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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the exercise of power to adopt delegated acts pursuant to Article 46(2) of Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008

1. INTRODUCTION

Regulation (EU) 2019/787 of the European Parliament and of the Council¹ establishes a common legal framework for spirit drinks produced in the Union. In particular, it provides rules on the definition, description, presentation and labelling of spirit drinks and for their control and supervision.

That Regulation empowers the Commission to adopt delegated acts supplementing or amending some of those rules and – for certain among them – imposes on the Commission an obligation to report to the co-legislators on the exercise of the delegated powers it contains.

In accordance with Article 46(2) of Regulation (EU) 2019/787, the Commission was conferred on the power to adopt delegated acts for a period of seven years, starting from 24 May 2019, under:

- a) Article 8(1): to introduce amendments to the technical definitions and requirements laid down in point (f) of Article 2, and in Articles 4 and 5. Those delegated acts must be strictly limited to meeting demonstrated needs resulting from evolving consumer demands, technological progress or the need for product innovation. The Commission must adopt a separate delegated act in respect of each technical definition or requirement;
- b) Article 8(2): to lay down, in exceptional cases, where the law of the importing third country so requires, derogations from the requirements set out in point (f) of Article 2, and in Articles 4 and 5, the requirements under the categories of spirit drinks set out in Annex I and the specific rules concerning certain spirit drinks set out in Annex II;
- c) Article 8(3): by specifying which other natural substances or agricultural raw materials having a similar effect to the products referred to in points (a) to (e) of Article 4(9) are authorised across the Union as sweetening products in the production of spirit drinks;
- d) Article 19(1): in order to take into account the traditional dynamic ageing process for brandy in Member States which is known as the ‘criaderas y solera’ system or ‘solera e criaderas’ system as set out in Annex III, to:
 - lay down derogations from Article 13(6) concerning the specification of a maturation period or age in the description, presentation or labelling of such brandy;

¹ Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 (OJ L 130, 17.5.2019, p. 1) <https://eur-lex.europa.eu/eli/reg/2019/787/oj>.

and

- establish appropriate control mechanisms for such brandy.
- e) Article 19(2): to set up of a public register listing the bodies appointed by each Member State to supervise ageing processes as provided for in Article 13(6).

The Commission is required to draw up a report in respect of these delegations of powers not later than nine months before the end of the seven-year period. The delegation of power must be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

This report describes the Commission's activity in the period starting from 24 May 2019.

2. EXERCISE OF DELEGATION

During the period covered by this report, the Commission did not make use of the delegated powers conferred upon it under Articles 8(2), 8(3) and 19(1) of Regulation (EU) 2019/787. However, the Commission used the delegation of powers in the areas covered by Articles 8(1) and 19(2) by adopting two Delegated Regulations:

- Commission Delegated Regulation (EU) 2022/1303 of 25 April 2022 amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards the definition of and requirements for ethyl alcohol of agricultural origin², and
- Commission Delegated Regulation (EU) 2021/723 of 26 February 2021 supplementing Regulation (EU) 2019/787 of the European Parliament and of the Council as regards the setting up of a public register listing the bodies appointed by each Member State to supervise the ageing processes for spirit drinks³.

Both acts were notified to the European Parliament and the Council to allow the co-legislators to express possible objections within two months from the notification. Neither the European Parliament nor the Council issued any objections to either of the two Delegated Regulations, which were published in the Official Journal of the European Union after the expiry of the respective scrutiny period.

3. CURRENT SITUATION

The two above-mentioned Delegated Regulations have satisfactorily reached the objective

² Commission Delegated Regulation (EU) 2022/1303 of 25 April 2022 amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards the definition of and requirements for ethyl alcohol of agricultural origin (OJ L 197, 26.7.2022, p. 71) http://data.europa.eu/eli/reg_del/2022/1303/oj.

³ Commission Delegated Regulation (EU) 2021/723 of 26 February 2021 supplementing Regulation (EU) 2019/787 of the European Parliament and of the Council as regards the setting up of a public register listing the bodies appointed by each Member State to supervise the ageing processes for spirit drinks (OJ L 155, 5.5.2021, p. 1) http://data.europa.eu/eli/reg_del/2021/723/oj.

of supplementing and amending Regulation (EU) 2019/787 with rules necessary for its proper and efficient functioning.

While no difficulties with the application and interpretation of the two above-mentioned Delegated Regulations were experienced during the respectively 3 and 4 years of their application, the legal, economic and factual context relevant to those rules (in particular the more technical ones concerning the definition of and requirements for ethyl alcohol of agricultural origin) evolves continuously.

Moreover, while the other empowerments referred to in Articles 8(2), 8(3) and 19(1) of the legislative act were not used either because no need or justification emerged or because the consultation of the expert group for spirit drinks in accordance with Article 46 of the Spirit Drinks Regulation showed that it was not possible to present a draft proposal due to divergences of positions/analysis, it cannot be excluded that such need may occur in the future.

For these reasons, the extension of the delegation of powers for another seven-year period is advisable in order to allow the Commission to promptly react to possible specific issues that may arise in that respect.

4. CONCLUSION

In the period covered by this report, the Commission exercised the delegated powers conferred upon it by Articles 8(1) and 19(2) of Regulation (EU) 2019/787. The Commission invites the European Parliament and the Council to take note of this report.