibility of co-existence of vines that the producer has undertaken to grub up with newly planted vines. In order to prevent irregularities, Member States should have the possibility to ensure by the appropriate means that the undertaking to grub up is carried out, including the requirement to lodge a security accompanying the granting of an authorisation for anticipated replanting. In addition it is necessary to specify that in case the grubbing up is not carried out within the 4-year deadline set out by that provision the vines planted in the pledged area should be considered as non-authorised.
- (7) Article 66(3) of Regulation (EU) No 1308/2013 allows Member States to restrict the replanting in areas eligible for the production of wines with protected designations of origin or protected geographical indications, on the basis of a recommendation from recognised and representative professional organisations. The grounds or reasons for such decisions of restriction should be defined in order to clarify the limits of their scope, while ensuring the coherence of the scheme and avoiding its circumvention. In particular it should be ensured that the automaticity in granting authorisations for replantings established in Article 66(1) of Regulation (EU) No 1308/2013 does not hinder the possibility of Member States to limit the issuing of authorisations for specific areas in accordance with Article 63(2)(b) and Article 63(3). Nevertheless it should be clarified that certain specific cases may not be considered as a circumvention of the scheme.

- (8) Article 64 of Regulation (EU) No 1306/2013 provides for administrative penalties in cases of non-compliance in relation to eligibility criteria, commitments and other obligations resulting from the application of sectoral agricultural legislation. In order to ensure the deterrent effect, Member States should be able to graduate these penalties according to the commercial value of the wines produced in the vineyards concerned. In accordance with Article 71(4) of Regulation (EU) No 1308/2013 administrative penalties should be provided for in relation to non-authorized plantings, in order to provide a deterrent effect. The minimum value of those penalties should correspond to the average yearly income per hectare of vine areas at Union level, measured in gross margin per hectare of vine areas. A progressive graduation should be established from this minimum value, depending of the time of non-compliance. Member States should also be given the possibility to apply higher minimum penalties to producers in a certain area, where the minimum value established at Union level represents less than the estimated average yearly income per hectare of the area concerned. Such increase in the minimum value of penalties should be proportional to the estimated average yearly income per hectare for the area where the non-authorized vine area is located,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

### **Areas exempted from the scheme of authorisations for vine plantings**

1. The scheme of authorisations for vine plantings laid down in Chapter III of Title I of Part II of Regulation (EU) No 1308/2013 shall not apply to the planting or replanting of areas referred to in Article 62(4) of that Regulation fulfilling the relevant conditions set out in paragraphs 2, 3 and 4 of this Article.
2. The planting or replanting of areas intended for experimental purposes or for graft nurseries shall be subject to a prior notification to the competent authorities. The notification shall include all relevant information in respect of those areas and the period during which the experiment will take place or the period during which the graft nursery will be in production. Extensions of such periods shall also be notified to the competent authorities.

Where no risks of market disturbance are considered to exist, Member States may decide that during the periods referred to in the first subparagraph the grapes produced in those areas and the grapevine products obtained from those grapes may be marketed. At the end of such periods, the producer shall either:

- (a) obtain an authorisation in accordance with Article 64 or 68 of Regulation (EU) No 1308/2013 for the area concerned, so that the grapes produced in that area and the grapevine products obtained from those grapes can be marketed; or
- (b) grub up such an area at his own cost in accordance with Article 71(1) of Regulation (EU) No 1308/2013.

Any areas intended for experiments or graft nurseries planted before 1 January 2016 following the granting of new planting rights shall continue to comply after that date with any conditions defined for the use of such rights until the end of the period of the experiment or the period of production of the graft nursery for which they were granted. After the expiry of such periods, the rules laid down in the first and second subparagraphs shall apply.

3. The planting or replanting of areas whose wine or vine products are intended solely for the consumption by the wine grower's household shall be subject to the following conditions:
  - (a) such area does not exceed 0,1 ha;
  - (b) the wine grower concerned is not involved in commercial wine production or in the commercial production of other grapevine products.

For the purpose of this paragraph, Member States may consider certain organisations without a commercial activity as equivalent to the wine grower's household.

Member States may decide that the plantings referred to in the first subparagraph are subject to a notification.

