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⁽¹⁾ Text with EEA relevance

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN DATA PROTECTION SUPERVISOR

Opinion of the European Data Protection Supervisor on the legislative proposals on alternative and online dispute resolution for consumer disputes

(2012/C 136/01)

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 thereof,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular Articles 7 and 8 thereof,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾,

Having regard to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾, and in particular Article 41 thereof,

HAS ADOPTED THE FOLLOWING OPINION:

I. INTRODUCTION**I.1. Consultation of the EDPS and aim of the Opinion**

1. On 29 November 2011, the Commission adopted two legislative proposals on alternative dispute resolution (hereinafter: 'the proposals');

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.⁽²⁾ OJ L 8, 12.1.2001, p. 1.

- proposal for a directive of the European Parliament and of the Council on alternative dispute resolution for consumer disputes (hereinafter: 'the ADR proposal') ⁽³⁾,

- proposal for a regulation on online dispute resolution for consumer disputes (hereinafter: 'the ODR proposal') ⁽⁴⁾.

2. On 6 December 2011, the EDPS received the ADR proposal and the ODR proposal for consultation. The EDPS had also been consulted informally before the adoption of the proposals and has issued informal comments. The EDPS welcomes this early consultation and the fact that most of the recommendations contained in these comments have been included in the proposals.

3. The present Opinion aims at analysing the processing of personal data foreseen by the proposals and at explaining how they address data protection issues. It will focus on the ODR proposal, as it involves a centralised processing of personal data related to disputes through an online platform.

I.2. Aim of the proposals

4. Alternative dispute resolution schemes (ADR) provide an alternative means of solving disputes which is usually less costly and faster than bringing a case to court. The ADR proposal aims at ensuring that these entities are in place in all EU Member States to solve any cross-border consumer dispute arising from the sale of goods or the provision of services in the EU.

⁽³⁾ COM(2011) 793 final.⁽⁴⁾ COM(2011) 794 final.

5. The ODR proposal builds on this EU-wide availability of ADR for consumer disputes. It establishes an online platform (hereinafter: the 'ODR platform') that consumers and traders will be able to use to transmit complaints on cross-border online transactions to the competent ADR entity.

II. GENERAL REMARKS

6. The EDPS supports the aim of the proposals and welcomes the fact that data protection principles have been taken into account from the earliest stage of the drafting process.
7. The EDPS also welcomes the references to the applicability of the data protection legislation in the ODR proposal ⁽¹⁾ and to the applicability of national legislation implementing Directive 95/46/EC in the context of the ADR proposal ⁽²⁾, as well as the references to the consultation to the EDPS ⁽³⁾.

III. SPECIFIC REMARKS

III.1. Role of the controllers: need for a clear allocation of responsibilities

8. According to the ODR proposal, the data will be processed by three types of actors in the context of each dispute submitted through the ODR platform:

- ADR entities,
- ODR facilitators, that will provide support to the resolution of disputes submitted via the ODR platform ⁽⁴⁾,
- the Commission.

Article 11(4) states that each of these actors is to be considered as a controller as regards the processing of personal data related to their responsibilities.

9. However, many of these controllers could be deemed responsible for the processing of the same personal data ⁽⁵⁾. For example, data related to a particular dispute

sent through the ODR platform may be examined by several ODR facilitators and by the competent ADR scheme who will deal with the dispute. The Commission may also process these personal data for the operation and maintenance of the ODR platform.

10. In this respect, the EDPS welcomes the fact that recital 20 of the ODR proposal states that data protection legislation applies to all of these actors. However, the legislative part of the ODR proposal should specify at least to which of the controllers data subjects should address their requests of access, rectification, blocking and erasure; and which controller would be accountable in case of specific breaches of the data protection legislation (for example, for security breaches). Data subjects should also be informed accordingly.

III.2. Access limitation and retention period

11. According to Article 11 of the ODR proposal, access to personal data processed through the ODR platform is limited to:

- the competent ADR entity for the purposes of the resolution of the dispute,
- ODR facilitators to support the resolution of the dispute (e.g., to facilitate the communication between the parties and the relevant ADR entity or to inform consumers of means of redress other than the ODR platform),
- the Commission, if necessary for the operation and maintenance of the ODR platform, including to monitor the use of the platform by ADR entities and ODR facilitators ⁽⁶⁾.

12. The EDPS welcomes these limitations of the purpose and the access rights. However, it is not clear whether all ODR facilitators (at least 54) will have access to personal data related to all the disputes. The EDPS recommends clarifying that every ODR facilitator will have access only to the data needed to fulfil his or her obligations under Article 6(2).

13. As regards the retention period, the EDPS welcomes Article 11(3), which allows the retention of personal data only for the time necessary for the resolution of the dispute and for the exercise of data subjects' right of access. He also welcomes the obligation to automatically delete the data six months after the conclusion of the dispute.

⁽¹⁾ Recital 20 and 21 and Article 11(4) of the ODR proposal.

