



EUROPEAN  
COMMISSION

Brussels, **XXX**  
[...] (2018) **XXX** draft

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

**of **XXX****

**amending Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and Regulation (EC) No 606/2009 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions**

*This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.*

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

of **XXX**

**amending Implementing Regulation (EU) 2017/892 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors and Regulation (EC) No 606/2009 laying down detailed rules for implementing Council Regulation (EC) No 479/2008 as regards the categories of grapevine products, oenological practices and the applicable restrictions**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007<sup>1</sup>, and in particular Articles 38, 182(1) and (4) and 223 thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agriculture policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008<sup>2</sup>, and in particular Article 62(2) thereof

Whereas:

- (1) Commission Implementing Regulation (EU) 2017/892<sup>3</sup> establishes rules for the application of Regulation (EU) No 1308/2013 with regard to the fruit and vegetables and processed fruit and vegetables sectors. Regulation (EU) 2017/2393 of the European Parliament and of the Council<sup>4</sup> has amended Regulation (EU) No 1308/2013 in particular as regards the aid in the fruit and vegetables sector. Therefore, Implementing Regulation (EU) 2017/892 should reflect the amendments to the relevant provisions of Regulation (EU) No 1308/2013.

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

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

<sup>3</sup> Commission Implementing Regulation (EU) 2017/892 of 13 March 2017 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to the fruit and vegetables and processed fruit and vegetables sectors (OJ L 138, 25.5.2017, p.57).

<sup>4</sup> Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material (OJ L 350, 29.12.2017, p. 15).

- (2) Implementing rules regarding national financial assistance in the fruit and vegetables sector should be updated.
- (3) Details for implementation of the increase of the limit of Union financial assistance from 50% to 60% in Member States where producer organisations market less than 20% of fruit and vegetables production referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 and in particular the details of the calculation of the degree of organisation of producers in a Member State should be laid down to ensure that the applications for aid and the verification of the conditions for the increase are implemented coherently throughout the Union.
- (4) It should also be clarified that promotion of the products as a crisis measure includes diversifying and consolidating the fruit and vegetables markets.
- (5) Provisions relating to annual reports on producer organisations, associations of producers organisations, including transnational organisations, and producer groups, and on operational funds, operational programmes and recognition plans should be simplified. These reports should enable the Commission to adequately monitor the sector.
- (6) Conditions for the application of the import duties referred to in Article 182 of Regulation (EU) No 1308/2013 which may apply to imports of certain fruit and vegetables should be clarified.
- (7) Where an association of producer organisations or transnational association of producer organisation implements an operational programme Member States should ensure that double funding is avoided, and that appropriate checks are carried out for the actions implemented at the level of the association of producer organisations as well as at the level of its producer organisation members, as required under Regulation (EU) No 1306/2013.
- (8) Point 3 of Section A of Part I of Annex VIII of Regulation (EU) No 1308/2013 sets out an obligation for Member States to notify the Commission of any increase in the limits laid down in point 2 of that section. Commission Regulation (EC) No 606/2009 should be amended to provide for the details concerning the submission of this information by Member States to the Commission.
- (9) Implementing Regulation (EU) 2017/892 should therefore be amended accordingly.
- (10) This Regulation should apply from the same day as Regulation (EU) 2017/2393. However, provisions that concern reporting should apply from 1 January 2019 to give Member States and the economic operators concerned sufficient time to implement the amendments set out in this Regulation. The flexibility for producer organisations provided for by the new measures and actions should apply brought by the transitional provisions must be implemented together with retroactivity in order to coincide with the application date of Regulation (EU) 2017/2393 so that the application of the amendments in Regulation (EU) No 1308/2013 is respected.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

*Article 1*

***Amendments to Implementing Regulation (EU) 2017/892***

Implementing Regulation (EU) 2017/892 is amended as follows:

- (1) The following new Article 8*bis* is inserted:

*"Article 8bis*

**Implementation of increase of the limit of the Union financial assistance from 50% to 60%**

1. The increase of the limit of the Union financial assistance from 50% to 60% for an operational programme or part of an operational programme of a recognised producer organisation as referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 shall be granted if:

- (a) the conditions as referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 are met in each year of implementation of the operational programme and subject to the procedure referred to Article 9(2)(g) of this Regulation;
- (b) a request made by a recognised producer organisation at the time of submission of its operational programme.

