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**G.4. Arable crops and olive oil**

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**GLOSSARY OF INTERPRETATIONS**  
**IN RESPECT OF MARKETING STANDARDS FOR OLIVE OIL AND OLIVE-POMACE OIL**

**REGULATION (EU) NO 29/2012 AND REGULATION (EEC) NO 2568/91**

**(REV 1, updated Mars 2019)**

Please note that the present opinions are provided on the basis of the facts set out in each raised question and on the understanding that in the event of a dispute involving Union law it is, under the Treaty on the Functioning of the European Union, ultimately for the European Court of Justice to provide a definitive interpretation of the applicable Union law.

## Contents

1. SELLING OLIVE OIL IN BULK.....	3
2. SPECIFIC LABELLING FOR FLAVOURED OLIVE OILS.....	4
3. POSITION IN LABEL OF: 'SUPERIOR CATEGORY OLIVE OIL OBTAINED DIRECTLY FROM OLIVES AND SOLELY BY MECHANICAL MEANS'.....	5
4. COMPULSORY INFORMATION IN THE LABEL.....	6
5. WHERE TO PLACE THE DIFFERENT INFORMATION IN LABELS .....	7
6. MANDATORY INFORMATION REQUIRED IN CASE OF DISTANCE SELLING OF OLIVE OIL.....	8
7. DESIGNATION OF ORIGIN CAN BE USED ONLY FOR EXTRA VIRGIN AND VIRGIN OLIVE OIL.....	9
8. GEOGRAPHICAL INDICATION IN OLIVE OIL WHICH IS NOT A PDO OR PGI.....	10
9. ORGANOLEPTIC TERMS SHALL BE INCLUDED ONLY IF BASED ON RESULTS OF ANALYSES? IS THE USE OF INDICATION 'FRUITÉ NOIR' AUTHORIZED?.....	11
10. INFORMATION ON THE SPECIAL PRESERVATION CONDITIONS.....	12
11. HOW TO INDICATE IN THE LABEL MANDATORY PARTICULARS .....	13
12. ADMINISTRATIVE COOPERATION BETWEEN MS CONCERNING NON-CONFORMITY OF LABELLING .....	14
13. HOW MANY COUNTER-ASSESSMENTS SHOULD BE CARRIED OUT?.....	15
14. WHO IS THE "INTERESTED PARTY"?.....	16
15. FINAL CLASSIFICATION OF OLIVE OILS AFTER COUNTER- ASSESSMENTS .....	17
16. SHOULD A RETAILER STOP SELLING THE PRODUCT AFTER THE FIRST NON-CONFORMITY OF THE ORGANOLEPTIC TEST?.....	18
17. PROPER CONDITIONS OF STORING SAMPLES.....	19
18. DESIGNATION OF LOCATION OF EACH PRIMARY SAMPLE .....	20
19. HOW TO PROCEED WHEN SAMPLING OF OLIVE OIL OR OLIVE POMACE .....	21
20. NUMBER OF CONFORMITY CHECK THAT MS SHALL CARRY OUT .....	22

21. CLARIFICATION OF THE TERMS: "NATURAL AND LEGAL PERSONS OR GROUPS" AND "ENTRY AND WITHDRAWAL REGISTERS" .....	24
22. UNCERTAINTY RANGES.....	25
23. LABELLING RULES ALSO APPLY TO BOTTLES SOLD FROM PROFESSIONALS TO PROFESSIONALS.....	26
24. COUNTER-ASSESSMENTS AND VERIFICATION FOR THIRD COUNTRIES.....	27
25. HOW TO PROCEED WITH THE TWO COUNTER-ASSESSMENTS AND TO INTERPRET CONFLICTING RESULTS .....	28
26. CAN GREEK OLIVE OIL BEING SHIPPED AND PRESSED IN ITALY AND BE DECLARED ITALIAN GEOGRAPHICAL INDICATION? .....	29
27. <b>(NEW)</b> USE OF LAMPANTE OLIVE OIL .....	31
28. <b>(NEW)</b> MARKETING OF REFINED OLIVE OIL AND OLIVE OIL – COMPOSED OF REFINED OLIVE OILS AND VIRGIN OLIVE OILS.....	32

<b>1. SELLING OLIVE OIL IN BULK</b>	
<b>Legal basis</b>	Article 2 of Regulation (EU) No 29/2012 <sup>1</sup>
<b>Question</b>	
Does Article 2 of Regulation (EU) No 29/2012 only apply to packaged olive oil? What conditions apply for the sale of olive oil in bulk (pouring)?	
<b>Answer</b>	
Article 2 of Regulation (EU) No 29/2012 applies to packaged olive oil as it covers the retail trade and lays down rules on the presentation to the final consumer. This does not prevent in any manner the retailer from buying olive oil in bulk, as long as this is packaged and presented to the consumers in packages not exceeding 5 litres and closed in a manner that cannot be sealed after the first opening.	

