

Commission regulation (EC) No 607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (repealed)

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject matter

This Regulation lays down detailed rules for the implementation of Title III of Regulation (EC) No 479/2008 as regards in particular:

- (a) the provisions contained in Chapter IV of that Title which relate to protected designations of origin and geographical indications of the products referred to in Article 33(1) of Regulation (EC) No 479/2008;
- (b) the provisions contained in Chapter V of that Title which relate to the traditional terms of the products referred to in Article 33(1) of Regulation (EC) No 479/2008;
- (c) the provisions contained in Chapter VI of that Title which relate to the labelling and presentation of certain wine sector products.

CHAPTER II

PROTECTED DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS

SECTION 1

Application for protection

Article 2

Applicant

1 A single producer may be an applicant within the meaning of Article 37(1) of Regulation (EC) No 479/2008 if it is shown that:

- a the person in question is the only producer in the demarcated geographical area; and
- b where the relevant demarcated geographical area is surrounded by areas with designations of origin or geographical indications, this relevant area possesses features which are substantially different from those of the surrounding demarcated areas or characteristics of the product differ from those of the products obtained in the surrounding demarcated areas.

2 A Member State or third country, or the respective authorities thereof shall not be an applicant within the meaning of Article 37 of Regulation (EC) No 479/2008.

Article 3

Application for protection

An application for protection shall consist of the documents required under Articles 35 or 36 of Regulation (EC) No 479/2008, and an electronic copy of the product specification and the single document.

An application for protection, as well as the single document, shall be drawn up in accordance with the models set out in Annexes I and II respectively to this Regulation.

Article 4

Name

1 The name to be protected shall be registered only in the language(s) used to describe the product in question in the demarcated geographical area.

2 The name shall be registered with its original spelling(s).

Article 5

Demarcation of the geographical area

The area shall be demarcated in a detailed, precise and unambiguous manner.

Article 6

Production in the demarcated geographical area

1 For the purpose of application of Article 34(1)(a)(iii) and (b)(iii) of Regulation (EC) No 479/2008 and of this Article ‘*production*’ covers all the operations involved, from the harvesting of the grapes to the completion of the wine-making process, with the exception of any post-production processes.

2 For products with a protected geographical indication, the portion of grapes, of up to 15 %, which may originate outside the demarcated geographical area as provided for in Article 34(1)(b)(ii) of Regulation (EC) No 479/2008, shall come from the Member State or third country concerned in which the demarcated area lies.

3 By way of derogation from Article 34(1)(a)(ii) of Regulation (EC) No 479/2008, Annex III, Part B, paragraph 3 of Commission Regulation (EC) No 606/2009⁽¹⁾ on wine-making practices and restrictions applies.

4 By way of derogation from Article 34(1)(a)(iii) and (1)(b)(iii) of Regulation (EC) No 479/2008, and on condition that the product specification so provides, a product with a protected designation of origin or geographical indication may be made into wine either:

- a in an area in the immediate proximity of the demarcated area concerned; or

- b in an area located within the same administrative unit or within a neighbouring administrative unit, in conformity with national rules; or
- c in the case of a trans-border designation of origin or geographical indication, or where an agreement on control measures exists between two or more Member States or between one or more Member State(s) and one or more third country(-ies), a product with a protected designation of origin or geographical indication may be made into wine in an area situated in the immediate proximity of the demarcated area in question.

By way of derogation from Article 34(1)(b)(iii) of Regulation (EC) No 479/2008, and on condition that the product specification so provides, wines with a protected geographical indication may continue to be made into wine beyond the immediate proximity of the demarcated area in question until 31 December 2012.

By way of derogation from Article 34(1)(a)(iii) of Regulation (EC) No 479/2008, and on condition that the product specification so provides, a product may be made into sparkling wine or semi-sparkling wine with a protected designation of origin beyond the immediate proximity of the demarcated area in question if this practice was in use prior to 1 March 1986.

Article 7

Link

1 The details bearing out the geographical link referred to in Article 35(2)(g) of Regulation (EC) No 479/2008 shall explain to what extent the features of the demarcated geographical area influence the final product.