⁽²⁾ Recitals 16 of the ADR proposal.

⁽³⁾ Preambles and explanatory memoranda of the proposals.

⁽⁴⁾ Each Member State will have to designate one contact point for ODR that will host at least two ODR facilitators. The Commission will establish a network of ODR contact points.

⁽⁵⁾ See also Article 29 Working Party Opinion 1/2010 on the concepts of 'controller' and 'processor', adopted on 16.2.2010 (WP 169), pp. 17-24, available on http://ec.europa.eu/justice/policies/privacy/docs/wpdocs/2010/wp169_en.pdf

⁽⁶⁾ See Article 11(2) of the ODR proposal.

III.3. Processing of special categories of data: possible need for prior check

14. Taking into account the purpose of the proposals, it is possible that personal data related to suspected infringements will be processed. Health data might also be processed in the context of disputes arising from the sale of goods or provision of services related to health.
15. The processing of personal data in the framework of the ODR platform may therefore be subject to prior checking by national data protection authorities and by the EDPS, as required by Article 27 of Regulation (EC) No 45/2001 and Article 20 of Directive 95/46/EC ⁽¹⁾. The EDPS understands that the Commission is aware of the necessity of assessing, before the ODR platform becomes operational, whether the processing should be subject to prior checking.

III.4. The EDPS should be consulted on delegated and implementing acts relating to the complaint form

16. The information to be provided in the electronic complaint form (hereinafter: 'the form') is detailed in the Annex to the ODR proposal. This includes personal data of the parties (name, address and, if applicable, e-mail and website address) and data aimed at determining which ADR entity is competent to deal with the relevant dispute (consumer's place of residence at the time the goods or services were ordered, type of goods or services involved, etc.).
17. The EDPS welcomes Article 7(6) which reminds that only accurate, relevant and not excessive data can be processed through the form and its attachments. The list of data contained in the Annex also respects the purpose limitation principle.
18. However, this list can be modified by delegated acts and the modalities of the form will be regulated by implementing acts ⁽²⁾. The EDPS recommends including a reference to the need to consult the EDPS as long as these acts concern the processing of personal data.

III.5. Security measures: need for a privacy impact assessment

19. The EDPS welcomes the provisions dedicated to confidentiality and security. The security measures detailed in

Article 12 of the ODR proposal include access controls, a security plan and security incident management.

20. The EDPS recommends adding also a reference to the need to conduct a privacy impact assessment (including a risk assessment) and to the fact that compliance with data protection legislation and data security should be periodically audited and reported.
21. In addition, the EDPS would like to remind that the development of IT tools for the establishment of the ODR platform should integrate privacy and data protection from the very early design stage (privacy by design), including the implementation of tools enabling users to better protect personal data (such as authentication and encryption).

III.6. Information to data subjects

22. The EDPS welcomes recital 21 of the ODR proposal, which states that data subjects should be informed about the processing of their personal data and their rights through a publicly available privacy notice. However, the obligation to inform data subjects should also be included in the legislative part of the ODR proposal.
23. In addition, data subjects should also be informed on which controller is responsible for compliance with their rights. The privacy notice should be clearly visible for anyone filling the form.

IV. CONCLUSION

24. The EDPS welcomes the fact that data protection principles have been integrated in the text, in particular as regards the purpose and access limitation, the limitation of the retention period and the security measures. However, he recommends:

- clarifying the responsibilities of the controllers and informing data subjects accordingly,
- clarifying the limitation of access rights,
- complementing the provisions on security,
- mentioning the need to consult the EDPS on delegated and implementing acts related to the processing of personal data.

⁽¹⁾ Article 27 of Regulation (EC) No 45/2001 requires that the processing of 'data relating to health and to suspected offences, offences, criminal convictions or security measures' be subject to prior checking by the EDPS. According to Article 20(1) of Directive 95/46/EC, the processing operations likely to present specific data protection risks, as determined by national data protection legislation, are subject to prior checking by the national data protection authority.

⁽²⁾ Recitals 23-24 and Article 7(4)-(5) of the ODR proposal.

25. The EDPS would also like to remind that the processing of personal data in the framework of the ODR platform may be subject to prior checking by the EDPS and by national data protection authorities.

Done at Brussels, 12 January 2012.

Giovanni BUTTARELLI
Assistant European Data Protection Supervisor

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

9 May 2012

(2012/C 136/02)

