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## QUESTIONS AND ANSWERS ON DE-ALCOHOLISED WINES

This document provides replies to the various questions that the Commission services have received in relation to the application of the rules on the de-alcoholisation of wines introduced by Regulation (EU) 2021/2117<sup>1</sup>, amending Regulation (EU) No 1308/2013<sup>2</sup> (hereinafter also referred to as CMO).

Those replies express the views of the Commission services and do not commit the European Commission. In the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the Court of Justice of the European Union to provide a definitive interpretation of the applicable Union law.

Question 1 (15 March 2022): We are reading the second sentence of the following provision as a **restriction**: "*The de-alcoholisation processes used shall not result in organoleptic defects of the grapevine product. **The elimination of ethanol in grapevine products shall not be done in conjunction with an increase of the sugar content in the grape must.***" (Regulation (EU) No 1308/2013, Annex VIII, Part I, Section E).

Reply: We agree. The co-legislators introduced this provision because it seemed incoherent to start increasing the alcohol content of wine through enrichment of musts and later remove alcohol through de-alcoholisation. This is also in line with file 3.5.16 of the OIV code of oenological practices.

The removal or the adaptation of this mutual exclusion between enrichment and dealcoholisation practices would require a modification of Regulation (EU) No 1308/2013 through the ordinary legislative procedure. A discussion at the OIV might also be justified.

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<sup>1</sup> Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union (OJ L 435, 6.12.2021, p. 262).

<sup>2</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).

Question 2 (15 March 2022): At first glance, it seems to be logical that the elimination of ethanol in grapevine products shall not be done in conjunction with an increase of the sugar content in the grape must. However, no market for these wines exists yet (early 2022). Consequently, the **producers would have to wait** for the next harvest, because most of the basic wine made in Germany is made with enrichment.

Reply: We agree with this analysis, for the specific case presented in the question. If there is no basic wine from the harvest 2021 made without enrichment, it would not be possible to produce de-alcoholised wines in 2021-2022. That possibility would only materialise from harvest 2022 onwards. It is the responsibility of wine producers to programme their production each year in response to the market demand.

Question 3 (15 March 2022): However, we might have to read the provision as **follows**: “*The elimination of ethanol in grapevine products shall not be done in conjunction with an increase of the sugar content in the grape must*”, **but it might be done in conjunction with an increase of the sugar content in the grapes or new wine still in fermentation**. (Reasons: (a) grape must and new wine still in fermentation are **different categories** of grapevine products due to CMO, annex VII part II and (b) grape must and grapes are **different categories** of wine products due to Annex I to Delegated Regulation (EU) 2019/934).

Reply: The second sub-paragraph of Section E of Annex VIII to Regulation (EU) No 1308/2013 prohibits dealcoholisation if the grape must has been enriched. It indeed does not refer to the addition of sugar (or musts) to grapes or new wine still in fermentation for the purpose of enrichment.

However, in this respect, several questions arise:

- Is the enrichment of grapes or new wine still in fermentation a common practice or even feasible?
- If such practice is used, would that be in line with the spirit of the above legislation?

In the view of the Commission services, it appears questionable to authorise dealcoholisation in case of enriched grapes or new wine still in fermentation since the rationale of the above provision does not support this interpretation. The intention of the co-legislators was clear: to make mutually incompatible dealcoholisation and all enrichment practices (sucrose, musts, enrichment techniques). A modification of the above would require an amendment of Regulation (EU) No 1308/2013 through the ordinary legislative procedure.

Question 4 (15 March 2022): Can de-alcoholized wine be blended with wine?

Reply: Blending and coupage should not be used to circumvent the rules on dealcoholisation and to place on the market as “wine” a blend of wine and dealcoholised wine, which is done with the purpose to correct the alcoholic content of the wine or to produce a partially dealcoholised wine without having recourse to a dealcoholisation process. However, the EU legislation does not appear to oppose carrying out such a blend if the resulting product is not called “wine” or “partially dealcoholised wine” and the consumer is properly informed about the

characteristics of this product in accordance with Regulation (EU) No 1169/2011 on the provision of food information to consumers.

