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## COMMISSION NOTICE

**Guidelines for the implementation of certain labelling provisions 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**

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### **Foreword and disclaimer**

*The new Spirit Drinks Regulation (EU) 2019/787 was published on 17 May 2019 and entered into force 7 days later. However, it only applies from 25 May 2021 with respect to most of its production and labelling provisions.*

*In line with Article 43(2) of Regulation (EU) 2019/787, the purpose of the present guideline document – which is also applicable as of 25 May 2021 – is to ensure its uniform application for the benefit both of national administrations and food business operators (e.g. spirit drinks producers and importers) as concerns certain labelling provisions laid down therein.*

*It is limited to the practical explanation of labelling provisions applicable to spirit drinks, in particular concerning the use of ‘legal names’, ‘compound terms’, ‘allusions’, ‘mixtures’ and ‘blends’.*

*To this end, it gives several non-exhaustive examples that are provided for illustration purposes only.*

*The present guideline document is provided for information purposes only and its contents are not intended to replace consultation of any applicable legal sources or the necessary advice of a legal expert, where appropriate.*

*Neither the Commission nor any person acting on its behalf can be held responsible for the use made of these guidance notes nor can they be considered as a binding interpretation of the legislation.*

*This document is intended to assist businesses and national authorities in the application of the Spirit Drinks legislation. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.*

*References to legal provisions indicated hereinafter are intended as being referred to Regulation (EU) 2019/787 (‘SDR’), save otherwise explicitly indicated.*

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## Table of Symbols and Abbreviations

ABV	Alcohol by volume
CT	Compound term
EAAO	Ethyl alcohol of agricultural origin
FIC (Regulation)	Regulation (EU) No 1169/2011 on food information to consumers
GI	Geographical Indication
QUID	Quantitative indication of ingredients
SDR	Regulation (EU) 2019/787 (Spirit Drinks Regulation)
§	Paragraph of the present Guidelines
#	Example box number of the present Guidelines

# 1. GENERAL LABELLING RULES FOR SPIRIT DRINKS

Article 3, points (1), (4) and (8)	Definitions
Article 4, points (1), (2), (3) and (4)	Technical definitions and requirements
Articles 9, 10 and 13	Legal names and other labelling provisions

## 1.1. Horizontal provisions (FIC Regulation)

According to Article 9 of Regulation (EU) 2019/787<sup>1</sup> ('SDR'), '*spirit drinks placed on the Union market shall comply with the presentation and labelling requirements set out in Regulation (EU) No 1169/2011<sup>2</sup>, unless otherwise provided for in this Regulation*<sup>3</sup>.

Except for explicit provision of *lex specialis* as set out in the SDR, the presentation and labelling rules laid down for any foodstuff by Regulation (EU) No 1169/2011 ('FIC Regulation') are thus also of application for spirit drinks as such and when present in foodstuffs.

Among the key principles that are set out in the horizontal EU food labelling legislation (FIC Regulation) that are also of paramount importance also for spirit drinks, is that food information shall not be misleading but shall be accurate, clear and easy to understand for consumers<sup>4</sup>.

***Information to consumers must be accurate, non-misleading and easy to understand.***

In this context, it is worthwhile reminding that the mandatory quantitative indication of certain (categories of) ingredients according to Article 9(1), point (d), of the FIC Regulation – read in conjunction with Article 22 and Annex VIII of that Regulation – is also among the horizontal rules applicable to spirit drinks.

<sup>1</sup> 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).

<sup>2</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 (OJ L 304, 22.11.2011, p. 18).

<sup>3</sup> This was already the case with Regulation (EC) No 110/2008, which refers in a number of labelling provisions to the horizontal rules of Directive 2000/13/EC that was repealed and replaced by the FIC Regulation as from 13 December 2014.

<sup>4</sup> See Article 7 of the FIC Regulation.

***QUID rules apply to spirit drinks as provided for by the FIC Regulation as the SDR does not explicitly derogate from them.***

## 1.2. Principles governing the Spirit Drinks Regulation

In line with the tradition set out by Council Regulation (EEC) No 1576/89<sup>5</sup> and carried on with Regulation (EC) No 110/2008<sup>6</sup>, Regulation (EU) 2019/787 continues relying upon the same **liberal principle**:

***Every spirit drink may be placed on the EU market as long as it is produced in line with general food law and is correctly labelled.***

In other words, no spirit drink – as any other foodstuff – is banned from the EU market as long as it complies with the provided requirements for its production, is safe for consumption and bears adequate consumer's information.

However, concerning spirit drinks, this liberal principle must coexist with the **enhanced protection** EU law bestows upon their **legal names**, which are either names reserved for defined **categories** or for **geographical indications**.

***Legal names of spirit drinks (categories and GIs) are granted special protection.***

Indeed, in order to safeguard the reputation of spirit drink categories and GIs and to prevent the deception of consumers, the SDR protects clearly defined products against illegitimate use in the presentation of derived products that do not meet the strict production criteria applicable.

Accordingly, food business operators (e.g. producers, importers) will have to carefully consider the labelling provisions set out in the SDR before placing on the EU market any spirit drink or food referring to spirit drinks.

Particular attention needs to be paid to rules on legal names (Article 10), compound terms (Article 11), allusions (Article 12) and other labelling provisions, including on mixtures and blends (Article 13).

## 1.3. Legal names

EU food law does not provide for mandatory product definitions except in cases of vertical EU legislation such as the SDR.

Both Council Regulation (EEC) No 1576/89 and Regulation (EC) No 110/2008 provided for an enhanced protection both of sales denominations

<sup>5</sup> Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks (OJ L 160, 12.6.1989, p. 1).

<sup>6</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

and geographical indications, imposing that every spirit drink marketed in the EU shall bear a clearly defined name.

The present SDR retains the same approach.

Moreover, in order to align it to the wording of the FIC Regulation on food information to consumers, the legislator decided to replace the term ‘sales denomination’ with the term ‘legal name’, which is defined by:

- Article 2(2), point (n), of the FIC Regulation as ‘*the name of a food prescribed in the Union provisions applicable to it*’ [...]; and
- Article 3, point (1), of the SDR as ‘*the name under which a spirit drink is placed on the market*’.

Furthermore, according to Article 17(1) of the FIC Regulation ‘*the name of the food shall be its legal name. In the absence of such a name, the name of the food shall be its customary name, or, if there is no customary name or the customary name is not used, a descriptive name of the food shall be provided*’. Paragraph 4 of the same provision specifies that ‘*the name of the food shall not be replaced with a name protected as intellectual property<sup>7</sup>, brand name or fancy name*’.

Finally, in compliance with Article 13(1) of the FIC Regulation, the legal name of spirit drinks, as any other mandatory food information, ‘***shall be marked in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material***’.

Moving back to the specific provisions of the SDR, Article 10 provides for the following legal names to be used in the description, presentation and labelling of a spirit drink:

**a) MANDATORY:**

Article 10(2): the **name of the category** of spirit drinks whose requirements it complies with (or any other legal name permitted by that category);

*If a beverage complies with all requirements laid down for a **spirit drink category**, it must bear the corresponding legal name.*

Article 10(3): the legal name ‘**spirit drink**’, if it does not comply with the requirements of any of the categories of spirit drinks set out in Annex I, but still complies with the definition of and requirements for spirit drinks laid down in Article 2;

*If a beverage does not comply with the requirements of any spirit drink category, but corresponds to the general definition of a spirit drink, it must bear the **generic name ‘spirit drink’**.*

**b) FACULTATIVE:**

<sup>7</sup> According to Article 10(5), point (a), of the SDR, the legal name of a spirit drink may be supplemented or replaced by a spirit drink GI.



Article 10(4): **legal names permitted under one or more categories** of spirit drinks, if it complies with the requirements for more than one categories of spirit drinks set out in Annex I;

**#01 - Examples of permitted labelling:**

- 1) A **Brandy** may also be placed on the market as a **wine spirit** if it complies with both the requirements for categories 4 and 5 of Annex I
- 2) A **Sambuca** may also be placed on the market as a **liqueur** as a Sambuca necessarily complies simultaneously with the requirements for categories 33 and 36 of Annex I
- 3) A **Gin** may also be placed on the market as a **juniper-flavoured spirit drink** if it complies with both the requirements for categories 19 and 20 of Annex I

Article 10(5), point (a): a **geographical indication** referred to in Chapter III, which **may supplement or replace** its legal name;

**#02 - Examples of permitted labelling:**

- 1) A **Cognac** may be placed on the market as **Cognac** or **eau-de-vie de Cognac**
- 2) A **Cassis de Dijon** may be placed on the market as **Cassis de Dijon** or **Crème de Cassis de Dijon**

Article 10(5), point (b): a **compound term** that includes the term ‘**liqueur**’ or ‘**cream**’, which **may replace** its legal name in derogation from Article 10(6), point (c), according to which a compound term may only supplement a legal name (see § 2.1 below), provided that it complies with the respective requirements laid down for category 33 of Annex I (i.e. liqueur);

**c) FORBIDDEN:**

Article 10(7), first subparagraph: **legal names** permitted under a **category** of spirit drinks and **geographical indications** for spirit drinks **shall not be used** in the description, presentation or labelling of **any beverage** (i.e. alcoholic or not alcoholic) **which does not comply with the requirements** set out for that category or geographical indication (see also § 3.3 below).

This prohibition applies even in presence of terms such as ‘like’, ‘type’, ‘style’, ‘made’, ‘flavour’, used with the purpose of indicating to the consumer that such beverage is not to be confused with the spirit drink referred to.

The only **exceptions** to this prohibition are allowed for ‘**compound terms**’, ‘**allusions**’ and ‘**ingredients lists**’ as set out in Articles 11, 12 and 13(2) to (4).

☞ **NB:** With Regulation (EU) 2019/787, Articles 9(4) and 9(7) of Regulation (EC) No 110/2008 were merged into the new Article 10(7) of the SDR. Consequently, the provision laid down in Article 10(7), first subparagraph, has become stricter with respect to Article 9(7) of Regulation (EC) No 110/2008, which only prohibited the use of a spirit drink name on **alcoholic beverages** (and **not ‘any beverage’** as in the new SDR) not complying with all requirements laid down for that spirit drink. This change in wording was necessary to ensure consistency with Article 9(4) of Regulation (EC) No 110/2008, which prohibits the use of sales denominations of spirit drink categories to **describe or present in any way whatsoever any drink** other than the spirit drinks for which those names are listed in Annex II or registered in Annex III.

**#03 - Examples of forbidden labelling:**

- 1) **Whisky-type beverage**
- 2) **Cognac-flavoured drink**
- 3) **Zero alcohol Brandy**

4) Non-alcoholic **Gin**

☞ **NB:** Regulation (EU) 2019/787 introduced a novelty with respect to the reference to spirit drink names in foodstuffs other than beverages. In fact, according to Article 10(7), second subparagraph, **flavourings that imitate a spirit drink or foodstuffs other than a beverage** having used such flavourings in their production, may bear in their presentation and labelling references to legal names permitted under a **category of spirit drinks**. The only condition is that the consumer is properly informed by accompanying those legal names with the term 'flavour' or other similar terms. However, names of **geographical indications may not be used** to that purpose.

**#04 - Examples of permitted labelling** (categories) in case of use of a flavouring imitating a spirit drink:

- 1) **Rum flavour** for bakery - **Rum flavoured** cake – or - Pineapple sauce with **rum flavour**
- 2) **Gin flavour** – **Gin flavoured** ice cream - or - Yogurt with **gin flavour**
- 3) **Whisky flavour** – **Whisky flavoured** chocolate - or - Candy with **whisky flavour**

**#05 - Examples of forbidden labelling** (GIs) (allowed however if the authentic GI is used rather than a flavouring):

- 1) **Cognac** food flavour
- 2) **Ouzo** flavoured bonbons
- 3) Cake with **Scotch Whisky** flavour
- 4) **Ron de Guatemala** flavoured sauce

## 1.4. Terms that may supplement legal names

Article 10(6) provides an **indicative list** of terms that may supplement legal names of spirit drinks.

In this context, the verb 'to supplement' should not be understood as a requirement for the concerned term to form integral part of a legal name. It rather indicates that it can be added to the label as an extra element to provide further descriptive information with respect to the product.

Therefore, the 'supplementing term' does not necessarily have to be displayed on the same line as the legal name but may appear anywhere on the label.

Accordingly, the following may appear on the label **along with the legal name**:

- (a) '**a name or geographical reference**<sup>8</sup> provided for in the laws, regulations and administrative provisions applicable in the Member State in which the spirit drink is placed on the market, provided that this does not mislead the consumer': this possibility is reserved to terms that are regulated at national level, where they exist. In that case those terms may supplement the legal name of spirit drinks placed on the domestic market. Those spirit drinks may also be placed on the market of another Member State on condition that they are not considered as misleading for consumers of that Member State;

**#06 - Examples:**

<sup>8</sup> This provision does not refer to geographical indications regulated by Chapter III of the SDR.

- |   |
|---|
| 1) <b>Gammel Dansk</b> – bitter commonly known as such in Denmark although it could be produced outside of Denmark<br>2) <b>Berliner Gin</b> or <b>Bodensee Obstler</b> – terms regulated by German regulations<br>3) <b>Korenwijn</b> – ( <b>vruchten</b> ) <b>brandewijn</b> – terms regulated by Dutch law for spirit drinks placed on the domestic market |
|---|

- (b) ‘a **customary name** as defined Article 2(2), point (o), of Regulation (EU) No 1169/2011<sup>9</sup>, provided that this does not mislead the consumer’: this possibility is reserved to names that are traditionally used in Member States even if they are not formally regulated. Such names may supplement the legal name of spirit drinks placed on national markets where they are accepted by consumers without that name needing further explanation;

**#07 - Examples:**

- |   |
|---|
| 1) <b>Rakia</b> : term commonly used for certain spirits in Bulgaria<br>2) <b>Schnaps - Klarer</b> : terms commonly used for certain spirits in Germany and Austria<br>3) <b>Brännvin</b> or <b>sprit</b> : terms commonly used for spirits in Sweden<br>4) <b>Viski</b> : term commonly used for whisky in Estonia<br>5) <b>Nalewka</b> : term commonly used in Poland for spirit drinks produced by macerating plant materials in EAAO, distillates of agricultural origin or spirit drinks |
|---|

- (c) ‘a **compound term** or an **allusion** (on liqueurs) in accordance with Articles 11 and 12’ of the SDR (with the exception of compound terms resulting from the combination of the name of a spirit drink with the term ‘liqueur’ or ‘cream’), which may replace legal names in accordance with the provision of Article 10(5), point (b)).

It is to be noted that, in line with Article 11(2), the terms ‘alcohol’, ‘spirit’, ‘drink’, ‘spirit drink’ and ‘water’ may not be part of a compound term describing an alcoholic beverage, except if those terms are integral part of the legal name of the spirit drink category that is mentioned in the compound term. Consequently, a compound term may in no case be written in such a way as being part of the generic legal name ‘spirit drink’;

**#08 - Examples of permitted labelling:**

- |  |
|--|
| 1) <b>Spirit Drink</b><br><b>Grain spirit and Ginger</b> (legal name ‘Spirit Drink’ supplemented by a compound term)<br>2) <b>Chocolate Cream (Liqueur)</b><br><b>with a scent of Rum</b> (legal name ‘Chocolate Cream’ supplemented by an allusion) |
|--|

**#09 - Examples of forbidden labelling (terms that may not be part of compound terms):**

- |   |
|---|
| 1) <b>Ginger Whisky Spirit Drink</b><br>2) <b>Rum Water</b> |
|---|

- (d) ‘the term ‘**blend**’, ‘**blending**’ or ‘**blended**’, provided that the spirit drink has undergone blending in accordance with Article 3, point (11)’;

☞ **NB:** this indication is compulsory in the case referred to in Article 13(3a)

**#10 - Examples of permitted labelling:**

- |  |
|--|
| 1) <b>Blended Whisky</b> (legal name ‘Whisky’ + supplementing term)<br>2) <b>Blend of Rums</b> (legal name ‘Rum’ + supplementing term) |
|--|

<sup>9</sup> Article 2(2), point (o), of the FIC Regulation: ‘customary name’ means a name which is accepted as the name of the food by consumers in the Member State in which that food is sold, without that name needing further explanation.

**#11 - Examples of forbidden labelling:**

- 1) **Blended Spirit Drink\***
- 2) **Blend of Whisky and Vodka\***

\*According to Article 3, point (11), 'to blend' means to combine two or more spirit drinks of the same category that are distinguishable only by the minor differences in composition indicated therein. Therefore, a generic 'spirit drink' (i.e. not belonging to a spirit drink category) or spirit drinks belonging to different categories may not be labelled as a blend.