In case of applications covering different categories of grapevine products, the details bearing out the link shall be demonstrated for each of the grapevine products concerned.

- 2 In the case of a designation of origin, the product specification shall set out:
 - a details of the geographical area, and in particular natural and human factors, relevant to the link;
 - b details of the quality or characteristics of the product essentially or exclusively attributable to the geographical environment;
 - c a description of the causal interaction between the details referred to in point (a) and those referred to in point (b).
- 3 In the case of a geographical indication, the product specification shall set out:
 - a details of the geographical area relevant to the link;
 - b details of the quality, reputation or other specific characteristics of the product attributable to its geographical origin;
 - c a description of the causal interaction between the details referred to in point (a) and those referred to in point (b).
- 4 The product specification for a geographical indication shall state whether it is based on a specific quality or reputation or other characteristics linked to its geographical origin.

Article 8

Packaging in the demarcated geographical area

If a product specification indicates that packaging of the product must take place within the demarcated geographical area or in an area in the immediate proximity of the demarcated area in question, in accordance with a requirement referred to in Article 35(2)(h) of Regulation (EC) No 479/2008, justification for this requirement shall be given in respect of the product concerned.

SECTION 2

Commission examination procedure

Article 9

Receipt of the application

1 The application shall be submitted to the Commission in paper or electronic form. The date of submission of an application to the Commission shall be the date on which the application is entered in the Commission's mail registry. This date is made available to the public by appropriate means.

2 The Commission shall mark the documents making up the application with the date of receipt and the file number allocated to the application.

The Member State or the third-country authorities or the applicant established in the third country in question shall receive an acknowledgement of receipt indicating at least the following:

- a the file number;
- b the name to be registered;
- c the number of pages received; and
- d the date of receipt of the application.

Article 10

Submission of a trans-border application

1 In the case of a trans-border request, a joint application may be submitted for a name designating a trans-border geographical area by more than one group of producers representing that area.

2 Where only Member States are concerned, the preliminary national procedure referred to in Article 38 of Regulation (EC) No 479/2008 applies in all the Member States concerned.

For the purposes of application of Article 38(5) of Regulation (EC) No 479/2008, a trans-border application shall be forwarded to the Commission by one Member State on behalf of the others, and shall include an authorisation from each of the other Member States concerned authorising the Member State forwarding the application to act on its behalf.

Status: This is the original version (as it was originally adopted).

3 Where a trans-border application involves only third countries, the application shall be forwarded to the Commission either by one of the applicant groups on behalf of the others or by one of the third countries on behalf of the others and shall include:

- a the elements proving that the conditions laid down in Articles 34 and 35 of Regulation (EC) No 479/2008 are fulfilled;
- b the proof of protection in the third countries concerned; and
- c an authorisation as referred to in paragraph 2 from each of the other third countries concerned.

4 Where a trans-border application involves at least one Member State and at least one third country, the preliminary national procedure referred to in Article 38 of Regulation (EC) No 479/2008 applies in all the Member States concerned. The application shall be forwarded to the Commission by one of the Member States or third countries or by one of the third-country applicant groups and shall include:

- a the elements proving that the conditions laid down in Articles 34 and 35 of Regulation (EC) No 479/2008 are fulfilled;
- b the proof of protection in the third countries concerned; and
- c an authorisation as referred to in paragraph 2 from each of the other Member States or third countries concerned.

5 The Member State, third countries or groups of producers established in third countries which forwards to the Commission a trans-border application as referred to in paragraphs 2, 3 and 4 of this Article, becomes the consignee of any notification or decision issued by the Commission.

Article 11

Admissibility

1 For the purposes of determining whether an application for protection is admissible, the Commission shall verify that the application for registration set out in Annex I has been completed and that the supporting documents have been attached to the application.

2 Any application for registration that is deemed admissible shall be notified to the Member State or the third-country authorities or the applicant established in the third country in question.

If the application has not been completed or has only been partially completed, or if the supporting documents referred to in paragraph 1 have not been produced at the same time as the application for registration or some are missing, the Commission shall inform the applicant accordingly and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the application as inadmissible. The decision on inadmissibility shall be notified to the Member State or the third-country authorities or the applicant established in the third country in question.