4. A producer having lost a certain area planted with vines due to compulsory purchases in the public interest under national law shall be entitled to plant a new area provided that such newly planted area does not exceed 105 % in terms of pure crop of the area lost. The newly planted area shall be registered in the vineyard register.

5. The grubbing up of areas benefiting from the exemption referred to in paragraphs 2 and 3 shall not give rise to an authorisation to replant under Article 66 of Regulation (EU) No 1308/2013. However, such authorisation shall be granted in the event of grubbing up of areas newly planted under the exemption referred to in paragraph 4.

#### Article 2

##### Criteria for granting authorisations

1. Where Member States apply the eligibility criterion listed in Article 64(1)(c) of Regulation (EU) No 1308/2013, the rules laid down in Part A of Annex I to this Regulation shall apply.

Member States may also apply the additional objective and non-discriminatory criterion that the application shall not pose a significant risk of misappropriation of the reputation of specific protected geographical indications, which shall be presumed unless the existence of such risk is demonstrated by the public authorities. The rules in relation to the application of this additional criterion are laid down in Part B of Annex I.

2. Where Member States decide to apply one or more of the eligibility criteria referred to in Article 64(1)(a) to (c) of Regulation (EU) No 1308/2013 and the additional criterion referred to in paragraph 1 of this Article, in the granting of authorisations for new plantings, they may apply such criteria at national level or at a lower territorial level.

3. Where Member States apply one or more of the priority criteria listed in Article 64(2) of Regulation (EU) No 1308/2013, the rules laid down in Parts A to H of Annex II to this Regulation shall apply.

Member States may also apply the additional objective and non-discriminatory criteria of the prior behaviour of the producer and non-profit organisations with a social purpose that have received lands confiscated in cases of terrorism and other types of crime. The rules in relation to the application of these additional criteria are laid down in Part I of Annex II.

4. Where Member States decide to apply one or more of the priority criteria referred to in Article 64(2)(a) to (h) of Regulation (EU) No 1308/2013 and the additional criteria provided for in paragraph 3 of this Article, in the granting of authorisations for new plantings, they may apply such criteria uniformly at national level or with varying degrees of importance in different areas of the Member States.

5. The use of one or more of the criteria listed in Article 64(2) of Regulation (EU) No 1308/2013 as eligibility criteria at one of the geographical levels mentioned in Article 63(2) shall be considered duly justified for the purposes of point (d) of paragraph 1 of Article 64 if the use aims at addressing a specific problem affecting the wine growing sector at that specific geographic level which can only be addressed by such a restriction.

6. Without prejudice to the rules laid down in Annexes I and II with regard to specific eligibility and priority criteria, Member States shall adopt additional measures, where necessary, to avoid that applicants of authorisations circumvent the eligibility and priority criteria included in those Annexes.

#### Article 3

##### Authorisations for anticipated replanting

Member States may make the granting of an authorisation to a producer undertaking to grub up an area planted with vines in accordance with Article 66(2) of Regulation (EU) No 1308/2013 subject to the requirement to lodge a security.

In any case, if the grubbing up is not carried out by the producers by the end of the fourth year from the date on which new vines were planted, Article 71 of Regulation (EU) No 1308/2013 shall apply in respect of the the pledged area which has not been grubbed up.

#### Article 4

##### Replanting restrictions

Member States may restrict the replantings on the basis of Article 66(3) of Regulation (EU) No 1308/2013, where the specific area to be replanted is located in an area for which the issuing of authorisations for new plantings is limited in accordance with Article 63(2)(b) of Regulation (EU) No 1308/2013 and provided that the decision is justified by the need to avoid a well-demonstrated risk of significant devaluation of a specific protected designation of origin or protected geographical indication.

The risk of significant devaluation referred to in the first paragraph does not exist if:

- (a) the specific area to be replanted is located in the same area of protected designation of origin or geographical indication as the area grubbed up and the replanting of vines complies with the same protected designation of origin or geographical indication specification as the area grubbed up;
- (b) the replanting is aimed at the production of wines without a geographical indication provided that the applicant undertakes the same commitments as those laid down in point (2) of Parts A and B of Annex I to this Regulation in relation to new plantings.

#### Article 5

##### **Penalties and cost recovery**

Member States shall impose financial penalties on producers who do not comply with the obligation laid down in Article 71(1) of Regulation (EU) No 1308/2013.