- (e) 'the term **'mixture, 'mixed' or 'mixed spirit drink'**, provided that the spirit drink has undergone mixing in accordance with Article 3, point (9)';

☞ **NB:** this indication is compulsory in the case referred to in Article 13(3)

**#12 - Examples of permitted labelling:**

- 1) **Rum & Gin** (list of alcoholic ingredients)  
**Mixed Spirit Drink** (legal name 'Spirit Drink' + supplementing term)
- 2) **Spirit Drink** (legal name)  
**Mixture of rum and gin** (list of alcoholic ingredients + supplementing term)

**#13 - Examples of forbidden labelling:**

- 1) **Fruit Spirit and Orange Juice**  
**Mixed spirit drink\***
- 2) **Mixture of Aquavit and Water\***

\*According to Article 3, point (9), 'to mix' means to combine a spirit drink (category or GI) with one or more of the following: other spirit drinks that do not belong to the same category of spirit drinks, distillates of agricultural origin, ethyl alcohol of agricultural origin. Therefore, the combination of a spirit drink with a non-alcoholic ingredient or with water may not be labelled as a mixture.

- (f) 'the term **'dry' or 'dry'** [i.e. in English or in any other official EU language], provided that the spirit drink has not been sweetened, not even for rounding off the taste'. The following **exceptions** apply in case of:

- (i) 'spirit drinks that comply with the requirements of category 2 of Annex I' (i.e. **whisky or whiskey**), which may in no case be sweetened, not even to round off the taste and may thus never be labelled as 'dry' or 'dry'<sup>10</sup>;
- (ii) spirit drinks that comply with 'the specific requirements laid down in categories 20 to 22 of Annex I' (i.e. **gin, distilled gin and London gin**), to which specific sweetening and labelling rules should continue to apply in relation to the use of the term 'dry', (i.e. a content of added sweetening not exceeding 0,1 grams of sweetening products per litre of the final product, expressed as invert sugar);
- (iii) 'spirit drinks that comply with the requirements of category 33' (i.e. **liqueur**), which must be sweetened by definition. The term 'dry' or 'dry' may supplement the legal name of a liqueur that is 'characterised in particular by a tart, bitter, tangy, acerbic, sour or citrus taste, regardless of their degree of sweetening' (recital 17). In fact, the use of the term 'dry' in the description, presentation and labelling of liqueurs is not likely to mislead the consumer, as they are required to have a minimum sugar content to be classified as such.

<sup>10</sup> The same exception applies by analogy to spirit drink GIs whose technical file/product specification forbids any sweetening, even to round off the taste (e.g. Pálinka): as all spirit drinks belonging to the concerned GI are not sweetened at all, it would be misleading to label any of them as 'dry'.

**#14 - Examples of permitted labelling:**

- 1) **Dry Cider Spirit** (if not sweetened, not even to round off the taste)
- 2) **Dry Gin** (if the added sweetening products do not exceed 0,1 grams per litre)
- 3) **Liqueur Triple Sec** (if the liqueur is characterized e.g. by a tart or bitter taste)

**#15 - Examples of forbidden labelling:**

- 1) **Dry Whisky** (never possible because all whiskies must be unsweetened)
- 2) **Dry Brandy** (where the brandy has been sweetened to round off the taste)

## 1.5. Voluntary food information (FIC Regulation)

In addition to the above, in compliance with the FIC Regulation, **voluntary food information**<sup>11</sup> may be provided in the description, presentation and labelling of a spirit drink.

Article 36(2) of the FIC Regulation requires that *‘food information provided on a voluntary basis shall meet the following requirements:*

- (a) *it shall not mislead the consumer, as referred to in Article 7;*
- (b) *it shall not be ambiguous or confusing for the consumer; and*
- (c) *it shall, where appropriate, be based on the relevant scientific data’.*

**Voluntary information** may include terms such as ‘fine’, ‘extra’, ‘premium’, ‘deluxe’, ‘100% pure grain’, ‘superior’, but also ‘matured in wine cask’, ‘old barrel matured’, ‘aged in Sherry cask’<sup>12</sup>, ‘Stout/Beer cask finish’, etc.

Terms referring to the storage of a spirit drink for the entire maturation period or part of it in wooden casks having previously used to mature another **spirit drink** cannot be considered as mere voluntary information within the meaning of Article 36 of the FIC Regulation, contrary to references to e.g. wine and beer casks. This is due to the prohibition laid down in Article 10(7), first subparagraph, of the SDR to use spirit drinks names in the description, presentation or labelling of any beverage not complying with the requirements laid down in the SDR or the relevant GI technical file/product specification. The only exceptions allowed to this prohibition relate to the labelling of compound terms, allusions and ingredients list, as regulated by Articles 11, 12 and 13(2) to (4) of the SDR. Therefore, the reference to a spirit drink in whose wooden cask another spirit drink has been subsequently matured is an allusion governed by Article 12(3a) of the SDR<sup>13</sup> (see § 3.2.4.2 below).

☞ **NB:** *This section does not cover terms permitted by the technical file/product specification of a spirit drink GI, which may in any case*

<sup>11</sup> See Chapter V of the FIC Regulation.

<sup>12</sup> When in the description, presentation or labelling of a spirit drink reference is made to a (spirit drink or wine) GI, the wooden cask of which has been used for the storage of that spirit drink, it is essential that the food business operator can prove on the basis of objective elements that that cask has indeed been previously used for the ageing of the GI referred to.

<sup>13</sup> Introduced by Commission Delegated Regulation (EU) 2021/1465 of 6 July 2021 amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards the definition of allusions to legal names of spirit drinks or geographical indications for spirit drinks and their use in the description, presentation and labelling of spirit drinks other than the spirit drinks to which allusion is made (OJ L 321, 13.09.2021, p. 12).

*supplement the GI, provided that this does not mislead the consumer, in application of Article 10(5), point (a).*

☞ **NB:** *It is worthwhile reminding that certain spirit drink categories (in particular categories 1 to 14 of Annex I) may not be flavoured, coloured, sweetened or subject to the addition of alcohol: these requirement may not be circumvented by maturation in wooden casks which have not been fully emptied of their previous contents. Nevertheless, storage in empty wooden casks having previously contained another alcoholic beverage is not regarded as flavouring and the reference to such practice on the label of a spirit drink should have the sole objective to inform the consumer of the type of container used for storing it and must comply with Article 7 of the FIC Regulation and Article 21 of the SDR. Moreover, concerning spirit drink GIs, the labelling of such practice must be consistent with the requirements set out in the technical file/product specification for the use of such descriptors for any given GI.*

As the SDR does not regulate the use of voluntary information in the presentation, description and labelling of spirit drinks, the general provisions of the FIC Regulation are of application.

According to Article 7(1) of the FIC Regulation:

*‘Food information shall not be misleading, particularly:*

- a) as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production;*
- b) by attributing to the food effects or properties which it does not possess;*
- c) by suggesting that the food possesses special characteristics when in fact all similar foods possess such characteristics, in particular by specifically emphasising the presence or absence of certain ingredients and/or nutrients;*
- d) by suggesting, by means of the appearance, the description or pictorial representations, the presence of a particular food or an ingredient, while in reality a component naturally present or an ingredient normally used in that food has been substituted with a different component or a different ingredient.’*

The national competent authorities are responsible for the enforcement of the EU legislation and it is therefore up to them to assess on a case-by-case basis whether the use on the label of spirit drinks of such voluntary information is compliant or not with the relevant EU legislation.

This assessment should thus take into account, among others, that the terms used:

- describe the true nature and specific characteristics of the product (e.g. mentioning a specific production feature);
- describe production features that are allowed by the requirements for the production of a spirit drink category or GI (laid down respectively in Annex I of the SDR or in the relevant technical file/product specification);



- describe production features that are allowed by the requirements for the production of the foodstuff category or GI to which reference is made (e.g. wine products or beer GIs);
- are correctly referred to a GI (e.g. in the case of Sherry casks, that they have been declared compliant by the relevant control and certification body);
- distinguish special characteristics of the product on which they are used, from other (similar) products with which it might be confused;
- are not misleading for the addressed consumers.

Therefore, if certain terms are used as voluntary information with reference to a spirit drink, the food business operator must be able to demonstrate that the spirit drink possesses specific characteristics in terms of quality, material value, production method or a maturation period, which set it apart from spirit drinks that comply with the minimum requirements of the same category.

**#16 - Examples of permitted labelling and of relevant conditions for the use of voluntary information:**

- 1) **Fine Kirsch or Edelkirsch** could indicate the exclusive use of table fruit instead of windfalls
- 2) **Organic Mirabelle** indicates the exclusive use of organically grown fruit or fruit from controlled integrated farming in compliance with the provisions of Regulation (EU) 2018/848<sup>14</sup> and that the spirit drink is certified as organic
- 3) **Brandy**  
**Superior or Premium** could indicate, for instance, a particularly long maturation period
- 4) **Single Malt Whisky**  
**Matured in a Chardonnay Wine Cask** could indicate that the Whisky has spent sufficient time in a cask/barrel previously used to age chardonnay wine to have an effect on the organoleptic character of the spirit drink\*

\*According to point 2(a)(iii) of Annex I (whisky or whiskey), the maturation of the final distillate shall be carried out in wooden casks not exceeding 700 litres capacity. Since the type of wooden cask is not specified, it is possible to reuse casks in which other alcoholic beverages were previously matured in order to confer particular organoleptic characteristics to the whisky/whiskey.

**#17 - Examples of forbidden labelling and illegitimate uses of voluntary information:**

**Whisky**

**Finished Sparkling Wine Cask**

is not allowed because for sparkling wines only bottle or pressurized tank fermentation transforms still wine to sparkling wine by capturing the sparkle

☞ **NB:** Reference to a protected name in the type of cask used to mature a spirit drink must only be for the purpose of informing the consumer of the type of cask used and must comply with the requirements of Article 21 of the SDR and Articles 7 and 36 of the FIC Regulation.

### 1.5.1. Name of a foodstuff used in the production

The name of a **foodstuff** that has been **used in the production** of a spirit drink in accordance with the requirements laid down in Annex I for a spirit drink category or, in case of a GI, in its technical file/product specification, may also

<sup>14</sup> Regulation (EU) 2018/848 of the European Parliament and of the Council of 30 May 2018 on organic production and labelling of organic products and repealing Council Regulation (EC) No 834/2007 (OJ L 150, 14.6.2018, p. 1).

be indicated in its presentation, description and labelling as **voluntary information**<sup>15</sup>.

In fact, as we will see later (see § 2.1 below), the combination of the legal name of a spirit drink with the name of a foodstuff provided for/allowed in its production does **not** account as a **compound term** according to Article 3, point (2), which defines it as the combination of the name of a spirit drink with (among others) *‘the name of one or more foodstuffs other than foodstuffs used for the production of that spirit drink in accordance with Annex I [...]’*.

The name of a foodstuff/foodstuffs used in the production of a spirit drink may be indicated to inform the consumer as to the raw material(s) conferring specific organoleptic characteristics to it, on condition that this indication is true, accurate and not misleading for the consumer.

In that case, the legal name remains the name allowed under the spirit drink category or in the technical file/product specification of a GI.

**#18 - Examples** of permitted indication of one or more **main foodstuffs used to produce the spirit drink**:

- |  |   |  |
|--|---|--|
| 1) <b>Distilled Hops Gin</b>             | - | <b>Distilled Rhubarb and Ginger Gin*</b> |
| 2) <b>Peach Liqueur - Coffee Liqueur</b> | - | <b>Chocolate Cream (Liqueur)**</b>       |
| 3) <b>Coffee Advocaat</b>                | - | <b>Egg Liqueur with Speculoos***</b>     |

\* According to point 21(a)(i) of Annex I, distilled gin can be produced by distilling EAAO in the presence of juniper berries and of other natural botanicals, provided that the juniper berry taste is predominant. Therefore the names of such natural botanicals may be used to supplement the legal name ‘gin’. Other foodstuffs, not accounting as natural botanicals, such as ‘popcorn’ or ‘Riesling grape’ may not supplement the legal name ‘gin’ other than under the conditions laid down for ‘compound terms’.

**NB:** point 20(a) of Annex I only allows the use of juniper berries as natural botanicals in the production of gin. Therefore, the addition of other natural botanicals to a gin would have to be labelled as a compound term (i.e. the appropriate legal name shall appear in the same visual field).

\*\* According to point 33(f) of Annex I, without prejudice to Articles 11 and 12 and Article 13(4), the legal name ‘liqueur’ may be supplemented by the name of a flavouring or foodstuff that confers the predominant flavour of the spirit drink, provided that the flavour is conferred on the spirit drink by flavouring foodstuffs, flavouring preparations and natural flavouring substances, derived from the raw material referred to in the name of the flavouring or to the foodstuff, supplemented by flavouring substances only where necessary to reinforce the flavour of that raw material.

\*\*\* According to points 39(c) and 40(c) of Annex I, Egg liqueur or Advocaat and Liqueur with egg may be produced by using - among others - flavouring foodstuffs, such as coffee and speculoos biscuits.

## 1.6. Ethyl alcohol’s or distillates’ raw materials

Article 13(1) provides for stricter rules in respect of agricultural **raw materials** used for distillation:

*‘The description, presentation or labelling of a spirit drink may refer to the raw materials used to produce the ethyl alcohol of agricultural origin or distillates of agricultural origin used in the production of that spirit drink only where that ethyl alcohol or those distillates have been obtained exclusively from those raw materials. In such a case, each type of ethyl alcohol of agricultural origin or distillate of agricultural origin shall be mentioned in descending order of quantity by volume of pure alcohol.’*

***A spirit drink may only refer to the names of raw materials***

<sup>15</sup> Not however the name of raw material(s) distilled to obtain the alcohol used in the production of a spirit drink, which is rather subject to the provisions of Article 13(1) (see § 1.6 below).



*distilled to obtain the alcohol used in its production on condition that those are **the only raw materials used for distillation**.*

***All raw materials used are to be mentioned in descending order in its description, presentation and labelling.***

Provided that this condition is met, each type of ethyl alcohol or distillate (with the mention of the agricultural product used to produce them) shall be mentioned in descending order of quantity by volume of pure alcohol present in the spirit drink.

**#19 - Examples of permitted labelling:**

1) **Spirit Drink:** generic spirit drink name referring to the name of the raw material(s) distilled to obtain it – **NB: only possible if the resulting beverages complies with the definition of spirit drink (Article 2) but not with the requirements of a category of spirit drinks -:**

- a) a spirit drink obtained exclusively by distilling cane sugar but not complying with the requirements of category 1 of Annex I (rum), e.g. because the spirit drink was sweetened in excess of the maximum threshold laid down for that spirit drink category, may bear in its description, presentation and labelling the voluntary indication '**Cane Sugar Spirit Drink**'
- b) a spirit drink obtained exclusively by distilling agave and cane sugar and not complying with the requirements of any category of Annex I, may bear in its description, presentation and labelling the voluntary indication '**Agave and Cane Sugar Spirit Drink**'

2) **Grain spirit** (spirit drink category 3):

According to point 3(h) of Annex I of the SDR, in the legal name 'grain spirit' or 'grain brandy', the word 'grain' may be replaced by the name of the cereal used exclusively in the production of the spirit drink, e.g. '**Wheat Spirit**' or '**Oat Brandy**'

3) **Wine spirit** (spirit drink category 4):

- a) a wine spirit obtained exclusively by distilling 'Chardonnay wine' produced in accordance with the applicable wine legislation may bear in its description, presentation and labelling the voluntary indication '**Chardonnay Wine Spirit**'
- b) a wine spirit obtained exclusively by distilling 'Chardonnay wine' and 'Merlot wine' produced in accordance with the applicable wine legislation, may bear in its description, presentation and labelling the voluntary indication '**Chardonnay and Merlot Wine Spirit**'

4) **Vodka** (spirit drink category 15):

- a) A vodka produced exclusively by using **ethyl alcohol obtained from the fermentation of cereals** may bear in its description, presentation and labelling the voluntary indication '**Grain Vodka**'
- b) A vodka produced exclusively by using **ethyl alcohol obtained from the fermentation of cereals and potatoes** may bear in its description, presentation and labelling the voluntary indication '**Grain and Potato Vodka**'\*

\* According to point 15(f) of Annex I to the SDR, the description, presentation and labelling of vodka not produced exclusively from potatoes or cereals or both **shall** prominently bear the indication 'produced from...', supplemented by the name of the raw materials used to produce the ethyl alcohol of agricultural origin. This indication shall appear in the same visual field as the legal name.

5) **Gin** (spirit drink category 20):

- a) a Gin produced with **ethyl alcohol obtained by distilling exclusively grain** may bear in its description, presentation and labelling the voluntary indication '**with ethyl alcohol (of agricultural origin) made from grain**'\*;
- b) a Gin produced with **ethyl alcohol obtained by distilling exclusively wheat and barley** may bear in its description, presentation and labelling the voluntary indication '**with ethyl alcohol (of agricultural origin) made from barley and wheat/ wheat and barley**', depending on the proportion of pure alcohol represented by each \*

\* According to point 20(a) of Annex I, **gin** is a juniper-flavoured spirit drink produced by flavouring **ethyl alcohol of agricultural origin** with juniper berries. According to point 19(a) of the same annex, a juniper-flavoured spirit drink is a spirit drink produced by flavouring ethyl alcohol of agricultural origin or grain spirit or grain distillate or a combination thereof with juniper berries.

