

# Official Journal of the European Union

# C 32



English edition

## Information and Notices

Volume 63

31 January 2020

### Contents

#### II *Information*

##### INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

###### **European Commission**

2020/C 32/01	Commission Notice on the application of the provisions of Article 26(3) of Regulation (EU) No 1169/2011 .....	1
--------------	---	---

#### IV *Notices*

##### NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

###### **European Commission**

2020/C 32/02	Euro exchange rates — 30 January 2020 .....	9
--------------	---	---

###### **Court of Auditors**

2020/C 32/03	Special Report 4/2020 'Using new imaging technologies to monitor the Common Agricultural Policy: steady progress overall, but slower for climate and environment monitoring' .....	10
--------------	--	----

###### **European Data Protection Supervisor**

2020/C 32/04	Summary of the Opinion of the European Data Protection Supervisor on Proposals regarding European Production and Preservation Orders for electronic evidence in criminal matters .....	11
--------------	--	----

EN

## NOTICES FROM MEMBER STATES

2020/C 32/05	Commission notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community Imposition of public service obligations in respect of scheduled air services <sup>(1)</sup> .....	15
2020/C 32/06	Commission notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community Changes to public service obligations in respect of scheduled air services <sup>(2)</sup> .....	16
2020/C 32/07	Commission notice pursuant to Article 17(5) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community Invitation to tender in respect of the operation of scheduled air services in accordance with public service obligations <sup>(3)</sup> .....	17

---

## V *Announcements*

### ADMINISTRATIVE PROCEDURES

#### **European Investment Bank**

2020/C 32/08	SIT 2020 — Call for proposals Ideas that change the world: the EIB's 2020 Social Innovation Tournament .....	18
--------------	--	----

### PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

#### **European Commission**

2020/C 32/09	Prior notification of a concentration (Case M.9434 — UTC/Raytheon) <sup>(4)</sup> .....	19
--------------	---	----

### OTHER ACTS

#### **European Commission**

2020/C 32/10	Publication of a communication of approval of a standard amendment to a product specification for a name in the wine sector referred to in Article 17(2) and (3) of Commission Delegated Regulation (EU) 2019/33. ....	20
--------------	--	----

---

<sup>(4)</sup> Text with EEA relevance.

## II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES  
AND AGENCIES

## EUROPEAN COMMISSION

## COMMISSION NOTICE

**on the application of the provisions of Article 26(3) of Regulation (EU) No 1169/2011**

(2020/C 32/01)

## 1. INTRODUCTION

Pursuant to Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers <sup>(1)</sup> (hereinafter 'the Regulation'), where the country of origin or place of provenance of a food is given and it is not the same as that of its primary ingredient, the country of origin or place of provenance of the primary ingredient in question needs also to be declared or, at least, indicated as being different to that of the food.

On 28 May 2018, the Commission adopted Commission Implementing Regulation (EU) 2018/775 <sup>(2)</sup> (hereinafter 'the Implementing Regulation') which lays down the modalities for the application of Article 26(3) of the Regulation. In particular, the Implementing Regulation clarifies and harmonises how the origin of the primary ingredient(s) must be labelled.

The purpose of this Commission notice is to provide guidelines for food business operators and national authorities on the application of the provisions of Article 26(3) of the Regulation. This Notice should be read in conjunction with other relevant provisions of the Regulation and of the Implementing Regulation. In particular this guidance is without prejudice to the prohibition of misleading information to consumers provided for in Article 7 of the Regulation. This Notice clarifies the provisions already contained in the applicable legislation. It does not extend in any way the obligations deriving from such legislation nor introduce any additional requirements on the concerned operators and competent authorities.

This Notice is merely intended to assist citizens, business operators and national competent authorities in the application of Article 26(3) of the Regulation and of the Implementing Regulation. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in this Notice cannot prejudge the position that the European Commission might take before the Union and national Courts.

2. QUESTIONS RELATED TO THE SCOPE OF ARTICLE 26(3) OF  
THE REGULATION

Article 26(3) first subparagraph of the Regulation sets out two conditions for the application of specific labelling requirements for primary ingredients: (1) the existence of an indication of the country of origin or place of provenance of the final food; and (2) that such indication of the country of origin or place of provenance of a food is not the same as that of its primary ingredient.

Pursuant to Article 26(3) second subparagraph the specific labelling obligations contained in Article 26(3) first subparagraph apply only to cases falling within the scope of the Implementing Regulation as defined in Article 1 of the Implementing Regulation.

<sup>(1)</sup> OJ L 304, 22.11.2011, p.18.

<sup>(2)</sup> OJ L 131, 29.5.2018, p. 8.

There are two limitations to the scope of application of the Implementing Regulation:

Firstly, Article 1(1) of the Implementing Regulation specifies that the country of origin or place of provenance of a food can be given 'by any means such as statements, pictorial presentation, symbols or terms, referring to places or geographical areas, except for geographic terms included in customary or generic names where those terms literally indicate origin but whose common understanding is not an indication of country of origin or place of provenance.'

Secondly, Article 1(2) of the Implementing Regulation specifies that 'geographical indications protected under Regulation (EU) No 1151/2012 <sup>(3)</sup>, Regulation (EU) No 1308/2013 <sup>(4)</sup>, Regulation (EC) No 110/2008 <sup>(5)</sup> or Regulation (EU) No 251/2014 <sup>(6)</sup> or protected pursuant to international agreements' as well as registered trade marks when constituting an origin indication, do not fall under the scope of the Implementing Regulation. Recital 6 of the Implementing Regulation clarifies with regard to this second exception that, while Article 26(3) of the Regulation in principle must apply also to the cases described by this second exemption, the relevant implementing rules require further examination and will be adopted at a later stage.

## 2.1. Reference to the food business operator

### 2.1.1. *Could a name/ business name and address of the food business operator provided on a label trigger the application of Article 26(3) of the Regulation?*

Pursuant to recital 29 and Article 2(2)(g) of the Regulation, indications related to the name, business name or address of the food business operator provided on the label do not constitute an indication of the country of origin or place of provenance of the food within the meaning of the Regulation. Therefore, any references to the legal entity of the food business operator do not in principle trigger the application of Article 26(3) of the Regulation.

Nevertheless, such indications might be considered misleading, on the basis of Article 7 of the Regulation, with regard to the true country of origin or place of provenance of the food if they are clearly emphasised on the package and where the specific origin or place of provenance has been visibly put forward and that origin is not the same as that of the food's primary ingredient. The competent national authorities should assess such cases by taking into account all information provided on the label and the entire presentation of the product.

## 2.2. Brand names

### 2.2.1. *Can brands not protected by a registered trade marks as referred to in Article 1(2) of the Implementing Regulation trigger the application of Article 26(3) of the Regulation?*

Article 1(2) of the Implementing Regulation clarifies that even though the origin indications which are part of registered trade marks fall within the scope of Article 26(3) of the Regulation, the Implementing Regulation shall not apply to such indications pending the adoption of specific rules concerning the application of Article 26(3) to such indications. The EU legislator acknowledged the specific character and objectives of the registered trademarks regulated by specific Union legislation and, therefore, the Commission will further examine how the origin indication of the primary ingredient to be provided by Article 26(3) of the Regulation must be indicated, where required for these indications. Conversely, brands comprising geographical statements which are non-registered trade marks are not part of this temporary exemption and therefore the Implementing Regulation applies to them in addition to the obligations resulting from Article 26(3) of the Regulation.

<sup>(3)</sup> 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 (OJ L 343, 14.12.2012, p. 1).

