

COMMISSION DECISION

of 12 January 2006

concerning an application for registration in the 'Register of protected designations of origin and protected geographical indications' provided for in Council Regulation (EEC) No 2081/92 (*Choucroute d'Alsace*) (PGI)

(notified under document number C(2006) 5)

(Only the French text is authentic)

(2006/15/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and food-stuffs ⁽¹⁾, and in particular Article 7(5)(b) thereof,

Whereas:

- (1) In accordance with Article 6(2) of Regulation (EEC) No 2081/92, the request from France to register the name *Choucroute d'Alsace* has been published in the *Official Journal of the European Union* ⁽²⁾.
- (2) Germany has objected to the registration in accordance with Article 7(1) of Regulation (EEC) No 2081/92. Its statement of objection covers non-compliance with the conditions laid down in Article 2 of that Regulation, the possible threat to the existence of a product which was legally on the market for at least five years preceding the date of the publication provided for in Article 6(2) and the generic nature of the name for which registration has been requested.
- (3) Since the statement of objection was deemed admissible within the meaning of Article 7(4) of Regulation (EEC) No 2081/92, the Commission, by letter of 12 November 2004, requested France and Germany to seek agreement between themselves in accordance with their internal procedures, pursuant to Article 7(5) of that Regulation. However, no agreement was reached between those Member States within a period of three months, as a consequence of which the Commission must take a decision.

- (4) As regards non-compliance with the conditions laid down in Article 2 of Regulation (EEC) No 2081/92, the statement of objection challenges the claim that the *choucroute* possesses a specific quality due to factors allegedly peculiar to Alsace, namely the maturity of the cabbage, which is attributed to the climate and the characteristics of the soil in Alsace, the natural fermentation method and the know-how of the small family firms. The types of soil are described in the application for registration as deep, rich and well-drained. The semi-continental climate of the production area is marked by high temperatures in summer and sunny days alternating with cool nights in late autumn. However, such climate and soil conditions prevail in other regions where cabbages are grown and they are not, therefore, specific according to Article 2(2)(b). As regards the fermentation process, the specifications contain no elements which allow it to be described as 'natural' or to attribute it to the Alsace region alone. The specific quality or a particular characteristic of *choucroute* cannot, therefore, be based on such elements.

- (5) As regards the reputation of the name *Choucroute d'Alsace*, the elements of proof contained in the application for registration basically refer to *choucroute garnie* (*choucroute* cooked and served with meat). Those elements thus refer to a cooked dish, which is a product falling outside the scope of Regulation (EEC) No 2081/92. As regards the reputation of raw *choucroute*, the specifications and the proof provided do not make it possible to establish a specific reputation for *choucroute* that is independent of the reputation attributed to it as a cooked dish served with meat.

- (6) In the light of those elements, the name does not meet the conditions laid down in Article 2(2)(b) of Regulation (EEC) No 2081/92. Consequently, it is not necessary to examine whether the name *Choucroute d'Alsace* has a generic character in accordance with the criteria laid down in Article 3(1) of Regulation (EEC) No 2081/92.

⁽¹⁾ OJ L 208, 24.7.1992, p. 1. Regulation as last amended by the 2003 Act of Accession.

⁽²⁾ OJ C 206, 2.9.2003, p. 2.

- (7) The name *Choucroute d'Alsace* should not therefore be entered in the 'Register of protected designations of origin and protected geographical indications'.

(8) The measure provided for in this Regulation is in accordance with the opinion of the Regulatory Committee on the Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foodstuffs,

geographical indications' provided for in Council Regulation (EEC) No 2081/92.

Article 2

This Decision is addressed to the French Republic.

HAS ADOPTED THIS DECISION:

Done at Brussels, 12 January 2006.

Article 1

The name *Choucroute d'Alsace* shall not be entered in the 'Register of protected designations of origin and protected

For the Commission
Mariann FISCHER BOEL
Member of the Commission