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<sup>1</sup> Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil

## 2. SPECIFIC LABELLING FOR FLAVOURED OLIVE OILS

**Legal basis** Articles 3 and 4 of Regulation (EU) No 29/2012

### Question

Do the provisions of Articles 3 and 4 apply also to flavoured olive oils (e.g. extra virgin olive oil with garlic or herbs etc.) and what would be the appropriate labelling of these oils?

### Answer

The descriptions and definitions of olive oils set out in Article 78 and Part VIII of Annex VI of Regulation (EU) No 1308/2013<sup>2</sup> do not provide for the possibility of adding spices or other aromatic plants, spice extracts, flavourings and perfumes. The addition of such substances to olive oils implies that the final product may not be presented to the end consumer under one of the sales designations mentioned in Article 3 of Regulation (EU) No 29/2012 but only under another designation: for example, 'olive oil-based dressing' or as appropriate 'extra virgin olive oil-based dressing'. To conclude, Articles 3 and 4 do not apply to flavoured olive oils, and the designation "extra virgin olive oil with garlic" is not allowed.

It should be noted that Regulation No 1169/2011<sup>3</sup> on the provision of food information to consumers, and in particular its Article 7 on fair information practices, establishes the principle that food information shall not be misleading as to the characteristics and the quality of the food.

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<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

<sup>3</sup> Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004

**3. POSITION IN LABEL OF: 'SUPERIOR CATEGORY OLIVE OIL OBTAINED DIRECTLY FROM OLIVES AND SOLELY BY MECHANICAL MEANS'**

**Legal basis** Article 3 of Regulation (EU) No 29/2012

**Question**

Is it compulsory that the wording 'superior category olive oil obtained directly from olives and solely by mechanical means' appear within the principal field of vision?

**Answer**

No. According to the second paragraph of Article 3 of Regulation (EU) 29/2012, the information on the category of oil which is listed in that paragraph shall appear on the labelling, but not necessarily close to the description (name) of the product. Therefore, that information may appear elsewhere on the labelling. In accordance with Article 4b of that Regulation, this is not the case for the description (name) of the product and the designation of origin when applicable which shall be grouped together within the principal field of vision.

#### 4. COMPULSORY INFORMATION IN THE LABEL

**Legal basis** Article 3 of Regulation (EU) No 29/2012

#### **Question**

According to Article 3 of Regulation (EU) No 29/2012, which are the compulsory indications?

#### **Answer**

Both the description of the product, i.e. the name under which the product is sold (first paragraph of Article 3) and the information on the category of oil (second paragraph of Article 3) are compulsory indications.

## 5. WHERE TO PLACE THE DIFFERENT INFORMATION IN LABELS

**Legal basis** Articles 3, 4 and 4b of Regulation (EU) No 29/2012

### Question

Article 4 states that the country of origin has to be declared.

Article 3 states that the label has to include the descriptions in accordance with Article 78 of Regulation (EU) No 1308/2013.

Furthermore, the label has to provide information on the category of oil. Can you confirm that both the description of the product (name under which the product is sold) and the designation of origin have to be placed on the main label (generally the front of the bottle), and that the information on the category of oil can be put either on the front or the back?

### Answer

Yes. taking into account the following elements, it can be confirmed that:

- In accordance with Article 4(1) of Regulation (EU) No 29/2012, the designation of origin is compulsory information to mention on the labelling for extra virgin and virgin olive oils. The other categories that may be marketed at the retail stage (olive oil and olive-pomace oil) cannot bear any designation of origin on the labelling.
- In accordance with Article 4b of Regulation (EU) No 29/2012, the name under which the product is sold and the designation of origin have to be grouped within the principal field of vision of the label, and each must be shown in full and in a homogeneous body of text.
- In accordance with the second paragraph of Article 3 of Regulation (EU) No 29/2012, the information on the category of oil does not necessarily have to be close to the name under which the product is sold.



## 6. MANDATORY INFORMATION REQUIRED IN CASE OF DISTANCE SELLING OF OLIVE OIL

**Legal basis** Articles 3, 4 and 4b of Regulation (EU) No 29/2012

### Question

In case of distance selling of olive oil, is it required to provide only information specified for this type of sale in Article 14 of Regulation (EU) No 1169/2011<sup>4</sup> or should it be complemented with the additional information referred to in Article 3 and 4 of Regulation (EU) No 29/2012?

### Answer

Both Regulations apply.