<sup>(4)</sup> 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 (OJ L 347, 20.12.2013, p. 671).

<sup>(5)</sup> 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 and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

<sup>(6)</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

### 2.3. Name of the food

#### 2.3.1. *Are customary names comprising a geographical statements to be considered as giving the country of origin or place of provenance of a food?*

Article 2(2)(o) of the Regulation defines ‘customary name’ as a name which is accepted as the name of the food by consumers in the Member State in which that food is sold, without that name needing further explanation.

Pursuant to recital (8) and Article 1(1) of the Implementing Regulation, customary and generic names including geographical terms that literally indicate origin, but whose common understanding is not an indication of origin or place of provenance of the food, do not fall within the scope of the Implementing Regulation. Often such names refer to a geographic place, region or country where the food in question was originally produced or marketed and with time, became a generic/customary names for a certain category of foods. Provided that such generic designations and customary names do not create the consumer perception of a certain geographic origin of the food in question, their usage does not trigger the application of Article 26(3) of the Regulation.

Example: Frankfurter sausage.

As the question relates to consumers’ understanding within every single Member State and there are significant differences in consumers’ perceptions on these aspects amongst the EU, it needs to be considered on a case-by-case basis whether a specific name is clearly understandable to the consumer as a generic/customary name.

#### 2.3.2. *Are legal names comprising a geographical statement to be considered as giving the country of origin or place of provenance of a food?*

According to Article 2(2)(n) of the Regulation, ‘legal name’ means the name of a food prescribed in the Union provisions applicable to it or, in the absence of such Union provisions, the name provided for in the laws, regulations and administrative provisions applicable in the Member State in which the food is sold to the final consumer or to mass caterers.

In other words, such names are codified customary names, where the legislator considered important to harmonise their use and often the composition of the products they define, in order to ensure that the consumer expectations with the regard to the characteristics of the food sold under specific names are met.

Considering the above, legal names comprising a geographical statement are not to be considered as giving the origin indication within the meaning of Article 26(3) of the Regulation, when Article 26(3) has been already taken into account by the legislator.

### 2.4. Different statements on the label

#### 2.4.1. *Are terms such as ‘made in’, ‘produced in’ and ‘product of’ followed by a geographical statement to be considered as giving the country of origin or place of provenance of a food?*

The statements such as ‘made in (country)’, ‘manufactured in (country)’, ‘produced in (country)’, are associated by consumers with an origin indication within the meaning of Article 26(3) and therefore, in principle, should be seen as indicating the country of origin or place of provenance of a food. In addition, those terms refer to production or manufacturing process, which, in the case of processed foods, could correspond to the meaning of the country of origin for the purposes of the Regulation, as defined in Article 60(2) of the Union Customs Code <sup>(7)</sup> i.e. the last substantial, economically-justified processing or working of a food, resulting in the manufacture of a new product or representing an important stage of manufacture.

Similarly, the statement ‘product of (country)’ in general implies for the consumer an origin indication within the meaning of Article 26(3) of the Regulation. In addition, the term ‘product of’ is also likely to suggest to the consumer that the entire food, including its ingredients, is coming from the country indicated on the label.

<sup>(7)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (OJ L 269, 10.10.2013, p. 1).

2.4.2. *Are statements such as 'packed in' or 'produced/made by X for Y' followed by the name of the food business operator and its address to be considered as giving the country of origin or place of provenance of a food?*

The statement 'packed in' clearly indicates the place where a food has been packed and, in general, as such is not likely to imply for the consumer an origin indication in the meaning of Article 26(3) of the Regulation. Consequently, despite that the term in question refers to a geographical place, it is not to be considered as giving the country of origin or place of provenance of the food.

Terms such as 'produced by/manufactured by/packed by' (the name of the food business operator followed by its address) or 'produced by/manufactured by X for Y' make literally reference to the relevant food business operator and, in general, are not likely to suggest to the consumer an origin indication of the food. As elaborated in point 2.1.1 of this Notice, indications related to the name, business name or address of the food business operator provided on the label do not constitute an indication of the origin of the country of origin or place of provenance of the food within the meaning of the Regulation.

Nevertheless, the consumers' perception is shaped by the whole of components of the label, including the whole presentation of a product. Therefore, the entire packaging must be taken into account when assessing a possible misleading character of the food with regard to its origin.

2.4.3. *Are acronyms, pictorials or any other statements added voluntarily with the only purpose to help consumers to find their local language on multilingual labels to be considered as giving the country of origin or place of provenance of a food?*

Such indications should not be considered as an origin indication if they clearly refer to the different language versions of the food information provided on the label.

2.4.4. *Are statements such as 'kind', 'type', 'style', 'recipe', 'inspired by' or 'à la' including a geographical statement to be considered as giving the country of origin or place of provenance of a food?*

The statements such as 'kind', 'type', 'style', 'recipe', 'inspired by' or 'à la' usually refer to the recipe or specific characteristics of the food or its process and, as such, should not in principle be considered as an origin indication.

However, the entire packaging must be taken into account when assessing a possible misleading character of the food with regard to its origin. It is also to be mentioned that, in the spirit of Article 7 of the Regulation, the above-mentioned statements are only justified if the food in question possesses specific characteristics or nature, or has undergone a certain production process which determines the claimed link to the geographical place indicated on the label.

2.4.5. *Would a national symbol or colours of a flag be considered as giving the country of origin or place of provenance of a food?*

From the consumers' perspective, flags and/or maps are identified as the most relevant references to the origin labelling. Therefore, in principle, clear and visible flags and/or maps referring to a specific geographical territory should be considered as an origin indication and consequently, trigger the application of Article 26(3) of the Regulation. Other national symbols such as a recognisable national monument, landscape or person may also be perceived by the consumer as an origin indication of a food. However, as their understanding tends to depend on the product and country, those graphics are to be assessed on a case-by-case basis. In this context, Member States should in particular take into account the location of the symbols/graphics, their size, colour, font size and the overall context of labelling of the food, i.e. that the labelling as a whole does not cause confusion to consumers about the origin of the food.

Regarding the brand names, the application of Article 26(3) of the Regulation is outlined in point 2.2.1 of this Notice.

A specific consideration should be given to the use of pictures and other statements which refer to a national/local event or to a national/local sport team to celebrate the event. Given their occasional character, those indications need to be assessed on a case-by-case basis in order to determine whether the application of Article 26(3) is triggered.

2.4.6. *Could additional statements provided on labels of food bearing geographical indications protected under EU law or trade marks trigger the application of Article 26(3) of the Regulation?*

Pending the adoption of specific rules, the Implementing Regulation does not apply to geographical indications protected under EU law and registered trade marks as referred to in its Article 1(2). However, in cases a food also bears other visual statements, including those referring to the same or different geographical places, such statements would fall under the scope of the Implementing Regulation if the conditions of Article 26(3) of the Regulation are met.

### 2.5. What is the interaction of the provisions of the Implementing Act and the EU legislation on organic foods?

Council Regulation (EC) No 834/2007<sup>(8)</sup> ('Regulation on organic foods') provides for a general framework of organic production rules, including provisions on the use of terms referring to organic production. In addition, that Regulation sets out conditions for the labelling of organic products and the use of the EU logo and requires that when such logo is used, an indication of the place of provenance where the agriculture raw materials of which the product is composed have been farmed, is provided. Such rules will provide the consumer with an information equivalent to the one aimed by Article 26(3).

According to Article 1(4) of the Regulation, the latter shall apply without prejudice to labelling requirements provided for in specific Union provisions applicable to particular foods. In this context, the provisions of the Regulation on organic foods are to be considered as *lex specialis* and prevail over Article 26(3) of the Regulation. Consequently, whenever the EU organic logo is used, Article 26(3) of the Regulation does not apply.