4) **Liqueur** (spirit drink category 33):

- a) a liqueur produced exclusively by using ethyl alcohol or a distillate made from pears may bear

in its description, presentation and labelling the terms '**Liqueur produced with ethyl alcohol from pears**' or '**Liqueur produced with pear distillate**' respectively;

- b) a liqueur produced by using both ethyl alcohol from pears and apricots may be labelled as '**Liqueur produced on the basis of ethyl alcohol made from pear and apricot**' or '**Liqueur produced with ethyl alcohol from apricot and pear**' depending on the proportion of pure alcohol represented by the ethyl alcohol obtained from pears and the ethyl alcohol obtained from apricots.

☞ **NB:** Reference is made here to **agricultural products distilled after alcoholic fermentation** to produce ethyl alcohol or distillates of agricultural origin. Raw materials macerated in alcohol or otherwise added to the spirit drink according to its production requirement fall rather under the case of 'foodstuff used in the production', which is dealt with in the previous § 1.5.1, while foodstuffs that are combined with a spirit drink although they are not required/allowed in its production, are to be indicated in accordance with the rules on compound terms or allusions.

## 1.7. Plant raw materials used as legal names

According to Article 13(5), 'the use of the names of plant raw materials which are used as the legal names of certain spirit drinks shall be without prejudice to the use of the names of those plant raw materials in the presentation and labelling of other foodstuffs. The names of such raw materials may be used in the description, presentation or labelling of other spirit drinks, provided that such use does not mislead the consumer'.

This provision was deemed necessary to allow the use of names of fruits or plants that the SDR reserves as legal names for certain spirit drinks also in the presentation and labelling as ingredients (as fruit or plants and not as spirit drinks) of other foodstuffs.

The same possibility applies to other spirit drinks, as long as it is made clear in the description, presentation and labelling that it is not the spirit drink that is referred to (as an ingredient) but the plant raw material itself.

### #20 - Examples:

- 1) **Kirsch** (legal name for fruit spirit: category 9): the German term 'Kirsch' (cherry) may be used in:
  - a) the presentation and labelling of **cherry cake** ('**Kirschkuchen**') even if it was the fruit that was used to produce the foodstuff and not the spirit drink;
  - b) the description, presentation and labelling of a **cherry liqueur** ('**Kirschlikör**') even if it was the fruit that was used to produce the liqueur and not the spirit drink, provided that there is no risk that the consumer is misled into thinking that the liqueur was made with Kirsch (spirit drink) and not with cherries (fruits).
- 2) **Anis** (legal name for the spirit drink of category 28): the French or German term 'Anis' (aniseed or anise) may be used in:
  - a) the presentation and labelling of an **infusion** ('**infusion à l'anis**') even if it was the plant/botanical that was used to produce the foodstuff and not the spirit drink;
  - b) the description, presentation and labelling of an **aniseed liqueur** ('**Liqueur d'anis**') even if it was produced by infusing aniseed into alcohol and sugar and not by using the spirit drink, provided that the consumer is informed as to how the liqueur was actually manufactured.
- 3) **Gentian** (legal name for the spirit drink of category 18): the term 'Gentian' (along with its translations in other EU official languages) may be used in:
  - a) the presentation and labelling of an **infusion** ('**Gentian tea**') even if it was the plant/botanical that was used to produce the foodstuff and not the spirit drink;
  - b) the presentation and labelling of a food preparation such as **Gentian salad**.

- 4) **Blutwurz** (term used in the German liqueur GI 'Blutwurz'): the German term 'Blutwurz' (i.e. root of the tormentil plant or *Potentilla erecta* (L.) Raeusch) may be used in:
- a) the description, presentation and labelling of another **liqueur** (**Blutwurz Likör**) as main flavouring used for the production of that spirit drink;
  - b) the description, presentation and labelling of another **spirit drink** (e.g. **Blutwurz Spirituose**) **produced by infusion (or maceration and distillation)**.

## 2. COMPOUND TERMS

Article 3, point (2)	Definition
Article 11	Conditions for use and labelling provisions

### 2.1. What is a compound term

The use of a compound term is an option available to describe a spirit drink (category or GI), from which all the alcohol in the product originates, to which other foodstuffs are added and which, as a consequence, is no longer entitled to bear in its description, presentation or labelling the legal name of that category or GI. Instead, it must use the legal name ‘spirit drink’<sup>16</sup>, except when it complies with the requirements permitting the use of a compound term that includes the terms ‘liqueur’ or ‘cream’<sup>17</sup> as a legal name.

If the resulting product does not comply with the definition of and requirements for a spirit drink (e.g. because of an alcoholic strength below 15% vol.<sup>18</sup>), it will have to bear the appropriate alcoholic beverage name in accordance with Article 17 of the FIC Regulation (*NB: which is **never the brand name***<sup>19</sup>).

According to Article 3, point (2), ‘*compound term*’ means, in relation to the description, presentation and labelling of an alcoholic beverage, the combination of either a legal name provided for in the categories of spirit drinks set out in Annex I or the geographical indication for a spirit drink, from which all the alcohol of the final product originates, with one or more of the following:

- (a) *the name of one or more foodstuffs other than an alcoholic beverage and other than foodstuffs used for the production of that spirit drink in accordance with Annex I, or adjectives deriving from those names;*
- (b) *the term ‘liqueur’ or ‘cream’.*

So, in either case:

- the **alcoholic ingredient is a spirit drink category or GI** (one only) to which one or more foodstuffs (e.g. juices or other non-alcoholic drinks, herbs, spices, sugar, dairy products) are added to confer additional specific organoleptic properties to the final product;

<sup>16</sup> In the case of ‘vodka’ (spirit drink category 15), when ingredients are added to provide to it a predominant flavour other than that of the raw materials used to produce it, in accordance with point 31(e) of Annex I of the SDR, its legal name **must** be ‘flavoured vodka’ or ‘vodka’ supplemented by the name of any predominant flavour (spirit drink category 31).

<sup>17</sup> According to the fourth indent of point (d) of category 33. Liqueur, ‘*without prejudice to point (2) of Article 3, point (b) of Article 10(5) and Article 11, for liqueurs containing milk or milk products, the legal name may be ‘cream’ supplemented by the name of the raw material used conferring on the liqueur its predominant flavour, with or without the term ‘liqueur’.*’

<sup>18</sup> ‘*except in the case of spirit drinks that comply with the requirements of category 39 of Annex I as provided for in Article 2, point (c), of the SDR.*’

<sup>19</sup> According to Article 17(4) of the FIC Regulation, ‘*the legal name may not be replaced by [...] a brand name*’.

- the foodstuff/foodstuffs combined with the spirit drink are **neither a beverage containing alcohol nor any foodstuffs required/allowed for its production according to the relevant rules**;
  - the **combination** results necessarily in an **alcoholic beverage**, i.e. either another spirit drink with the minimum required alcoholic strength of 15% by volume or an alcoholic beverage with less than 15% ABV;
  - **all the alcohol** of the final product **must originate from the spirit drink** referred to in the compound term (i.e. the final product may not contain any other alcoholic component, except for the alcohol that may be present in flavourings, colours or other authorised ingredients used for the production of the final alcoholic beverage – see also § 2.2 below).
- ☞ **NB:** *even the use of the terms 'liqueur' or 'cream' in a compound term highlight the fact that sweetening and/or milk products were added to a spirit drink for whose production they are not allowed or, at least, not in such quantity.*

**Compound terms represent an exception to the rule** forbidding the use of legal names for spirit drinks to describe beverages that do not comply with all the requirements laid down for those spirit drinks.

Compound terms **are used to describe** alcoholic beverages resulting from the **combination of certain foodstuff(s) with a spirit drink category or GI** which would thus no longer be entitled to be labelled as such.

- ☞ **NB:** *The name of the foodstuff/foodstuffs may also be expressed by using an adjective referring to that/those foodstuff(s).*
- ☞ **NB:** *In a compound term, the spirit drink name and the name of the foodstuff(s) may be combined with or without preposition.*

**#21 - Examples of permitted compound terms:**

- 1) *Scotch Whisky with honey – Scotch Whisky and Honey\**
- 2) *Gin and tonic – Whisky & Cola – Coco Rum\**
- 3) *Grape Marc with Cinnamon and Cacao\**
- 4) *Brandy Liqueur\*\**
- 5) *Whisky Cream\*\**

\* *In these cases the (legal) name of the final product shall be provided along with the compound term.*

\*\* *In these cases the compound term is also the legal name.*

Article 11(2) excludes explicitly following terms from being part of a compound term describing an alcoholic beverage (except if any of those terms is part of a legal name, for instance 'spirit', e.g. in 'wine spirit' or 'fruit spirit', or the German term 'Wasser', e.g. in *Kirschwasser*):

- alcohol
- spirit
- drink
- spirit drink
- water

Such exclusion highlights the interdiction of the use of names relating to foodstuffs that are naturally part of it and aims also at preventing practices that are misleading for the consumer.

☞ **NB:** For instance, a rum containing sweetening products in excess to the allowed threshold of 20 grams per litre, which is thus no longer a rum but must bear the legal name 'spirit drink', may not display the compound term 'sugar rum' or 'cane sugar rum'. If other foodstuffs not allowed under category 1 of Annex I are added, the term rum may appear in a compound term such as 'rum & spices'. If not, the resulting product will have to be labelled as e.g. 'spirit drink with cane sugar' (to indicate that sugar was added to it) or 'cane sugar spirit drink' (to indicate that sugar was distilled to produce the spirit drink that, however, does not comply with other production requirements for rum).

**#22 – Examples of forbidden compound terms:**

- |                         |    |                          |
|-------------------------|----|--------------------------|
| 1) Brandy & alcohol     | or | Cognac and Alcohol       |
| 2) Whisky based spirit  | or | Scotch Whisky Spirit     |
| 3) Drink based on Rum   | or | Ron de Guatemala Drink   |
| 4) Cane sugar Rum       | or | Cuba rum and sugar       |
| 5) Liqueur spirit drink | or | Irish Cream Spirit Drink |
| 6) Gin water            | or | Genever Water            |

According to Article 10(6), point (c), a compound term may only supplement the legal name of a spirit drink. Therefore, **a compound term cannot be used as a legal name for a spirit drink.**

The only **exception** to this rule is represented by compound terms that include the term '**liqueur**' or '**cream**', which, according to Article 10(5), point (b), **may replace the legal name** provided that the resulting beverage complies with the relevant requirements laid down in the spirit drink category 33 'liqueur' of Annex I.

**#23 - Examples of permitted compound terms that include the term '**liqueur**' or '**cream**' :**

- |  |   |                                   |
|--|---|-----------------------------------|
| 1) Vodka liqueur (EN)                    | - | Irish Whiskey Cream (EN)          |
| 2) Wodkalikör – Likör aus/mit Wodka (DE) | - | Berliner Kümmelcream (DE)         |
| 3) Liqueur à la vodka (FR)               | - | Crème de Cognac (FR)              |
| 4) Liquore alla vodka (IT)               | - | Crema di Grappa (IT)              |
| 5) Licor de vodka (ES)                   | - | Crema de Orujo de Galicia (ES)    |
| 6) Likier na bazie wódki (PL)            | - | Krem na bazie Polskiej Wódki (PL) |

In all the cases listed above, the following must be complied with:

- the spirit drink referred to must be authentic, e.g. it must comply with the requirements laid down by the respective spirit drink category or GI, including its minimum alcoholic strength -> i.e. no dilution with water reducing it below the minimum provided; **and**
- the alcohol used in its production originates exclusively from the spirit drink referred to in the compound term (except for the alcohol that may be present in flavourings, colours or other authorised ingredients used for the production of that beverage) -> i.e. no addition of other spirit drinks or ethyl alcohol of agricultural origin or distillates of agricultural origin of any sort; **and**
- the requirements laid down in category 33 of Annex I for the use of the legal name '**liqueur**' (i.e. a minimum alcoholic strength of 15% by volume and a minimum content of sweetening product of 100 grams per litre) or '**cream**' (i.e. all of the above + use of milk or milk products).

## 2.2. Conditions of use

Article 11(1) provides for the following conditions of use of a spirit drink name (category or GI) in a compound term:

- '(a) the alcohol used in the production of the alcoholic beverage originates exclusively from the spirit drink referred to in the compound term, except*



*for the alcohol that may be present in flavourings, colours or other authorised ingredients used for the production of that alcoholic beverage; and*

- (b) *the spirit drink has not been diluted by addition of water only, so that its alcoholic strength is below the minimum strength provided for under the relevant category of spirit drinks set out in Annex I<sup>20</sup>.*

Therefore, the use of a spirit drink name in a compound term is only allowed under the condition that:

- a) only the authentic spirit drink has been used, as the name of a spirit drink (category or GI) may not be displayed if the product it refers to does not comply with all requirements laid down for its production;

☞ **NB:** *in other words, it must comply with all requirements laid down in the relevant spirit drink category or GI technical file/product specification.*

- b) no alcohol other than the alcohol originating from the spirit drink referred to may be added to the final product, with the exception of the alcohol that may be present in flavourings, colours or other authorised ingredients used in its production;

☞ **NB:** *in other words:*

- *the spirit drink referred to may not be deprived of its alcohol (i.e. no flavouring compounds extracted from the spirit drink are allowed) and,*
- *no additional ethyl alcohol/distillates/other spirit drinks may be added.*

- c) the addition of water is only allowed to the extent that the spirit drink still maintains the prescribed minimum alcoholic strength.

☞ **NB:** *this prohibition only applies to water as the spirit drink may be combined with other non-alcoholic liquid foodstuffs (e.g. fruit juices, dairy products) which will obviously also have the effect to proportionally reduce the overall alcoholic strength of the final product.*

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<sup>20</sup> In case C-136/96, related to the sale of an under strength whisky (i.e. a whisky diluted with water below 40%), the CJEU rejected an argument by the defendant that he was entitled to benefit from the compound term provisions to allow him to describe his under strength whisky as ‘Blended Whisky Spirit’ or ‘Spiritueux au Whisky’. One of the reasons given for rejecting that argument was that the compound term provisions related only to liqueurs at that time. As it was intended in Article 10(1) of Regulation (EC) No 110/2008 to extend the compound term provisions to all spirit drinks (i.e. not just liqueurs), and to GIs, there was therefore a danger that it would be argued that descriptions such as ‘Scotch Whisky and spring water’ could be used as a compound term on under strength ‘Scotch Whiskies’ because all the alcohol in the product was Scotch Whisky. That would have defeated the whole purpose of setting a minimum strength for Scotch Whisky/whisky (and other defined spirits). It was for that reason that Article 10(2) was introduced in Regulation (EC) No 110/2008 (and confirmed in Article 11(1), point (b), of the new SDR) to ensure that compound terms could not be used where defined spirit drinks were simply diluted below their minimum strength; Judgment of 16 Jul 1998, C-136/96, *The Scotch Whisky Association*, ECLI: EU:C:1998:366.

## 2.3. Labelling provisions

Where a food business operator decides to use a compound term, it is not only necessary to establish that the resulting alcoholic beverage complies with the conditions for using it (see § 2.1 and 2.2 above), but the product is to be labelled accordingly.

Article 11(3) lays down the following labelling provisions for a compound term describing an alcoholic beverage, which shall:

- ‘ (a) *appear in uniform characters of the same font, size and colour;*
- (b) *not be interrupted by any textual or pictorial element which does not form part of them;*
- (c) *not appear in a font size which is larger than the font size used for the name of the alcoholic beverage; and*
- (d) *in cases where the alcoholic beverage is a spirit drink, always be accompanied by the legal name of the spirit drink, which shall appear in the same visual field as the compound term, unless the legal name is replaced by a compound term in accordance with Article 10(5), point (b).<sup>21</sup>*

Those labelling provisions aim at ensuring that:

- (a) and (b) : the name of the spirit drink used in the compound term does not appear in a more prominent way than the name of the foodstuff that is combined with it,
- (c) : the (legal) name of the alcoholic beverage does not appear in a font size that is smaller than the font size used for the compound term in order to avoid misleading the consumer as to the actual nature of the product; and
- (d) when the final product is a spirit drink, its legal name always appears in the same visual field as the compound term – unless the compound term legitimately replaces the legal name – to avoid misleading the consumer as to the actual nature of the product.

☞ **NB:** *Article 11(3) does not require that the compound term is displayed in the same visual field as the name of alcoholic beverages other than spirit drinks, but the requirements of the FIC Regulation that food information shall not be misleading, particularly as to the nature and identity of the food (Article 7(1), point (a), of the FIC) and that the name of the food shall be marked in a conspicuous place in such a way to be easily visible, etc. (Article 13(1), of the FIC) are nonetheless of application.*

☞ **NB:** *Article 11(3) does not require that the legal name of the alcoholic beverage and the compound term are displayed on separate lines, but the provision laid down in Article 11(2) prohibits that terms such as ‘drink’ and ‘spirit drink’ be part of the compound term. Therefore, displaying the legal name ‘spirit drink’ or the name ‘drink’ – e.g. ‘Gin*

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<sup>21</sup> Introduced by Commission Delegated Regulation (EU) 2021/1335 of 27 May 2021 amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards the labelling of spirit drinks resulting from the combination of a spirit drink with one or more foodstuffs (OJ L 289, 12.8.2021, p. 4).