Question 5 (15 March 2022): In relation to sparkling wines:

- a. Why is it not possible to produce low alcohol sparkling wine with a second alcoholic fermentation of dealcoholized wine?

Reply: A second alcoholic fermentation leads to the production of not only carbon dioxide but also ethanol. With current types of fermenting yeasts, adding a tirage liqueur to a totally de-alcoholised sparkling wine would therefore likely create a sparkling wine which would have an actual alcoholic strength above 0.5%, therefore not complying with the definition of “de-alcoholised wine”. The final product could thus not be labelled as ‘de-alcoholised wine’ but would very likely fall under the definition of ‘partially de-alcoholised wine’ and should be labelled as such.

- b. Why is it legal to call a product ‘de-alcoholised sparkling wine’, even if it not possible to dealcoholize a sparkling wine?

Reply: Under the existing legal framework, it is possible to produce de-alcoholised aerated sparkling wines, using a de-alcoholised base wine to which external carbon dioxide has been added.

However, the available dealcoholisation techniques do not currently ensure the removal of ethanol from sparkling wines while maintaining their content in carbon dioxide. Also, current fermentation techniques do not allow to have a second fermentation without alcohol production. Nevertheless, innovation may change this situation in the future. The legal framework is already in place to encourage the wine sector to develop the necessary innovations for de-alcoholisation techniques. See also reply to Question 5a.

Question 6 (30 March 2022): We have not understood whether the legal framework established by Regulation (EU) 2021/2117 is sufficient, or whether the Commission will work in the coming months to amend secondary legislation (Delegated Regulation (EU) 2019/33).

In particular, a recurring question from the undertakings is whether a de-alcoholised wine may include on the label the optional indication of the vintage and/or variety.

In other words, from the point of view of the labelling rule, would the principle be that the product obtained (de-alcoholised or partially de-alcoholised) ‘bears with it’ all the characteristics/terms which the base wine had (e.g. vintage year ‘2020’, ‘Pinot Grigio’ variety?), applying the provisions of the current Delegated Regulation (EU) 2019/33, or the way in which these elements are presented on de-alcoholised products, will be specifically detailed in the secondary legislation?

Reply: The Commission is not preparing secondary legislation on de-alcoholised wines, including in relation to labelling. In line with Regulation (EU) 2021/2117,

the label of partially de-alcoholised and totally de-alcoholised wines will have to specify the category of wine accompanied by the terms ‘partially de-alcoholised’ and ‘de-alcoholised’ respectively. The other labelling rules under Regulation (EU) No 1308/2013 and Delegated Regulation (EU) 2019/33 remain valid and apply to de-alcoholised wine products. It will therefore be possible to place particulars such as the vintage year or the variety name on the label, if the applicable conditions for these particulars are met.

Question 7 (30 March 2022): The Regulation provides that the terms ‘de-alcoholised’ and ‘partially de-alcoholised’ are to accompany the names of certain categories of grapevine products (e.g. wine, sparkling wine, semi-sparkling wine, etc.), if they meet certain characteristics.

Wine operators ask if other sales denominations are needed, (e.g. wine without alcohol, alcohol free wine in English, alkoholfreier Wein in German), can be used in addition to (or instead of) the terms laid down in the Regulation, or will they still have to be regulated in secondary legislation?

Reply: Additional internal checks are needed before finalising this reply.

Question 8 (30 March 2022): On oenological practices, the Commission clarified that, at present, the oenological practices permitted are only those currently provided for in current EU legislation (Regulation (EU) No 1308/2013 and Delegated Regulation (EU) 2019/934).

Does this mean that these practices can be carried out not only on the “base wine” used for dealcoholisation, but also once the de-alcoholised or partially de-alcoholised product has been obtained?

To name an example: part D of Appendix 10 to Delegated Regulation (EU) 2019/934 regulates the limits and conditions for sweetening wines. If the Regulation provides that sweetening of wines is authorised in certain ways, can we conclude that this practice can also be carried out — under the same conditions as those laid down in Part D of Appendix 10 — on a de-alcoholised or partially de-alcoholised product?