## 3. IDENTIFICATION OF THE PRIMARY INGREDIENT

According to Article 2(2)(q) of the Regulation, 'primary ingredient' means an ingredient or ingredients of a food that represent more than 50 % of that food or which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required.

### 3.1. How the primary ingredient should be identified?

For the purpose of Article 26(3) of the Regulation, food business operators are required to provide information about the primary ingredient(s) of the food in question, on the basis of the definition laid down in Article 2(2)(q) of the Regulation.

The legal definition of the primary ingredient identifies two types of criteria to determine the primary ingredient of food: (a) a quantitative one, according to which the ingredient represents more than 50 % of the food; and (b) a qualitative one, according to which the ingredient is usually associated by the consumers with the name of the food.

When providing information about the primary ingredient(s) of a food, food business operators should take into account various elements. In particular, in addition to quantitative composition of the food, they have to carefully consider its specific characteristics, nature and the entire presentation of the label. They also need to consider the consumers' perception and expectations with regard to the information provided about the food in question. Food business operators should take into consideration whether the origin indication of a particular ingredient is likely to substantially affect consumers' purchasing decisions and whether the absence of such an origin indication would mislead consumers.

It is also to be mentioned that, in the spirit of Article 7 of the Regulation, the information provided with regard to the origin indication of the primary ingredient must not be misleading and in any event should not circumvent the provisions and objectives laid down in Article 26(3) of the Regulation.

Member States' competent authorities enforce the proper implementation of the above provisions of the Regulation.

### 3.2. Can a food have more than one primary ingredient? If yes, for the food that contains more than one primary ingredient, should the origin of all primary ingredients be given?

Article 2(2)(q) of the Regulation states in the definition of the 'primary ingredient' that the latter could be an ingredient (using the singular form of the word) or ingredients (using the plural form of the word). According to this wording, it should be concluded that the definition of the 'primary ingredient' provides for the possibility to have more than one primary ingredient of a food.

Furthermore, it is apparent from the provisions of Article 26(3) of the Regulation, that if the food business operator identifies, on the basis of the definition at hand, more than one primary ingredient, the country of origin or the place of provenance of all these primary ingredients must be indicated.

<sup>(8)</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).

**3.3. Is it possible that the application of the definition of the primary ingredient will result in no primary ingredient of a food?**

For the purpose of Article 26(3) of the Regulation, it has to be first assessed whether any ingredient of a food is to be considered as its primary ingredient on the basis of the definition laid down in Article 2(2)(q) of the Regulation. This implies that a food will have no primary ingredient in the meaning of the Regulation where none of its ingredients represents more than 50 % of that food, none of its ingredients is usually associated with the name of the food by the consumer and in most cases a quantitative indication is not required.

**3.4. Does Article 26(3) of the Regulation and consequently the Implementing Regulation cover single ingredient products?**

Article 26(3) of the Regulation could cover a processed single ingredient product, where its last substantial transformation occurred in a different place than the origin of the raw material ingredient or where the ingredient was sourced from different places. This situation would lead to the application of Article 26(3) of the Regulation in case the country of origin or place of provenance of the food is indicated and the country of origin or place of provenance of the primary ingredient (single ingredient), is not the same as that of the food.

**3.5. When it is well known by consumers that the primary ingredient of a food can only be sourced outside EU, should its origin be provided?**

The Regulation does not provide any exemption not to indicate the country of origin or place of provenance of the primary ingredients where this is not the same as that of the food. Therefore, even if the primary ingredient of a food can only be sourced outside EU and the origin indication provided with regard to the final food refers to the EU (or Member State(s)), according to the provisions of Article 26(3) of the Regulation, the origin indication of the primary ingredient in question must be indicated.

**3.6. It is possible for the primary ingredient to be a compound ingredient?**

Pursuant to Article 2(2)(h) of the Regulation, 'compound ingredient' means an ingredient that is itself the product of more than one ingredient.

A compound ingredient falls under the scope of Article 26(3) of the Regulation, if it meets the conditions of the definition of the primary ingredient as laid down in Article 2(2)(q) of the Regulation.

Where the information on the origin of the primary ingredient has to be provided in line with Article 26(3) of the Regulation and the primary ingredient is a compound ingredient, food business operators have to provide an appropriate level of information that best fits to the particular food. In this context, they should take into account the specific nature of the food in question, its composition and manufacturing process, the consumers' understanding, expectation and interest in the origin indication of the primary ingredient of the compound ingredient (place where the primary ingredient of the compound ingredient originates, such as the place of harvest or place of farming), as well as how the ingredients of the compound ingredient are indicated in the list of ingredients.

It is also to be mentioned that, in the spirit of Article 7 of the Regulation, the information provided with regard to the origin indication of the compound ingredient must not be misleading and in any event should not circumvent the provisions and objectives laid down in Article 26(3) of the Regulation.

Member States' competent authorities enforce the proper implementation of the above provisions of the Regulation.

#### **4. GEOGRAPHICAL LEVELS**

To enable consumers to make informed choices, the Implementing Regulation sets out specific rules which apply where the country of origin or place of provenance of the primary ingredient is given on the basis of Article 26(3) of the Regulation. Those rules aim at ensuring that such information is sufficiently precise and meaningful.

For this purpose, Article 2(a) of the Implementing Regulation harmonises the geographical areas the origin indication of the primary ingredient must refer to.



**4.1. Would it be possible to indicate the country of origin or place of provenance of the same primary ingredient by referring to different geographical levels (e.g. 'EU and Switzerland')?**

Article 2 of the Implementing Regulation provides a list of geographical areas to which the indication of the primary ingredient should refer. In order to fulfil the requirements of Article 26(3) of the Regulation, food business operators must choose one of the geographical areas listed in Article 2(a) of the Implementing Regulation. It is apparent from the wording of this provision that the Implementing Regulation does not provide the possibility to combine different geographical levels listed therein for one primary ingredient.

Examples:

- 'Switzerland' corresponds to a geographical area laid down in Article 2(a)(iv). On the contrary, 'EU' corresponds to a geographical area laid down in Article 2(a)(i). The possibility of combining the two is not provided by Article 2(a) of the Implementing Regulation.

However, food business operators may complete the indications 'EU' and 'non-EU' with additional information as long as it complies with the general requirements established in the Regulation with regard to voluntary food information (Article 36 of the Regulation). In particular, such information should not mislead or confuse. In this context, food business operators may indicate 'Switzerland' as an additional voluntary information complementing the mention 'non-EU'.

Example:

- 'EU and non-EU (Switzerland)'
- 'EU (Spain) and non-EU (Switzerland)'.

**4.2. Would it be possible to combine both Member States and third countries in order to indicate the country of origin or place of provenance of the primary ingredient?**

Article 2(a)(iv) of the Implementing Regulation grants the possibility to declare the Member State(s) or third country(ies) as origin indication of the primary ingredient. This implies that operators can choose one of these indications or use both of them.

## 5. PLACING AND PRESENTATION

Information provided with respect to the primary ingredient in accordance with the Regulation should complement the information given to the consumers on the country of origin or place of provenance of the food. They should be easily visible and clearly legible and where appropriate indelible. To achieve this objective, Article 3 of the Implementing Regulation establishes rules on the placing and presentation of the information in question.