& Tonic (spirit) drink' – on the same line as the compound term would not be acceptable.

**#24 - Examples of labelling of an alcoholic beverage with a compound term (the particulars indicated in brackets are not mandatory):**

<p><b>Scotch Whisky &amp; Honey</b></p> <p><i>Spirit drink</i></p>	
<p><b>SPIRIT DRINK</b></p> <p><b>GIN &amp; TONIC</b></p> <p><i>Alc.15% Vol.</i></p>	<p><b>(ALCOHOLIC BEVERAGE)</b></p> <p><b>GIN &amp; TONIC</b></p> <p><i>Alc.8% Vol.</i></p>
<p><i>Spirit drink</i></p> <p><b>Coco Rum</b></p>	
	<p><b>Grape Marc Spirit</b></p> <p><b>with cinnamon and cacao</b></p> <p><b>SPIRIT DRINK</b></p>
<p><b>(Liqueur)</b></p> <p><b>Brandy Liqueur</b></p>	
<p><b>Whisky Cream (Liqueur)*</b></p>	

\*A spirit drink produced by adding e.g. sugar and dairy products to a whisky, will only be allowed to bear the legal name 'Whisky Cream' if all the alcohol originates from authentic whisky and the final product complies with the relevant requirements laid down in category 33 (i.e. liqueur), e.g. that it has a minimum alcoholic strength of 15% by volume and contains at least 100 grams of sweetening products per litre as well as milk or milk products. Should these requirements not be complied with, the legal name will have to be 'spirit drink' if it complies with the definition and requirements for spirit drinks laid down in Article 2 or the appropriate name for an alcoholic beverage if it does not.

## 2.4. Checks

Checks on the (description), presentation and labelling of a product containing a compound term referring to the name of a spirit drink (category or GI) address the compliance with following conditions:

### **Production:**

- 1) the alcoholic ingredient is a spirit drink category or GI (no more than one spirit drink) to which one or more foodstuffs that are not allowed in its production and that are not alcoholic beverages are added to confer additional specific organoleptic properties to the final product;
- 2) the final product is an alcoholic beverage;
- 3) the authentic spirit drink has been used, i.e. it complies with all production requirements laid down in the relevant spirit drink category of Annex I or GI technical file/product specification, including its minimum alcoholic strength;

- 4) all the alcohol originates from the spirit drink referred to, except for the alcohol that may be present in flavourings, colours or other authorised ingredients;

**Labelling:**

- 5) the (legal) name is:
  - a. 'spirit drink' for spirit drinks not complying with the requirements of any category,
  - b. a compound term combining the name of the spirit drink with the term 'liqueur' or 'cream' for a resulting spirit drink complying with the relevant requirements of category 33 of Annex I, or
  - c. the name of the alcoholic beverage, if it is not a spirit drink (e.g. with less than 15% ABV) in accordance with the FIC rules<sup>22</sup>;
- 6) in the compound term, the name of the spirit drink is combined either with the term 'liqueur' or 'cream' (if complying with the relevant requirements as indicated under point 5.b. above) or with the name of/adjective for foodstuffs that are not allowed in its production;
- 7) the (legal) name of the alcoholic beverage must be displayed in a conspicuous way so as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material;
- 8) the legal name of the spirit drink resulting from the combination of a spirit drink with one or more foodstuffs always appears in the same visual field as the compound term (unless the compound term is also the legal name of the spirit drink in application of Article 10(5), point (b), of the SDR)<sup>23</sup>;
- 9) without prejudice to the legal names provided for in Article 10, the terms 'alcohol', 'spirit', 'drink', 'spirit drink' and 'water' shall not be part of the compound term;
- 10) the compound term is written in uniform characters of the same font, size and colours;
- 11) the words composing the compound term are not interrupted by any textual or pictorial element which does not form part of them;
- 12) the compound term appears in the same font size used for the (legal) name of the alcoholic beverage or smaller.

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<sup>22</sup> Concerning the name of alcoholic beverages other than spirit drinks, Article 17 of the FIC Regulation is of application '*The name of the food shall be its legal name. In the absence of such a name, the name of the food shall be its customary name, or, if there is no customary name or the customary name is not used, a descriptive name of the food shall be provided.*' See respective definitions under Article 2(2), points (n), (o) and (p), of the FIC Regulation.

<sup>23</sup> Spirit drinks which do not meet this requirement but which meet the requirements of Regulation (EC) No 110/2008 and were produced and labelled before 31 December 2022 may continue to be placed on the market until stocks are exhausted.

### 3. ALLUSIONS

Article 3, point (3)	Definition
Article 12	Conditions for use and labelling provisions

#### 3.1. What is an allusion

The use of an allusion is an option available under certain conditions to refer to the name of a spirit drink (category or GI) in the (description,) presentation or labelling of another foodstuff.

According to Article 3, point (3), ‘*allusion*’ means the direct or indirect reference to one or more legal names provided for in the categories of spirit drinks set out in Annex I or to one or more geographical indications for spirit drinks, other than a reference in a compound term or in a list of ingredients as referred to in Article 13(2) to (4) in the description, presentation and labelling of:

- (a) a foodstuff other than a spirit drink,
- (b) a spirit drink that complies with the requirements of categories 33 to 40 of Annex I, or
- (c) a spirit drink that complies with the conditions laid down in Article 12(3a).’

In other words, an allusion to spirit drinks names may be made in:

- the presentation and labelling of foodstuffs other than alcoholic beverages;
- the presentation and labelling of alcoholic beverages other than spirit drinks;
- the description, presentation and labelling of liqueurs;
- the description, presentation and labelling of spirit drinks other than liqueurs [only admitted in specific cases that could not be qualified as compound terms or mixtures, for which specific labelling provisions are of application (see Chapters 2 above and 4 below)].

According to Article 10(6), point (c), an allusion may only supplement the legal name of a spirit drink. Consequently, **an allusion on a spirit drink may never replace its legal name** but should be added to it in accordance with the labelling rules provided for in Article 12(4) (see § 3.2.3 and 3.2.4 below).

***An allusion is the reference to one or more names of spirit drinks (categories or GIs) in the presentation and labelling of another foodstuff. Where the allusion is made on a spirit drink, it may never be used as its legal name.***

☞ **NB:** The question was raised as to how the provision of Article 10(7), first paragraph, of the SDR – prohibiting the use of a spirit drink name (category or GI) in the description, presentation and labelling of any beverage not complying with the requirements laid down for that spirit drink category or GI except in case of allusions, compound terms and ingredients lists – is to be understood in relation to the horizontal obligation to indicate **details on the food business**

**operator** in line with Articles 8(1) and 9(1)(h) of the FIC Regulation. In fact, it may happen that the name or the address of a food business operator (but also logos or registered brand names) include the name of a spirit drink category (e.g. 'Guadeloupe **Rum** Distilleries' or '**Vodka** Brand X Company') or GI (e.g. Bassano del **Grappa**). This question is even more relevant if the spirit drink upon which such food business operator name or address is displayed does not belong to the same spirit drink category (e.g. if the '**Vodka** Brand X Company' produces **gin**). The reply is that the two legal obligations (one under SDR and the other under FIC rules) are not necessarily incompatible: if the name or address of a company (lawfully) include the **name of a spirit drink category or GI** but such name is **not** being **used as the legal name of the spirit drink**, that name or address should be indicated as both provisions are applicable in parallel and the provision of the SDR does not prevent the indication of the business name in application of the FIC. The same applies to **descriptive names** (in the sense of Article 2(2), point (p), of the FIC Regulation) for alcoholic beverages other than spirit drinks, which should not be incompatible with the prohibition to mention the name of a spirit drink in application of Article 10(7), first paragraph, of the SDR.

### 3.2. Conditions of use and labelling provisions

According to Article 12, different rules apply in case the allusion to the name of a spirit drink is made on:

- a) a foodstuff other than an alcoholic beverage;
- b) an alcoholic beverage other than a spirit drink;
- c) a spirit drink falling under any of categories 33-40 of Annex I (liqueurs); or
- d) a spirit drink other than a liqueur (in specific, limited cases).

*Allusions to spirit drinks names may be placed on the (description) presentation and labelling of **any type of foodstuff**. However, allusions on **spirit drinks other than liqueurs** are only admitted in specific, limited cases.*

☞ **NB:** In order to take into account the specific nature of the **geographical indications** and the enhanced protection established to prevent any misappropriation of their reputation, in case of allusion to a spirit drink GI used as an ingredient in other foodstuffs, **it is recommended** that:

- 1) the spirit drink covered by the GI name should be used in **sufficient quantity to confer an essential characteristic on the foodstuff concerned**;
- 2) the foodstuff making allusion to one or more spirit drink GIs should **not contain any other 'comparable ingredient'**, i.e. any other ingredient which may partially or totally replace the ingredient(s) benefiting from a GI. If that is the case, the GI name should only appear in the list of ingredients, in accordance with Articles 18 to 22 of the FIC Regulation. Obviously, this recommendation only applies to spirit drinks belonging to the same category as the GI/GIs referred to

or to flavourings ‘imitating’ spirit drinks, while other spirit drink categories can be added and labelled in application of the provisions on allusions; and

- 3) the **percentage of incorporation** of the product covered by the GI name(s) is to be **indicated** in or in close proximity to the allusion to the spirit drink GI or, where provided, in the list of ingredients, in direct relation to the ingredient in question, as provided under QUID rules<sup>24</sup>.

*In case of allusions to **GI names** it is recommended that:*

- 1) the foodstuff should have, as one of its essential characteristics, a **taste attributable primarily to the presence of the spirit drink GI** that has been used as an ingredient;*
- 2) **no other ‘comparable’ ingredient** (except for spirit drinks of other categories) should be used; and*
- 3) the **quantity used** should be **clearly stated**.*

#### **#25 – Examples:**

##### **Chocolate pralines filled with Ouzo (5%)**

would only be admissible if a sufficient quantity of authentic Ouzo had been used to confer to the chocolate pralines a taste attributable primarily to it.

##### **Beer**

##### **with Rum da Madeira (7%)**

would only be admissible if no ‘comparable’ ingredient (e.g. another rum (with or without GI), a compound aroma extracted from rum (da Madeira) or an ‘imitation’ rum flavour) was added to the beer along with Rum da Madeira GI.

☞ **NB:** In case not only Rum da Madeira was added to the beer but also (an)other ‘comparable’ ingredient(s), the GI name may not be used as an allusion but may only appear in the list of ingredients, along with the ‘comparable’ ingredient(s) and the ingredients used to produce the beer itself.

☞ **NB:** In case not only Rum da Madeira was added to the beer but also (an)other spirit drink(s) not belonging to category 1 of Annex I (rum), **all the names** of spirit drinks are to be mentioned in the allusion (or in the list of ingredients).

☞ **NB:** It is reminded that, according to Article 10(7), second paragraph, of the SDR, the names of spirit drink GIs may not be used to describe flavourings imitating those GIs or their use in any foodstuff.

### **3.2.1. Allusions on foodstuffs other than alcoholic beverages**

Article 12(1) allows the allusion to the name of one or more spirit drinks (categories or GIs) in the presentation and labelling of a foodstuff other than an alcoholic beverage, on condition that *the ‘alcohol used in the production of the foodstuff originates exclusively from the spirit drink or the spirit drinks referred to in the allusion.’*

The only exception allowed to that condition is *‘the alcohol that may be present in flavourings, colours or other authorised ingredients used for the*

<sup>24</sup> These recommendations mirror those included in the document ‘Commission Communication — Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients (2010/C 341/03)’.

*production of that foodstuff*, i.e. the alcohol that has been used to prepare those ingredients.

Except for that, all the alcohol present in the final product must thus originate from the authentic spirit drink (i.e. that complies with all requirements laid down for the respective category or GI – including the minimum alcoholic strength at the time when it is used), without any addition of ethyl alcohol or distillates or other spirit drinks.

In particular, there are two possible cases:

- a) a liquid foodstuff other than an alcoholic beverage and other than water, to which more than one spirit drink<sup>25</sup> have been added, that will result in an alcoholic beverage (i.e. a drink with a certain alcoholic strength, depending on the quantity of alcohol that is necessarily added through those spirit drinks);

☞ **NB:** *In no case is it possible that the beverage resulting from the combination of a non-alcoholic liquid foodstuff with spirit drinks does not contain any alcohol at all.*

- b) a non-liquid foodstuff to which one or more spirit drinks have been added during its preparation, that will necessarily result in a foodstuff with a certain residual content of alcohol, depending on the quantity of spirit drink(s) used. However, some of that alcohol may evaporate in preparation processes such as baking.

The labelling of such foodstuff is not regulated by the SDR, therefore the FIC Regulation applies, in particular Article 36 on voluntary information and Article 7 on fair information practices.

**#26 - Examples of permitted allusions on foodstuffs other than alcoholic beverages:**

- |   |    |  |
|---|----|--|
| - Kirsch chocolate*                           | or | - Cognac pralines*                         |
| - Egg liqueur cake*                           | or | - Mirto di Sardegna cookies*               |
| - Rum & raisins ice cream*                    | or | - G  n  pi des Alpes ice cream*            |
| - Fruit nectar refined with Rum & Brandy** or |    | - Mixed fruit juices with Rum and Whisky** |

\* These are not compound terms because the resulting product is not an alcoholic beverage.

\*\*In case of allusions to more than one spirit drink on non-alcoholic beverages, all the alcohol in the final product must originate exclusively from the spirit drinks to which allusion is made.

### 3.2.2. Allusions on alcoholic beverages other than spirit drinks

Article 12(2) allows the allusion to the name of one or more spirit drinks (categories or GIs) in the presentation and labelling of an alcoholic beverage other than a spirit drink, on condition that:

*‘(a) the **added alcohol originates exclusively from the spirit drink or spirit drinks referred to in the allusion**; and*

<sup>25</sup> According to the definition provided by Article 3, point (2), of the SDR, **the combination of one spirit drink with one or more foodstuffs resulting in an alcoholic beverage** is a **compound term** and is subject to the specific provisions laid down in Article 11. Nonetheless, the addition of **more than one spirit drink** to a non-alcoholic beverage is to be treated as an **allusion** and is subject to the provisions of Article 12(1).



- (b) *the **proportion of each alcoholic ingredient** is indicated at least once in the **same visual field** as the allusion, in descending order of quantities used. That proportion shall be equal to the **percentage by volume of pure alcohol** it represents in the total pure alcohol content by volume of the final product.'*

This provision addresses all beverages containing alcohol that are not spirit drinks, including among others:

- 1) **Wine** (without prejudice to the provisions of Regulation (EU) No 1308/2013<sup>26</sup>);
- 2) **Aromatised wine products** (without prejudice to the provisions of Regulation (EU) No 251/2014<sup>27</sup>);
- 3) **Beer**;
- 4) **Cider, perry and other fermented beverages**.

The legislator introduced this new provision, not present in Regulation (EC) No 110/2008, in order to clarify the conditions applicable to the allusions to spirit drinks in the presentation and labelling of other alcoholic beverages.

In fact, this implies the addition of alcohol to the alcohol naturally present in the alcoholic beverage, contradicting thus apparently the principle that the alcohol must originate exclusively from the spirit drink(s) referred to.

**#27 - Examples of permitted allusions on alcoholic beverages other than spirit drinks:**

1) **Beer with Genever – or – Beer with a hint of Genever – or – Beer refined with Genever:** all the alcohol added to the beer must originate from authentic Genever (i.e. complying with all requirements laid down for this GI, including its minimum alcoholic strength) without addition of any 'comparable' ingredients, ethyl alcohol, distillates or other spirits;

2) **Hot Apple Cider with Punch au Rhum:** all the alcohol added to the apple cider must originate from punch au rhum (i.e. complying with the requirements laid down for category 33 of Annex I and, in particular, the third indent of its point (d)).

3) **Alcoholic beverage**

**The Diplomat\* refined with Maraschino Liqueur and Cognac:** all the alcohol added to the alcoholic beverage (vermouth) must originate from authentic Maraschino liqueur (i.e. complying with all requirements laid down for category 37 of Annex I) and Cognac (i.e. complying with all requirements laid down in its technical file/product specification).

\*'The Diplomat' is a cocktail containing vermouth and liqueur. Reference to it is made here solely for the purpose of illustrating the possibility to make allusions on aromatised wine products. Due to the absence of provisions on compound terms and allusions in Regulation (EU) No 251/2014 and to the prohibition laid down therein to use any sales denominations reserved for aromatised wine products for alcoholic beverages not fulfilling the requirements laid down for their production, alternative names are to be used to describe such alcoholic beverages.

☞ **NB:** The above **examples** are **descriptive** and do not apply the labelling provisions requiring that the allusion shall appear on a separate line as the legal name of the liqueur and in a font size which is no larger than half the font size used for the latter.

<sup>26</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).