Article 14 of Regulation (EU) No 1169/2011 applies and foresees that in the case of prepacked foods offered for sale by means of distance communication before the purchase is concluded, the responsible food business operator is required to make available all mandatory food information, except for the date of minimum durability or the 'use by' date. The information should either appear on the material supporting the distance selling or be provided through appropriate means clearly identified by the food business operator without any supplementary costs for the final consumer. Moreover, at the moment of delivery, the responsible food business operator is required to make available all mandatory particulars – including the date of minimum durability or 'use by' date.

Regulation (EU) No 29/2012 does not provide any additional requirements on information to be provided on the material supporting the distance selling.

Nevertheless, the first paragraph of Article 3 and, where applicable, the first subparagraph of Article 4(1) of Regulation (EU) No 29/2012 add further mandatory particulars for the labelling of olive oils that sum to the mandatory information foreseen in Regulation (EU) No 1169/2011. Therefore, the information to be provided on the material supporting the distance selling as well as the information on the label should comprise the information referred to in the aforementioned Articles of Regulation (EU) No 29/2012.

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<sup>4</sup> Regulation (EU) No 1169/2011 on the provision of food information to consumers

## 7. DESIGNATION OF ORIGIN CAN BE USED ONLY FOR EXTRA VIRGIN AND VIRGIN OLIVE OIL

Legal basis Article 4 of Regulation (EU) No 29/2012

### Question

Shall the trade mark below as example be considered as a designation of origin in accordance with the general labelling provisions and the definition set out in Regulation (EU) No 29/2012 which states that 'for the purposes of this Regulation, 'designation of origin' means reference to a geographical area on the packaging or the label attached to the packaging' and consequently should only be used for virgin olive oil and not for olive oil composed of a mixture of refined olive oil and virgin olive oil or for olive -pomace oil given that Regulation (EU) No 29/2012 prohibits citing the origin of such oils on the labelling?



### Answer

Yes. Commission Regulation (EU) No 29/2012 provides in Article 4(1) that only extra virgin olive oil and virgin olive oil shall bear a designation of origin on the labelling.

The abovementioned example of trade mark is considered as a designation of origin. Consequently, it can be used only for extra virgin and virgin olive oil and not for olive oil - composed of mixture of refined olive oil and virgin olive oil - or for olive-pomace oil.

## 8. GEOGRAPHICAL INDICATION IN OLIVE OIL WHICH IS NOT A PDO OR PGI

Legal basis	Article 4 of Regulation (EU) No 29/2012
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### Question

Would a label of an olive oil mentioning a geographical indication not being a PDO or PGI comply with Regulation (EU) No 29/2012?

### Answer

If the product is not extra virgin or virgin olive oil it may not bear any designation of origin” (Article 4(1) of Regulation (EU) No 29/2012).

If the product concerned is an extra virgin or a virgin olive oil, a designation of origin that is not a PDO or PGI can only appear if it is one of the indications mentioned in Article 4(2) (a) and (b) of Regulation (EU) No 29/2012.

**9. ORGANOLEPTIC TERMS SHALL BE INCLUDED ONLY IF BASED ON RESULTS OF ANALYSES? IS THE USE OF INDICATION 'FRUITÉ NOIR' AUTHORIZED?**

Legal basis Article 5 of Regulation (EU) No 29/2012

**Question**

What are exactly the indications of the organoleptic characteristics that must be included if only based on the results of analyses carried out according to the method set out in Annex XII to Regulation (EEC) No 2568/1991? Do these include the indications referred to under point 3.4 of Annex XII? May the indications of organoleptic characteristics that are not included under point 2 appear on the labels of extra-virgin and virgin olive oils; if so, should this be documented by means of a specific method?

Is the indication 'fruité noir' authorized by Regulation (EU) No 29/2012?

**Answer**

According to point (c) of Article 5 of Regulation 29/2012 the possibility to mention organoleptic characteristics on the labelling is limited to extra virgin and virgin olive oils. Point 3.3 of Annex XII to Regulation 2568/91<sup>5</sup> foresees a defined list of terms that may appear in the labelling if based on the results of an evaluation carried out according to the method provided for in that Annex. In addition, the use of this optional labelling terminology is subject to certification by the head of the panel who has evaluated the oil.

The term 'fruité noir' neither appears in Regulation (EEC) No 2568/91 nor in the International Olive Council (IOC) method for the organoleptic evaluation of olive oils (Annex XII of the same Regulation). Consequently, the bottler cannot demonstrate the truthfulness of the attribute on the label, as foreseen by the Regulation and therefore cannot use it.