The minimum amount of the financial penalty shall be:

- (a) EUR 6 000 per hectare, if the producer grubs up the totality of the non-authorised planting within the 4 months from the date on which he is notified of the irregularity, as referred to in Article 71(2) of Regulation (EU) No 1308/2013;
- (b) EUR 12 000 per hectare, if the producer grubs up the totality of the non-authorised planting during the first year following the expiry of the 4-month period;
- (c) EUR 20 000 per hectare, if the producer grubs up the totality of the non-authorised planting after the first year following the expiry of the 4-month period.

Where the yearly income obtained in the area where the vineyards concerned are located is estimated to exceed EUR 6 000 per hectare, Member States may increase the minimum amounts set in the second subparagraph proportionally to the average yearly income per hectare estimated for that area.

If the Member State ensures the grubbing up of the non-authorised planting by its own means, the relevant cost charged to the producer pursuant to Article 71(2) of Regulation (EU) No 1308/2013 shall be calculated in an objective way taking into account the costs of labour, use of machinery and transport or other costs incurred. Such cost shall be added to the applicable penalty.

#### Article 6

##### **Entry into force**

This Regulation shall enter into force on the third 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, 15 December 2014.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

## ANNEX I

**Rules relating to the eligibility criterion listed in Article 64(1)(c) of Regulation (EU) No 1308/2013 and the additional criterion referred to Article 2(1) of this Regulation****A. Criterion referred to in Article 64(1)(c) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(1)(c) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if one of the following conditions is met:

- (1) the area(s) to be newly planted is/are intended for the production of wines with the specific protected designation of origin of the area concerned; or
- (2) where the area(s) to be newly planted is/are not intended for the production of wines with the specific protected designation of origin, the applicant shall undertake the following commitments:
  - (a) not to use or market any of the grapes produced in those newly planted areas for the production of wines with a protected designation of origin, where those areas are located within areas eligible for that purpose;
  - (b) not to grub up and replant with the aim of making the replanted area become eligible for the production of grapes for wines with the specific protected designation of origin.

The applicants shall undertake the commitments referred to in point (2) of the first subparagraph during a limited period of time to be fixed by the Member State, which may not go beyond 31 December 2030.

**B. Additional criterion referred to in Article 2(1) of this Regulation**

The additional criterion referred to in Article 2(1) of this Regulation shall be considered as being fulfilled if one of the following conditions is met:

- (1) the area(s) to be newly planted is/are intended for the production of wines with the specific protected geographical indication of the area concerned; or
- (2) where the area(s) to be newly planted is/are not intended for the production of wines with the specific protected geographical indication, the applicant shall undertake the following commitments:
  - (a) not to use or market any of the grapes produced in those newly planted areas for the production of wines with a protected geographical indication, where those areas are located within areas eligible for that purpose;
  - (b) not to grub up and replant with the aim of making the replanted area become eligible for the production of grapes for wines with the specific protected geographical indication.

The applicants shall undertake the commitments referred to in point (2) of the first subparagraph during a limited period of time to be fixed by the Member State, which may not go beyond 31 December 2030.

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## ANNEX II

**Rules relating to the priority criteria listed in Article 64(2)(a) to (h) of Regulation (EU) No 1308/2013 and the additional criteria referred to in Article 2(3) of this Regulation****A. Criterion referred to in Article 64(2)(a) of Regulation (EU) No 1308/2013**

(1) Legal persons, irrespective of their legal form, shall be considered to comply with this criterion, if one of the following conditions is met:

- (a) a natural person who is setting up vine plantings for the first time and who is established as head of the holding ('new entrant') exercises effective and long-term control over the legal person in terms of decisions related to management, benefits and financial risks. Where several natural persons, including a person(s) who is not a new entrant(s), participate in the capital or management of the legal person, the new entrant shall be capable of exercising such effective and long-term control either solely or jointly together with other persons; or
- (b) where a legal person is solely or jointly controlled by another legal person, the conditions set out in point (a) shall apply to any natural person having control over that other legal person.

The conditions laid down in points (a) and (b) of the first subparagraph shall apply *mutatis mutandis* in respect of a group of natural persons regardless the legal status granted to such a group and its members by national law.