<sup>27</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

**#28 - Examples of forbidden allusions on alcoholic beverages other than spirit drinks:**

- 1) *Beer refined with Rum-flavour\** or *Beer flavoured with Genever compound aromas\**
- 2) *Vermouth with Sambuca \*\** or *Sangria refined with Madeira Rum\*\**

\* Allusions on beverages (in this case beer) are forbidden if they refer to flavourings and not to the authentic spirit drink category (rum) or GI (Genever).

\*\* Regulation (EU) No 251/2014 does not allow the use of compound terms or allusions on aromatised wine products and prohibits the use of sales denominations reserved for aromatised wine products for alcoholic beverages not fulfilling the requirements laid down for their production.

The clarification on the fact that, in case of allusions on alcoholic beverages the added alcohol must originate from the spirit drink(s) referred to, allowed the legislator to provide that the same labelling rule previously provided by Article 11(5) of Regulation (EC) No 110/2008 for mixtures only, shall now apply also to alcoholic beverages making allusion to one or more spirit drinks. This aims at informing the consumer about the proportion in the final product of the alcohol deriving respectively from the initial alcoholic beverage and the spirit drink(s) referred to in the allusion.

Accordingly, in case of allusion to one or more spirit drinks, a list of alcoholic ingredients is to be displayed at least once in the same visual field as the allusion and indicating in descending order the proportion (in percentage) of the pure alcohol represented by each alcoholic ingredient in the final product (Article 12(2), point (b)).

**#29 - Examples of labelling of proportion of alcohol from each alcoholic ingredient:**

- 1) *Beer with Genever* (Alcohol 6% vol.: Beer 90% - Genever 10%)
- 2) *Hot Apple Cider with Punch au Rhum* (8% vol.: Apple Cider 95% - Rum 5%)
- 3) *The Diplomat\* refined with Cognac and Maraschino* (Alc. 15% vol.: Wine 75% - Cognac 10% - Maraschino 8% - Ethyl alcohol of agricultural origin 7%)

\* Regulation (EU) No 251/2014 does not allow the use of compound terms or allusions on aromatised wine products and prohibits the use of sales denominations reserved for aromatised wine products for alcoholic beverages not fulfilling the requirements laid down for their production. However, the name of a cocktail such as 'Diplomat' – which contains Vermouth – can be used in this context. As Vermouth is an aromatised wine which foresees the addition of alcohol, where ethyl alcohol of agricultural origin is used in its production, the list of alcoholic ingredients should specify this in order to distinguish such alcohol from the alcohol originating from the wine and from spirit drinks to which allusion is made.

☞ **NB:** The above **examples** are **descriptive** and do not apply the labelling provisions requiring that the allusion shall appear on a separate line as the legal name of the liqueur and in a font size which is no larger than half the font size used for the latter.

### 3.2.3. Allusions on liqueurs

Article 12(3) allows the allusion to the name of one or more spirit drinks (categories or GIs) in the description, presentation and labelling of a spirit drink that complies with the requirements of any of categories 33 to 40 of Annex I (i.e. liqueurs), on condition that:

- (a) *the added alcohol originates exclusively from the spirit drink or spirit drinks referred to in the allusion;*
- (b) *the proportion of each alcoholic ingredient is indicated at least once in the same visual field as the allusion, in descending order of quantities used. That proportion shall be equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the final product; and*



(c) *the term 'cream' [NB: only the English term 'cream'] does not appear in the legal name of a spirit drink that complies with the requirements of categories 33 to 40 of Annex I or in the legal name of the spirit drink or spirit drinks referred to in the allusion.*

This provision addresses any of the categories 33-40 (liqueurs) in derogation from the provisions on mixtures laid down in Article 13(4).

In fact, the addition of one or more spirit drinks to a liqueur would account as a mixture according to the definition provided for in Articles 3(9) and (10) and would have to be labelled accordingly.

Nonetheless, the legislator introduced an exception to the scope of applicability of the rules on allusion, initially intended to be limited to foodstuffs other than spirit drinks. This was done to ensure that the consumer is properly informed about the content of a liqueur to which a different spirit drink is added to confer to it a particular organoleptic characteristic. This is common practice, given that – among others – liqueurs may be produced by combining one or more spirit drinks (see point 33(a)(ii) of Annex I).

In fact, the provisions on mixtures laid down in Articles 13(3) and (4) require that the name of spirit drinks (and other alcoholic components of the mixture) are to be indicated exclusively in a list of the alcoholic ingredients. Instead, under the provisions governing allusions on liqueurs, the name of the added spirit drink(s) may appear anywhere, as long as it is in the same visual field as the legal name (as required by Article 12(4), point (c), see § 3.2.5 below). In order to mitigate the risk of misuse and misleading practices, the legislator introduced also in case of allusions on liqueurs (as for mixtures) the requirement to display a list of alcoholic ingredients at least once in the same visual field as the allusion and indicating in descending order the proportion (in percentage) of the alcohol represented by each alcoholic ingredient in the final product (Article 12(3), point (b)).

Moreover, the labelling provisions laid down in Article 12(4), point (a) and (b), require that the allusion shall not be on the same line as the legal name of the liqueur and shall appear in a font size which is half (or less) the font size used for the legal name or possible compound terms.

However, contrary to the list of alcoholic ingredients for mixtures (which shall also be written in a font size that is no larger than half the font size used for the legal name: see Article 13(3), second subparagraph and Article 13(4), second subparagraph, point (a), as well as § 4.2.1 and 4.2.2 below), allusions on liqueurs may appear in characters that are not of the same font and colour as those used for the legal name.

Finally, Article 12(4), point (c), provides that allusions on liqueurs shall *'always be accompanied by the legal name of the spirit drink, which shall appear in the same visual field as the allusion.'* (see § 3.2.5 below).

☞ **NB:** *The legislator introduced a limitation to the above provision, i.e. legal names including the term 'cream' are not permitted when liqueurs make allusion to spirit drinks. This exception only applies to the term in English (and not in other languages) and aims at safeguarding the reputation of the Irish Cream GI.*

**#30 - Examples of permitted and forbidden allusions on liqueurs:**

- 1) *Egg Liqueur refined with Brandy* or - *Blutwurz Liqueur with Cognac*
- 2) *Chocolate Liqueur with a shot of Gin* or - *Licor de café de Galicia with Rum*
- 3) *Egg Liqueur produced with Cherry Spirit* (even if all the alcohol –i.e. 100% - originates from the Cherry Spirit, this can be referred to as an allusion)
- 4) *Crème de Brandy avec Rhum* **BUT NOT:** *Brandy Cream avec/with Rhum*
- 5) *Crema de Orujo con Whisky* **BUT NOT:** *Orujo Cream con/with Whisky*

☞ **NB:** *Egg Liqueur with a hint of vodka* may be used as an **allusion**. Contrary to *Vodka Liqueur* which is a **compound term** and, as such, does not consent the addition of alcohol other than that originating from vodka, in the **allusion on liqueurs**, the **addition of alcohol is allowed** through the recipe for the production of the liqueur. Therefore, in order to avoid misleading the consumer, the indication of the proportion of alcohol from all alcoholic ingredients is mandatory for allusions on liqueurs.

☞ **NB:** *Whisky cream* (in English) can only be a **compound term** and, as such, requires that all the alcohol originates exclusively from whisky.

☞ **NB:** The above **examples** are **descriptive** and do not apply the labelling provisions requiring that the allusion shall appear on a separate line as the legal name of the liqueur and in a font size which is no larger than half the font size used for the latter.

☞ **NB:** Some argue that the possibility to make allusion to spirit drinks on a liqueur weakens the requirement that, in compound terms, all the alcohol must originate from the spirit drink referred to. In fact, whereas in a 'Whisky Liqueur' all the alcohol must stem from whisky, a 'Liqueur with (a dram of) Whisky' may be produced by using also other types of alcohol.

For this reason, **it is recommended** that, where allusions are made on liqueurs, the legal name 'liqueur' should always be supplemented by the name of the main raw material used to confer to it its predominant flavour (e.g. Coconut Liqueur with a shot of Rum; Chocolate Liqueur with a hint of Brandy). Otherwise, in presence of allusions, the use of the legal name 'liqueur', without being supplemented by the name of the main flavouring used, might hint to an underlying intention to mislead consumers.

### 3.2.4. Allusions on spirit drinks other than liqueurs

Article 12(3a) allows the allusion to the name of **one** spirit drink (category or GI) in the description, presentation and labelling of a spirit drink other than a liqueur (i.e. complying with the requirements of any of categories 33 to 40 of Annex I), 'on condition that:

(a) *the spirit drink referred to in the allusion:*

- (i) *has been used as the sole alcoholic base for the production of the final spirit drink, which shall comply with the requirements of a category of spirit drinks set out in Annex I,*
- (ii) *has not been combined with any foodstuffs other than the foodstuffs used for its production or the production of the final spirit drink in accordance with Annex I or the relevant product specification, and*
- (iii) *has not been diluted by addition of water so that its alcoholic strength is below the minimum strength provided for under the category of spirit drinks set out in Annex I or the product*

*specification for the geographical indication to which the spirit drink referred to in the allusion belongs; or*

- (b) *the spirit drink has been stored for the full maturation period or part of it in a wooden cask previously used to mature the spirit drink referred to in the allusion, on condition that:*
  - (i) *the wooden cask was emptied of its previous contents for those categories of spirit drinks or geographical indications for spirit drinks for which the addition of alcohol, diluted or not, is prohibited,*
  - (ii) *the allusion is made within the description of the cask used to mature the resulting spirit drink,*
  - (iii) *the allusion appears less prominently than the legal name of the spirit drink or any compound term used, and*
  - (iv) *by way of derogation from paragraph (4), point (b), the allusion appears in a font size no larger than the font size used for the legal name of the spirit drink or any compound term used.'*

Also in these cases, according to Article 12(4), point (c), the allusion shall '*always be accompanied by the legal name of the spirit drink, which shall appear in the same visual field as the allusion.*' (see § 3.2.5 below).

#### **3.2.4.1. Allusions to spirit drinks used as sole alcoholic base**

Producers may want to create innovative products by experimenting with established spirit drink categories or GIs and transforming them in different spirit drink category.

In specific cases, the legislator allows those producers to make allusion to the legal name of the initial spirit drink in the description, presentation and labelling of the final spirit drink under the conditions listed in the previous paragraph.

On the other hand, some spirit drink categories – e.g. flavoured vodka – may be produced by using another spirit drink category – in the case of the example: vodka – as its sole alcoholic base and the producer may have an interest in making allusion to that alcoholic ingredient in the description, presentation and labelling of the final product.

The provisions of Article 12(3a), point (a), of the SDR cover precisely the above-mentioned cases.

In order to prevent the misuse of the reputation of a spirit drink (category or GI), the legislator has provided that any reference to its legal name in the description, presentation or labelling of another spirit drink produced by using the spirit drink to which allusion is made as its only alcoholic base, is only allowed if the final spirit drink complies with the requirements of a spirit drink category and must thus bear the legal name provided for by that spirit drink category.

This implies that it will **never** be **possible** to make allusion to a spirit drink category or GI used as sole alcoholic base on a product generically labelled as '**spirit drink**'.

Moreover, the prohibition to add foodstuffs that are not allowed in the production of the spirit drink to which allusion is made or of the final spirit drink according to the relevant rules laid down in Annex I for spirit drink categories or in the technical file/product specification for spirit drink GIs, **excludes any overlapping** between allusions on spirit drinks and **compound terms** which require precisely the combination with one or more of such foodstuffs (see § 2.1 above).

Finally, to make allusion to the legal name of a spirit drink in the description presentation and labelling of another spirit drink, the **alcoholic strength** of the **final spirit drink** may **not** be **lower** than the minimum alcoholic strength required for the spirit drink to which allusion is made in accordance with the rules laid down in Annex I to the SDR for spirit drink categories or the relevant technical file/product specification for spirit drink GIs (see examples in #31).

☞ **NB:** *The question was raised whether the repetition of the name of a spirit drink (category or GI) already indicated in a compound term – for instance to describe specific properties of that spirit drink – is to be considered as an allusion. The above-mentioned provisions of Article 12(3a), point (a), of the SDR clearly exclude such possibility. In that case, the repeated reference to the name of the spirit drink used in combination with another foodstuff should be understood as an ‘extension’ of the use of that name in the compound term and should comply with the labelling rules laid down in Article 11(3) of the SDR.*

**#31 - Examples of permitted labelling:**

**Wine Spirit (40% vol.)**

*Made of Cognac*

**Finished in Bourbon Cask**

Since the technical file/product specification of Cognac does not allow its maturation other than in wooden casks having previously contained wine or wine spirits, a Cognac that has been finished in a cask having previously contained Bourbon Whisky is no longer entitled to bear that GI name. However, the allusion to the fact that the initial spirit drink has been produced in compliance with the requirements for Cognac until it has been stored in a Bourbon cask provides useful information to the consumer. **NB:** in that case, the wine spirit shall have the **minimum alcoholic strength required for Cognac** (i.e. 40% alcohol by volume).

**Juniper-flavoured Spirit Drink (32% vol.)**

**MADE OF KORN**

According to the requirements laid down in category 19 of Annex I, juniper-flavoured spirit drinks can be produced – among others - by flavouring grain spirit with juniper berries. Since Korn is a grain spirit registered as a geographical indication, this labelling is permitted on condition that the **alcoholic strength of the final product reaches the minimum required for Korn**, (i.e. 32% alcohol by volume), which is higher than the minimum alcoholic strength required for juniper-flavoured spirit drinks (i.e. 30% ABV).

**Raspberry Flavoured Vodka (37,5% vol.)**

*Made with four-times distilled Vodka*

An Flavoured Vodka, which – according to the requirements laid down in category 31 of Annex I – is produced by adding flavourings and, possibly, sweetening products to a vodka, may make allusion to the vodka used in its description, presentation and labelling under Article 12(3a), point (a), of the SDR. **NB:** The minimum alcoholic strength required for flavoured vodka is the same as the alcoholic strength required for vodka, i.e. 37,5% vol.

**#32 - Examples of forbidden labelling (NB: the allusion on a spirit drink that does not correspond to a category – and which bears thus the legal name ‘spirit drink’ – is always forbidden):**

**1) Spirit drink**

*Made of Rum and Brandy*

The combination of two different spirit drinks may not be labelled as an allusion. If only spirit drinks are part of such combination it will have to be labelled as a **mixture**. If other foodstuffs have been added, the spirit

drinks names may only be included in a list of ingredients for foodstuffs, provided that the list is in accordance with Articles 18 to 22 of the FIC Regulation, as laid down in Article 13(2) of the SDR.

2) **Rum based**

**Spirit Drink**

**With spices**

The combination of a spirit drink with one or more foodstuffs other than foodstuffs used for its production according to its specific requirements always produces a **compound term** and may thus not be labelled as an allusion.

3) **Spirit drink**

**Obtained from Rum (15% vol.)**

Allusions to spirit drink categories or GIs are prohibited where those were simply **diluted with water to below the required alcoholic strength** (37,5% vol. in the case of Rum ).

### 3.2.4.2. Allusions to other spirit drinks' casks

As explained above (see § 1.5), terms referring to the storage of a spirit drink for the entire or part of the maturation period in wooden casks previously used to mature another spirit drink cannot be considered as a voluntary information within the meaning of Article 36 of the FIC Regulation due to the provision laid down in Article 10(7), first subparagraph, of the SDR prohibiting the use of spirit drinks names in the description, presentation or labelling of any beverage not complying with the requirements laid down in the SDR or the relevant GI technical file/product specification.

The only exceptions allowed to that prohibition relate to the labelling of compound terms, allusions and ingredients list, as regulated by Articles 11, 12 and 13(2) to (4) of the SDR. Therefore, the reference to a spirit drink in whose wooden cask another spirit drink has subsequently been matured is not only a voluntary information according to the FIC, but also an allusion regulated by Article 12(3a) of the SDR.

☞ **NB:** Article 12(3a), point (b), letter (i), of the SDR, requires for those spirit drinks (categories or GIs) for which the addition of alcohol, diluted or not, is prohibited, to empty the wooden cask of its previous contents. This requirements applies e.g. to spirit drink categories 1-14. For spirit drink categories or GIs for which the above requirement does not apply, it is therefore not prohibited to leave in the wooden cask some of the spirit drink that had previously been matured in it. However, such practice, where used, would need to be properly labelled in accordance with Article 13(3) or (4) of the SDR (i.e. the labelling provisions for **mixtures**) in addition to the labelling provisions laid down in Article 12(3a), point (b), letters (ii) to (iv), of the SDR, for allusions to spirit drinks casks (see example 3 in #33).