1 euro =

Currency	Exchange rate	Currency	Exchange rate
USD US dollar	1,295	AUD Australian dollar	1,2886
JPY Japanese yen	102,99	CAD Canadian dollar	1,3007
DKK Danish krone	7,435	HKD Hong Kong dollar	10,053
GBP Pound sterling	0,80495	NZD New Zealand dollar	1,6509
SEK Swedish krona	8,9097	SGD Singapore dollar	1,6232
CHF Swiss franc	1,201	KRW South Korean won	1 481,06
ISK Iceland króna		ZAR South African rand	10,3988
NOK Norwegian krone	7,563	CNY Chinese yuan renminbi	8,1726
BGN Bulgarian lev	1,9558	HRK Croatian kuna	7,505
CZK Czech koruna	25,243	IDR Indonesian rupiah	11 951,56
HUF Hungarian forint	290,7	MYR Malaysian ringgit	3,9808
LTL Lithuanian litas	3,4528	PHP Philippine peso	55,18
LVL Latvian lats	0,6983	RUB Russian rouble	39,3
PLN Polish zloty	4,2154	THB Thai baht	40,287
RON Romanian leu	4,421	BRL Brazilian real	2,5337
TRY Turkish lira	2,3236	MXN Mexican peso	17,4978
		INR Indian rupee	69,768

⁽¹⁾ Source: reference exchange rate published by the ECB.

Euro exchange rates ⁽¹⁾**10 May 2012**

(2012/C 136/03)

1 euro =

Currency			Exchange rate		
Currency			Exchange rate		
USD	US dollar	1,2961	AUD	Australian dollar	1,2801
JPY	Japanese yen	103,31	CAD	Canadian dollar	1,2945
DKK	Danish krone	7,4335	HKD	Hong Kong dollar	10,0615
GBP	Pound sterling	0,80180	NZD	New Zealand dollar	1,6434
SEK	Swedish krona	8,9448	SGD	Singapore dollar	1,6199
CHF	Swiss franc	1,2013	KRW	South Korean won	1 480,27
ISK	Iceland króna		ZAR	South African rand	10,3800
NOK	Norwegian krone	7,5575	CNY	Chinese yuan renminbi	8,1840
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,5055
CZK	Czech koruna	25,162	IDR	Indonesian rupiah	11 954,38
HUF	Hungarian forint	288,31	MYR	Malaysian ringgit	3,9758
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	55,039
LVL	Latvian lats	0,6982	RUB	Russian rouble	39,0370
PLN	Polish zloty	4,2292	THB	Thai baht	40,335
RON	Romanian leu	4,4190	BRL	Brazilian real	2,5456
TRY	Turkish lira	2,3135	MXN	Mexican peso	17,4001
			INR	Indian rupee	69,1310

⁽¹⁾ Source: reference exchange rate published by the ECB.

NOTICES CONCERNING THE EUROPEAN ECONOMIC AREA

EFTA SURVEILLANCE AUTHORITY

The EFTA Surveillance Authority's notice on current state aid recovery interest rates and reference/discount rates for three EFTA States applicable as from 1 January 2012

(Published in accordance with Article 10 of the Authority's Decision No 195/04/COL of 14 July 2004 (OJ L 139, 25.5.2006, p. 37 and in the EEA Supplement No 26/2006, 25.5.2006, p. 1))

(2012/C 136/04)

Base rates are calculated in accordance with the Chapter on the method for setting reference and discount rates of the Authority's State aid Guidelines as amended by the Authority's Decision No 788/08/COL of 17 December 2008. To get the applicable reference rate, appropriate margins have to be added in accordance with the State aid Guidelines. For the discount rate this means that the appropriate margin of 100 basis points has to be added to the base rate. The recovery rate will also normally be calculated by adding 100 basis points to the base rate as foreseen in the Authority's Decision No 789/08/COL of 17 December 2008 amending the Authority's Decision No 195/04/COL of 14 July 2004 (published in OJ L 340, 22.12.2010, p. 1 and in the EEA Supplement No 72/2010, 22.12.2010, p. 1).

	Iceland	Liechtenstein	Norway
1.1.2012-	4,70	0,31	3,57

V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

JUDGMENT OF THE COURT

of 23 January 2012

in Case E-2/11

STX Norway Offshore AS and Others v The Norwegian State, represented by the Tariff Board*(Freedom to provide services — Directive 96/71/EC — Posting of workers — Minimum rates of pay — Maximum working hours — Remuneration for work assignments requiring overnight stay — Compensation for expenses)*

(2012/C 136/05)

In Case E-2/11, STX Norway Offshore AS and Others v The Norwegian State, represented by the Tariff Board — REQUEST to the Court under Article 34 of the Agreement between the EFTA States on the establishment of a Surveillance Authority and a Court of Justice by Borgarting lagmannsrett (Borgarting Court of Appeal, Norway), concerning the compatibility with EEA law of terms and conditions of employment provided for in a collective agreement declared universally applicable within the maritime construction industry and concerning the interpretation of Article 36 of the EEA Agreement and Article 3 of the act referred to at point 30 of Annex XVIII to the EEA Agreement, i.e. Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, as adapted to the EEA Agreement by Protocol 1 thereto, the Court, composed of Carl Baudenbacher, President, Per Christiansen and Páll Hreinsson (Judge-Rapporteur), Judges, gave judgment on 23 January 2012, the operative part of which is as follows:

1. The term 'maximum work periods and minimum rest periods' set out in point (a) of the first subparagraph of Article 3(1) of Directive 96/71/EC covers terms and conditions regarding 'maximum normal working hours', such as those described in the request for an Advisory Opinion.
2. Article 3(1), first subparagraph, point (c) of Directive 96/71/EC, as interpreted in light of Article 36 of the EEA Agreement, does, in principle, preclude an EEA State from requiring an undertaking established in another EEA State which provides services in the territory of the first State to pay its workers the minimum remuneration fixed by the national rules of that State for work assignments requiring overnight stays away from home, unless the rules providing for such additional remuneration pursue a public interest objective and their application is not disproportionate. It is for the national authorities or, as the case may be, the courts of the host EEA State, to determine whether those rules in fact pursue an objective in the public interest and do so by appropriate means.
3. Directive 96/71/EC does not permit an EEA State to secure workers posted to its territory from another EEA State compensation for travel, board and lodging expenses in the case of work assignments requiring overnight stays away from home, unless this can be justified on the basis of public policy provisions.
4. The proportion of the employees covered by the relevant collective agreement, before it was declared universally applicable, has no bearing on the answers to questions 1(a), (b) and (c).

**Request for an Advisory Opinion from the EFTA Court by Héraðsdómur Reykjavíkur dated
16 December 2011 in the case of Vín Trío ehf. v the Icelandic State**

(Case E-19/11)

(2012/C 136/06)

A request has been made to the EFTA Court by a letter of 16 December 2011 from Héraðsdómur Reykjavíkur (Reykjavik District Court), which was received at the Court Registry on 26 December 2011, for an Advisory Opinion in the case of Vín Trío ehf. v the Icelandic State, on the following questions:

1. Does it contravene Article 11 or the first paragraph of Article 16 of the Agreement on the European Economic Area if a Contracting Party provides in legislation, or through administrative acts, that a body exercising a State monopoly on the retail of alcohol may refuse to accept for sale in its retail outlets alcoholic beverages containing stimulants such as caffeine?
 2. If the EFTA Court considers that an arrangement such as that described in the first question constitutes a quantitative restriction on imports, or a measure having equivalent effects, in the sense of Article 11 of the Agreement on the European Economic Area, then an answer is requested to the question of whether such an arrangement may nevertheless be regarded as justified with reference to Article 13 of the Agreement.
 3. If an arrangement such as that described in the first question is regarded as being in contravention of Article 11 or the first paragraph of Article 16 of the Agreement on the European Economic Area, then an answer is requested to the question of whether the EFTA Court considers (to the extent to which it assesses such questions), that the conditions, which the Plaintiff must fulfil in order to acquire a right to compensation from the EFTA State due to a violation of the Agreement, are met.
-

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6511 — Solvay/Air Liquide/JV)

Candidate case for simplified procedure

(Text with EEA relevance)

(2012/C 136/07)

1. On 2 May 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertakings Solvay SA ('Solvay', Belgium) and Air Liquide International ('Air Liquide', France) acquire within the meaning of Article 3(1)(b) of the Merger Regulation control of a newly created company constituting a joint venture ('the JV', Belgium) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- Solvay is the parent of a group of companies which are internationally active in the research, development, production, marketing and sale of chemicals and plastics,
- Air Liquide is active in the production and supply of industrial gases and the supply of associated services to various industries,
- the JV will finance, build, operate and service Fluorine gas production facilities located on or adjacent to a customer site for the supply of F2 by pipeline to customers in the photovoltaic industry and the flat panel display industry mainly located in Asia.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

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. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6511 — Solvay/Air Liquide/JV, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Prior notification of a concentration
(Case COMP/M.6567 — Bouygues/Amelia)
Candidate case for simplified procedure
(Text with EEA relevance)
(2012/C 136/08)

1. On 3 May 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Bouygues Bâtiment International SA ('BBI', France), part of the Bouygues SA group ('Bouygues', France) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Amelia Investments Limited ('Amelia', United Kingdom), by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for Bouygues: construction, telecommunications and media,
- for Amelia: construction and civil engineering in the United Kingdom through its subsidiaries Thomas Vale Construction Plc and Fitzgerald Contractors Limited.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

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. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6567 — Bouygues/Amelia, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Prior notification of a concentration
(Case COMP/M.6569 — Lecta/Polyedra)
Candidate case for simplified procedure
(Text with EEA relevance)
(2012/C 136/09)

1. On 30 April 2012, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking Lecta SA ('Lecta') acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Polyedra SpA and Polyedra AG (together, 'Polyedra'), by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for Lecta: mainly active in the manufacture of coated fine paper, and, to a lesser extent in the manufacture of specialty paper, and the merchanting of paper,
- for Polyedra: active in the merchanting of paper.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

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. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6569 — Lecta/Polyedra, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

OTHER ACTS

EUROPEAN COMMISSION

Publication of an application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2012/C 136/10)

This publication confers the right to object to the application pursuant to Article 7 of Council Regulation (EC) No 510/2006 ⁽¹⁾. Statements of objection must reach the Commission within six months from the date of this publication.