(2) Member States may decide to add the additional condition that the applicant shall be a natural person who is no more than 40 years of age in the year of submission of the application ('young producer').

Legal persons referred to in point (1) shall be considered to comply with the additional condition mentioned in the first subparagraph of this point, if the natural person referred to in point (1)(a) and (b) of the first subparagraph is no more than 40 years of age in the year of submission of the application.

The conditions laid down in the second subparagraph shall apply *mutatis mutandis* in respect of a group of natural persons referred to in the second subparagraph of point (1).

(3) Member States may require that the applicants undertake during a period of 5 years not to rent or sell the area(s) newly planted to another natural or legal person.

Where the applicant is a legal person or a group of natural persons, Member States may also require the applicant, during a period of 5 years, not to transfer the exercise of effective and long-term control of the holding in terms of decisions related to management, benefits and financial risks to another person(s) unless that person or those persons met the conditions of points (1) and (2) that applied at the time of granting the authorisations.

**B. Criterion referred to in Article 64(2)(b) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(b) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if one of the following conditions is met:

(1) The applicant undertakes to comply, for a minimum period of 5 to 7 years, with the rules on organic production laid down in Council Regulation (EC) No 834/2007 <sup>(1)</sup> and where applicable Commission Regulation (EC) No 889/2008 <sup>(2)</sup> for the area(s) to be newly planted or for the entire farm holding. Such period shall not go beyond 31 December 2030.

Member States may consider that the criterion is fulfilled where applicants are already wine growers <sup>(3)</sup> at the time of submitting the application, and have effectively applied the rules on organic production referred to in the first subparagraph to the whole area planted with vines in the respective holding for at least 5 years before the submission of the application.

<sup>(1)</sup> Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ L 189, 20.7.2007, p. 1).

<sup>(2)</sup> Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control (OJ L 250, 18.9.2008, p. 1).

<sup>(3)</sup> As defined in Article 2(a) of Commission Regulation (EC) No 436/2009 of 26 May 2009 laying down detailed rules for the application of Council Regulation (EC) No 479/2008 as regards the vineyard register, compulsory declarations and the gathering of information to monitor the wine market, the documents accompanying consignments of wine products and the wine sector registers to be kept (OJ L 128, 27.5.2009, p. 15).

- (2) The applicant undertakes to comply with one of the following guidelines or certification schemes going beyond the relevant mandatory standards established pursuant to Chapter I of Title VI of Regulation (EU) No 1306/2013, for a minimum period of 5 to 7 years which in any case shall not go beyond 31 December 2030:
- (a) crop or sector-specific guidelines for integrated pest management which are appropriate for wine-growing in accordance with Article 14(5) of Directive 2009/128/EC of the European Parliament and of the Council <sup>(1)</sup>, where such guidelines exist;
  - (b) national certification schemes for integrated production which are appropriate for wine-growing;
  - (c) national or regional environmental schemes certifying compliance with environmental legislation in relation with soil and/or water quality, biodiversity, landscape preservation, climate change mitigation and/or adaptation to climate change, and which are relevant for wine-growing.

The certification schemes mentioned in points (b) and (c) of the first subparagraph shall certify that the farmer observes practices on its holding which comply with the nationally defined rules for integrated production or the objectives mentioned in point (c) of the first subparagraph. This certification shall be performed by certification bodies that are accredited in accordance with Chapter II of Regulation (EC) No 765/2008 of the European Parliament and of the Council <sup>(2)</sup> and comply with the relevant harmonised standards for 'Conformity assessment — Requirements for bodies certifying products, processes and services' or 'Conformity assessment — requirements for bodies providing audit and certification of management systems'.

Member States may consider that the criterion is fulfilled where applicants are already wine growers at the time of submitting the application and have effectively applied the guidelines or certification schemes referred to in the first subparagraph, to the whole area planted with vines in the respective holding for at least 5 years before the submission of the application.

- (3) Where the rural development programme(s) of Member States includes a specific 'agri-environment-climate' type of operation(s) laid down in Article 28 of Regulation (EU) No 1305/2013 of the European Parliament and the Council <sup>(3)</sup> which is applicable to areas planted with vines with relevance to the specific area indicated in the application, and provided that sufficient funds are available, the applicant is eligible and undertakes to apply for that type of operation(s) for the area to be newly planted and to comply with the commitments set in the respective rural development programme(s) for that specific 'agri-environment-climate' type of operation(s).
- (4) The specific land parcel(s) identified in such application is located in slopes with terraces.