☞ **NB:** According to Article 12(3a), point (b), letters (ii) to (iv), of the SDR, and in derogation to the general labelling rule applicable to allusions on alcoholic beverages (i.e. that the allusion shall appear in a font size which is no larger than half the font size used for the name of the alcoholic beverage or possible compound terms used), the allusion to spirit drink casks may appear in a **font size which is no larger** than the font size used for the legal name of the spirit drink or any compound term used, as long as it clearly refers to the cask used to mature the resulting spirit drink and that it appears **in a less prominent way** than the legal name of the spirit drink or any

*compound term used. However, spirit drinks referred to in that provision that were labelled before 31 December 2022 in application Article 4 of Implementing Regulation (EU) No 716/2013 (i.e. merely requiring that the allusion appears in a font size smaller than those used for the sales denomination and the compound term) may continue to be placed on the market until stocks are exhausted. In any case, even during this transitional period, **it is recommended** that the allusion to spirit drink casks is not labelled in a more prominent way than the legal name of the spirit drink (e.g. by using a different background, colours or character type).*

Other than the aspects that need to be assessed by the national competent authorities concerning the correct use of references to the maturation in wooden casks previously used to mature other alcoholic beverages (notably wine or beer) listed under § 1.5 above, including the compliance with Article 7(1) of the FIC Regulation, for allusions to spirit drinks' casks **it is recommended** that:

- 1) the spirit drink has indeed been matured in a **wooden cask** previously used to mature the spirit drink to which allusion is made: in fact, maturation as defined by Article 4, point (11), of the SDR, entails '*the storage of a spirit drink in appropriate receptacles for a period of time for the purpose of allowing that spirit drink to undergo natural reactions that impart specific characteristics to that spirit drink*'. This means, for example, that the use of inert containers such as plastic drums or the use of wood chips as a substitute for maturation in a wooden cask, are not permitted;
- 2) for those categories of spirit drinks which prohibit the addition of alcohol (e.g. categories of spirit drinks 1 to 14 of Annex I, as provided for in Article 7(2), point (b), of the SDR), **casks** used for maturation **are emptied** of their previous contents;
- 3) since the cask used to mature a spirit drink has a significant effect on its character, it is legitimate to provide consumers with information on the previous contents of the cask used. However, such **information must be clear and unambiguous**, it shall refer to the cask used and not merely to the spirit drink previously matured in it and shall not mislead the consumer as provided for by Articles 7(1a), 7(2) and 36 of the FIC Regulation. For example:
  - a) reference to a particular cask can only be justified if the spirit drink has been **matured in the cask for a long enough period** to affect the organoleptic character of that spirit drink;
  - b) the context in which reference is made to the allusion should be made clear and should **only be for the purpose of informing the consumer** of the previous contents of the cask used, i.e. that the spirit drink has spent a sufficient amount of time in a cask which had been previously use to mature, for example, rum;
  - c) the allusion must be **accurate and not misleading**. The labelling and marketing of a product should not suggest that all the spirit drink has been matured in the type of cask claimed when that is not the case. It would be misleading to describe a whisky as, for example, 'Rum cask

matured’, if only a proportion of the barrels used to produce the whisky have been matured in rum casks;

- d) some spirit drinks use the term ‘**finishing**’ or ‘**finish**’. This is a traditional industry term which refers to the final period of maturation in a cask which is different to the cask previously used. As finishing corresponds to part of the maturation period, the requirements referred to above should apply equally to finishing.

**#33 - Examples of permitted labelling:**

**1) RUM**

***Matured in Kentucky Bourbon barrels***

**2) Single Malt Whisky\***

***Matured in Cognac barrel / Rum Cask Finish***

**3) Spirit Drink**

***Mixture of Gin 95% & Rum 5%***

***Matured in Rum Cask***

*could indicate that the Rum/Whisky/Gin & Rum have spent in a wooden barrel/cask previously used to mature Bourbon/Cognac/Rum sufficient time to have an effect on their organoleptic character.*

\*According to point 2(a)(iii) of Annex I (whisky or whiskey), the maturation of the final distillate shall be carried out in wooden casks not exceeding 700 litres capacity. Since the type of wooden cask is not specified, it is possible to reuse casks in which other alcoholic beverages were previously matured in order to confer particular organoleptic characteristics to the whisky/whiskey.

**#34 - Examples of forbidden labelling:**

**Cognac**

***Finished in Rum Wood***

*is not allowed because the GI technical file/product specification of Cognac does not provide the finishing in a cask not previously used to mature wine or wine spirits in its producing method.*

**Whisky**

***Matured in Brandy Barrel***

*is not allowed because the allusion may not be more prominent than the legal name of the spirit drink and the font size used for the allusion may not be larger than that used for the legal name.*

**Cognac Finish**

**Rum**

*is not allowed because the allusion must include reference to the type of cask used.*

### 3.2.5. Other labelling rules for allusions

Article 12(4) provides that ‘the allusions referred to in paragraphs 2, 3 and 3a shall:

- (a) not be on the same line as the name of the alcoholic beverage;
- (b) appear in a font size which is no larger than half the font size used for the name of the alcoholic beverage and, where compound terms are used, in a font size which is no larger than half the font size used for such compound terms, in accordance with point (c) of Article 11(3); and



- (c) in case of allusions in the description, presentation and labelling of spirit drinks, always be accompanied by the legal name of the spirit drink, which shall appear in the same visual field as the allusion.<sup>28</sup>

The provisions laid down in Article 12(4) are thus mandatory when allusions are made on alcoholic beverages but not when allusions are made on foodstuffs other than alcoholic beverages (Article 12, paragraph 1). For those (e.g. rum ice cream, Kirschpralinen, Egg liqueur cake), the general labelling rules of the FIC Regulation are of application and in particular Article 7 on fair information practices.

Moreover, when allusions to spirit drinks are made **on alcoholic beverages** other than spirit drinks and **on liqueurs**, the **proportion of the alcohol** represented by each alcoholic ingredient is to be indicated at least once: in the same visual field as the allusion and in descending order of quantities used.

<b>#35 - Examples of permitted labelling of allusions</b> on alcoholic beverages:	
<b>Beer</b> <i>with a splash of Genever</i> 7% VOL. (Beer 90% - Genever 10%) : alcohol proportion	
<b>Apple Cider</b> <i>with Punch au Rhum</i> Alcohol 20% Vol. ( Apple Cider 95% - Rum 5%) : alcohol proportion	
<b>Alcoholic Beverage</b> <b>Diplomat Cocktail</b> <i>with Cognac &amp; Maraschino</i> 15% Vol. (Wine 75% - Cognac 10% - Maraschino 8% - Ethyl alcohol of agricultural origin 7%) : alcohol proportion	
<b>Chocolate Liqueur</b> <i>with a shot of Gin</i> alc. 16% vol. (Ethyl alcohol of agricultural origin 96% - Gin 4%) : alcohol proportion	
<b>LIQUEUR</b> <b>Egg liqueur &amp; cinnamon</b> <i>with Brandy and Irish Whiskey</i> 17% VOL. (Ethyl alcohol of agricultural origin 88% - Brandy 7% - Irish Whiskey 5%) : alcohol proportion	
	<b>Crème de Brandy</b>

<sup>28</sup> Introduced by Commission Delegated Regulation (EU) 2021/1334 of 27 May 2021 amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards allusions to legal names of spirit drinks or geographical indications for spirit drinks in the description, presentation and labelling of other spirit drinks (OJ L 289, 12.8.2021, p. 1).



	<p style="text-align: center;"><i>avec Rhum</i></p> <p style="text-align: center;"><b>ALCOHOL 30% VOL. (Brandy 90% - Rum 10%) : alcohol proportion</b></p>
<p style="text-align: center;"><b>Wine Spirit</b></p> <p style="text-align: center;"><i>Made of COGNAC VSOP</i></p> <p style="text-align: center;"><b>and matured in Bourbon Cask</b></p> <p style="text-align: center;"><i>this is a <b>double allusion</b>: first to a spirit drink (Cognac) used as sole alcoholic base for the production of a different spirit drink (Wine Spirit). In fact, the initial spirit drink does no longer comply with the requirements laid down in its GI technical file/product specification because it has been matured in a wooden cask having previously contained Bourbon Whisky (second allusion), which is not allowed for Cognac</i></p>	
<p><b>#36 - Examples of <u>forbidden labelling</u>:</b></p> <p style="text-align: center;"><i>Spirit drink</i></p> <p style="text-align: center;"><b>Finished in COGNAC cask</b></p> <p><i>Although allowed as such, in this case this labelling does not comply with the labelling provision laid down in Article 12(3a), point (b), letters (iii) and (iv), of the SDR requiring that the allusion appears less prominently than the legal name of the spirit drink or any compound term used and in a font size no larger than the font size used for the legal name of the spirit drink or any compound term used<sup>29</sup>.</i></p> <p><i>In any case such labelling would represent an unfair presentation as it emphasizes an allusion (Cognac indicated in a too prominent way) at the expense of the legal name of the product (spirit drink), which could be considered as misuse of a spirit drink GI.</i></p>	

In the above examples, the name of the foodstuff (beer, apple cider, aromatised wines, chocolate liqueur, crème de brandy, liqueur, wine spirit) and the compound terms (crème de brandy – which may be both a compound term and the legal name –, chocolate liqueur and egg liqueur & cinnamon) are not on the same line as the allusion (Genever, Punch au Rhum, Cognac, Maraschino, Gin, Brandy, Irish Whisky, Rum, Bourbon cask).

In any case, when the resulting beverage is a spirit drink, its legal name shall always be indicated in the same visual field where appears the allusion, which shall be written in a font size which is **half the font size** used for the legal name of the spirit drink and of the possible compound term, **or smaller** (except for allusions to spirit drinks' casks, which can be displayed in a font size no larger than the font size used for the legal name of the spirit drink and possible compound terms).

The allusion may however appear in **characters** that are of a different font and colour or against a different background than the name of the alcoholic beverage/compound term. Nevertheless, **it is recommended** that the allusion is displayed in a **less prominent** way than the name of the alcoholic beverage. This recommendation becomes a **legal obligation** for **allusions to spirit drinks' casks**, so as to balance the less restrictive font size requirement provided for those allusions.

### 3.3. Allusion to 'imitation' spirit drinks flavourings

As already mentioned (see § 1.3. above), according to Article 10(7), first subparagraph, a **spirit drink name** (category or GI) **may not be used** in any way whatsoever on the (description), presentation and labelling of **any**

<sup>29</sup> Article 12(3a), point (b), letter (iv), of Regulation (EU) 2019/787 only applies as of 31 December 2022. In the meantime, Article 4 of Implementing Regulation (EU) No 716/2013 (requiring that allusion shall appear in a font size smaller than those used for the sales denomination and the compound term) remains of application.

**beverage** that does not comply with the production requirements laid down in the respective spirit drink category or GI technical file/product specification.

This strict prohibition includes explicitly also the cases where it is clearly stated on the (description), presentation and labelling that it is an imitation by using terms such as ‘like’, ‘type’, ‘style’, ‘made’, ‘flavour’, etc.

*The name of a spirit drink (category or GI) may not be used to (describe), present or label a beverage different from that spirit drink.*

This prohibition is obviously without prejudice to the provisions laid down for compound terms (Article 11), allusions (Article 12) and list of (alcoholic) ingredients (Articles 13(2) to (4)), which of course apply provided that all the relevant rules are complied with.

**#37 - Examples of *forbidden labelling*:**

- 1) *Vodka-flavoured alcoholic beverage*
- 2) *Spirit drink aromatised with Rum*
- 3) *Brandy-style drink*
- 4) *Gin-type low-alcohol beverage*
- 5) *Whisky-like alcohol free beverage*

Nonetheless, by introducing Article 10(7), second subparagraph, the legislator has decided that – whereas it is clear that, in order not to risk misleading the consumer, the name of a spirit drink (category or GI) may not be used to describe a beverage that does not comply with its requirements – the **names of spirit drink categories** may be used as:

- 1) part of the reference to a **flavouring**, or
- 2) in the presentation and labelling of **foodstuffs other than beverages** produced by using those flavourings,

even if those products do not comply with the requirements laid down for the spirit drink category they refer to in their presentation and labelling.

The legislator acknowledged thus a common practice on the market, whereas certain flavourings bear the name of spirit drink categories (e.g. rum flavour or brandy flavouring) although they are not in compliance with the requirements of those categories, which however is not bound to mislead the consumer.

Nonetheless, in order to confer more stringent protection to GIs, in Article 10(7), second subparagraph, the legislator has **explicitly forbidden** that the names of **geographical indications** for spirit drinks be used to describe any flavourings or foodstuffs flavoured with those flavourings.

**#38 - Examples of allusions to ('imitation') spirit drinks:**

- 1) *Babà al rum – Babà au rhum – Rum baba: in this case, only real rum (compliant with all requirements of category 1 of Annex I) shall be used*
- 2) *Babà aromatisé au rhum – Babà con aroma di rum – Babà with rum flavour – Rum flavoured babà: In this case, rum flavour may be used, provided that the consumer is not misled about the nature of the flavouring used (i.e. not a spirit drink)*

**Other examples:**

**NON-LIQUID FOODSTUFFS**

- 3) *Rum-flavour ice cream may contain a flavour*
- 4) *Ice-cream with Armagnac must contain authentic Armagnac (GI)*
- 5) *Gin & tonic flavoured yogurt may contain a flavour*

6) *Scotch Whisky flavoured chocolate must contain authentic Scotch Whisky (GI)*

**LIQUID FOODSTUFFS (BEVERAGES)**

7) *Orange juice with rum & vodka must contain authentic rum and vodka*

8) *Coke flavoured with Irish Whiskey must contain authentic Irish Whiskey (GI)*

9) *Rum refined beer must contain authentic rum*

10) *Genever refined beer must contain authentic Genever (GI)*

11) *Egg liqueur with a scent of Kirschwasser must contain authentic Kirschwasser*

12) *Egg liqueur with a scent of Cognac must contain authentic Cognac (GI)*

☞ **NB:** The above *examples* are *descriptive* and do not apply the labelling provisions requiring that the allusion shall appear on a separate line as the legal name of the liqueur and in a font size which is no larger than half the font size used for the latter.

### 3.4. Low/zero-alcohol beverages referring to spirit drinks' names

As already mentioned (see § 1.3 and 3.3 above), Article 10(7), first subparagraph, of the SDR prohibits the use of legal names of spirit drink categories or geographical indications for spirit drinks in the description, presentation and labelling of **any beverage** not complying with the requirements of the relevant spirit drink category or GI. That prohibition also applies where such legal names or geographical indications are used in conjunction with words or phrases such as 'like', 'type', 'style', 'made', 'flavour' or any other similar term.

☞ **NB:** Such prohibition extends also to phantasy names or references such as e.g. 'no Gin', 'for Gin lovers', 'VirGin', 'Ginfection' to describe beverages not complying with the requirements laid down in category 20 of Annex I to the SDR.

**#39 - Examples of forbidden labelling** (because referring to spirit drinks while claiming that the beverage does not contain any alcohol):

- |                                      |        |  |
|--------------------------------------|--------|--|
| 1) <i>Non-alcoholic Spirit Drink</i> | – or – | <i>Alcohol-free Spirit Drink</i>       |
| 2) <i>Zero alcohol Gin</i>           | – or – | <i>Zero alcohol Gin-Tonic</i>          |
| 3) <i>Non-alcoholic Whisky</i>       | – or – | <i>Non-alcoholic Whisky &amp; Coke</i> |

The provisions governing compound terms and allusion are listed among the exceptions to above-mentioned prohibition. However, the reference to the name of a spirit drink in a beverage containing **no alcohol** would **not** be **possible** under either **compound terms** or **allusions** rules due to the condition that all the alcohol in the final product must originate from the spirit drink referred to.

In fact, if the final beverage does not contain any alcohol at all, the spirit drink referred to may not reasonably be expected to comply with all requirements (notably the minimum required alcoholic strength) of the spirit drink category or geographical indication whose name has been used on the label.

***Any beverage referring to a spirit drink name (be it in a compound term or an allusion) is always an alcoholic beverage.***

In this context, it is worthwhile underlining that the term 'alcoholic beverage' is not defined in the EU legislation, although, for its own purposes, the Union Customs Code classifies as 'non-alcoholic' beverages with an alcoholic strength

by volume not exceeding 0.5 %, while beverages with more than 0.5% alcohol by volume are classified as alcoholic beverages<sup>30</sup>.

As far as the FIC is concerned, its Articles 16(4) and 28(2) refer to alcoholic beverages containing more than 1.2% by volume of alcohol not with the purpose to define what an alcoholic beverage is but merely to determine the alcoholic beverages (i.e. those containing more than 1.2% by volume of alcohol) that are respectively exempted from the mandatory indication of the nutrition declaration and the list of ingredients or required to indicate the actual alcoholic strength on the label.

However, in the absence of a definition of ‘alcoholic beverage’ in the EU food legislation, and specifically for the purposes of compound terms or allusions to the name of spirit drinks on the label of other foodstuffs, resulting drinks containing 1.2% by volume of alcohol or less are still to be considered as alcoholic beverages in the context of the SDR.

Nonetheless, as referred to in Article 38(2) of the FIC Regulation, Member States may adopt national measures concerning matters not specifically harmonised by this Regulation provided that they do not prohibit, impede or restrict the free movement of goods that are in conformity with this Regulation. Of course, such national measures shall not authorise practices which may be misleading to the consumer.