**5.1. Would it be possible to indicate the country of origin of the primary ingredient by using country codes?**

Pursuant to Article 9(1)(i) of the Regulation, it is mandatory to indicate the country of origin or place of provenance for cases laid down in Article 26 of the Regulation. Furthermore, Article 9(2) of the Regulation requires that particulars indicated on mandatory basis in accordance with Article 9(1) of the Regulation must be indicated with words and numbers and they may be additionally expressed by means of pictograms or symbols.

It follows from the provisions of the Regulation that the country of origin of the primary ingredient must be always indicated by words. In this regard, Member States have to assess whether certain country codes could be considered as words. In particular, a country code could be acceptable so long as there was a reasonable expectation that consumers in the country of marketing would correctly understand it and not be misled. This could be the case for such abbreviations as 'UK', 'USA' or 'EU'.

**5.2. When the product name includes an origin indication and the product name is found on several places of the package, should the indication of the origin of the primary ingredient be indicated for every time the product name is labelled on the food? The same question concerns the graphical indications, such as flags**

Article 3(2) of the Implementing Regulation specifies that where the origin indication of a food is given with words, the information on the origin of the primary ingredient must appear in the same field of vision as the indication of the country of origin or place of provenance of the food. The Implementing Regulation does not provide for flexibility which would allow to indicate the origin of the primary ingredient only once if the origin indication of the final food is provided several times on the label.

It is apparent from the Regulation that the origin indication of the primary ingredient must be presented in a clear and visible way for the consumers, always in the same field of vision as the product origin indication, including flags. Therefore, in case the sale denomination containing an origin indication or flags is repeated on the packaging, the information on the origin of the primary ingredient(s) needs also to be repeated accordingly.

**5.3. Does Article 13(3) of the Regulation also apply to the origin indication of the primary ingredient provided in accordance with provisions of the Implementing Regulation?**

Article 13 of the Regulation sets out general principles governing the presentation of mandatory food information as listed in Article 9(1) of the Regulation and therefore also of the information on the country of origin or place of provenance where provided for in Article 26 (Article 9(1)(i) of the Regulation). The provisions of Article 13 of the Regulation should apply without prejudice to specific Union provisions applicable to particular categories of foods.

The Implementing Regulation lays down specific presentation requirements for the origin indication of the primary ingredient. In particular, Article 3 thereof provides that such information has to appear in the same field of vision as the indication of the country of origin or place of provenance of the food and by using a font size which has an x-height of at least 75 % of the x-height of the origin indication of the food. In addition, it is stated that, in any case, the information on origin indication of the primary ingredient has to be provided in a font size which is not smaller than 1,2 mm.

The above-mentioned specific requirements of the Implementing Regulation are to be complemented by the horizontal provisions of Article 13 of the Regulation, which should apply cumulatively.

Article 13(3) of the Regulation provides for an exemption as regards the required font size of the mandatory particulars in the case of small packages (which have an area of less than 80 cm<sup>2</sup>). As the provisions of Article 13 of the Regulation apply to the mandatory particulars listed in Article 9(1) of the Regulation, they also apply to the origin indication of the primary ingredient provided in accordance with Article 26(3) of the Regulation. Therefore, in case of packaging or containers the largest surface of which has an area of less than 80cm<sup>2</sup>, the x-height of the font size referred to in Article 3(2) of the Implementing Regulation shall be equal to or greater than 0,9 mm.

---

## IV

(Notices)

## NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

## EUROPEAN COMMISSION

Euro exchange rates <sup>(1)</sup>

30 January 2020

(2020/C 32/02)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,1029	CAD	Canadian dollar	1,4577
JPY	Japanese yen	120,03	HKD	Hong Kong dollar	8,5678
DKK	Danish krone	7,4729	NZD	New Zealand dollar	1,6973
GBP	Pound sterling	0,84183	SGD	Singapore dollar	1,5030
SEK	Swedish krona	10,6398	KRW	South Korean won	1 315,00
CHF	Swiss franc	1,0690	ZAR	South African rand	16,2673
ISK	Iceland króna	135,90	CNY	Chinese yuan renminbi	7,6504
NOK	Norwegian krone	10,1738	HRK	Croatian kuna	7,4423
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	15 094,84
CZK	Czech koruna	25,250	MYR	Malaysian ringgit	4,5087
HUF	Hungarian forint	338,36	PHP	Philippine peso	56,246
PLN	Polish zloty	4,2873	RUB	Russian rouble	69,6719
RON	Romanian leu	4,7770	THB	Thai baht	34,405
TRY	Turkish lira	6,5970	BRL	Brazilian real	4,6836
AUD	Australian dollar	1,6412	MXN	Mexican peso	20,6985
			INR	Indian rupee	79,0110

<sup>(1)</sup> Source: reference exchange rate published by the ECB.

# COURT OF AUDITORS

## Special Report 4/2020

**'Using new imaging technologies to monitor the Common Agricultural Policy: steady progress overall, but slower for climate and environment monitoring'**

(2020/C 32/03)

The European Court of Auditors hereby informs you that Special Report 4/2020 'Using new imaging technologies to monitor the Common Agricultural Policy: steady progress overall, but slower for climate and environment monitoring' has just been published.

The report can be accessed for consultation or downloading on the European Court of Auditors' website: <http://eca.europa.eu>.

---

# EUROPEAN DATA PROTECTION SUPERVISOR

## **Summary of the Opinion of the European Data Protection Supervisor on Proposals regarding European Production and Preservation Orders for electronic evidence in criminal matters**

*(The full text of this Opinion can be found in English, French and German on the EDPS website [www.edps.europa.eu](http://www.edps.europa.eu))*

(2020/C 32/04)

In April 2018, the Commission tabled two Proposals – for one Regulation and one Directive – to establish a legal framework that would make it easier and faster for police and judicial authorities to secure and obtain access to electronic evidence in cross-border cases. Since then, the Council has adopted general approaches on the Proposals and the European Parliament issued several working documents. The European Data Protection Board issued its opinion. Related developments have taken place at international level, most notably with the launch of negotiations of an international agreement with the United States on cross-border access to e-evidence as well as work on a Second Additional Protocol to the Cybercrime Convention. With the present opinion, the EDPS wishes to provide the EU legislator with new input for the forthcoming work on the Proposals, taking into account the developments listed above.

In today's world transformed by new technologies, time is often of the essence to enable those authorities to obtain data indispensable to carry out their missions. At the same time, even when investigating domestic cases, law enforcement authorities increasingly find themselves in 'cross-border situations' simply because a foreign service provider was used and the information is stored electronically in another Member State. The EDPS supports the objective of ensuring that effective tools are available to law enforcement authorities to investigate and prosecute criminal offences, and in particular welcomes the objective of the Proposals to accelerate and facilitate access to data in cross-border cases by streamlining procedures within the EU.

At the same time, the EDPS wishes to underline that any initiative in this field must be fully respectful of the Charter of Fundamental Rights of the EU and the EU data protection framework and it is essential to ensure the existence of all necessary safeguards. In particular, effective protection of fundamental rights in the process of gathering electronic evidence cross-border requires greater involvement of judicial authorities in the enforcing Member State. They should be systematically involved as early as possible in this process, have the possibility to review compliance of orders with the Charter and have the obligation to raise grounds for refusal on that basis.

In addition, the definitions of data categories in the proposed Regulation should be clarified and their consistency with other definitions of data categories in EU law should be ensured. He also recommends reassessing the balance between the types of offences for which European Production Orders could be issued and the categories of data concerned in view of the relevant case law of the Court of Justice of the EU.

Furthermore, the EDPS makes specific recommendations on several aspects of the e-evidence Proposals that require improvements: the authenticity and confidentiality of orders and data transmitted, the limited preservation under European Preservation Orders, the data protection framework applicable, the rights of data subjects, data subjects benefiting from immunities and privileges, the legal representatives, the time limits to comply with European Production Orders and the possibility for service providers to object to orders.