Article 12

Scrutiny of the conditions of validity

1 If an admissible application for the protection of a designation of origin or geographical indication does not meet the requirements laid down in Articles 34 and 35 of

Regulation (EC) No 479/2008, the Commission shall inform the Member State or the third-country authorities or the applicant established in the third country in question of the grounds for refusal, setting a deadline for the withdrawal or amendment of the application or for the submission of comments.

2 If the obstacles to registration are not remedied by the Member State or third-country authorities or the applicant established in the third country in question within the deadline, the Commission shall reject the application in accordance with Article 39(3) of Regulation (EC) No 479/2008.

3 Any decision to reject the designation of origin or geographical indication concerned shall be taken by the Commission on the basis of the documents and information available to it. Such decision on rejection shall be notified to the Member State or the third-country authorities or the applicant established in the third country in question.

SECTION 3

Objection procedures

Article 13

National objection procedure in case of trans-border applications

For the purposes of Article 38(3) of Regulation (EC) No 479/2008 where a trans-border application involves only Member States or at least one Member State and at least one third country, the objection procedure shall be applied in all the Member States concerned.

Article 14

Submission of objections under Community procedure

1 Objections referred to in Article 40 of Regulation (EC) No 479/2008 shall be drawn up on the basis of the form set out in Annex III to this Regulation. The objection shall be submitted to the Commission in paper or electronic form. The date of submission of the objection to the Commission shall be the date on which the objection is entered in the Commission's mail registry. This date is made available to the public by appropriate means.

2 The Commission shall mark the documents making up the objection with the date of receipt and the file number allocated to the objection.

The objector shall receive an acknowledgement of receipt indicating at least the following:

- a the file number;
- b the number of pages received; and
- c the date of receipt of the request.

Article 15

Admissibility under Community procedure

1 For the purposes of determining whether an objection is admissible, in accordance with Article 40 of Regulation (EC) No 479/2008, the Commission shall verify that the objection mentions the prior right(s) claimed and the ground(s) for the objection and was received by the Commission within the deadline.

2 If the objection is based on the existence of an earlier trademark of reputation and renown, in accordance with Article 43(2) of Regulation (EC) No 479/2008, the objection shall be accompanied by proof of the filing, registration or use of that earlier trademark, such as the certificate of registration or proof of its use, and proof of its reputation and renown.

3 Any duly substantiated objection shall contain details of the facts, evidence and comments submitted in support of the objection, accompanied by the relevant supporting documents.

The information and evidence to be produced in support of the use of an earlier trademark shall comprise particulars of the location, duration, extent and nature of the use made of the earlier trademark, and of its reputation and renown.

4 If the details of the prior right(s) claimed, ground(s), facts, evidence or comments, or the supporting documents, as referred to in paragraphs 1 to 3, have not been produced at the same time as the objection or if some are missing, the Commission shall inform the opponent accordingly and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the objection as inadmissible. The decision on inadmissibility shall be notified to the objector and to the Member State or the third-country authorities or the applicant established in the third country in question.

5 An objection that is deemed admissible shall be notified to the Member State or the third-country authorities or the applicant established in the third country in question.

Article 16

Scrutiny of an objection under Community procedure

1 If the Commission has not rejected the objection in accordance with Article 15(4), it shall communicate the objection to the Member State or the third-country authorities or the applicant established in the third country in question and shall invite him to file observations within two months from the issuance date of such communication. Any observations received within this two months period shall be communicated to the objector.

In the course of the scrutiny of an objection, the Commission shall request the parties to submit comments, if appropriate, within a period of two months from the issuance date of such request, on the communications received from the other parties.

2 If the Member State or the third-country authorities or the applicant established in the third country in question or the objector files no observations in response, or does not respect the time periods, the Commission gives a ruling on the opposition.

3 Any decision to reject or register the designation of origin or geographical indication concerned shall be taken by the Commission on the basis of the evidence available to it. The decision on rejection shall be notified to the objector and to the Member State or the third-country authorities or the applicant established in the third country in question.

