



Champagne vs Shampanskoe. French champagne producers are getting ready to resume supplies under the new rules for labelling alcoholic products

📅 23/09/2021 📖 INTELLECTUAL PROPERTY, RUSSIA

Alisa Pestryakova

A recent measure affecting the champagne business in Russia adopted on 02 July 2021 as an amendment to the “Law on state regulation of production and circulation of ethyl alcohol, alcohol and alcohol-containing products and on limitation of consumption of alcoholic products” (Federal Law no.171-FZ dated 22 November 1995 - “Law on alcohol products”, or “Law”) has been at the source of intense discussion, and is worth reporting.

Let us place the issue in perspective for starters.

The version of the Law previously in force enumerated “*sparkling wine (champagne)*” in the list of products defined as alcoholic products and falling

within its scope of application. The amendment changed that wording to “*sparkling wine, including Russian champagne*”. All provisions concerning this product were amended accordingly, by replacing “*sparkling wine (champagne)*” with “*sparkling wine*”.

As a result, the product commonly called champagne is mentioned in the Law only as type of sparkling wine “*Russian champagne*”. This seems to mean that all sparkling wines in all administrative and other documents falling within the scope of the Law, including customs, marketing, sales and delivery documents, will need to be named and labelled as sparkling wines. The same product produced in Russia has an option to be called and labelled as “Российское шампанское”



(Russian champagne). This provision relates to the name of the product in Russian language only and says nothing about labelling in other languages. Therefore, again according to current interpretations, also products produced outside of Russia will need to be named in all such documents as sparkling wine, not champagne.

Industry sources explained that the amendment, which came into force on 06 July 2021, makes the importation of champagne from France impossible, due to non-compliance of the accompanying documents and the product labels with the new provisions. Moreover, French companies should obtain new Russian certificates for their product (declaration of compliance with quality requirements) as “*sparkling wine*” instead of as “*champagne*” and replace the old labels in Russian language affixed to the back of the bottle with new ones stating the name of the product as “*sparkling wine*”.

The certification procedure usually takes around 2 months. Leading French brand Moët Hennessy recently announced in the Russian press that the importation of champagne to Russia, which had been suspended, will resume in the second half of September 2021.

According to information provided by the Federal Service on the Regulation of the Alcohol Market (Rosalcoholregulirovanie), in cases where the physical, chemical and other characteristics of the product do not change and still comply with the

applicable technical requirements, the certificate (declaration of compliance) can be issued under a simplified procedure just to change the name of the product, but without the need to make fresh tests (<https://fsrar.gov.ru/voprosy-i-otvety/o-nekotoryh-voprosah-primenenij-a-polozhenij-federalnogo-zakona-ot-2-ijulja-2021-g-345-fz>).

However, this unexpected measure presents certain legal issues which are not of obvious solution.

The Russian Federation is not the party to the “Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958” and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and do not afford automatic protection to appellations of origin registered outside of Russia, e.g. “*champagne*” or “*cognac*”. The relevant EU regulations restricting the use of these appellations of origin only to the product produced in the relevant region of France¹ and are not applicable in Russia.

This same issue had been raised during high level discussions preceding and following the accession of the Russian Federation to the World Trade Organization in 2012. At that time, the Russian authorities argued that the use of Russian word “шампанское” in Cyrillic characters had nothing to do with the appellation of origin or geographical indication “*champagne*”, since the

¹ Regulation (EU) 2019/1753 of the European Parliament and of the Council of 23 October 2019 on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications; Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs; 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; 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; 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; 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.

Russian word denotes the name of a wine type traditionally produced on the territory of the Russian Federation. It was also argued that the name “российское шампанское” can be used only in Russia and does not affect the protection and the use of the “*champagne*” appellation of origin in other countries.

Interestingly, Mr. Titov, the President of the “Abrau-Durso” group, which is a leading producer of sparkling wines in Russia, advised the Russian press that they were not lobbying for the amendment and do not support the existence of a “Russian champagne”. Mr. Titov declared to be happy with the principle that champagne is the product originated from the relevant region in France, and that respect for foreign appellations of origin should be shown and expected in return (see at <https://www.rbc.ru/business/08/07/2021/60e403759a79478154c2b3e7>). A representative of another Russian wine producer also commented that they intended to benefit from their own reputation, without free-riding on the fame and image of others.

It is also worthwhile noting that the new rules on alcoholic products do not affect the existing trademarks registered in Russia and comprised of word “*champagne*” or the potential registration of new such trademarks. Trademark registration and maintenance requirements and procedures are governed only by Part 4 of the Civil Code of the Russian Federation, while the restrictions affecting the naming of the product in customs, sale and delivery documents as “шампанское” (*champagne* in Russian language) do not cover the use of the word champagne in trademarks or other intellectual property rights.

Currently, there exists a vast number of trademarks owned by French companies that are protected in Russia as international registrations and contain word “*champagne*”, and very few trademarks containing word “шампанское”. Besides, the Russian equivalent word is always disclaimed from protection as a trademark.

On the other hand, champagne was never registered as an appellation of origin (AO) in Russia, as this requires a documented proof of characteristics that must be provided by the competent Russian authorities, which of course is not possible for goods produced outside of Russia.

As we previously reported (see article “Geographical indications soon registered in Russia” at <https://www.lexology.com/library/detail.aspx?g=8109ae63-17b1-4a16-88ed-3725daea1cf4>), in 2020 the Russian Federation introduced a new intellectual property right, called geographical indication (GI). According to article 1516 of the Civil Code of the Russian Federation, a GI is a sign identifying the goods originating from a certain territory, whose characteristics, including their quality or reputation, to a large extent are linked with the territory of origin. The registration requirements for GIs are less strict and extensive than those for AOs, and it might be possible for “*champagne*” to obtain protection in Russia as a GI in the future.

All in all, it seems reasonably clear that the main (front) label on a champagne bottle may still contain the word “*champagne*” and this ought not to conflict with the new rules, so that Russian consumers will still see the name French champagne, and not be misled by its absence. The back label in Russian language shall define the product according to the technical rules as a sparkling wine instead, not as “шампанское” (*champagne*).

The newly introduced amendment to the Law which we have summarily discussed, is probably an indicator that the Russian Federation is not yet ready to completely give up the tradition of the former Soviet Union to call Russian sparkling wines “шампанское”, and would like to keep the use of the Russian equivalent of the French appellation of origin at least for some more time in the future. Meanwhile, intellectual property law and regulatory law, as is frequently the case, do not talk to each other, and cause confusion among producers and consumers alike.



Alisa Pestryakova

ASSOCIATE

 a.pestryakova@dejalex.com

 +7 495 792 54 92

 Ulitsa Bolshaya Ordynka 37/4
119017 – Moscow

MILANO

Via San Paolo, 7 · 20121 Milano, Italia
T. +39 02 72554.1 · F. +39 02 72554.400
milan@dejalex.com

ROMA

Via Vincenzo Bellini, 24 · 00198 Roma, Italia
T. +39 06 809154.1 · F. +39 06 809154.44
rome@dejalex.com

BRUXELLES

Chaussée de La Hulpe 187 · 1170 Bruxelles, Belgique
T. +32 (0)26455670 · F. +32 (0)27420138
brussels@dejalex.com

MOSCOW

Ulitsa Bolshaya Ordynka 37/4 · 119017, Moscow, Russia
T. +7 495 792 54 92 · F. +7 495 792 54 93
moscow@dejalex.com