Member States may also require that producers undertake, during a minimum period of 5 to 7 years, not to grub up and replant in areas not complying with those conditions. Such period shall not go beyond 31 December 2030.

### C. Criterion referred to in Article 64(2)(c) of Regulation (EU) No 1308/2013

The criterion referred to in Article 64(2)(c) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if all of the following conditions are met:

- (1) the specific land parcel(s) identified in the application came into the possession of the applicant due to exchanges with another land parcel(s) planted with vines in the framework of a land consolidation project;
- (2) the land parcel(s) identified in the application is not planted with vines, or is planted with vines occupying a smaller surface than the one(s) lost as a result of the implementation of such land consolidation project;
- (3) the total area for which the authorisation is requested does not exceed the difference, if any, between the area planted with vines in the previously owned land parcel(s) and the one identified in the application.

<sup>(1)</sup> Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

<sup>(2)</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

<sup>(3)</sup> Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).



**D. Criterion referred to in Article 64(2)(d) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(d) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if the specific land parcel(s) identified in the application is located in one of the following types of areas:

- (1) areas affected by dryness, with a ratio of the annual precipitation to the annual potential evapotranspiration of less than 0,5;
- (2) areas with a shallow rooting depth of less than 30 cm;
- (3) areas with unfavourable soil texture and stoniness, according to the definition and thresholds laid down in Annex III to Regulation (EU) No 1305/2013;
- (4) areas in steep slopes exceeding at least 15 %;
- (5) areas located in mountain areas which are above at least 500 m altitude, excluding high plains;
- (6) areas located in the outermost regions of the Union referred to in Article 349 TFEU and in the smaller Aegean islands as defined in Regulation (EU) No 229/2013 of the European Parliament and of the Council <sup>(1)</sup> or in small islands with a total land area not exceeding 250 km<sup>2</sup> and characterised by structural or socioeconomic constraints.

Member States may also require that producers undertake, during a minimum period of 5 to 7 years, not to grub up and replant in areas which do not face natural or other specific constraints. Such period shall not go beyond 31 December 2030.

Member States may, at the latest until 2018, decide to exclude one or more of the areas listed in the first subparagraph for the compliance with this priority criterion where they are not in a position to assess such compliance in an effective manner.

**E. Criterion referred to in Article 64(2)(e) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(e) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if the economic sustainability of the respective project is established on the basis of one or more of the following standard methodologies of financial analysis for agricultural investment projects:

- (1) Net Present Value (NPV)
- (2) Internal Rate of Return (IRR)
- (3) Benefit-Cost Ratio (BCR)
- (4) Payback Period (PP)
- (5) Incremental Net Benefit (INB)

The methodology shall be applied in a way that is adapted to the type of applicant.

Member States shall further require the applicant to establish the new vine planting according to the technical characteristics identified in the application.

**F. Criterion referred to in Article 64(2)(f) of Regulation (EU) No 1308/2013**

The criterion referred to in Article 64(2)(f) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if the potential for increased competitiveness is established on the basis of one of the following considerations:

- (1) the areas to be newly planted by an existing wine grower may generate economies of scale due to a significant decrease in the unit costs specific to the newly planted area in relation to the average of already existing vineyards in the farm holding or the average situation of the region;
- (2) the areas to be newly planted by an existing wine grower may generate a better adaptation to the market demand due to an increase of prices obtained for the produce or an increase in market outlets in relation to the already existing vineyards in the farm holding or the average situation of the region;

<sup>(1)</sup> Regulation (EU) No 229/2013 of the European Parliament and of the Council of 13 March 2013 laying down specific measures for agriculture in favour of the smaller Aegean islands and repealing Council Regulation (EC) No 1405/2006 (OJ L 78, 20.3.2013, p. 41).

- (3) the areas to be newly planted by a new entrant into the sector may allow for a farm production model which is more profitable than the average of the region.

Member States may further detail the considerations listed in points (1), (2) and (3) of the first subparagraph.

Member States shall further require the applicant to establish the new vine planting according to the technical characteristics identified in the application.