4 In the event of multiple objectors, following a preliminary examination of one or more such objections, it may not be possible to accept the application for registration; in such cases, the Commission may suspend the other objection procedures. The Commission shall inform the other objectors of any decision affecting them which was taken in the course of the procedure.

Where an application is rejected, objection procedures which have been suspended shall be deemed to be closed and the objectors concerned shall be duly informed.

SECTION 4

Protection

Article 17

Decision on protection

1 Unless applications for protection of designations of origin or geographical indications are rejected pursuant to Articles 11, 12, 16 and 28, the Commission shall decide to protect the designations of origin or geographical indications.

2 Decisions on protection taken pursuant to Article 41 of Regulation (EC) No 479/2008 shall be published in the *Official Journal of the European Union*.

Article 18

Register

1 The Commission shall maintain the 'Register of protected designations of origin and protected geographical indications' as provided for in Article 46 of Regulation (EC) No 479/2008, hereinafter referred to as 'the Register'.

2 A designation of origin or geographical indication which has been accepted shall be entered in the Register.

In the case of names registered under Article 51(1) of Regulation (EC) No 479/2008, the Commission shall enter in the Register the data provided for in paragraph 3 of this Article, with the exception of that of point (f).

3 The Commission shall enter the following data in the Register:

- a registered name of the product(s);
- b record of the fact that the name is protected as a geographical indication or designation of origin;
- c name of the country or countries of origin;
- d date of registration;
- e reference to the legal instrument registering the name;
- f reference to the single document.

Article 19

Protection

1 Protection of a designation of origin or geographical indication shall run from the date on which it is entered in the Register.

2 In the event of unlawful use of a protected designation of origin or geographical indication, the competent authorities of the Member States shall on their own initiative, pursuant to Article 45(4) of Regulation (EC) No 479/2008, or at the request of a party, take the steps necessary to stop such unlawful use and to prevent any marketing or export of the products at issue.

3 The protection of a designation of origin or geographical indication shall apply to the whole denomination including its constitutive elements provided they are distinctive in themselves. A non-distinctive or generic element of a protected designation of origin or geographical indication shall not be protected.

SECTION 5

Amendments and cancellation

Article 20

Amendment to the product specification or single document

1 An application for approval of amendments to the product specification submitted by an applicant as referred to in Article 37 of Regulation (EC) No 479/2008 of a protected designation of origin or geographical indication shall be drawn up in accordance with Annex IV to this Regulation.

2 For the purposes of determining whether an application for the approval of amendments to the product specification pursuant to Article 49(1) of Regulation (EC) No 479/2008 is admissible, the Commission shall verify that it has been sent the information required under Article 35(2) of that Regulation and a completed application as referred to in paragraph 1 of this Article.

3 For the purposes of the application of Article 49(2), first sentence, of Regulation (EC) No 479/2008, Articles 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 of this Regulation shall apply *mutandis mutadis*.

4 An amendment is considered to be minor if:

- a it does not relate the essential characteristics of the product;
- b it does not alter the link;
- c it does not include a change in the name or any part of the name of the product;
- d it does not affect the demarcated geographical area;
- e it does not entail any further restrictions on the marketing of the product.

5 Where the application for approval of amendments to the product specification is submitted by an applicant other than the initial applicant, the commission shall communicate the application to the initial applicant.

6 Where the Commission decides to accept an amendment to the product specification that affects or comprises an amendment to the information recorded in the Register, it shall delete the original data from the Register and enter the new data with effect from the date on which the relevant decision takes effect.

Article 21

Submission of a request of cancellation

1 A request of cancellation pursuant to Article 50 of Regulation (EC) No 479/2008 shall be drawn up in accordance with the form set out in Annex V to this Regulation. The request of cancellation shall be submitted to the Commission in paper or electronic form. The date of submission of the request of cancellation to the Commission shall be the date on which the request is entered in the Commission's mail registry. That date is made available to the public by appropriate means.

2 The Commission shall mark the documents making up the request for cancellation with the date of receipt and the file number allocated to the request of cancellation.