2. For the purposes of the increase of the limit of the Union financial assistance from 50% to 60% for an operational programme or part of it, the rate of marketing of fruit and vegetable production by producer organisations referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 shall be calculated for each year of the duration of operational programme, as a portion of the value of production marketed by producer organisations in a given Member State, of the total value of the production of fruit and vegetables marketed in the given Member State for the reference period set out in Article 23(1) of Delegated Regulation (EU) 2017/891.

However, Member States applying the alternative method set out in Article 23(3) of Delegated Regulation (EU) 2017/891 shall calculate the rate of marketing of fruit and vegetable production by producer organisations referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 for each year of the duration of operational programme, as a portion of the value of production marketed by producer organisations in a given Member State, of the total value of the production of fruit and vegetables marketed in the given Member State for the period from 1 January until 31 December of the year preceding the year in which the aid is approved according to Article 8 of this Regulation.

3. Member States shall notify the requesting producer organisation of the approved amount of aid, including the amount of the increase granted pursuant to Article 34(3)(f) of Regulation (EU) No 1308/2013, at the latest by 15 December of the year preceding the implementation of the operational programme, as set out in Article 8 of this Regulation.

4. Member States shall verify each year of the duration of the operational programme that the conditions for increase of the limit of the Union financial assistance from

50% to 60% as referred to in Article 34(3)(f) of Regulation (EU) No 1308/2013 are met.";

(2) In Article 4, paragraph (1)(a) is amended as follows:

“(a) a description of the initial situation, based, where relevant, on the indicators listed in point 4.1 of Annex II;”;

(3) In Article 9, paragraphs 6 and 7 are replaced by the following:

"6. Producer organisations which are members of transnational associations of producer organisations shall apply for aid regarding actions that are implemented at the level of the transnational association of producer organisations in the Member State where they are recognised. The transnational association of producer organisations shall provide the Member State where it has its headquarters with a copy of the application.

7. Transnational association of producer organisations may submit an application for aid regarding actions implemented at the level of the transnational association in the Member State where that association has its headquarters. Member States shall ensure that there is no double funding risk.";

(4) In Article 14, paragraph 1 is replaced by the following:

"1. Member States shall adopt provisions on the conditions to be fulfilled by promotion and communication measures, including actions and activities aimed at diversification and consolidation on the fruit and vegetable markets, whether those measures relate to crisis prevention or crisis management. Those provisions shall allow for the rapid application of the measures when required.

The principal aim of those measures shall be enhancing the competitiveness of the products marketed by the producer organisations and their associations in the case of serious market disturbance, loss of consumer confidence or other related problems.

The specific objectives of the promotion and information measures implemented by the producer organisations and their associations shall be:

- (a) increasing awareness about the quality of agricultural products produced in the Union and about the high quality standards applicable to their production in the Union;
- (b) increasing the competitiveness and consumption of agricultural products and of certain processed products produced in the Union and raising awareness about their quality both inside and outside the Union;
- (c) increasing awareness about Union quality schemes both inside and outside the Union;
- (d) increasing the market share of agricultural products and certain processed products produced in the Union, focusing on the markets in third countries that have the highest growth potential; and
- (e) contributing to the recovery of normal market conditions in the Union market in the event of serious market disturbance, loss of consumer confidence or other related problems.";

(5) Chapter III is deleted;

(6) Article 21 is replaced by the following:

**Information and annual reports from producer groups, producer organisations and associations of producer organisations and annual reports from Member States**

At the request of a competent authority of a Member State, producer groups formed pursuant to Article 125e of Regulation (EC) No 1234/2007, recognised producer organisations, associations of producer organisations, transnational associations of producer organisations and producer groups shall provide any relevant information needed for drawing up of the annual report referred to in Article 54(b) of Delegated Regulation (EU) 2017/891. The structure of the annual report is set out in Annex II to this Regulation.