#### G. Criterion referred to in Article 64(2)(g) of Regulation (EU) No 1308/2013

The criterion referred to in Article 64(2)(g) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if the land parcel(s) to be planted is located within the geographical area of production of an existing protected designation of origin or a protected geographical indication, if the grapes to be produced are intended for wines with a protected designation of origin or a protected geographical indication, and one of the following conditions is met:

- (1) the land parcel(s) to be planted has better pedo-climatic characteristics, comparing to an average of other land parcels with vineyards complying with geographical indication specifications in the same region;
- (2) the grape variety(ies) or respective clone(s) to be planted is better adapted to the specific pedo-climatic characteristics of the land parcel(s) to be planted comparing to land parcels with vineyards complying with geographical indication specifications, with similar pedo-climatic characteristics and located in the same region, but established with other varieties or other clones of the same variety(ies);
- (3) the grape variety(ies) or respective clone(s) to be planted contribute to increase the diversity of grape varieties or clones of the existing varieties in the same geographical area of production of the protected designation of origin or the protected geographical indication;
- (4) the vine training system(s) to be used or the vineyard structure to be established in the newly planted area(s) has the potential to lead to a better quality of the grapes, comparing to the training systems and/or structures predominantly used in the same geographical area of production of the protected designation of origin or the protected geographical indication.

Member States may further detail the conditions referred to in points (1) to (4) of the first subparagraph.

Member States shall further require the applicant to establish the new vine planting according to the technical characteristics identified in the application.

Member States may apply this priority criterion to applications for new plantings in an area that has been demarcated in the technical file accompanying an application for protection of a designation of origin or of a geographical indication which is under the preliminary national procedure or the period of scrutiny of the Commission. In that case, the conditions listed in points (1) to (4) of the first subparagraph apply *mutatis mutandis*.

#### H. Criterion referred to in Article 64(2)(h) of Regulation (EU) No 1308/2013

The criterion referred to in Article 64(2)(h) of Regulation (EU) No 1308/2013 shall be considered as being fulfilled if the size of the applicant's holding at the time of the application complies with thresholds to be established by Member States at national or regional level on the basis of objective criteria. Such thresholds shall be set at:

- (1) no less than 0,5 hectares for small size holdings;
- (2) no more than 50 hectares for medium size holdings;

Member States may further require compliance with one or more of the following conditions:

- (1) the size of the applicant's holding will be increased as a result of the new planting;
- (2) the applicant has already an area planted with vines, not benefiting from the exemptions laid down in Article 62(4) of Regulation (EU) No 1308/2013, at the time of submitting the application.

The thresholds referred to in points (1) and (2) of the first subparagraph shall be communicated to the Commission.

## I. Additional criteria referred to in Article 2(3) of this Regulation

### I. 'Prior behaviour of the producer'

The additional criterion referred to in Article 2(3) of this Regulation shall be considered as being fulfilled if the applicant does not have vines planted without authorisation as referred to in Article 71 of Regulation (EU) No 1308/2013 or without a planting right as referred to in Articles 85a and 85b of Regulation (EC) No 1234/2007.

Member States may further require compliance with one or more of the following conditions:

- (1) no authorisation previously granted to the applicant in accordance with Article 64 of Regulation (EU) No 1308/2013 has expired due to non-utilisation;
- (2) the applicant has not failed to comply with any of the undertakings referred to in Parts A and B of Annex I, in Parts A, B, D, E, F, G of this Annex and in point II of this Part;
- (3) the applicant does not have areas planted with vines which are no longer in production for a period of at least 8 years.

### II. 'Non-profit organisations with a social purpose having received lands confiscated in cases of terrorism and other types of crime'

The additional criterion referred to in Article 2(3) of this Regulation shall be considered as being fulfilled if the applicant is a legal person, irrespective of its legal form, and if the following conditions are met:

- (1) the applicant is a non-profit organisation which has solely a social purpose as its activity;
- (2) the applicant uses the confiscated land only to serve its social purposes pursuant to Article 10 of Directive 2014/42/EU of the European Parliament and of the Council <sup>(1)</sup>.

Member States may also require that the applicants complying with this criterion shall undertake during a period to be determined by the Member State not to rent or sell the area(s) newly planted to another natural or legal person. Such period shall not go beyond 31 December 2030.

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<sup>(1)</sup> Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).