The author of the request of cancellation shall receive an acknowledgement of receipt indicating at least:

- a the file number;
- b the number of pages received; and
- c the date of receipt of the request.

3 Paragraphs 1 and 2 do not apply when the cancellation is initiated by the Commission.

Article 22

Admissibility

1 For the purposes of determining whether a request of cancellation is admissible, in accordance with Article 50 of Regulation (EC) No 479/2008, the Commission shall verify that the request:

- a mentions the legitimate interest, the reasons and justification of the author of the request of cancellation;
- b explains the ground for cancellation; and
- c refers to a statement from the Member State or third country where the residence or registered office of the author of the request is located supporting the request for cancellation.

2 Any request for cancellation shall contain details of the facts, evidence and comments submitted in support of the cancellation, accompanied by the relevant supporting documents.

3 If detailed information concerning the grounds, facts, evidence and comments, as well as the supporting documents referred to in paragraphs 1 and 2, have not been produced at the same time as the request of cancellation, the Commission shall inform the author of the request of cancellation accordingly and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the request as inadmissible. The decision on inadmissibility shall be notified to the author of the request of cancellation and to the Member State or the third-country authorities or the author of the request of cancellation established in the third country in question.

4 Any request of cancellation that is deemed admissible, as well as a Commission own-initiative cancellation procedure, shall be notified to the Member State or the third-country authorities or the applicants established in the third country whose designation of origin or geographical indication is affected by the cancellation.

Article 23

Scrutiny of a cancellation

1 If the Commission has not rejected the request of cancellation in accordance with Article 22(3), it shall communicate the cancellation to the Member State or the third-country authorities or the producers concerned established in the third country in question and shall invite him to file observations within two months from the issuance date of such communication. Any observations received within this two months period shall be communicated, where applicable, to the author of the request of cancellation.

In the course of the scrutiny of a cancellation, the Commission shall request the parties to submit comments, if appropriate, within a period of two months from the issuance date of such request, on the communications received from the other parties.

2 If the Member State or the third-country authorities or the applicant established in the third country in question or the author of a request of cancellation files no observations in response, or does not respect the time periods, the Commission decides upon the cancellation.

3 Any decision to cancel the designation of origin or geographical indication concerned shall be taken by the Commission on the basis of the evidence available to it. It shall consider whether compliance with the product specification for a wine sector product covered by a protected designation of origin or geographical indication is no longer possible or can no longer be guaranteed, particularly if the conditions laid down in Article 35 of Regulation (EC) No 479/2008 are no longer fulfilled or may no longer be fulfilled in the near future.

Such decision on cancellation shall be notified to the author of the request of cancellation and to the Member State or the third-country authorities or the applicant established in the third country in question.

4 In the event of multiple requests of cancellation, following a preliminary examination of one or more such requests of cancellation, it may not be possible to accept to continue to protect a designation of origin or geographical indication, in which case the Commission may suspend the other cancellation procedures. In this case the Commission shall inform the other authors of the requests of cancellation of any decision affecting them which was taken in the course of the procedure.

Where a protected designation of origin or geographical indication is cancelled, cancellation procedures which have been suspended shall be deemed to be closed and the authors of the request of cancellation concerned shall be duly informed.

5 When a cancellation takes effect, the Commission shall delete the name from the Register.

SECTION 6

Checks

Article 24

Declaration by operators

Each operator wishing to participate in all or part of the production or packaging of a product with a protected designation of origin or geographical indication shall be declared to the competent control authority referred to in Article 47 of Regulation (EC) No 479/2008.

Article 25

Annual verification

1 The annual verification carried out by the competent control authority as referred to in Article 48(1) of Regulation (EC) No 479/2008 shall consist of:

- a an organoleptic and analytical testing for products covered by a designation of origin;
- b either analytical testing only or both organoleptic and analytical testing for products covered by a geographical indication; and
- c a check on the conditions set out in the product specification.

The annual verification shall be conducted in the Member State in which production took place in accordance with the product specification and shall be carried out either through:

- a random checks based on a risk analysis; or
- b sampling; or
- c systematically.

In the case of random checks, Member States shall select the minimum number of operators to be subjected to those checks.

