

COMMISSION IMPLEMENTING REGULATION (EU) 2022/1291**of 22 July 2022****approving a non-minor amendment to the product specification for a name entered in the register of traditional specialties guaranteed 'Mozzarella' (TSG)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(3)(b) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(b) of Regulation (EU) No 1151/2012, the application from Italy for approval of a non-minor amendment to the product specification of the Traditional Speciality Guaranteed 'Mozzarella' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) The application for amendment aims at changing the name 'Mozzarella' into 'Mozzarella Tradizionale' and the protection from 'without reservation of name' into 'with reservation of name'.
- (3) On 1 March 2021 the Commission received two notices of opposition and one reasoned statement of opposition from Germany. On 22 March 2021 the Commission received the second reasoned statement of opposition from Germany.
- (4) After examining the reasoned statements of opposition and finding them admissible, in accordance with Article 51(3) of Regulation (EU) No 1151/2012, the Commission invited Italy and Germany, by letter of 10 May 2021, to engage in appropriate consultations in view of reaching an agreement.
- (5) On 2 August 2021, on request of Italy, the Commission extended the deadline for consultations by three months. The consultations between Italy and Germany ended without an agreement being reached. The Commission should therefore take a decision on the amendment in accordance with the procedure provided for in Article 52(3)(b) of Regulation (EU) No 1151/2012 taking into account the results of these consultations.
- (6) The main arguments of Germany as set out in its reasoned statement of opposition and in the consultations carried out with Italy can be summarised as follows.
- (7) Germany claimed that the new name 'Mozzarella Tradizionale', as applied for by Italy, was neither a name traditionally used to refer to the specific product, as required by Article 18(2)(a) of Regulation (EU) No 1151/2012, nor a name which identifies a traditional character of the product, as required by Article 18(2)(b) of the same Regulation.
- (8) Germany further claimed that the term 'Tradizionale' could not be included in the name of a traditional speciality guaranteed in the light of the rules established by Article 18(3), which provide for a specific use of the term 'traditional'. 'Traditional' is also already part of 'traditional speciality guaranteed' (TSG) logo and part of the indication 'traditional speciality guaranteed', which might also appear in full on the labelling.
- (9) In addition, the reservation of the name 'Mozzarella Tradizionale' would prevent the German producers who have produced and marketed a product named 'Mozzarella' for more than 30 years, from using the term 'traditional'. Germany claimed that the use of the word 'traditional' is of economic importance.

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 424, 8.12.2020, p. 39.

- (10) In that context Germany also argued that there are two meanings of 'traditional': the first one, defined in Article 3, point (3), of Regulation (EU) No 1151/2012, where 'traditional' means proven usage on the domestic market for a period of at least 30 years; and the second one, understood by consumers as a transfer of knowledge from one generation to the next. In view of the foregoing, Germany claimed that, in this specific case of 'Mozzarella Tradizionale', the term 'Tradizionale' refers only to the first meaning, the standard and most traditional form of the product. However, adding 'traditional' to the name 'Mozzarella' would qualify the name also with reference to the second meaning, transfer of knowledge from one generation to another. Germany therefore considers that this would mislead the consumers and that the appropriate manner to qualify the name 'Mozzarella' under the first meaning of the term 'Tradizionale' would be just adding the claim under Article 18(3) of Regulation (EU) No 1151/2012.
- (11) Germany also asserted the generic character of the name 'Mozzarella', following the definition in Article 3, point (6) of Regulation (EU) No 1151/2012. As a consequence, Germany requested that the regulation approving the change of name expressly states that 'Mozzarella' is a generic name. Furthermore, Germany claimed that co-existence of 'Mozzarella Tradizionale' TSG and two other Mozzarella products designated as PDOs – 'Mozzarella di Bufala Campana' and 'Mozzarella di Gioia del Colle' could also be precluded by Article 6(3) of Regulation (EU) No 1151/2012 since there was a risk that an average consumer might not be able to make a sufficiently clear distinction between the products in question.
- (12) Germany also maintained that the product specification enclosed to the application for amendment would contain changes that are not described in the application itself. The application for amendment would therefore be incomplete. In addition, some parts of the product specification would not be easy to understand and would need to be clarified. Also, the applicant would be ineligible because a single Italian dairy producer would not be allowed to represent all the TSG producers, which are located all over the EU territory.
- (13) Finally, Germany contested the possibility of changing the protection rule from 'registration without reservation of the name' to 'registration with reservation of the name' by means of the present application for amendment. In particular, it was argued that the time limit to make such a change, as referred to in Article 26(1) of Regulation (EU) No 1151/2012, lapsed on 4 January 2016. As a result, after the end of the transitional period, i.e. after 4 January 2023, protection of 'Mozzarella' should allegedly cease.
- (14) The Commission has assessed the arguments exposed in the reasoned statements of opposition from Germany in the light of provisions of Regulation (EU) No 1151/2012, taking into account the results of the appropriate consultations carried out between the applicant and the opponent and it has concluded that the amendment to the product specification for the traditional speciality guaranteed 'Mozzarella' should be approved.
- (15) The name 'Mozzarella Tradizionale' identifies the traditional character of the product, as required by Article 18(2)(b) of Regulation (EU) No 1151/2012. This is enough to qualify a name as a TSG, the fulfilment of the conditions under Article 18(2)(a) and 18(2)(b) being alternative.
- (16) In addition, to demonstrate the use of name 'Mozzarella Tradizionale', Italy submitted examples of such use on labels or in logos, as well as demonstrated existence of the producer group named 'Consorzio italiano per la Tutela della Mozzarella tradizionale' already in 2001.
- (17) As regards the inclusion of the term 'Traditional' in the compound name of a registered TSG with reservation of name, not only does Article 18(2)(b) of Regulation (EU) No 1151/2012 allow it, but it represents the perfect example of a term identifying the traditional character of the product. For these reasons, the term 'traditional' can be found in many protected names of TSGs with reservation of name, in various languages, as confirmed in the following examples of registered TSG with reservation of the name: 'Traditionally Reared Pedigree Welsh Pork', 'Traditional Bramley Apple Pie Filling', 'Traditional Farmfresh Turkey', 'Traditionally Farmed Gloucestershire Old Spots Pork', 'Amatriciana tradizionale', 'Bacalhau de Cura Tradicional Portuguesa', 'Salată tradițională cu icre de crap', 'Czwórniak staropolski tradycyjny', 'Dwójniak staropolski tradycyjny', 'Olej rydzowy tradycyjny', 'Półtorak staropolski tradycyjny'.