Reply: The new rules on de-alcoholisation do not prohibit the use of existing authorised oenological practices after de-alcoholisation has taken place. Some of those (e.g. sweetening, addition of CO<sub>2</sub>) might be useful to improve the quality of the partially or totally de-alcoholised wines.

In addition, nothing in the new rules precludes the possibility to de-alcoholise wine products that still contain, before de-alcoholisation, a certain amount of unfermented sugars, as far as such base wine products comply with the requirements applicable to their category. In other words, it is possible to produce a sweet or semi-sweet wine (without enrichment) by stopping fermentation. If that wine is subsequently de-alcoholised, the natural sugars remaining therein can then counterbalance the increased acidity resulting from de-alcoholisation.

Question 9 (November 2022): What is the relationship between the tolerance allowed for indicating the actual alcoholic strength, i.e. 0.5% vol. (and 0.8% for grapevine products

with protected designations of origin or geographical indications stored in bottles for more than three years, sparkling wines, quality sparkling wines, aerated sparkling wines, semi-sparkling wines, aerated semi-sparkling wines, liqueur wines and wines of overripe grapes), and the limits in alcoholic strength laid down for de-alcoholised and partially de-alcoholised wines?

Reply: The third subparagraph of Article 44 of Delegated Regulation (EU) 2019/33 provides that the actual alcoholic strength shown on the label may not differ by more than 0.5% (or 0.8%) vol from that given by analysis. This tolerance refers only to the difference between the alcoholic strength indicated on the label and the actual alcoholic strength determined by analysis. This provision, on the tolerance of the values indicated on the label, is applicable to the labelling of all types of wines, including de-alcoholised and partially de-alcoholised wines.

However, this tolerance does not apply to the limits in alcoholic strength which define each category of wine product as laid down in Regulation (EU) No 1308/2013, Annex VII, Part II, points (1) and (4) to (9), and Article 119(1)(a)(i) and (ii). The values resulting from the analysis must respect such limits with no tolerance.

Question 10 (February 2023): What is the correct reading of Article 119(1)(a)(ii) of Regulation (EU) No 1308/2013 for partially de-alcoholised wines with a designation of origin or a geographical indication?

In this Article, it is stated that the name of the category is accompanied by ‘the term ‘partially de-alcoholised’ if the actual alcoholic strength of the product exceeds 0.5 % by volume and is lower than the minimum actual alcoholic strength laid down for the category before de-alcoholisation’.

For wines without a designation of origin or geographical indication, it seems clear: partially de-alcoholised wines have an alcohol content of between 0.5 % and 8.5 % (or 9 % depending on the wine-growing area).

But what about wines with a designation of origin or geographical indication, for which minimum natural alcoholic strengths are sometimes indicated in their specifications? For example, the French designation of origin Bourgueil provides that the natural alcoholic strength by volume shall not be less than 10.5 %. In that case, our reading of the rules is that a partially de-alcoholised Bourgueil wine has an actual alcoholic strength of between 0.5 % and 10.5 % (and not 8,5% or 9%). Do you confirm this?

Reply: We read Article 119(1)(a)(ii) of Regulation (EU) No 1308/2013 differently.

Indeed, the word “category” in point (ii) of Article 119(1)(a) refers to the phrase “categories of grapevine products set out in point (1) and points (4) to (9)” in the second introductory sentence of Article 119(1)(a).

Part II of Annex VII to Regulation (EU) No 1308/2013 specifies different minimum levels of actual alcoholic strength as follows:

- category (1): 8.5 % (wine-growing zones A and B), 9 % (other areas);

- categories (4) and (5): alcoholic strength not specified, thus implicitly identical to (1);
- category (6): 6 %;
- category (7): alcoholic strength not specified, thus implicitly identical to (1);
- categories (8) and (9): 7 %.

It is these minimum actual alcoholic strengths that constitute a ceiling for partially de-alcoholised wines, whether or not they are covered by a PDO or a PGI.