<sup>5</sup> COMMISSION REGULATION (EEC) No 2568/91 of 11 July 1991 on the characteristics of olive oil and olive-residue oil and on the relevant methods of analysis (OJ L 248, 5.9.1991, p. 1)

## 10. INFORMATION ON THE SPECIAL PRESERVATION CONDITIONS

Legal basis	Article 4a of Regulation (EU) No 29/2012
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### Question

In respect of special preservation conditions for oils, what is the sentence that should appear on the labelling?

### Answer

The information on the special preservation conditions of olive oils, namely that the product needs to be stored away from light and heat, shall appear on the labelling. However, the choice of the exact wording is left to the operator and the check of the consistency with the provisions of Article 4a of Regulation 29/2012 is under the responsibility of the Member States.

## 11. HOW TO INDICATE IN THE LABEL MANDATORY PARTICULARS

Legal basis	Article 4b of Regulation (EU) No 29/2012
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### Question

Mandatory particulars have to be grouped together in the principal field of vision, either on the same label or on several labels. Those mandatory particulars must each be shown in full and homogeneous body of text: in the case that the minimum dimension of the characters foreseen by Article 13 Regulation (EU) No 1169/2011 is respected, can the body of text of the two mandatory particulars not be homogeneous?

### Answer

The obligation to show each mandatory particular in a homogeneous body of text does not imply that these particulars have to present the same font size. A homogeneous body of text is made of characters of the same height – as defined by Annex IV of Regulation (EU) No 1169/2011 and font.

## 12. ADMINISTRATIVE COOPERATION BETWEEN MS CONCERNING NON-CONFORMITY OF LABELLING

Legal basis | Article 8a of Regulation (EU) No 29/2012

### Question

Should from Article 7 and 8 of Regulation 29/2012 be understood that in case of a non-conformity with the designation of an olive oil, the competent authority of the Member State where the non-conformity has been identified must contact the relevant Member State where the product was produced and request the result of the analysis from the producer of the olive oil?

### Answer

Checks on undertakings responsible for labelling must be made in the Member State in which they are established. The system of verification provided for in Article 8a has been set up with a view to ensure administrative cooperation between competent authorities of different Member States in cases where the manufacturer, packager or seller shown on the label of the bottle concerned by the non-conformity is located in a Member State different to where the oil is marketed and controlled. The system of verification does not exclude that several operators in different Member States are sanctioned.

### 13. HOW MANY COUNTER-ASSESSMENTS SHOULD BE CARRIED OUT?

Legal basis	Article 2 of Regulation (EEC) No 2568/91
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#### Question

In relation to Article 2(2) of Regulation (EEC) No 2568/91, how many counter-assessments should be carried out?

#### Answer

Article 2(2) of Regulation (EEC) No 2568/91 stipulates that if a panel approved by a Member State does not confirm the category declared as regards the organoleptic characteristics, at the interested party's request, the national authorities must carry out without delay two counter-assessments by other approved panels, at least one by a panel approved by the producer Member State concerned.

This means that two counter-assessments must be carried out by two panels which are different from the first panel (which did not confirm the category declared).

The involvement of panels from other Member States is allowed because of the difficulties that some Member States may encounter in setting up panels of tasters.



#### 14. WHO IS THE "INTERESTED PARTY"?

Legal basis Article 2(2) of Regulation (EEC) No 2568/91

#### Question

Who is the “interested party” referred to Article 2(2) of Regulation (EEC) No 2568/91? Is it the company from which the sample was taken or the producer who may be located in another EU Member State?

#### Answer

Article 2(2) of Regulation (EEC) No 2568/91 foresees that, in case a panel does not confirm the category of the oil declared as regards its organoleptic characteristics, the interested party may require the national authorities to carry out without delay two counter assessments. "Interested party" will refer to the responsible operator at the stage at which the sample is taken (e.g. if the sample is taken at retail-stage, it refers to the retailer).

## 15. FINAL CLASSIFICATION OF OLIVE OILS AFTER COUNTER-ASSESSMENTS

Legal basis	Article 2(2) of Regulation (EEC) No 2568/91
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### Question

What is the final classification of a declared extra virgin olive oil that in the first organoleptic test is classified as “virgin” and in the following two counter-assessments is classified as “extra virgin” and “lampante”?

### Answer

The purpose of Article 2(2) is to determine whether the organoleptic characteristics are consonant with the category declared: the results of the counter-assessment do not aim to establish the category but are exclusively directed to disclose if the olive oil belongs to the category declared or not. Therefore, in the abovementioned example, the counter-assessments conclude solely that the oil is not conforming to the declared category.

## **16. SHOULD A RETAILER STOP SELLING THE PRODUCT AFTER THE FIRST NON-CONFORMITY OF THE ORGANOLEPTIC TEST?**

Legal basis Article 2(2) of Regulation (EEC) No 2568/91

### **Question**

Should a retailer stop selling an oil as extra virgin olive oil after the first organoleptic test which does not confirm the category declared or should the retailer be allowed to continue the marketing of that oil as extra virgin until the conclusion of the two counter-assessments?