Finally, the EDPS asks for more clarity on the interaction of the proposed Regulation with future international agreements. The proposed Regulation should maintain the high level of data protection in the EU and become a reference when negotiating international agreements on cross-border access to electronic evidence.

## 1. INTRODUCTION AND BACKGROUND

1. On 17 April 2018, the Commission released two legislative Proposals (hereinafter ‘the Proposals’), accompanied by an Impact Assessment <sup>(1)</sup>, including:
  - a Proposal for a Regulation on European Production and Preservation Orders for electronic evidence in criminal matters <sup>(2)</sup> (hereinafter ‘the proposed Regulation’);
  - a Proposal for a Directive laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings <sup>(3)</sup> (hereinafter ‘the proposed Directive’).
2. The proposed Regulation would co-exist with Directive 2014/41/EU regarding the European Investigation Order in criminal matters (hereinafter ‘EIO Directive’) <sup>(4)</sup>, which aims at easing the process of gathering evidence in the territory of another Member State and covers every type of evidence gathering, including electronic data <sup>(5)</sup>. All Member States which took part in the adoption of the EIO Directive <sup>(6)</sup> had until May 2017 to implement it in their national legislation <sup>(7)</sup>.
3. On 26 September 2018, the European Data Protection Board <sup>(8)</sup> (hereinafter ‘EDPB’) adopted an opinion <sup>(9)</sup> on the Proposals.
4. On 7 December 2018 and 8 March 2019, the Council adopted its general approach on the proposed Regulation <sup>(10)</sup> and the proposed Directive <sup>(11)</sup> respectively. The European Parliament published a series of working documents.
5. The European Data Protection Supervisor (hereinafter ‘EDPS’) welcomes that he has been consulted informally by the Commission services before the adoption of the Proposals. The EDPS also welcomes the references to the present Opinion in Recital 66 of the proposed Regulation and Recital 24 of the proposed Directive.
6. On 5 February 2019, the Commission adopted two recommendations for Council Decisions: a Recommendation to authorise the opening of negotiations in view of an international agreement between the European Union (EU) and the United States of America (US) on cross-border access to electronic evidence for judicial cooperation in criminal matters <sup>(12)</sup> and a Recommendation to authorise the participation of the Commission, on behalf of the EU, in negotiations on a second Additional Protocol to the Council of Europe Convention on Cybercrime (CETS No 185) (hereinafter ‘Convention on Cybercrime’) <sup>(13)</sup>. The two recommendations were the subject of two EDPS Opinions <sup>(14)</sup>. Both negotiations with the US and at the Council of Europe are closely linked.
7. In February 2019, the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament addressed similar letters to the EDPS and the EDPB to request a legal assessment of the impact of the US CLOUD Act <sup>(15)</sup> that was passed by the US Congress in March 2018, on the European legal framework for data protection. On 12 July 2019, the EDPS and the EDPB adopted a Joint Response to this request with their initial assessment <sup>(16)</sup>.
8. On 3 October 2019, the United Kingdom and the United States signed a bilateral agreement on cross-border access to e-evidence for the purpose of countering serious crime <sup>(17)</sup>. It is the first executive agreement allowing US service providers to comply with requests for content data from a foreign country under the US CLOUD Act.

This Opinion covers both Proposals, with however a main focus on the proposed Regulation. In line with the EDPS mission, it is primarily focussed on the rights to privacy and to the protection of personal data and aims to be consistent and complementary to the EDPB Opinion 23/2018, also considering the general approaches of the Council and the working documents of the European Parliament.

## 5. CONCLUSIONS

70. The EDPS supports the objective of ensuring that effective tools are available to law enforcement and judicial authorities to investigate and prosecute criminal offences in a world transformed by new technologies. At the same time, the EDPS would like to ensure that this action is fully respectful of the Charter and the EU data protection *acquis*. The proposed Regulation would require the storage and communication of personal data inside and outside the EU

between Member States' competent authorities, private entities and in some cases third countries' authorities. It would entail limitations on the two fundamental rights to respect for private life and to the protection of personal data guaranteed by Articles 7 and 8 of the Charter. To be lawful, such limitations must comply with the conditions laid down in Article 52(1) of the Charter and notably meet the necessity condition.

71. The EDPS first considers that other alternatives that would provide greater safeguards while achieving the same goals should be further assessed.
72. Second, the EDPS takes note that the proposed Regulation already includes a number of procedural safeguards. However, the EDPS is concerned that the important responsibility of reviewing compliance of EPOC and EPOC-PR with the Charter is entrusted to service providers and recommends involving judicial authorities designated by the enforcing Member State as early as possible in the process of gathering electronic evidence.
73. The EDPS recommends ensuring further consistency between the definitions of categories of electronic evidence data and existing definitions of specific categories of data under EU law and reconsidering the category of access data, or to submit the access to these data to similar conditions to those for accessing the categories of transactional data and content data. The proposed Regulation should lay down clear and straightforward definitions of each data category in order to ensure legal certainty for all stakeholders involved. He also recommends amending the proposed definition of the category of subscriber data in order to further specify it.
74. He further recommends reassessing the balance between the type of offences for which EPOs could be issued and the categories of data concerned, taking into account the recent relevant case law of the CJEU. In particular, the possibility to issue an EPO to produce transactional data and content data should be limited to serious crimes. Ideally, the EDPS would favour the definition of a closed list of specific serious criminal offences for EPOs to produce transactional data and content data, which will also increase legal certainty for all stakeholders involved.
75. The EDPS also makes recommendations aiming at ensuring the respect for data protection and privacy rights while achieving a speedy gathering of evidence for the purpose of specific criminal proceedings. They focus on the security of the transmission of data between all stakeholders involved, the authenticity of orders and certificates and the limited preservation of data under an EPO-PR.
76. Beyond the general comments and main recommendations made above, the EDPS has made additional recommendations in this Opinion regarding the following aspects of the Proposals:
  - the reference to the applicable data protection framework;
  - the rights of the data subjects (enhanced transparency and the right to a legal remedy);
  - data subjects benefiting from immunities and privileges;
  - the appointment of legal representatives for the gathering of evidence in criminal matters;
  - the time limits to comply with EPOC and produce the data;
  - the possibility for service providers to object to orders based on limited grounds.
77. Finally, the EDPS is aware of the broader context in which the initiative has been tabled and of the two Council Decisions adopted, one regarding the Second Additional Protocol to the Convention on Cybercrime at the Council of Europe and one regarding the opening of negotiations with the United States. He asks for more clarity on the interaction of the proposed Regulation with international agreements. The EDPS is eager to contribute constructively in order to ensure consistency and compatibility between the final texts and the EU data protection framework.

Brussels, 6 November 2019.

Wojciech Rafał WIEWIÓROWSKI

*Assistant Supervisor*

(<sup>1</sup>) Commission Staff Working Document: Impact Assessment, SWD(2018) 118 final (hereinafter 'Impact Assessment'), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD%3A2018%3A118%3AFIN>

(<sup>2</sup>) Proposal for a Regulation of the European Parliament and of the Council on European Production and Preservation Orders for electronic evidence in criminal matters, COM(2018) 225 final.