Member States shall take the measures necessary to gather information on the number of members, the volume and the value of marketed production of producer organisations which have not submitted operational programmes. Producer organisations and producer groups referred to in Article 27 of Regulation (EU) No 1305/2013 shall be requested to provide the number of members, the volume and the value of the marketed production.";

- (7) In Article 33, paragraphs 3 and 4 are replaced by the following:

"3. The Member State in which the transnational association of producer organisations has its head office shall:

- (a) have overall responsibility for the organisation of checks in respect of actions of the operational programme implemented at the level of the transnational association and of the operational fund of the transnational association and for the application of administrative penalties where such checks demonstrate that obligations have not been met, and
- (b) ensure the coordination of checks and payments in respect of the actions of the operational programme of the transnational association implemented outside the territory of the Member State where its head office is.

4. The actions of the operational programmes shall comply with the national rules and with the national strategy of the Member State where, in accordance with Article 9, paragraphs 6 and 7, the application for aid is submitted.

However, environmental and phytosanitary measures and crisis prevention and management measures shall be subject to the rules of the Member State where these measures and actions are actually carried out.";

- (8) In Article 39, paragraph 1 is replaced by the following:

"1. An additional import duty as referred to in Article 182(1) of Regulation (EU) No 1308/2013 may be applied to the products and during the periods listed in Annex VII to this Regulation. That additional import duty shall apply if the quantity of any of the products put into free circulation for any of the periods of application set out in that Annex exceeds the trigger volume for that product unless the imports are unlikely to disturb the Union market, or the effects of the additional import duty would be disproportionate to the intended objective.";

- (9) Annexes I and II are replaced by the text set out in the Annex to this Regulation.

## Article 2

### **Amendment of Commission Regulation (EC) No 606/2009**

In Regulation (EC) No 606/2009 the following new Article 12a is inserted:

#### *"Article 12a*

#### ***Notifications of Member States' decisions allowing an increase in natural alcoholic strength***

1. Member States deciding to make use of the possibility to allow an increase in the natural alcoholic strength by volume pursuant to Point 3 of Section A of Part I of Annex VIII of Regulation (EU) No 1308/2013 shall notify the Commission of this before they adopt the decision. In the notification the Member States shall specify the percentages by which the limits laid down in Point 2 of Section A of Part I of Annex VIII of Regulation (EU) No 1308/2013 have been raised, the regions and the varieties concerned by the decision and submit data and evidence showing that the climatic conditions have been exceptionally unfavourable in the regions concerned.
2. The notification shall be made in accordance with Delegated Regulation (EU) 2017/1183<sup>(\*)</sup> and Implementing Regulation (EU) 2017/1185<sup>(\*\*)</sup>.
3. The notification shall be communicated by the Commission to the authorities of the other Member States through the information system put in place by the Commission.

(\*) Commission Delegated Regulation (EU) 2017/1183 of 20 April 2017 on supplementing Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council with regards to the notifications to the Commission of information and documents (OJ L 171, 4.7.2017, p. 100-102).

(\*\*) Commission Implementing Regulation (EU) 2017/1185 of 20 April 2017 laying down rules for the application of Regulations (EU) No 1307/2013 and (EU) No 1308/2013 of the European Parliament and of the Council as regards notifications to the Commission of information and documents and amending and repealing several Commission Regulations OJ L 171, 4.7.2017, p.113)."]

## Article 3

### ***Entry into force and application***

This Regulation shall enter into force on the day after its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2018.

However, points (4), (5) and (8) of Article 1 shall apply from 1 January 2019.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

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