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006**‘KITKAN VIISAS’****EC No: FI-PDO-0005-0872-01.04.2011****PGI () PDO (X)****1. Name:**

‘Kitkan viisas’

2. Member State or Third Country:

Finland

3. Description of the agricultural product or foodstuff:**3.1. Nature of product:**

Class 1.7. Fresh fish, molluscs, and crustaceans and products derived therefrom

3.2. Description of the product to which the name in point 1 applies:

The name Kitkan viisas is used for vendace (*Coregonus albula*) caught in the lakes of the Koillismaa highlands. The main characteristics of Kitkan viisas are the following:

- Kitkan viisas are smaller in size than many other vendace stocks. Depending on annual fluctuations in growth conditions, their average size after one growth period is between 7 and 9 cm. Due to their small size, the backbone of the vendace does not harden, but instead remains soft. The small size of the fish is due to the low levels of nutrients in the waterways and the briefness of the growth period.
- Kitkan viisas reach maturity at around 15 months of age, when the fish are approximately 8 cm long and weigh 4-5 grams. The fish have a dark colour; their backs are almost black, their sides are bright silver and their fins are light-coloured. Vendace can be distinguished from whitefish, bleak and other fish fry of the same size by their lower jaw, which is significantly longer than their upper jaw. Vendace roe is small in size: a litre of roe contains approximately 500 000 fish eggs. The spawning season is in autumn, after which the fish eggs spend the winter in a state of rest, developing into fish fry over a few weeks during the spring.

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

- In winter, the intestines of Kitkan viisas empty completely because of the enforced fast during the long winter, which is why it does not need to be cleaned.

Kitkan viisas is sold fresh and frozen.

3.3. *Raw materials (for processed products only):*

Not relevant

3.4. *Feed (for products of animal origin only):*

The vendace feed on plankton and insect larvae. The vendace get all the nutrition they need from the natural freshwater of the defined geographical area.

3.5. *Specific steps in production that must take place in the defined geographical area:*

The fish must be caught in the defined geographical area. To guarantee quality, preliminary processing must also take place in the same defined geographical area. Preliminary processing involves cleaning and freezing the fish, which here means the following:

When the fish is cleaned, at least the guts and gills of the vendace are removed. If desired, the head and tail and other parts of the fish may also be removed. However, the original form of the vendace must remain recognisable.

When frozen, the temperature of the fish is reduced to at least – 18 degrees Celsius.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

Not relevant

3.7. *Specific rules concerning labelling:*

Not relevant

4. **Concise definition of the geographical area:**

The geographical area consists of the river basins of the Koutajoki and Kemjoki highland catchment areas, located in the municipalities of Kuusamo and Posio, which run into the White Sea, not including lakes located on the Russian border area.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

Kitkan viisas vendace live in the river basin of the Koillismaa highlands. The area is located near the Arctic Circle of the northern hemisphere, where the lakes are covered by ice from October to May. On average, the Koillismaa highlands are 240 metres above sea level. The waterways of the area are low in nutrients and clear, with near-neutral acidity levels.

The fluctuations in the height and current of the waterways are extremely small, which is why there are no currents in the lake basin at any time of the year. The oxygenation conditions of the water also remain good during the winter period. These environmental conditions mean that vendace remain in the water basins where they are born and do not migrate into lower bodies of water.

Because Kitkan viisas are so small, special fishing technology is needed to catch it. Seine nets are the traditional and most common method used by local fishermen to catch vendace. During the spawning season, nets are also used to catch vendace, and in summer, traps. Trawlers are not used to catch Kitkan viisas.

5.2. *Specificity of the product:*

The Arctic conditions and the low nutrient levels of the waterways mean that Kitkan viisas are significantly smaller than several other species of freshwater vendace. Due to their small size, the backbone of Kitkan viisas does not harden, but instead remains soft. The enforced fast during the long winter means that the intestines of the vendace empty entirely, which is why it can be consumed in winter without being cleaned.

- 5.3. *Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI):*

Kitkan viisas are recognised by their distinctive appearance, which is a result of the Arctic conditions of the Koillismaa highlands and the low nutrient levels of its waterways. The traditional fishing methods used in the area and the use of uncleaned vendace in winter are specifically due to the characteristics of the geographical area. The fact that Kitkan viisas do not migrate to lower waterways is due to environmental conditions in the waterways of the geographical area.

Reference to publication of the specification:

(Article 5(7) of Regulation (EC) No 510/2006)

http://www.mmm.fi/attachments/elintarvikkeet/laatujaaturvallisuus/eunnimisuojaajajestelma/newfolder/5uhGhUymv/Kitkan_viisas_hakemus_lopullinen28102011.doc

Publication of an amendment application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs

(2012/C 136/11)

This publication confers the right to object to the amendment application pursuant to Article 7 of Council Regulation (EC) No 510/2006 ⁽¹⁾. Statements of objection must reach the Commission within six months of the date of this publication.