- (<sup>3</sup>) Proposal for a Directive of the European Parliament and of the Council laying down harmonised rules on the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings, COM(2018) 226 final.
- (<sup>4</sup>) Directive 2014/41/EU of the European Parliament and of the Council, of 3 April 2014, regarding the European Investigation Order in criminal matters, O.J. L 130, 1.5.2014, p. 1; see Article 23 of the proposed Regulation.
- (<sup>5</sup>) The EIO Directive provides for a direct cooperation between the issuing authority in a Member State and the executing authority of another Member State or, as the case may be, via the central authority(ies) appointed by the Member State(s) concerned. It aims at facilitating and speeding up this cooperation by providing for standardised forms and strict time limits and removing several obstacles to cross-border cooperation; for instance, '[t]he issuing authority may issue an EIO in order to take any measure with a view to provisionally preventing the destruction, transformation, removal, transfer or disposal of an item that may be used as evidence' and 'the executing authority shall decide and communicate the decision on the provisional measure as soon as possible and, wherever practicable, within 24 hours of receipt of the EIO' (Article 32); also the execution of a EIO for the identification of persons holding a subscription of a specified phone number or IP address is not subject to the double criminality requirement (Article 10(2)(e) combined with Article 11(2)).
- (<sup>6</sup>) All EU Member States except Denmark and Ireland.
- (<sup>7</sup>) All participating Member States have implemented the EIO Directive in their national laws in 2017 or 2018. See the European Judicial Network implementation status: [https://www.ejn-crimjust.europa.eu/ejn/EJN\\_Library\\_StatusOfImpByCat.aspx?CategoryId=120](https://www.ejn-crimjust.europa.eu/ejn/EJN_Library_StatusOfImpByCat.aspx?CategoryId=120)
- (<sup>8</sup>) The EDPB established by Article 68 GDPR succeeded the Working Party established by Article 29 of Directive 95/46/EC, which was repealed. Similarly to the Article 29 Working Party, the EDPB is composed of representatives of the national data protection authorities and the EDPS.
- (<sup>9</sup>) Opinion 23/2018 of 26 September 2018 on Commission proposals on European Production and Preservation Orders for electronic evidence in criminal matters (Art. 70.1.b) (hereinafter 'EDPB Opinion 23/2018'), available at: [https://edpb.europa.eu/sites/edpb/files/files/file1/eevidence\\_opinion\\_final\\_en.pdf](https://edpb.europa.eu/sites/edpb/files/files/file1/eevidence_opinion_final_en.pdf)
- (<sup>10</sup>) <https://www.consilium.europa.eu/en/press/press-releases/2018/12/07/regulation-on-cross-border-access-to-e-evidence-council-agrees-its-position/#>
- (<sup>11</sup>) <https://www.consilium.europa.eu/en/press/press-releases/2019/03/08/e-evidence-package-council-agrees-its-position-on-rules-to-appoint-legal-representatives-for-the-gathering-of-evidence/>
- (<sup>12</sup>) Recommendation for a Council Decision authorising the opening of negotiations in view of an agreement between the European Union and the United States of America on cross-border access to electronic evidence for judicial cooperation in criminal matters, COM(2019) 70 final.
- (<sup>13</sup>) Recommendation for a Council Decision authorising the participation in negotiations on a second Additional Protocol to the Council of Europe Convention on Cybercrime (CETS No 185), COM(2019) 71 final. To date, all Member States of the EU have signed the Convention of the Council of Europe on enhanced international cooperation on cybercrime and electronic evidence and almost all of them have ratified it. Ireland and Sweden are still in the process of ratifying the Convention on Cybercrime. The Convention on Cybercrime is a binding international instrument requiring the Contracting Parties to lay down specific criminal offences committed against or by means of electronic networks in their national law and establish specific powers and procedures enabling their national authorities to carry out their criminal investigations, including for collecting evidence of an offence in electronic form. It also fosters international cooperation between the Contracting Parties. There are specific measures to address the challenges arising from the volatility of data. In this respect, the Convention provides for the expedited preservation of stored computer data. Since the transfer of the secured evidence to the requesting state is subject to a final decision on the formal Mutual Legal Assistance request, the preservation shall not be subject to the full set of grounds for refusal, in particular double criminality shall be required in exceptional cases only (Article 29).
- (<sup>14</sup>) EDPS Opinion 2/2019 on the negotiating mandate of an EU-US agreement on cross-border access to electronic evidence and EDPS Opinion 3/2019 regarding the participation in the negotiations in view of a Second Additional Protocol to the Budapest Cybercrime Convention.
- (<sup>15</sup>) Available at: <https://www.congress.gov/bill/115th-congress/house-bill/1625/text>
- (<sup>16</sup>) [https://edpb.europa.eu/our-work-tools/our-documents/letters/epdb-edps-joint-response-libe-committee-impact-us-cloud-act\\_fr](https://edpb.europa.eu/our-work-tools/our-documents/letters/epdb-edps-joint-response-libe-committee-impact-us-cloud-act_fr)
- (<sup>17</sup>) <https://www.gov.uk/government/publications/ukusa-agreement-on-access-to-electronic-data-for-the-purpose-of-counteracting-serious-crime-cs-usa-no62019>
-



## NOTICES FROM MEMBER STATES

**Commission notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community****Imposition of public service obligations in respect of scheduled air services**

(Text with EEA relevance)

(2020/C 32/05)

Member State	France
Route concerned	Cayenne – Camopi Saint Georges – Camopi
Date of entry into force of the public service obligations	1 July 2020
Address where the text and any relevant information and/or documentation relating to the public service obligation can be obtained	Deliberation No AP-2019-94 of 18 December 2019 – new public service obligations on domestic air transport <a href="https://www.ctguyane.fr/deliberations/">https://www.ctguyane.fr/deliberations/</a>

**Commission notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community**

**Changes to public service obligations in respect of scheduled air services**

(Text with EEA relevance)

(2020/C 32/06)

Member State	France
Route concerned	Cayenne – Maripasoula Cayenne – Saül Cayenne – Grand Santi St Laurent du Maroni – Grand Santi St Laurent du Maroni – Maripasoula
Original date of entry into force of the public service obligations	30 July 1996 (Cayenne – Maripasoula and Cayenne – Saül) 25 April 2005 (Saint Laurent du Maroni – Grand Santi) 1 June 2005 (Cayenne – Grand Santi and St Laurent du Maroni – Maripasoula)
Date of entry into force of the changes	1 July 2020
Address where the text and any relevant information and/or documentation relating to the public service obligation can be obtained	Deliberation No AP-2019-94 of 18 December 2019 – new public service obligations on domestic air transport <a href="https://www.ctguyane.fr/deliberations/">https://www.ctguyane.fr/deliberations/</a>

**Commission notice pursuant to Article 17(5) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community**  
**Invitation to tender in respect of the operation of scheduled air services in accordance with public service obligations**

(Text with EEA relevance)

(2020/C 32/07)

Member State	France
Routes concerned	Lot 1 (East): Cayenne – Camopi Saint Georges – Camopi Lot 2 (West): Cayenne – Maripasoula Cayenne – Saül Cayenne – Grand Santi St Laurent du Maroni – Grand Santi St Laurent du Maroni – Maripasoula
Period of validity of the contract	5 years
Deadline for the submission of applications and tenders	31 March 2020
Address where the text of the invitation to tender and any relevant information and/or documentation relating to the public tender and the public service obligation can be obtained	Hôtel de la Collectivité Territoriale de Guyane Carrefour de Suzini – 4179, route de Montabo BP 47025 – 97307 Cayenne CEDEX <a href="https://www.ctguyane.fr/marches-publics/">https://www.ctguyane.fr/marches-publics/</a>

V

*(Announcements)*

## ADMINISTRATIVE PROCEDURES

## EUROPEAN INVESTMENT BANK

**SIT 2020 — Call for proposals****Ideas that change the world: the EIBI's 2020 Social Innovation Tournament***(2020/C 32/08)*

EIB Institute organises its ninth Social Innovation Tournament

The SIT promotes innovative ideas and rewards initiatives that create social and environmental impact, covering projects in a wide range of fields — from education, healthcare and job creation, to new technologies, systems and processes. All projects compete for two prizes in a General Category, and projects addressing this year's topic of environment (with special emphasis on biodiversity and ecosystem conservation) will also compete for two prizes in the Special Category. Winning projects in both categories will be awarded a 1st or 2nd Prize of EUR 50 000 or EUR 20 000 respectively.