Moreover, 'Mozzarella' TSG has always had a traditional character as it was registered as a traditional speciality guaranteed in direct reference to and due to its traditional character. In this context, attention should be drawn to the meaning of 'traditional' as defined under Article 3(3) of Regulation (EU) No 1151/2012, which means 'proven usage on the domestic market for a period that allows transmission between generations; this period is to be at least 30 years'. The differentiation between various meanings of 'traditional', as proposed by Germany, is not, therefore, supported by the text of the applicable law.

- (18) It is not clear which is the concrete economic impact for the German producers being prevented from using the term 'traditional' for marketing 'Mozzarella' produced without complying with the product specification of the TSG, but following a distinct method that has been used for more than 30 years in Germany. The claim would refer rather to a potential option than to a concrete fact. No indication that the term has been used on the market may be deduced. In addition, as long as the conditions set forth in the product specification of 'Mozzarella Tradizionale' TSG are complied with, the producers anywhere in the European Union, therefore also in Germany, will be able to legitimately market a product named 'Mozzarella Tradizionale' TSG.

The protection of traditional speciality guaranteed 'Mozzarella Tradizionale' should not cover the stand-alone name 'Mozzarella', but only the compound name 'Mozzarella Tradizionale' as a whole. Therefore, the use of the name 'Mozzarella' should continue to be allowed for products not complying with the product specification of 'Mozzarella Tradizionale' TSG. Though, such products should not be marketed accompanied by the terms 'traditional speciality guaranteed', nor by the abbreviation TSG, nor by the Union symbol specified under Article 23 of Regulation (EU) No 1151/2012.

- (19) With regard to the claim that co-existence of 'Mozzarella Tradizionale' TSG and two other Mozzarella products designated as PDOs – 'Mozzarella di Bufala Campana' and 'Mozzarella di Gioia del Colle' would be in breach of Article 6(3) of Regulation (EU) No 1151/2012, it should be noted that the aforementioned provision does not apply to traditional specialities guaranteed, but only to protected designations of origin and protected geographical indications.
- (20) With reference to the reservations of Germany concerning the product specification of 'Mozzarella Tradizionale' TSG, other than the name issue and of the protection status, and in particular points 4.1, 4.2 and 4.3, it must be pointed out that the product specification has not been changed. The slight wording changes that may have occurred in the non-Italian versions are due to translation. These parts of the product specification are therefore out of the scope of the approval of this amendment. The Commission's assessment of the application for amendment of 'Mozzarella Tradizionale' TSG focussed on the amendments applied for.
- (21) Article 3, point (2), of Regulation (EU) No 1151/2012 defines the group as 'any association, irrespective of its legal form, mainly composed of producers or processors working with the same product'. The first subparagraph of Article 49(1) of the same Regulation provides that an application for registration may only be submitted by groups who work with the products with the name to be registered. In addition, Article 53(1), which defines the groups that may submit applications for amendment, has even a larger scope, requiring that an application for amendment may be submitted also by 'a group having a legitimate interest'. The producers that submitted the application for amendment of 'Mozzarella' TSG directly work with the product, as confirmed by fully certified production. In the light of the foregoing, the criteria set forth for a 'group' to be allowed to apply for approval of an amendment, as defined in Regulation (EU) No 1151/2012 under Articles 3, point (2), 49(1) and 53(1), can be considered as fulfilled.
- (22) With reference to the applicability of the amendment procedure, Article 25(2) of the Regulation provides that TSG without reservation of name may continue to be used until 4 January 2023, under the conditions laid down in Regulation (EC) No 509/2006, unless Member States apply the procedure laid down in Article 26 of the Regulation. Article 26 of the Regulation provides for a simplified procedure for conversion of TSGs without reservation of name into TSGs with reservation of name. This does not prejudice that a TSG without reservation of name may still be amended and changed into TSG with reservation of name by means of an amendment procedure provided by the Regulation (EU) No 1151/2012. The Commission has already approved under Article 53(2) of the Regulation other non-minor amendments to the product specification converting TSGs without reservation of name into TSGs with reservation of name.

- (23) Accordingly, the amendment to the product specification published in the *Official Journal of the European Union* regarding the name 'Mozzarella' (TSG) should be approved.
- (24) The measures provided for in this Regulation are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS REGULATION:

Article 1

The amendments to the product specification published in the *Official Journal of the European Union* regarding the name 'Mozzarella' (TSG) are hereby approved.

Article 2

The name 'Mozzarella' may continue to be used for products that do not comply with the product specification of 'Mozzarella Tradizionale' within the territory of the Union, provided the principles and rules applicable in its legal order are respected.

Article 3

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

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

Done at Brussels, 22 July 2022.

For the Commission
The President
Ursula VON DER LEYEN