### **Answer**

Pursuant to Article 74 of Regulation (EU) No 1308/2013, products for which marketing standards have been laid down may be marketed in the Union only if they conform to those standards. Therefore, if the right of the interested party – e.g. the retailer – to require two counter-assessments is exercised through its request, Member States should apply in the meantime the appropriate provisional actions to avoid that a product considered as non-conform after the first assessment remains on the market. To avoid unnecessary complications for the operator concerned, Member States should carry out the two counter-assessments without delay. If, however, the above-mentioned right is not exercised by the interested party, the organoleptic assessment shall be deemed sufficient to assert the non-conformity of the organoleptic characteristics of the olive oil with the category declared, pursuant Article 2(2) of Regulation (EEC) No 2568/91.

## 17. PROPER CONDITIONS OF STORING SAMPLES.

Legal basis	Article 2(3) of Regulation (EEC) No 2568/91
Reference	Ares(2017)5115188
Question	
In Article 2(3) of Regulation (EEC) No 2568/91 second sub-paragraph, does the wording: "not later than the fifth working day" exclusively refer to olive oils in bulk or also to olive oils in immediate packaging?	
Answer	
Article 2(3) of Regulation (EEC) No 2568/91 sets the proper conditions of storage of the sample in order to guarantee that the parameters analysed in the laboratory have not evolved since the date in which the sample was taken. As regards to the scope of Article 2(3) second paragraph, the fifth-days rule applies to all samples indifferently, either taken from olive oil in immediate packaging or from olive oil in bulk.	

## 18. DESIGNATION OF LOCATION OF EACH PRIMARY SAMPLE

Legal basis	Annex Ia to Regulation (EEC) No 2568/91
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### Question

How to carry out the designation of location of each primary sample and is it necessary to apply the official detention of product until completion of laboratory analysis?

### Answer

Annex Ia to Regulation (EEC) No 2568/91 sets out prescriptions regarding the sampling of olive oil or olive-pomace oil delivered in immediate packaging. As regards the provision related to the location of each primary sample, it should be understood as the designation of position that can be recorded by describing in the sampling report all the information enabling to identify the position of a primary sample in a batch (e.g. location in repository, or box number, time of bottling, etc.). Then, while collecting the samples, each one can be tagged with a distinctive mark (e.g. Sample A, B etc.).

As regard the question on the official detention of product until completion of laboratory analysis, it is the responsibility of the Member States to take the appropriate measures.

## 19. HOW TO PROCEED WHEN SAMPLING OF OLIVE OIL OR OLIVE POMACE

Legal basis | Annex Ia to Regulation (EEC) No 2568/91

### Question

According to Table 1 in annex Ia of Regulation 2568/91 the minimum size of the primary sample must be 1 litre. Does this mean that both the chemical analysis and the organoleptic analysis must be conducted on 1 litre of olive oil? If the immediate packaging has a capacity of 0,5 litre and two packages are taken for analysis of the primary sample, must the content of these two packages then be mixed or can the laboratory use 0,5 litre for chemical analysis and 0,5 litre for organoleptic analysis? And what happens in the case where the immediate packaging has a capacity of 1 litre? Should the competent authorities take two packages for analysis, so that one can be used for chemical analysis and one can be used for organoleptic analysis or can the laboratory open the bottle and split a 1 litre primary sample into two different analyses?

What is the link between Table 1 and Table 3 in Annex Ia? Is it up to the competent authority to choose if they want to verify the batch category (following Table 3) when conducting controls in the retail sector or is it a mandatory requirement?

### Answer

One primary sample, pursuant to Article 2(3) and Annex Ia to Regulation (EEC) No 2568/91, should be provided respectively for the chemical analysis and the organoleptic assessment. Table 1, in point 1.1 of the Annex Ia sets the number of packs, which constitute a primary sample and explicitly considers capacity variations. As foreseen in point 2.1, each primary sample must be subdivided into laboratory samples according to point 2.5 of standard EN ISO 5555.

Pursuant to section 3 'verification of the category of batch', the competent authority may increase the number of primary samples – in accordance with table 3 – to be taken when it is considered opportune to further verify the batch category. Therefore, the further verification of the batch category is not a mandatory requirement.