Follow us on Facebook: [www.facebook.com/EibInstitute](http://www.facebook.com/EibInstitute)

For further information on this tournament and how to submit an innovative proposal, go to: <http://institute.eib.org/programmes/social/social-innovation-tournament/>

---

# PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

## EUROPEAN COMMISSION

### **Prior notification of a concentration**

#### **(Case M.9434 — UTC/Raytheon)**

(Text with EEA relevance)

(2020/C 32/09)

1. On 24 January 2020, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 <sup>(1)</sup>.

This notification concerns the following undertakings:

- United Technologies Corporation ('UTC', USA),
- Raytheon Company ('Raytheon', USA).

UTC acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Raytheon.

The concentration is accomplished by way of contract or any other means.

2. The business activities of the undertakings concerned are:

- for UTC: supply of high-technology products and services for the building systems and aerospace industries. UTC currently comprises the following main business units: Otis Elevator Company; Carrier; Pratt & Whitney; and Collins Aerospace Systems (the recently renamed combination of United Technologies Aerospace Systems and Rockwell Collins),
- for Raytheon : defense contractor. Raytheon supplies guided weapons, sensors, electronics, and professional services for military and commercial customers.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the Merger Regulation. However, the final decision on this point is reserved.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. The following reference should always be specified:

M.9434 — UTC/Raytheon

Observations can be sent to the Commission by email, by fax, or by post. Please use the contact details below:

Email: COMP-MERGER-REGISTRY@ec.europa.eu

Fax +32 22964301

Postal address:

European Commission  
Directorate-General for Competition  
Merger Registry  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

---

<sup>(1)</sup> OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation').

## OTHER ACTS

## EUROPEAN COMMISSION

**Publication of a communication of approval of a standard amendment to a product specification for a name in the wine sector referred to in Article 17(2) and (3) of Commission Delegated Regulation (EU) 2019/33.**

(2020/C 32/10)

This communication is published in accordance with Article 17(5) of Commission <sup>(1)</sup> Delegated Regulation (EU) 2019/33

COMMUNICATING THE APPROVAL OF A STANDARD AMENDMENT

**'Brachetto d'Acqui / ACQUI'****Reference number: PDO-IT-A1382-AM04****Date of communication: 25 September 2019****DESCRIPTION OF AND REASONS FOR THE APPROVED AMENDMENT****1. Description of the wines**

Description and reasons

For 'Brachetto d'Acqui' or 'Acqui' still and sparkling wines, the minimum total acidity has been changed from 5 g/l to 4.5 g/l.

For the sparkling wine (Spumante), the minimum sugar-free extract has been reduced from 18 g/l to 17 g/l.

Reasons:

Changes in climate conditions have affected the phenological stages and grape ripening which often occurs early, in addition to which the acidity of the must and therefore of the wines obtained from it, is reduced. It was thus considered appropriate to reduce the minimum total acidity by 0.5 g/l.

The reduction of the sugar-free extract by one gram per litre constitutes a formal amendment, in relation to the official method, to the previous value for the minimum net dry extract.

This amendment concerns section 1.4 of the Single Document and Article 6 of the Product Specification.

**2. Wine-making and bottling area**

Description and reasons

- (a) the provisions on the wine-making and bottling area and related derogations have been reworded, grouping all operations already provided for under Article 5(1) and (11) of the Product Specification, under Article 5(1) and (2);
- (b) in accordance with the derogation provided for in the current EU legislation, all wine-making/production operations are permitted throughout the entire Piedmont Region, rather than being limited to the provinces of Asti, Cuneo and Alessandria;
- (c) for 'Brachetto d'Acqui' and 'Acqui' Spumante with an extra-brut to demi-sec sugar content only, the second fermentation process can take place within the administrative area of the neighbouring regions of Liguria, Lombardy, Emilia Romagna and the Valle d'Aosta, in accordance with the derogation provided for in current EU legislation.

Reasons:

(a) and (b) these are formal amendments that describe the provisions on winemaking/production and bottling as well as the relevant derogations for the different types of wine in an organic way and in line with the EU legislation in force;

(c) the purpose of widening the area in which wine-making operations are authorised by derogation, for certain types of sparkling wine only, is to create new opportunities for producers in relation to new marketing needs.

The amendments concern point 1.9 (Further conditions) of the Single Document and Article 5 of the Product Specification.

(1) OJ L 9, 11.1.2019, p. 2.

### 3. Labelling

Description and reasons

In the name and presentation of 'Brachetto d'Acqui' or 'Acqui' and 'Brachetto d'Acqui' or 'Acqui' Spumante labelled 'Denominazione di Origine Controllata e Garantita' ['Controlled and Guaranteed Designation of Origin' or DOCG], the sugar content need not be indicated in different characters to those used for the name.

Reasons: a restriction is removed, giving producers greater freedom to choose the design of the label.

The amendments concern point 1.9 (Further conditions) of the Single Document and Article 5 of the Product Specification.

#### SINGLE DOCUMENT

#### 1. Name of the product

Brachetto d'Acqui

Acqui

#### 2. Geographical indication type

PDO – Protected designation of origin

#### 3. Categories of grapevine product

1. Wine

6. Quality aromatic sparkling wine

#### 4. Description of the wine(s)

'Brachetto d'Acqui' or 'Acqui'

Wine produced from Brachetto grapes, with a characteristic and outstanding aroma which is more or less prevalent depending on the wine-making method used. The grapes are grown within a well-defined area in Piedmont, in 26 municipalities across the Provinces of Asti and Alessandria.

Characteristics on consumption:

Colour: ruby red of medium intensity, tending towards clear garnet or pink or rosé;

Aroma: distinctive, very delicate, sometimes fruity, tending towards spicy in the version with a lower sugar content;

Taste: delicate, characteristic, from dry to sweet;

Minimum total alcoholic strength by volume: 11.50%,

with an acquired alcohol level of at least 5%;

Minimum sugar-free extract: 18 g/l.

#### General analytical characteristics

Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	5
Minimum total acidity	4.5 grams per litre expressed as tartaric acid
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

'Brachetto d'Acqui' or 'Acqui' Spumante

Wine produced from Brachetto grapes, with a characteristic and outstanding aroma which is more or less prevalent depending on the wine-making method used. The grapes are grown within a well-defined area in Piedmont, in 26 municipalities across the Provinces of Asti and Alessandria.

Characteristics on consumption:

Foam: fine, long-lasting;

Colour: ruby red of medium intensity, tending towards clear garnet or pink or rosé;

Aroma: distinctive, delicate, sometimes fruity, tending towards spicy in the version with a lower sugar content;

Taste: delicate, characteristic, from extra brut to sweet;

Minimum total alcoholic strength by volume: 12%, with an acquired alcohol level of at least 6%;

Minimum sugar-free extract: 17 g/l.