Conversely, Article 119(1)(a) of Regulation (EU) No 1308/2013 does not refer to the minimum alcoholic strengths defined in the specifications of PDO or PGI wines. These cannot therefore represent the high value of the alcoholic strength range for partially de-alcoholised wines.

Question 11 (February 2023): Could de-alcoholised and partially de-alcoholised wines be called wines although they do not comply with the minimum actual alcoholic strengths referred to in Regulation (EU) No 1308/2013, Annex VII, Part II, categories (1) and (4) to (9)?

Reply: Wines, partially de-alcoholised wines and de-alcoholised wines are all covered by Common Nomenclature codes which correspond to wines, i.e. CN code 'ex 2204' for wines and partially de-alcoholised wines, and CN code 'ex 2202 99 19' for de-alcoholised wines with an alcoholic strength by volume not exceeding 0.5% vol.

In addition, the amendment introduced by Regulation (EU) 2021/2117, in Article 119(1)(a)(i) and (ii) of Regulation (EU) No 1308/2013, clarifies that the designation to be used for the different categories of grapevine products when they have undergone a de-alcoholisation treatment, is the name of the category supplemented by:

‘(i) the term ‘de-alcoholised’ if the actual alcoholic strength of the product is no more than 0,5 % by volume; or

(ii) the term ‘partially de-alcoholised’ if the actual alcoholic strength of the product is above 0,5 % by volume and is below the minimum actual alcoholic strength of the category before de-alcoholisation’.

Furthermore, this provision should be read together with the introductory paragraph added by Regulation (EU) 2021/2117 in Annex VII, Part II to Regulation (EU) No 1308/2013 which indicates that ‘the categories of grapevine products set out in point (1) and points (4) to (9) may undergo a total or partial de-alcoholisation treatment in accordance with Annex VIII, Part I, Section E, after having fully attained their respective characteristics as described in those points’.

According to these provisions different ranges of alcoholic strength are possible within a certain category of wine: e.g. for category (1), more than 8.5/9% alcohol

for still wines containing alcohol, up to 0.5% for de-alcoholised still wines, and above 0.5% and below 8.5/9% for partially de-alcoholised still wines.

Given these provisions, partially de-alcoholised and de-alcoholised wines can only be considered as wines, provided that their conditions of production are respected, among others that the de-alcoholisation takes place after the wine has fully attained its characteristics as wine and the permitted de-alcoholisation processes are used.

Question 12 (February 2023): Is not de-alcoholisation of sparkling wines uneconomical and would it not require specific control procedures to be put in place?

Reply: In terms of production, it is clear that the available dealcoholisation processes do not currently ensure the removal of ethanol from sparkling wines while maintaining their content in carbon dioxide. Also, current fermentation techniques do not allow for a second fermentation to take place without alcohol production (unlike for beer). Adding a tirage liqueur to a totally de-alcoholised sparkling wine would likely create a sparkling wine which would have an actual alcoholic strength above 0.5%, therefore not complying with the definition of ‘de-alcoholised wine’. The final product could thus not be labelled as ‘de-alcoholised wine’ but would very likely fall under the definition of ‘partially de-alcoholised wine’ and should be labelled as such.

Nevertheless, innovation may change this situation in the future. The legal framework is already in place to encourage the wine sector to develop the necessary innovations for de-alcoholisation processes.

Controls would most certainly have to be adapted to such products.

Question 13 (February 2023): Is not there a contradiction between Article 9(1)(k) of Regulation (EU) No 1169/2011 and Regulation (EU) No 1308/2013 in relation to the indication of the actual alcoholic strength?

Reply: Article 9(1)(k) of Regulation (EU) No 1169/2011 provides that the actual alcoholic strength must be indicated on the labels of beverages with an alcoholic strength above 1.2%. On the other hand, Article 119(1)(c) of Regulation (EU) No 1308/2013 provides that the label of wines must display the actual alcoholic strength, regardless of their alcohol content. This provision applies to wines under the principle of *lex specialis*. Consequently, the actual alcoholic strength of partially de-alcoholised wines must be indicated on the label even below 1.2%.