## 20. NUMBER OF CONFORMITY CHECK THAT MS SHALL CARRY OUT

Legal basis Article 2a of Regulation (EEC) No 2568/91

### Question

Article 2a(4) of Regulation (EEC) No 2568/91 states that Member States should carry out at least one conformity check per thousand tonnes of olive oil marketed in the Member State per year, where 'olive oil marketed' means, in accordance with Article 2(1), the total quantity of olive oil and olive pomace oil of a relevant Member State that is consumed in that Member State or exported from that Member State. It seems logical to interpret the concept of export as export to a third country, in line with the concept of export pursuant to Regulation (EU) No 1308/2013, and any other EU Regulations establishing checks on exported produce. Therefore, extending the provisions of Article 2a(2) and (4) of Regulation (EEC) No 2568/91 to the whole of the EU leads us to the conclusion that all the olive oil consumed in the EU and all the olive oil exported from the EU is subject to checks in the proportion of one conformity check per thousand tonnes, applied fairly across the whole of the EU.

### Answer

Paragraph (4) of Article 2a of Regulation (EEC) No 2568/91 establishes that "at least one conformity check per thousand tonnes of olive oil marketed in the Member State shall be carried out per year".

Paragraph (2) of the same Article, provides that Member States shall ensure that conformity checks are carried out selectively, based on a risk analysis, and with appropriate frequency, so as to ensure that the olive oil marketed is consistent with the category declared.

Pursuant to paragraph (1) of the same Article, "olive oil marketed means total quantity of olive oil and olive pomace oil of a relevant Member State that is consumed in that Member State or exported from that Member State".

The interpretation that the reference to olive oil "exported from that Member State" only refers to exports to third countries would lead to the result that Member States would only need to carry out conformity checks according to paragraph 2, to ensure that olive oil consumed in their territory and olive oil exported to third countries is consistent with the category declared. Such an interpretation would considerably weaken the control system for olive oil, since olive oil would only be controlled in the European Union in the Member States where it would at the end be consumed. Therefore, it was decided not to simply refer to the total quantity of olive oil and olive pomace oil of a relevant Member State that is produced in that Member State, but instead referring to the quantity consumed or exported from that Member State, the intention of the legislator was to use a wider concept for controls (covering olive oil which is produced in or imported to that Member State to be consumed in that Member State or which is produced to be exported to another Member State or to a third country) and for determining the minimum number of conformity checks, with a view to ensure an efficient control system in all Member

States.

As a result, the total quantity of olive oil and olive pomace oil to be taken into account for the purpose of determining the minimum number of conformity checks should be the quantity consumed in the Member State (which is produced and consumed in that Member State or imported from another Member State or from a third country) and the quantity exported from that Member State to another Member State or to a third country.

This interpretation does not have to lead to checking twice a same sample of olive oil but instead to set a minimum number of checks which is deemed to be appropriate to ensure an efficient control system. As stated in the same paragraph 4 of Article 2a of Regulation (EEC) No 2568/91, the number of operators or lots and/or quantities, which are subject to a conformity check, shall be determined by each Member State on the basis of a risk analysis for each risk category.



## 21. CLARIFICATION OF THE TERMS: "NATURAL AND LEGAL PERSONS OR GROUPS" AND "ENTRY AND WITHDRAWAL REGISTERS"

Legal basis | Article 7a of Regulation (EEC) No 2568/91

### Question

What is it meant by 'natural and legal persons or groups' and 'entry and withdrawal registers'?

### Answer

Article 7a of Regulation (EEC) No 2568/91 is intended to give the competent authorities the necessary tools to carry out an effective control of the entry and exit of olive oil and olive-pomace oil from the mill at the bottling stage according to uniform rules within the European Union. This provision thus contributes to the traceability of the product and must make it possible to limit the risks of fraud.

The persons referred to in this provision are persons and groups of natural or legal persons who hold at any title, in the exercise of their profession or for commercial purposes, olive oil and olive pomace oil in the above-mentioned production stages.

As regards the registers, these are administrative documents on which the quantities of oils by category that have entered the establishments covered by this provision and the quantities of oils that come from them must appear.

## 22. UNCERTAINTY RANGES

Legal basis	Article 2(5) of Regulation (EEC) No 2568/91
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### Question

When verifying the conformity of an olive oil or an olive-residue oil regarding chemical analyses, and according with what it is established in Appendix I of Regulation (EEC) 2568/91, Do we have or not to take into account the uncertainties calculated in laboratories?

### Answer

Article 2 (5) of Regulation (EEC) 2568/91 provides that *"the results shall be directly compared with the limits laid down"* in Regulation (EEC) 2568/91.

## **23. LABELLING RULES ALSO APPLY TO BOTTLES SOLD FROM PROFESSIONALS TO PROFESSIONALS**

Legal basis	Article 2 of Regulation (EU) No 29/2012
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### **Question**

Are the labelling rules of Regulation No 29/2012 also applying to bottles of olive oil sold from professionals to professionals (restaurant owners).