It should be further noted that in recent years we have observed a tendency of increasing marketing of partially or totally dealcoholized beverages. This is notably the case of beer, which is a product that is not regulated at EU level.

Legitimately, in the absence of EU rules in this respect, and in view of providing appropriate information to consumers, Member States may adopt provisions to determine the alcohol content thresholds that may trigger definitions such as ‘non-alcoholic’, ‘low-alcohol’, ‘de-alcoholised’ on beverages that are not regulated at EU level.

This excludes obviously the use of such terminology on spirit drinks, wine<sup>31</sup> and aromatised wine products, which are subject to specific provisions at EU level.

However, other beverages, such as beer or alcopops, i.e. drinks resulting from the combination of any beverage with spirit drinks (which is the case of certain allusions, as defined by Article 3, point (3)(a), and regulated by Article 12(1) and (2) of the SDR) may benefit of such national definitions (where they exist).

Consequently, the labelling of a beverage as for example:

- ‘*vodka & orange* (compound term)  
*non-alcoholic beverage*’ - with **0,05% alcohol by volume**,

is **not allowed** under EU law<sup>32</sup>.

<sup>30</sup> Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff: Text of Note 3 of the Chapter 22: ‘3. For the purposes of heading 22.02, the term ‘non-alcoholic beverages’ means beverages of an alcoholic strength by volume not exceeding 0.5 % vol. Alcoholic beverages are classified in headings 22.03 to 22.06 or heading 22.08 as appropriate.’

<sup>31</sup> Provisions on ‘dealcoholized’ or ‘partly dealcoholized’ wines are currently under discussion in the framework of the revision of the CMO Regulation (EU) No 1308/2013.

On the other hand, given that beer is not regulated at EU level, the following labelling could be allowed by national legislation (where it exists):

- ‘**no-alcohol beer**  
with a shot of **gin**’ (allusion) - with **0,4% alcohol by volume**, or as
- ‘**low-alcohol beer**  
*refined with rum*’ (allusion) - with **1% alcohol by volume**.

In 2021, the Commission will launch a tender for a study to further examine the above issues in view of determining whether specific legislation is needed.

### 3.5. Checks

Checks on the (description), presentation and labelling of a product containing an allusion to the name of a spirit drink (category or GI) address the compliance with following conditions:

#### 3.5.1. *On foodstuffs other than alcoholic beverages*

##### **Production:**

1. the foodstuff making allusion to the spirit drink(s) is a foodstuff (liquid or not) other than an alcoholic beverage (i.e. that does not contain any alcohol);
2. the resulting product is an alcoholic beverage or a non-liquid foodstuff containing alcohol, even if only traces;
3. the spirit drink(s) referred to in the allusion comply/ies with all requirements laid down for its/their production in the relevant spirit drink category of Annex I or GI technical file/product specification, including its/their minimum alcoholic strength, i.e. only authentic spirit drinks may be referred to in an allusion; and
4. all the alcohol in the resulting product originates from the spirit drink(s) referred to in the allusion (except for the alcohol that may be present in flavourings, colours or other authorised ingredients used for the production of the initial foodstuff).

##### **Labelling:**

5. in case of liquid foodstuffs, allusions are only possible to more than one spirit drink (the combination of **one** spirit drink with other foodstuffs being subject to the rules on compound terms);
6. the final product is labelled in compliance with the provisions of the FIC Regulation.

#### 3.5.2. *On alcoholic beverages other than spirit drinks*

##### **Production:**

---

<sup>32</sup> In fact, such beverages would contain a certain amount of alcohol, albeit a very low percentage. Therefore, under EU law, they would have to be considered as alcoholic beverages.

1. the foodstuff making allusion to the spirit drink(s) is an alcoholic beverage other than a spirit drink (e.g. wine, aromatised wine product, beer, cider, perry, other fermented beverages);
2. the resulting product is still an alcoholic beverage;
3. the spirit drink(s) referred to in the allusion comply/ies with all requirements laid down for its/their production in the relevant spirit drink category of Annex I or GI technical file/product specification, including its/their minimum alcoholic strength, i.e. only authentic spirit drinks may be referred to in an allusion;
4. all the added alcohol originates from the spirit drink(s) referred to in the allusion (i.e. in addition to the alcohol naturally present in the initial alcoholic beverage), with the exception of the alcohol that may be present in possible flavourings, colours or other authorised ingredients.

**Labelling:**

5. possible allusions on wine and aromatised wine products must comply with the specific EU legislation for those products;
6. the name of the alcoholic beverage must be displayed in a conspicuous way so as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material;
7. the allusion is not on the same line as the name of the alcoholic beverage;
8. the allusion appears in a font size which is no larger than half the font size used for the name of the alcoholic beverage and of the compound terms, where compound terms are used; and
9. the proportion of each alcoholic ingredient is indicated at least once: in the same visual field as the allusion and in descending order of the quantities used. That proportion is equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the final product.

**3.5.3. *On liqueurs***

**Production:**

1. the foodstuff making allusion to the spirit drink(s) is a liqueur, i.e. a spirit drink complying with the requirements of any of categories 33 to 40 of Annex I to the SDR (liqueurs);
2. the resulting product is still a liqueur, i.e. a spirit drink complying with the requirements of category 33 of Annex I (liqueur);
3. the spirit drink(s) referred to in the allusion comply/ies with all requirements laid down for its/their production in the relevant spirit drink category of Annex I or GI technical file/product specification, including its/their minimum alcoholic strength, i.e. only authentic spirit drinks may be referred to in an allusion;

4. all the added alcohol originates from the spirit drink(s) referred to in the allusion (i.e. in addition to the alcohol naturally present in the initial liqueur), with the exception of the alcohol that may be present in possible flavourings, colours or other authorised ingredients.

**Labelling:**

5. the legal name is 'liqueur' as the resulting spirit drink still complies with the relevant requirements of category 33 of Annex I or one of the legal names provided for by the other liqueur category whose requirements it complies with;
6. the legal name of the liqueur must be displayed in a conspicuous way so as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material;
7. the allusion is always accompanied by the legal name of the liqueur, which shall appear in the same visual field<sup>33</sup>;
8. the allusion is not on the same line as the legal name of the liqueur;
9. the allusion appears in a font size which is no larger than half the font size used for the legal name of the liqueur and of the compound terms, where compound terms are used;
10. the term '*cream*' (in English only) does not appear either in the legal name of the liqueur nor in the legal name of the spirit drink(s) referred to in the allusion; and
11. the proportion of each alcoholic ingredient is indicated at least once: in the same visual field as the allusion and in descending order of the quantities used. That proportion is equal to the percentage by volume of pure alcohol it represents in the total pure alcohol content by volume of the final product.

**3.5.4. *On spirit drinks other than liqueurs***

**Production:**

1. the foodstuff making allusion to the **(one)** spirit drink is a spirit drink other than a liqueur,
2. in that case the allusion can occur in the two following cases:
  - a. that the spirit drink referred to in the allusion has been **used as the sole alcoholic base** for the production of the final spirit drink on condition that:
    - i. no other spirit drinks or ethyl alcohol or distillates have been added (which would rather be subject to the provisions on mixtures) and that the final spirit drink complies with the requirements laid down in Annex I for a spirit drink category

<sup>33</sup> Liqueurs falling under this provision which do not meet this requirement but which meet the requirements of Regulation (EC) No 110/2008 and were produced and labelled before 31 December 2022 may continue to be placed on the market until stocks are exhausted.



- and bears thus the legal name of that category (and never the generic name ‘spirit drink’);
- ii. the spirit drink referred to in the allusion has not been combined with any foodstuffs other than the foodstuffs used for its production or for the production of the final spirit drink in accordance with Annex I or the relevant product specification (which would rather be subject to the provisions on compound terms); and
  - iii. the final spirit drink has not been diluted by addition of water so that its alcoholic strength is below the minimum strength provided for under the relevant category of spirit drinks set out in Annex I or the product specification for the geographical indication to which the spirit drink referred to in the allusion belongs; **OR**
- b. the spirit drink has been stored for the full maturation period or part of it (e.g. ‘finishing’) in a **wooden cask previously used to mature the spirit drink referred to** in the allusion, on condition that:
- i. the wooden cask was emptied of its previous contents for those categories of spirit drinks or geographical indications for spirit drinks for which any addition of alcohol is prohibited,
  - ii. the spirit drink has been matured in the cask for a long enough period to affect its organoleptic character;
  - iii. the allusion is only for the purpose of informing the consumer of the production process and the previous contents of the cask used;
  - iv. the allusion is accurate and not misleading: the labelling and marketing of a product should not suggest all the spirit has been matured in the type of cask claimed when that is not the case (e.g. when only part of the spirit drink has been matured in casks previously used to matured other spirit drinks).

### **Labelling:**

- 3. the legal name of the spirit drink must be displayed in a conspicuous way so as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material;
- 4. the allusion is always accompanied by the legal name of the spirit drink, which shall appear in the same visual field<sup>34</sup>;
- 5. the allusion is not on the same line as the legal name of the spirit drink;

<sup>34</sup> Spirit drinks which do not meet this requirement but which meet the requirements of Regulation (EC) No 110/2008 and were produced and labelled before 31 December 2022 may continue to be placed on the market until stocks are exhausted.

6. in case of allusions to spirit drinks used as sole alcoholic base: the font size used for the allusion is no larger than half the font size used for the legal name of the spirit drink and for the compound term(s), where compound terms are used<sup>35</sup>;
7. in case of allusions to a spirit drink cask:
  - a. the allusion must refer to the type of cask used (a mere reference to the spirit drink previously contained in it is not admissible);
  - b. the allusion must appear in a less prominent way than the legal name of the spirit drink;
  - c. the font size used for the allusion is no larger than half the font size used for the legal name of the spirit drink and of the compound term(s), where compound terms are used<sup>36</sup>; and
  - d. in case of spirit drinks for which addition of alcohol is allowed, if the cask is not emptied and some of the previous spirit drink is intentionally left in it to be combined with the other spirit drink, the resulting product must be labelled according to the provisions for mixtures, which may be supplemented by the allusion to the spirit drink that had been previously contained in the cask itself.

#### 3.5.5. *On 'imitation' flavourings*

1. Spirit drinks names (both categories and GIs) are used exclusively:
  - a. to describe, present or label a spirit drink complying with the requirements of the relevant category or GI; or
  - b. in a compound term, allusion, ingredients list, mixture or blend in compliance with the relevant provisions.
2. **Exception**: the legal name of a spirit drink category (not a GI name) has been used to define:
  - a. a flavouring, or
  - b. a foodstuff other than a beverage flavoured with that flavouring,
 even if those do not meet the provisions for allusions, provided that such legal names are supplemented by the term 'flavour' or any other similar term.

#### 3.5.6. *Allusions to GIs*

Besides the **recommendation** that no 'comparable' ingredients should be used (except for other spirit drinks, in compliance with the provisions on allusions), any allusion to a spirit drink with geographical indication

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<sup>35</sup> Spirit drinks falling under this provision and that were labelled in compliance with Article 4 of Implementing Regulation (EU) No 716/2013 before 31 December 2022 may continue to be placed on the market until stocks are exhausted.

<sup>36</sup> Spirit drinks falling under this provision and that were labelled in compliance with Article 4 of Implementing Regulation (EU) No 716/2013 before 31 December 2022 may continue to be placed on the market until stocks are exhausted.

should also comply with the condition that the taste is recognizable and attributable primarily to that GI.

This latter requirement renders checks particularly cumbersome as it is already quite difficult to control the presence of authentic whisky or apricot spirit in foodstuffs such as cake, chocolate or yogurt, but it is even more difficult to check analytically and organoleptically if for example the whisky is *Scotch Whisky* or the apricot spirit is *Kecskeméti barackpálinka*.

**It is recommended** to focus checks on the documentation that can be found at production premises during on-the-spot checks: the producer of foodstuffs such as cake, chocolate, etc. (in the above examples) can be asked to identify the supplier of the GI spirit drinks and provide receipts and documentation.

There may also be a specific agreement with the supplier relating to the authenticity of the product. The presence of such documentation may contribute to proving authenticity. However, the absence of supplier documentation does not necessarily indicate a fraud but may be grounds for making further enquiries.

If the paper traceability exercise does not provide sufficient guarantees and there are still doubts, analytical tests can be used.

Depending on the case, it could be appropriate to apply the isotopic mass spectroscopy analysis and use isotopic databases as a reference.

**#40 – Examples:**

In the control seminar organised by DG AGRI in 2018, an example was presented on how it could be checked if vodka has been produced in Poland or Sweden using the isotopic values of the water used, as they are different in the north part.

In case of '*Kecskeméti barackpálinka*', apricots are used, and they might give a specific pattern which could be traced when the isotopic analysis is carried out.

Of course such analyses might seem complex but this is just a possible method to identify the product and they are not a systematic requirement. It is up to the competent authority to identify the best tool to be used.

## 4. MIXTURES

Article 3, points (9) and (10)	Definitions
Articles 13(3) and (4)	Conditions for use and labelling provisions

### 4.1. What are mixtures

Under certain conditions, the names of spirit drink (categories or GIs) may be indicated in the description, presentation and labelling of spirit drinks that have been produced by combining different alcoholic ingredients.

According to Article 3, point (10), '*mixture*' means a spirit drink that has undergone mixing', whereas according to Article 3, point (9) '*to mix*' means to combine a spirit drink that either belongs to a category of spirit drinks set out in Annex I or to a geographical indication with one or more of the following:

- (a) other spirit drinks which do not belong to the same category of spirit drinks set out in Annex I;
- (b) distillates of agricultural origin;
- (c) ethyl alcohol of agricultural origin.'

**Mixtures are spirit drinks resulting from the combination of different alcoholic components (i.e. spirit drinks, distillates, ethyl alcohol)**

Other foodstuffs may be added exclusively through their use as ingredients in the production of one or more spirit drinks composing the mixture.

The typical example of such spirit drinks through which other foodstuffs are added is represented by liqueurs that, according to the requirements of spirit drink category 33, may be produced by adding sweetening products, flavourings, products of agricultural origin or foodstuffs to ethyl alcohol of agricultural origin, distillates of agricultural origin, one or more spirit drinks or a combination thereof.

Through the addition of a liqueur to a mixture, all ingredients used to produce that liqueur are also introduced into the mixture itself.

#### #41 - Examples of permitted mixtures:

- 1) **Angel Face cocktail** (Gin, Apricot Brandy, Calvados)
- 2) **Grand Marnier Liqueur\*** (Orange liqueur & Cognac)
- 3) **B & B cocktail** (Cognac & Bénédictine = herbal liqueur)
- 4) **Black Nail cocktail** (Irish Whisky & Irish Mist)

\*The reference to a brand name is made here solely for illustrative purposes (Grand Marnier being a renowned liqueur with a well-known composition in terms of alcoholic ingredients).

☞ **NB:** Mixtures of two specifically defined spirit drink categories other than liqueurs – e.g. of a grain brandy (category 3 of Annex I, which requires a minimum alcoholic strength by volume of 35 %) and a Williams (category 9 of Annex I, which requires a minimum alcoholic strength by volume of 37.5 %) – should have an actual alcohol content corresponding to the calculated combined minimum alcohol content of the two, i.e. for example 36.5% vol. In fact, where water or other

*liquids are added so that the alcoholic strength of any spirit drink is below the minimum strength provided for under the relevant spirit drink category set out in Annex I, that spirit drink can no longer use any of the names laid down in the respective category as legal name, whether one or more spirit drink categories are indicated in the description, presentation and labelling of the final product. The same applies if flavourings, colours or sweetening products are added in breach of the requirements laid down for the respective spirit drink category. In that case the final beverage would not represent a mixture in the sense of Article 3, points (9) and (10), and could not be labelled as such in accordance with the labelling rules for mixtures, and the names of the spirit drinks used could only be included in a list of ingredients as provided by Articles 18 to 22 of the FIC Regulation.*

☞ **NB:** *For the purpose of the SDR, only cocktails resulting exclusively from a combination of different categories of spirit drinks, distillates of agricultural origin and/or EAAO can be considered as mixtures and labelled as such. Moreover, the conditions of use and labelling provisions on mixtures are only relevant for pre-packed drinks. Nonetheless, it should be pointed out that, in some ready-to-drink cocktails recipes, liqueurs may incorporate for instance the sugar and foodstuffs (e.g. fruit juices/milk products) needed for realising the cocktail. In that case, the cocktail could still be considered and labelled as a mixture, on condition that the liqueur(s) used comply with the requirements laid down in spirit drink category 33 (notably the minimum alcoholic strength and minimum sugar content) and that the resulting beverage is still a spirit drink, e.g. has a minimum alcoholic strength of 15% by volume.*

## 4.2. Conditions of use and labelling provisions

### 4.2.1. General rules

Article 13(3) provides for the general condition of use and labelling for mixtures.

In order to protect spirit drink names (categories or GIs) from undue misappropriation, Article 13(3), first subparagraph, provides that, in the case of mixtures, those names ‘*may be indicated only in a list of the alcoholic ingredients appearing in the same visual field as the legal name of the spirit drink*’.