AMENDMENT APPLICATION

COUNCIL REGULATION (EC) No 510/2006

AMENDMENT APPLICATION IN ACCORDANCE WITH ARTICLE 9

‘CIPOLLA ROSSA DI TROPEA CALABRIA’

EC No: IT-PGI-0105-0369-28.09.2011

PGI (X) PDO ()

1. Heading in the product specification affected by the amendment:

- ☐ Name of product
- ☐ Description of product
- ☐ Geographical area
- ☐ Proof of origin
- ☒ Method of production
- ☐ Link
- ☐ Labelling
- ☐ National requirements
- ☒ Other (updated legal references)

2. Type of amendment(s):

- ☒ Amendment to Single Document or Summary Sheet
- ☐ Amendment to Specification of registered PDO or PGI for which neither the Single Document nor the Summary has been published
- ☐ Amendment to Specification that requires no amendment to the published Single Document (Article 9(3) of Regulation (EC) No 510/2006)
- ☐ Temporary amendment to Specification resulting from imposition of obligatory sanitary or phytosanitary measures by public authorities (Article 9(4) of Regulation (EC) No 510/2006)

3. Amendment(s):

3.1. Method of production:

- In Article 5(6) and (7):

‘After the cipollotto bulbs have been harvested, the earth-covered outer layer is removed, the foliage is cut at 40 cm and the bulbs are then placed in trays in bundles.

In the case of cipolla da consumo fresco, the outer layer of the bulbs is also removed and foliage is cut if it is longer than 60 cm. The onions are then tied in bundles of 5-8 kg and placed in trays or crates.’

⁽¹⁾ OJ L 93, 31.3.2006, p. 12.

is replaced by:

‘After the cipollotto bulbs have been harvested, the earth-covered outer layer is removed, the foliage is cut at lengths varying between 30 and 60 cm and the bulbs are then placed in trays in bundles.

In the case of cipolla da consumo fresco, the outer layer of the bulbs is removed and the foliage is cut at lengths varying between 35 and 60 cm. The onions are then tied in bundles of 1,5-6 kg and placed in trays or crates.’

— In Article 9(2):

‘Bulbs carrying the PGI “Cipolla Rossa di Tropea Calabria” must be packaged as follows in order to be released for consumption:

— cipollotti must be tied in bundles and placed in cardboard, plastic or wooden trays ready for sale;

— cipolla da consumo fresco must be tied in 5-8 kg bundles and placed in trays or crates.’

is replaced by:

‘Bulbs carrying the PGI “Cipolla Rossa di Tropea Calabria” must be packaged as follows in order to be released for consumption:

— cipollotti must be tied in bundles and placed in cardboard, plastic or wooden trays ready for sale;

— cipolla da consumo fresco must be tied in 1,5-6 kg bundles and placed in trays or crates.’

The provisions on the preparation of the product for packaging have been amended to allow greater choice as regards package sizes and meet new market requirements relating to packaging.

— In Article 9(4):

‘There must be at least six bulbs, regardless of their diameter, to be presented in plaits and the number and weight in any one package must be the same.’

is replaced by:

‘There must be at least six bulbs, regardless of their diameter, to be presented in plaits.’

As regards the traditional ‘plait’, local producers are allowed greater scope to customise the way it is made in terms of the number of bulbs used and their diameter.

— In Article 9(7):

‘When released for consumption, cipollotti and cipolla da consumo fresco tied in bundles and cipolla da serbo in plaits must carry a sticker containing the logo and brand to allow the product to be clearly identified.’

is replaced by:

‘When released for consumption, cipollotti and cipolle da serbo in plaits must carry a sticker or similar containing the EU logo and the product logo; as for cipolle da consumo fresco placed in trays or crates, each bundle must carry the full label containing the registered name of the firm, the EU logo, the product logo and the product type to ensure its traceability and allow it to be clearly identified.’

For Cipolla Rossa di Tropea Calabria of the type cipolla da consumo fresco in bundles, each bundle must carry a label containing the registered name of the firm, the EU logo and the product logo as well as the product type. Each bundle will thus bear a label containing all the information necessary for the consumer to correctly identify the product.

3.2. *Updated legal reference:*

- References in the product specification to Regulation (EEC) No 2081/92 have been updated.

SINGLE DOCUMENT

COUNCIL REGULATION (EC) No 510/2006

‘CIPOLLA ROSSA DI TROPEA CALABRIA’

EC No: IT-PGI-0105-0369-28.09.2011

PGI (X) PDO ()

1. **Name:**

‘Cipolla Rossa di Tropea Calabria’

2. **Member State or Third Country:**

Italy

3. **Description of the agricultural product or foodstuff:**

3.1. *Type of product:*

Group 1.6: Fresh or processed fruit, vegetables and cereals

3.2. *Description of product to which the name in (1) applies:*

The protected geographical indication (PGI) ‘Cipolla Rossa di Tropea Calabria’ denotes bulbs of the species *Allium Cepa* exclusively from the local ecotypes listed below, which have a characteristic shape and are produced early, owing to the effect of the photoperiod:

- ‘Tondo Piatta’, an early crop;
- ‘Mezza Campana’, a mid to early crop;
- ‘Allungata’, a late crop.