### **Answer**

Yes. According to Article 1 of Regulation (EU) No 29/2012, marketing standards of olive oils shall apply to retail-stage, meaning as the sale to the final consumer of oil, presented in the natural state or incorporated in a foodstuff. Therefore, the oil sold by a wholesaler to a restaurant owner who will incorporate the oil in a foodstuff, or will have the bottles for selling to consumers, is indeed subject to comply with marketing standards deemed in Regulation No 29/2012.

## 24. COUNTER-ASSESSMENTS AND VERIFICATION FOR THIRD COUNTRIES

Legal basis

Article 2 of Regulation (EEC) No 2568/91 and Articles 8 and 8a of Regulation (EU) No 29/2012

Question

Article 2(2) of Reg. 2568/91 establishes the possibility of carrying out two counter-assessments, and at least one of those counter-assessments shall be carried out in the producer Member State. How shall this Article be applied in the case of an olive oil which is not produced in an EU Member State? Moreover, regarding Articles 8 and 8a of Reg.29/2012, who would be required to carry out verification? Is there any specific procedure for olive oils produced in third countries?

Answer

Article 2(2) of Regulation No 2568/91 establishes that one of the two counter-assessments shall be carried out by a panel approved by the producer Member State. This provision does not cover the case where the olive oil is produced in a third country and imported into European market therefore this provision cannot be applied in such situation. Thereby, both counter-analyses shall be carried out by two different panels from the first one that initially had established the non-conformity.

Concerning verification requests established in articles 8 and 8a of Regulation No 29/2012, they shall be addressed to the Member State in which is located any of the operators shown on the label, whether it would be the manufacturer, packager or seller. This provision cannot be applied when the label does not show an operator from the European Union. However, in such a situation, it would be desirable that the concerned authorities get in touch with the national authorities of the third country shown in the label and also inform about detected non-conformities to the Member State which has imported the concerned oil.

## 25. HOW TO PROCEED WITH THE TWO COUNTER-ASSESSMENTS AND TO INTERPRET CONFLICTING RESULTS

Legal basis

Article 2 of Regulation (EEC) No 2568/91 and Articles 8 and 8a of Regulation (EU) No 29/2012

Question

Is it correct that both of the counter-assessments must confirm declared grade (why minimum of two)? In case there are two counter-assessments made and they end up with different results, would the first assessment decision be taken into account?

What is the approach in case a producing country has only one approved assessment panel and it negatively evaluates olive oil produced in its country? In the case of an appeal, two reassessments must be made according to the regulation, with one evaluation being carried out by an approved evaluation committee of a Member State. Can a Member State in this case nominate two panels from other Member States?

Answer

The purpose of Article 2(2) of Regulation (EEC) No 2568/91 is to determine whether the organoleptic characteristics are consonant with the category declared. Pursuant to that provision, two counter-assessments shall be carried out at the interested party's request, at least one of them by a panel approved by the producer Member State.

As regards the results of the counter-assessments, it is necessary that both counter-assessments confirm the declared category in order to "contradict" the results of the first assessment made by the national competent authority. The wording "at least" is not appropriate in the English version of the Regulation and it should be understood as "if both counter-assessments [...]". In fact, this error is inherited from an old version of the Regulation prior to the amendments introduced in 2014. It will be corrected at the occasion of the next revision of the Regulation.

When a producing Member State is not capable to fulfil the requirement to have the two counter-assessments carried out by panels differing from the one who established the non-conformity, it should be possible for that Member State to liaise with two panels approved by other Member States to carry out the two counter-assessments.

Nevertheless, it is advisable that the Member State proceeds with the recognition of several panels, their number depending on the importance of the olive oil sector.

## 26. CAN GREEK OLIVE OIL BEING SHIPPED AND PRESSED IN ITALY AND BE DECLARED ITALIAN GEOGRAPHICAL INDICATION?

Legal basis | Article 4 of Regulation (EU) No 29/2012

### Question

Can Greek olive oil being shipped and pressed in Italy and be declared Italian geographical indication?

### Answer

Those rules are laid down in Article 4 of Regulation (EU) No 29/2012. Article 4(2) determines that extra virgin olive oil and virgin olive oil shall bear a designation of origin. In particular, this Article establishes that the designation of origin shall consist of:

- the reference to that Member State or to the Union, if the olive oil is originating from one Member State. In accordance with Article 4 (5) of Regulation (EU) No 29/2012, the designation of origin mentioning a Member State shall correspond to the geographical area in which the olives concerned were harvested or in which the mill where the oil was extracted from the olives is situated. If the olives have been harvested in a Member State other than that in which the mill where the oil was extracted from the olives is situated, the designation of origin shall contain the following wording "(extra) virgin olive oil obtained in (the Union or the name of the Member State concerned) from olives harvested in (the Union or the name of the Member State concerned)",

or (...)