The **legal name** will be ‘spirit drink’ in case the mixture does not correspond to any spirit drink category.

In that case, according to Article 13(3), second subparagraph, the list of alcoholic ingredients of a mixture is to be accompanied by at least one of the following terms: ‘mixture’, ‘mixed’ or ‘mixed spirit drink’.

The selected term may precede or follow the list of alcoholic ingredients or be placed on another line with respect to it, as long as it appears in the same visual field as the list itself and the legal name of the mixture.

Moreover, both the list of alcoholic ingredients and the accompanying term shall appear in uniform characters of the same font and colour and in a font

size which half the font size used for the legal name or less (Article 13(3), second subparagraph).

Finally, the label shall display at least once the percentage proportion of the volume of pure alcohol represented by each alcoholic ingredient in descending order of quantity used in the mixture (Article 13(3), third subparagraph).

☞ **NB:** *For the purpose of the labelling provisions on mixtures under the SDR, **alcoholic ingredients** are either spirit drinks (as such), EAAO or distillates of agricultural origin, as indicated in Article 3, point 9, of the SDR. On the other hand, in a list of ingredients as regulated by Articles 18 to 22 of the FIC Regulation, the single ingredients of a spirit drink need to be broken down (i.e. the ingredients of an Orange Liqueur, which is a spirit drink as such, would have to be identified in an ingredients list according to the FIC as e.g. EAAO, sugar and orange flavouring).*

**#42 - Example** of permitted labelling of mixtures not belonging to a category of spirit drink:

<p><b>Mixed Spirit Drink</b></p> <p><i>Scotch Whisky (60%), Grain Spirit (30%), Ethyl Alcohol from barley (10%)</i></p>
<p><b>Spirit Drink</b></p> <p><i>Mixture of Kirsch Veneto (50%), Williams trentino (35%), Apple distillate (15%)</i></p>
<p><i>Mixed Rum (60%) and Brandy (40%)</i></p> <p><b>Spirit Drink</b></p>

#### 4.2.2. Mixtures corresponding to a spirit drink category

Article 13(4) provides the specific conditions of use and labelling for mixtures corresponding to one or more spirit drink categories.

This is typically the case of liqueurs belonging to spirit drink category 33. In that case, the legal name of the mixture will be one of the legal names provided for in the relevant category (e.g. ‘liqueur’, ‘cream’).

Also in case of mixtures corresponding to one or more categories, the spirit drink names (categories or GIs) used in the production of the mixture may appear:

- ‘a) *exclusively in a list of all the alcoholic ingredients contained in the mixture, which shall appear in uniform characters of the same font and colour and in a font size which is no larger than half the font size used for the legal name; and*
- b) *in the same visual field as the legal name of the mixture at least once .’*

Moreover, the label shall display at least once the percentage proportion of the volume of pure alcohol represented by each alcoholic ingredient in descending order of quantity used in the mixture (Article 13(4), third subparagraph).

In conclusion, the differences between mixtures not belonging to a spirit drink category (a) and mixtures belonging to a spirit drink category (b) are limited to the following:

- 1) the legal name of (a) is generically ‘spirit drink’ while for (b) it is one of the legal names allowed by the spirit drink category or categories to which the mixture belongs;
- 2) in (b) the list of alcoholic ingredients does not need to be accompanied by the term defining a mixture (‘mixture’, ‘mixed’ or ‘mixed spirit drink’).

The remaining labelling conditions are the same in both cases.

**#44 - Examples of permitted labelling of mixtures corresponding to a spirit drink category:**

<p style="text-align: center;"><b><i>Liqueur</i></b></p> <p style="text-align: center;"><i>Cognac (51%) &amp; Orange liqueur (49%)</i></p>
<p style="text-align: center;"><b><i>Liqueur</i></b></p> <p style="text-align: center;"><i>Coco Cream (60%) &amp; Rhum de la Martinique (40%)</i></p>

### 4.3. Checks

Checks on the description, presentation and labelling of mixtures address the compliance with following conditions:

#### **Production:**

- 1) the final product is a spirit drink in compliance at least with the definition of Article 2 of the SDR (or with the requirements laid down in Annex I for the spirit drink category they belong to);
- 2) only distilled alcoholic components (spirit drinks, distillates of agricultural origin and ethyl alcohol of agricultural origin or a combination thereof) have been used, while other foodstuffs may only be added as ingredients to liqueurs corresponding to spirit drink category 33 of Annex I;
- 3) the spirit drink(s) referred to in the list of alcoholic ingredients comply/ies with all requirements laid down for its/their production in the relevant spirit drink category of Annex I or GI technical file/product specification, including its/their minimum alcoholic strength.

#### **Labelling:**

- 4) the legal name is ‘spirit drink’ for mixtures not corresponding to a spirit drink category laid down in Annex I or one of the legal names provided for under the spirit drink category which the mixture belong to;
- 5) other spirit drink names (categories or GIs) appear exclusively in a list of alcoholic ingredients, accompanied by a term indicating that it is a mixture (if the mixture does not belong to a spirit drink category);
- 6) the list of alcoholic ingredients and the accompanying term are to appear in the same visual field as the legal name of the mixture and are written in uniform characters of the same font and colour and in a font size which is no larger than half the font size used for the legal name;



- 7) the label displays at least once the percentage proportion of the volume of pure alcohol represented by each alcoholic ingredient in descending order of quantity used in the mixture.

## 5. BLENDS

Article 3, points (11) and (12)	Definitions
Article 13(3a)	Conditions for use and labelling provisions

### 5.1. What are blends

According to Article 3, point (12), ‘*blend*’ means a spirit drink that has undergone blending’ whereas according to Article 3, point (11), ‘*to blend*’ means to combine two or more spirit drinks of the same category that are distinguishable only by minor differences in composition due to one or more of the following factors:

- (a) the method of production;
- (b) the stills employed;
- (c) the period of maturation or ageing;
- (d) the geographical area of production;

*the spirit drink so produced belongs to the same category of spirit drinks as the original spirit drinks before blending.’*

Blends are spirit drinks resulting from the **combination of different spirit drinks belonging to the same spirit drink category**. Blends do therefore belong themselves to that same spirit drink category.

In most cases, different spirit drinks of the same category are combined to reach certain desired organoleptic properties or to guarantee uniform characteristics of a spirit drink throughout the production years.

For instance in the Scotch Whisky Industry, master blenders choose specific single malts and single grain whiskies to make particular brands of blended Scotch Whisky.

This is a common production practice, which does not raise any concerns as to the possibility to mislead consumers.

However, the definition of blends also covers the combination of spirit drinks belonging to the same category but at the same time to different geographical indications (e.g. Cognac and Armagnac) or of spirit drinks belonging to the same category, one of which is a geographical indication but not the other (e.g. Kirsch and Kirsch d’Alsace).

In order to protect the reputation of geographical indications, the legislator has extended to blends made of spirit drinks belonging to different geographical indications or belonging only in part to geographical indications analogue conditions of use and labelling rules already provided for mixtures (Article 13(3a)<sup>37</sup>).

<sup>37</sup> Introduced by Commission Delegated Regulation (EU) 2021/1096 of 21 April 2021 amending Regulation (EU) 2019/787 of the European Parliament and of the Council as regards labelling rules for blends (OJ L 238, 6.7.2021, p. 1).

## 5.2. Conditions of use and labelling provisions

Article 13(3a) provides for the general condition of use and labelling for blends.

The **legal name** will be one of the legal names provided for the spirit drink category to which the blend belongs.

Obviously, in application of Article 10(5), point (a), the legal name may be supplemented or replaced by a geographical indication for spirit drink, where all the requirements laid down in its technical file/product specification are complied with.

In the case of blends of spirit drinks belonging to different geographical indications or belonging only in part to geographical indications, following labelling rules apply:

- a) according to Article 13(3a), second subparagraph, point (a), letter (i), the names corresponding to the blended spirits drinks may appear *‘exclusively in a list of all the alcoholic ingredients contained in the blend which shall appear in uniform characters of the same font and colour and in a font size which is no larger than half the font size used for the legal name’*;
- b) according to Article 13(3a), second subparagraph, point (a), letter (ii), those names are to appear *‘in the same visual field as the legal name of the blend at least once’*;
- c) according to Article 13(3a), second subparagraph, point (b), the list of alcoholic ingredients shall be accompanied by at least one of the following terms: ‘blend’, ‘blending’, or ‘blended’; The selected term may precede or follow the list of alcoholic ingredients or be placed on another line with respect to it, as long as it appears in the same visual field as the list itself and the legal name of the blend;
- d) according to Article 13(3a), second subparagraph, point (c), the label shall display at least once the percentage proportion of the volume of pure alcohol represented by each alcoholic ingredient in descending order of quantity used in the blend.

☞ **NB:** *The above provisions aim in particular at protecting the reputation of certain geographical indications. Therefore, they do not apply to blends of spirit drinks belonging to the same GI or none of which belongs to a GI because blending is a common production process used for manufacturing certain spirit drinks and the specification of the quantity of each different spirit drink in a blend is not relevant.*

**#43 - Examples** of permitted labelling of blends of spirit drinks belonging to different geographical indications or belonging only in part to geographical indications:

***Blended Wine Spirit***

*Cognac (51%) & Armagnac (49%)*

***Whisky***

***BLEND***

*Spanish Whisky (75%) + Irish Whiskey (20%) + Canadian Whisky (5%)*

### 5.3. Checks

Checks on the description, presentation and labelling of blends address the compliance with following conditions:

**Production:**

- 1) Only spirit drinks of the same category may be combined in a blend: these are distinguishable only by minor differences in composition due to the factors listed in Article 3, point (11), of the SDR (see § 5.1 above);
- 2) the final product belongs to the same spirit drink category as the spirit drinks that are combined in the blend;

**Labelling of blends:**

- 3) the legal name is one of the legal names provided for the spirit drink category to which the blend belongs;
- 4) the legal name may be supplemented or replaced by a geographical indication for spirit drinks when all relevant conditions are met;
- 5) in the case of blends of spirit drinks belonging to different geographical indications or belonging only in part to geographical indications:
  - a. the names of the spirit drink composing the blend (categories or GIs) appear exclusively in a list of alcoholic ingredients;
  - b. the list of alcoholic ingredients appears in uniform characters of the same font and colour and in a font size which is no larger than half the font size used for the legal name;
  - c. the list of alcoholic ingredients appears at least once in the same visual field as the legal name of the blend;
  - d. the list of alcoholic ingredients is accompanied by a term indicating that it is a blend;
  - e. the label displays at least once the percentage proportion of the volume of pure alcohol represented by each alcoholic ingredient in descending order of quantity used in the blend.

## 6. OVERVIEW TABLES

### 6.1. Compound Terms (CT)

<p><b>DEFINITION:</b> Article 3, point (2)</p>	<p><b>Combination</b> (resulting in an <b>alcoholic beverage</b>) of <b>one spirit drink name</b> (category or GI) <b>with</b>:</p> <ol style="list-style-type: none"> <li>1) the name or derived adjectives of <b>one or more foodstuffs</b> (other than an alcoholic beverage and other than foodstuffs used for the production of that spirit drink), <b>and/or</b></li> <li>2) the term '<b>liqueur</b>' or '<b>cream</b>'.</li> </ol>
<p><b>CONDITIONS FOR USE:</b> Article 11</p>	<ol style="list-style-type: none"> <li>a) All the alcohol originates from the spirit drink referred to in the CT, except for alcohol present in flavourings, colours and other authorised ingredients</li> <li>b) No dilution only with water reducing the alcoholic strength below the required ABV</li> </ol>
<p><b>LABELLING REQUIREMENTS:</b> Article 11</p>	<ul style="list-style-type: none"> <li>✓ No use of terms 'alcohol', 'spirit', 'drink', 'spirit drink', 'water' in the CT</li> <li>✓ (Legal) name: <ul style="list-style-type: none"> <li>- 'spirit drink' for spirit drinks not complying with the requirements of any category,</li> <li>- compound terms combining the name of the spirit drink with the term 'liqueur' or 'cream' for spirit drink complying with the relevant requirements of category 33 of Annex I, or</li> <li>- the name of the alcoholic beverage according to the FIC Regulation, if it is not a spirit drink</li> </ul> </li> <li>✓ Display CT in a font size no larger than the font size used for the (legal) name</li> <li>✓ Display CT in uniform characters (same font, size, colour)</li> <li>✓ CT not interrupted by any textual or pictorial element not forming part of those</li> <li>✓ In case of combination resulting in a spirit drink, its legal name must always accompany the CT: both to appear in the same visual field</li> </ul>

## 6.2. Allusions

<p><b>DEFINITION:</b> Article 3, point (3)</p>	<p><b>Direct or indirect reference to one or more spirit drinks</b> (categories or GIs) in the (description,) presentation and labelling of:</p> <ol style="list-style-type: none"> <li><b>1) foodstuffs</b> other than alcoholic beverages</li> <li><b>2) alcoholic beverages</b> other than spirit drinks</li> <li><b>3) liqueurs</b> (spirit drinks of categories 33-40)</li> <li><b>4) spirit drinks other than liqueurs</b> (in limited, specific cases not qualifying as CT or mixtures)</li> </ol>
<p><b>CONDITIONS FOR USE:</b> Article 12</p>	<ol style="list-style-type: none"> <li>a) All the (added) alcohol originates from the spirit drink (except for allusions on spirit drinks' casks)</li> <li>b) <b>For spirit drink GIs only:</b> the product covered by the GI name should be used in sufficient quantity (% to be indicated on the label) to confer an essential characteristic to the foodstuff concerned (taste attributable primarily to the presence of the GI or – where impossible to prove – appropriate documentary evidence)</li> <li>c) <b>For spirit drink GIs only:</b> no other 'comparable' ingredient has been used</li> </ol>
<p><b>LABELLING REQUIREMENTS:</b> Article 12</p>	<ul style="list-style-type: none"> <li>✓ For 1) only: FIC rules apply</li> <li>✓ For 2) only: name = the name of the alcoholic beverage according to the FIC</li> <li>✓ For 3) only: legal name = 'liqueur' the legal name of the other liqueur category whose requirements it complies with + no use of the term « <i>cream</i> » in English</li> <li>✓ For 4) only: legal name = any of the names permitted by a category for spirit drinks whose requirements are complied with (legal name 'spirit drink' only allowed in case of allusions to spirit drink casks)</li> <li>✓ For 2) to 4): Allusion not on the same line as (legal) name of the alcoholic beverage + in a font size no larger than half the font size used for the (legal) name and (possible) CT (except for allusions to spirit drink casks, which may use the same font size as the legal name and possible CT)</li> <li>✓ For 3) + 4): Allusion always accompanied by the legal name of the spirit drink: both to appear in the same visual field</li> <li>✓ For 2)+ 3): List of alcoholic ingredients indicating % of alcohol in descending order at least once</li> </ul>

### 6.3. Mixtures

<b>DEFINITION:</b> Article 3, points (9) and (10)	<b>Combinations of different distilled alcoholic ingredients</b> , i.e. spirit drinks (categories or GIs), ethyl alcohol of agricultural origin and/or distillates of agricultural origin <b>resulting in:</b> <ol style="list-style-type: none"> <li>1) a <b>spirit drink</b> not belonging to a category; or</li> <li>2) a <b>spirit drink belonging to a category</b> (e.g. liqueur)</li> </ol>
<b>LABELLING REQUIREMENTS:</b> Article 13(3) and (4)	<ul style="list-style-type: none"> <li>✓ For 1 only: legal name = 'spirit drink'</li> <li>✓ For 2 only: legal name = category name</li> <li>✓ Names of spirit drinks (categories or GIs) mentioned only in a list of alcoholic ingredients in the same visual field as legal name</li> <li>✓ The list of alcoholic ingredients indicates in descending order the % of alcohol represented by each in the mixture at least once</li> <li>✓ For 1 only: indicate one of the terms 'mixture', 'mixed' or 'mixed spirit drink' where the list of alcoholic ingredients is provided</li> </ul>

### 6.4. Blends

<b>DEFINITION:</b> Article 3, points (11) and (12)	<b>Combinations of different spirit drinks belonging to the same category</b> with slight differences in: <ol style="list-style-type: none"> <li>1) production method;</li> <li>2) stills employed;</li> <li>3) maturation or ageing period; and/or</li> <li>4) geographical area of production</li> </ol>
<b>LABELLING REQUIREMENTS:</b> Article 13(3a)	<ul style="list-style-type: none"> <li>✓ Legal name = category name (which may be supplemented or replaced by the name of a GI)</li> </ul> <b>ONLY for blends of different GIs or GIs+non GIs:</b> <ul style="list-style-type: none"> <li>✓ Names of other spirit drinks (categories or GIs) only mentioned in a list of alcoholic ingredients in the same visual field as legal name at least once</li> <li>✓ Indicate one of the terms 'blend', 'blending' or 'blended' where the list of alcoholic ingredients is provided</li> <li>✓ The list of alcoholic ingredients indicates in descending order the % of alcohol represented by each in the blend at least once</li> </ul>