There are three types of product:

‘Cipollotto’:

- colour: white to pink or purple
- flavour: sweet and tender
- size: see the standards applicable under EU rules;

‘Cipolla da consumo fresco’ (for fresh consumption):

- colour: white to pink or purple
- flavour: sweet and tender
- size: see the standards applicable under EU rules;

‘Cipolla da serbo’ (for storage):

- colour: white to purple
- flavour: sweet and crunchy
- size: see the standards applicable under EU rules.

3.3. *Raw materials (for processed products only):*

—

3.4. *Animal feed (for products of animal origin only):*

—

3.5. *Specific steps in production that must take place in the defined geographical area:*

All steps in the production of 'Cipolla Rossa di Tropea Calabria', from sowing to harvest, must take place in the geographical production area.

3.6. *Specific rules concerning slicing, grating, packaging, etc.:*

Once the bulbs of the 'Cipolla Rossa di Tropea Calabria' have been harvested, they are processed as follows:

- The earth-covered outer layer is removed, the foliage is cut at lengths varying between 30 and 60 cm and the bulbs are then placed in trays in bundles.
- In the case of cipolla da consumo fresco, the outer layer of the bulbs is removed and the foliage is cut at lengths varying between 35 and 60 cm. The onions are then tied in bundles of 1,5-6 kg and placed in trays or crates.
- For cipolle da serbo, the bulbs are placed on the ground in windrows covered with their own foliage and left for 8 to 15 days to dry, become more compact and resistant and develop a bright red colour. Once dried, the bulbs may be topped or the foliage left for plaiting. There must be at least six bulbs, regardless of their diameter, to be presented in plaits. Cipolle da serbo must be packaged in bags or trays of varying weights up to a maximum of 25 kg.

All packaging must take place in the production area in accordance with established local practices and long-standing traditions in order to ensure product traceability and control and to maintain product quality.

3.7. *Specific rules concerning labelling:*

The containers must bear, in printed characters double the size of any other print, the wording 'Cipolla Rossa di Tropea Calabria' PGI with the type of onion (either 'cipollotto', 'cipolla da consumo fresco' or 'cipolla da serbo') specified, together with the product logo.

When released for consumption, cipollotti and cipolle da serbo in plaits must carry a sticker or similar with the EU logo and the product logo; as for 'cipolla da consumo fresco' placed in trays or crates, each bundle must carry the full label containing the registered name of the firm, the EU logo, the product logo and the type of product in question to ensure its traceability and allow it to be clearly identified.

4. **Concise definition of the geographical area:**

The production area of 'Cipolla Rossa di Tropea Calabria' PGI covers suitable land in all or part of the following municipalities in the region of Calabria:

- (a) Province of Cosenza: part of the municipalities of Fiumefreddo, Longobardi, Serra d'Aiello, Belmonte and Amantea.
- (b) Province of Catanzaro: part of the municipalities of Nocera Terinese, Falerna, Gizzeria, Lamezia Terme and Curinga.
- (c) Province of Vibo Valentia: part of the municipalities of Pizzo, Vibo Valentia, Briatico, Parghelia, Zambrone, Zaccanopoli, Zungri, Drapia, Tropea, Ricadi, Spilinga, Joppolo and Nicotera.

5. **Link with the geographical area:**

5.1. *Specificity of the geographical area:*

'Cipolla Rossa di Tropea Calabria' is grown in medium, sand-rich loam or in heavy loam rich in clay or lime, in the coastal area or around alluvial rivers and streams which, despite the gravel, does not restrict the growth and development of the bulbs. Coastal land is ideal for growing early onions for fresh consumption. Inland areas with heavier, clay-rich soil are ideal for growing late onions for storage. Today as in the past, red onions are grown in family vegetable patches as well as in large crops and form part of the rural landscape, local food and dishes and traditional recipes.

The soil and climate conditions in the defined area contribute to the high quality and uniqueness of the product, which is widely acclaimed the world over.

5.2. *Specificity of the product:*

The 'Cipolla Rossa di Tropea Calabria' is known for its qualitative and organoleptic characteristics, including the tenderness and sweetness of the bulb and its high digestibility. These characteristics enable the 'Cipolla Rossa di Tropea Calabria' also to be consumed raw, in larger quantities than for normal onions.