General analytical characteristics

Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	6
Minimum total acidity	4.5 grams per litre expressed as tartaric acid
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

'Brachetto d'Acqui' or 'Acqui' Passito

This sweet aromatic wine is made from grapes grown within a well-defined area in Piedmont, in only 26 municipalities across the Provinces of Asti and Alessandria.

Characteristics on consumption

Colour: ruby red of medium intensity, sometimes tending towards garnet;

Aroma: a very delicate musky aroma typical of the Brachetto variety, sometimes with hints of wood;

Taste: sweet, musky, harmonic, smooth, sometimes with hints of wood;

Minimum total alcoholic strength by volume: 16%;

Minimum sugar-free extract 20 g/l.

General analytical characteristics

Maximum total alcoholic strength (in % volume)	
Minimum actual alcoholic strength (in % volume)	11
Minimum total acidity	4.5 grams per litre expressed as tartaric acid
Maximum volatile acidity (in milliequivalents per litre)	
Maximum total sulphur dioxide (in milligrams per litre)	

5. **Wine-making practices**

a. *Essential oenological practices*

NONE

b. *Maximum yields*

'Brachetto d'Acqui' or 'Acqui', incl. Spumante and Passito

8,000 kg of grapes per hectare



## 6. Demarcated geographical area

The grapes used in the production of 'Brachetto d'Acqui' or 'Acqui' DOCG wines must be grown in the Piedmont Region, in the 26 municipalities located across the Provinces of Asti and Alessandria, which are listed below:

Province of Asti:

the entire administrative territory of the following municipalities: Vesime, Cessole, Loazzolo, Bubbio, Monastero Bormida, Rocchetta Palafea, Montabone, Fontanile, Mombaruzzo, Maranzana, Quaranti, Castel Boglione, Castel Rocchero, Sessame, Castelletto Molina, Calamandrana, Cassinasco, and Nizza Monferrato (only the territory located on the right of the Belbo river);

Province of Alessandria:

the entire administrative territory of the following municipalities: Acqui Terme, Terzo, Bistagno, Alice Bel Colle, Strevi, Ricaldone, Cassina, Visone.

## 7. Main wine grape variety(ies)

Brachetto N.

## 8. Description of the link(s)

'Brachetto d'Acqui' or 'Acqui' DOCG

'Brachetto d'Acqui' DOCG wine mainly owes its qualities to the production area, the Alto Monferrato. The area spreads across 26 municipalities in the Provinces of Asti and Alessandria, and has clay soils in the Nizza Monferrato area, and sand and lime soils in the area in and around Acqui Terme. The olfactory qualities of the grapes, and of the wines produced from them, are to a large extent determined by these growing conditions.

The area's suitability for wine growing, with its particular morphology and climate conditions and its wine-making skills and traditions, has made it possible to 'select', over the years, Brachetto as the grape variety best suited to the surroundings.

In 1817, the naturalist Gallesio described it as a 'VINO CELEBRE' ['famous wine'], classifying it as an alcoholic, pale-coloured dessert wine that began to taste like port or sherry as it aged. He reported that Brachetto wines, both sweet and sparkling, were well known and sold well in South American markets: this suggests that production at that time must have been considerable. The first official definition was written in 1922 by Attilio Garino Canina, the true scientific classifier of this grape: 'Brachetto belongs to the deluxe category of sweet, aromatic red wines. It is a wine with a specific aroma, with moderate alcohol and sugar content, not highly coloured, which is often consumed as a semi-sparkling or sparkling wine ...'

Of the various historically significant accounts Canina gave, one of the most interesting ones is that although Brachetto was particularly popular in the district of Acqui and Nizza Monferrato, market production was only 500 hl.

What had caused the 'disappearance' of a wine which, only 50 years previously, had been exported in large quantities?

The advent of the phylloxera had devastated vineyards by the end of the First World War: when it came to replanting the vines, winemakers chose other grape varieties over Brachetto, because they were better suited to market trends than the latter variety which required special care and attention. This is what led to its demise. Its revival is recent history: Around the 1950s, in the hills of southern Piedmont where Brachetto was still being produced by a small band of loyal fans, Arturo Bersano, a producer who, while respecting tradition, was forward-looking, developed a sparkling Brachetto processed in an autoclave using the Charmat method. From then on Brachetto has continued to feature among the great aromatic wines, distinguished by its special qualities and the fact that it is appreciated by the most refined connoisseurs. But Brachetto also has a tradition of non-sweet wines, attested by the production of non-sweet types of Brachetto still wine from the early 20th century on, in the areas of Strevi, Alto Monferrato and Acqui Terme and the Brachetto demi-sec produced by Cantine Spinola, which was selected in wine-making competitions (Brachetto d'Acqui demi-sec rosé of 1987 and Brachetto dry of 1964). The wine was mentioned in a 1985 issue of Barolo & Co. which described Brachetto as a 'typically local variety that comes in a dry version which can also be placed on the market'. Reference is also made to it in a historical account about the Brachetto dry of Carlo Lazzeri, the owner of the Enoteca Regionale di Acqui 'Terme e Vino' [Acqui Regional Wine Shop 'Spa and Wine'], 'around about the 1980s they served glasses of Brachetto dry produced by Cantine Spinola', especially as an aperitif which was very popular because of its light and not-too-sweet taste. During those years, Brachetto dry was also selected at wine-making competitions in Acqui Terme.' From 2008, after experimentation, a dry, sparkling aromatic wine was produced from 100% Brachetto grapes; this wine was claimed to be a 'product which is appreciated and consumed locally, as well as being exported as a niche product to Japan, South Korea and the USA'.

## 9. Essential further conditions (packaging, labelling, other requirements)

Derogation from production in the demarcated geographical area

Legal framework:

EU legislation

Type of further condition:

Derogation from production in the demarcated geographical area

Description of the condition:

Grape-drying, pressing, winemaking and second fermentation are permitted not just within the demarcated production area but throughout the entire territory of the Piedmont Region.

In addition, for 'Brachetto d'Acqui' or 'Acqui' Spumante wines that range from extra-brut to demi-sec in terms of sugar content, the second fermentation process may take place in the administrative territory of the regions of Liguria, Lombardia, Emilia Romagna and Valle d'Aosta, in accordance with the EU legislation in force.

Bottling within the demarcated geographical area

Legal framework:

EU legislation

Type of further condition:

Bottling within the demarcated geographical area

Description of the condition:

Bottling must take place within the production area, including in areas where winemaking/production is exceptionally permitted.

The reason for this provision, in accordance with European Union legislation, is to safeguard the quality and image of 'Brachetto d'Acqui' and 'Acqui' PDO wines, guarantee their origin and ensure the effectiveness and timeliness of the relevant checks. These conditions are better ensured if bottling takes place within the area, as the application of and compliance with all the technical rules concerning transport and bottling are entrusted to holdings in the production area.

In addition, the control system operated by the competent body, which operators must comply with at all stages of production, is more effective in the demarcated area.

Labelling indications

Legal framework:

National legislation

Type of further condition:

Additional labelling requirements

Description of the condition:

In the name and presentation of 'Brachetto d'Acqui' or 'Acqui' and 'Brachetto d'Acqui' or 'Acqui' Spumante labelled 'Denominazione di Origine Controllata e Garantita' ['Controlled and Guaranteed Designation of Origin' or DOCG], the sugar content must not be indicated on the same line as the name of the wine; in addition, the sugar content must be presented in a smaller font size than that used for the name.

### Link to the product specification

<https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/14376>

---



ISSN 1977-0936 (electronic edition)  
ISSN 1725-2431 (paper edition)



**Publications Office of the European Union**  
2985 Luxembourg  
LUXEMBOURG

**EN**