- a protected designation of origin (PDO) or a protected geographical indication (PGI) referred to in Regulation (EU) No 1151/2012, in accordance with the provisions of the product specification concerned. PDO identifies products that are produced, processed and prepared in a specific geographical area, using the recognised know-how of local producers and ingredients from the region concerned. These are products whose characteristics are linked to their geographical origin. They must adhere to a precise set of specifications and may bear the PDO logo. PGI identifies products whose quality or reputation is linked to the place or region where it is produced, processed or prepared, although the ingredients used need not necessarily come from that geographical area. All PGI products must also adhere to a precise set of specifications and may bear the PGI logo.

Depending whether the extraction of the oil takes place in Greece or in Italy. the two following situations are to be considered:

- Situation A: olives are harvested in Greece and shipped to Italy, where the oil is extracted and bottled.

In that case, the olive oil cannot be an Italian PDO.

Eventually, such olive oil could possibly be an Italian PGI if the specifications of that

PGI allow that the olives used do not necessarily come from the geographical area of the PGI. Nevertheless, the specifications would have to prove that given quality, reputation or other characteristics of the olive oil is essentially attributable to its geographical area which in practice could be questionable.

Alternatively, and taking into consideration Article 4, paragraph 5, second subparagraph of Regulation (EU) 29/2012, the designation of origin should contain the following wording: "(extra) virgin olive oil obtained in (the Union or Italy) from olives harvested in (the Union or Greece)".

- Situation B: Olives are harvested in Greece, the oil is extracted in Greece and bottled in Italy.

In that case, the olive oil cannot be an Italian PDO or an Italian PGI.

In accordance with paragraphs 2(a) and (5) of Article 4 of Regulation (EU) 29/2012, the designation of origin should be a reference to Greece or to the Union.

## 27. (NEW) USE OF LAMPANTE OLIVE OIL

Legal basis | Part VIII of Annex VII to Regulation (EU) No 1308/2013

### Question

Is it possible to blend lampante olive oil with extra virgin olive oil or virgin olive oil to obtain virgin olive oil?

### Answer

Part VIII of Annex VII to Regulation (EU) 1308/2013 stipulates that lampante olive oil may not be marketed at retail stage.

Additionally, that same Annex mentions that lampante olive oil may not be used in the composition of 'olive oil - composed of refined olive oils and virgin olive oils'.

Finally, the trade standard of the International Olive Council, applied by the European Union, specifies in its names and definitions of olive oils that lampante virgin olive oil must undergo processing prior consumption and is intended for refining industries or for technical purposes.

Therefore, accordingly to the above, it is not possible to make an assembly of lampante olive oil with another virgin olive oil or extra virgin to obtain a virgin olive oil.



## 28. **(NEW)** MARKETING OF REFINED OLIVE OIL AND OLIVE OIL – COMPOSED OF REFINED OLIVE OILS AND VIRGIN OLIVE OILS

Legal basis

Part VIII of Annex VII to Regulation (EU) No 1308/2013 and Annex I to Regulation (EEC) No 2568/1991

Question

Is it allowed to retail in the EU or at national level refined olive oil directly to the consumers?

Is there a minimum quantity of virgin olive oil prescribed before an olive oil can be designated as ‘Olive oil – composed of refined olive oils and virgin oils’?

Answer

Given that there are no safety concerns with the consumption of refined olive oil, the International Olive Council (IOC) as well as the Codex Alimentarius, give the possibility to country of retail sale to allow the retail of refined olive oil directly to the consumers. It should be noted that in the international framework (e.g. IOC and Codex), the national level is to be understood for the EU Member States as the EU level.

The EU, as many third countries, decided not to allow the marketing of refined olive oil to final consumers. Part VIII of Annex VII to Regulation (EU) 1308/2013 stipulates that refined olive oil may not be marketed at retail stage. This decision was taken pursuant to quality considerations, refined olive oil being generally odourless, colourless, and tasteless. Refined olive oils are blended with extra virgin or virgin olive oils to provide some flavour, aroma and colour.

The EU adopted harmonised legislation for the composition and the marketing of olive oils and olive-pomace oils, which does not provide the possibility for the Member States to adopt diverging or additional rules in that regard. Consequently, Member States cannot allow the sale of refined olive oil at retail stage.

Regarding “olive oil - composed of refined olive oils and virgin olive oils”, there is no specific rule as regard a minimum proportion of virgin olive oil. The result of the blending has to conform to the definition of olive oil and shall respect all the limits set for the quality and purity characteristics of that category (see Annex I to Regulation (EEC) No 2568/91).