5.3. *Causal link between the geographical area and the quality or characteristics of the product (for PDO) or a specific quality, the reputation or other characteristic of the product (for PGI):*

The application to register the PGI 'Cipolla Rossa di Tropea Calabria' is justified by the product's reputation and recognition thanks partly to a number of advertising campaigns, as shown in historical and bibliographical references. Historical and bibliographical references credit the arrival of onions in the Mediterranean basin and Calabria first to the Phoenicians and then to the Greeks. Highly appreciated in the Middle Ages and during the Renaissance, it was considered a staple food and key to the local economy where it was bartered for, sold, and exported by sea to Tunisia, Algeria and Greece. The many travellers who went to Calabria between 1700 and 1800 and visited the Tyrrhenian coast between Pizzo and Tropea frequently refer to the red onions commonly found there. Onions have always been a feature of the rural diet and of local production. Dr Albert, who travelled to Calabria in 1905 and visited Tropea, was struck by the poverty of the local people who ate only onions. In the early 1900s, onion growing in Tropea moved from the family garden and vegetable patch and became a major crop. In 1929, the Valle Ruffa aqueduct paved the way for irrigation and, as a result, better yields and quality. The product became more widespread during the Bourbon period, reaching north European markets and swiftly becoming sought after and prized, as described in *Studi sulla Calabria — 1901*, which refers to the shape of the bulb, the red oblong onions from Calabria. The first organised statistical information on onion-growing in Calabria is contained in the Reda agricultural encyclopaedia (1936-1939). Because of its unique characteristics, which have helped forge a nationwide reputation and, above all, its historical and cultural significance in the area concerned, a significance that is still reflected today in farming practices, cooking, in everyday language and folkloric events, attempts have been made to imitate the product and make unauthorised use of the designation.

Reference to publication of the specification:

The Ministry launched the national objection procedure with the publication of the amendment application regarding the 'Cipolla Rossa di Tropea Calabria' PGI in *Official Gazette of the Italian Republic* No 185 of 10 August 2011.

The full text of the product specification is available on the following web site:

<http://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/3335>

or alternatively:

by going direct to the home page of the Ministry of Agricultural, Food and Forestry Policy (<http://www.politicheagricole.it>) and clicking on 'Qualità e sicurezza' (on the top right of the screen) and then on 'Disciplinari di Produzione all'esame dell'UE'.

INFORMATION NOTICE — PUBLIC CONSULTATION
Geographical indications from Switzerland and Liechtenstein

(2012/C 136/12)

The Agreement between the European Union and the Swiss Confederation on the protection of designations of origin and geographical indications for agricultural products and foodstuffs, amending the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ⁽¹⁾ entered into force on 1 December 2011 ⁽²⁾. The Agreement between the European Union, the Swiss Confederation and the Principality of Liechtenstein amending the Additional Agreement between the European Community, the Swiss Confederation and the Principality of Liechtenstein extending to the Principality of Liechtenstein the Agreement between the European Community and the Swiss Confederation on trade in agricultural products ⁽³⁾ entered into force on 1 December 2011 ⁽⁴⁾.

The review according to Article 16 to Annex 12 of the Agreement between the European Community and the Swiss Confederation on trade in agricultural products is now under way. In this context, the protection in the European Union, as geographical indications, of the Swiss and Liechtenstein's names set out below is under consideration.

The Commission invites any Member State or third country or any natural or legal persons having a legitimate interest, resident or established in a Member State or in a third country, to submit objections to such protection by lodging a duly substantiated statement.

Statements of objection must reach the Commission within two months of the date of this publication. Statements of objection should be sent to the following e-mail address: AGRI-B3-GI@ec.europa.eu

Statements of objection shall be examined only if they are received within the time limit set out above and if they show that the protection of the name proposed would:

- (a) conflict with the name of a plant variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product;
- (b) be wholly or partially homonymous with that of a name already protected in the Union under Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽⁵⁾;
- (c) in the light of a trademark's reputation and renown and the length of time it has been used, be liable to mislead the consumer as to the true identity of the product;
- (d) jeopardise the existence of an entirely or partly identical name or of a trademark or the existence of products which have been legally on the market for at least five years preceding the date of the publication of this notice;
- (e) or if they can give details from which it can be concluded that the name for which protection is considered is generic.

The criteria referred to above shall be evaluated in relation to the territory of the Union, which in the case of intellectual property rights refers only to the territory or territories where the said rights are protected. The eventual protection of these names in the European Union is subject to the successful conclusion of the review under the abovementioned Article 16 and subsequent legal act.

⁽¹⁾ OJ L 297, 16.11.2011, p. 3.

⁽²⁾ OJ L 302, 19.11.2011, p. 1.

⁽³⁾ OJ L 297, 16.11.2011, p. 49.

⁽⁴⁾ OJ L 302, 19.11.2011, p. 2.

⁽⁵⁾ OJ L 93, 31.3.2006, p. 12.

List of GIs for agricultural products and foodstuffs ⁽¹⁾

Class of product	Name	Protection
Cheeses	Werdenberger Sauerkäse, Liechtensteiner Sauerkäse and Bloderkäse	PDO
Charcuterie	Glarner Kalberwurst	PGI

⁽¹⁾ List provided by the Swiss authorities in the framework of the ongoing review, registered in Switzerland according to Swiss Ordinance of 28 May 1997 on the protection of designations of origin and geographical indications for agricultural products and processed agricultural products (http://www.admin.ch/ch/f/rs/c910_12.html).

OTHER ACTS

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