In the case of sampling, Member States shall ensure that by their number, nature and frequency of controls, they are representative of the whole of the demarcated geographical area concerned and correspond to the volume of wine-sector products marketed or held with a view to their marketing.

Random checks may be combined with sampling.

2 The testing referred to in paragraph 1, first subparagraph, points (a) and (b) shall be performed on anonymous samples, demonstrate that the product tested complies with the characteristics and qualities described in the product specification for the relevant designation of origin or geographical indication, and be carried out at any stage in the production process, including even the packaging stage, or later. Each sample taken shall be representative of the relevant wines held by the operator.

3 For the purposes of checking compliance with the product specification referred to in paragraph 1, first subparagraph, point (c), the control authority shall check:

- a the premises of operators, consisting in checking that the operators are actually able to meet the conditions laid down in the product specification; and

- b the products at any stage of the production process, including the packaging stage, on the basis of an inspection plan which is drawn up in advance by the control authority and of which operators are aware, covering every stage of production of the product.

4 The annual verification shall ensure that a product cannot use the protected designation of origin or geographical indication relating to it unless:

- a the results of the testing referred to in paragraph 1, subparagraph 1, points (a) and (b) and in paragraph 2 prove that the product in question complies with the limit values and possesses all the appropriate characteristics of the designation of origin or geographical indication concerned;
- b the other conditions listed in the product specification are met in accordance with the procedures laid down in paragraph 3.

5 Any product failing to meet the conditions set out in this Article may be placed on the market, but without the relevant designation of origin or geographical indication, provided that the other legal requirements are satisfied.

6 In the case of a protected trans-border designation of origin or geographical indication, the verification may be performed by a control authority of either of the Member States affected by this designation of origin or geographical indication.

7 In the case where annual verification is carried out at the packaging stage of the product in the territory of a Member State which is not the Member State where the production took place, Article 84 of Commission Regulation (EC) No 555/2008⁽²⁾ applies.

8 Paragraphs 1 to 7 apply to wines bearing a designation of origin or a geographical indication, whose designation of origin or geographical indication concerned meet the requirements as referred to in Article 38(5) of Regulation (EC) No 479/2008.

Article 26

Analytical and organoleptic testing

The analytical and organoleptic testing referred to in the first subparagraph of paragraph 1 under (a) and (b) of Article 25 consists of:

- (a) an analysis of the wine in question measuring the following characteristic properties:
 - (i) determined on the basis of a physical and chemical analysis:
 - total and actual alcoholic strength,
 - total sugars expressed in terms of fructose and glucose (including any sucrose, in the case of semi-sparkling and sparkling wines),
 - total acidity,
 - volatile acidity,
 - total sulphur dioxide;
 - (ii) determined on the basis of an additional analysis:
 - carbon dioxide (semi-sparkling and sparkling wines, excess pressure in bar at 20 °C),
 - any other characteristic properties provided for in Member States legislation or product specifications of protected designations of origin and geographical indications concerned;
- (b) an organoleptic test covering visual appearance, odour and taste.

Article 27

Checks on products originating in third countries

If third country's wines benefit from the protection of a protected designation of origin or geographical indication, the third country concerned shall send the Commission, at its request, information on the competent authorities referred to in Article 48(2) of Regulation (EC) No 479/2008 and on the aspects covered by the check, as well as proof that the wine in question fulfils the conditions of the relevant designation of origin or geographical indication.

SECTION 7

Conversion into a geographical indication

Article 28

Request

1 A Member State or third country authority or the applicant established in the third country in question may request the conversion of a protected designation of origin into a protected geographical indication if the compliance with the product specification of a protected designation of origin is no longer possible or can no longer be guaranteed.

The request for conversion submitted to the Commission shall be drawn up in accordance with the model set out in Annex VI to this Regulation. The request for conversion shall be submitted to the Commission in paper or electronic form. The date of submission of the request for conversion to the Commission is the date on which the request is entered in the Commission's mail registry.

2 If the request for conversion into a geographical indication does not meet the requirements laid down in Articles 34 and 35 of Regulation (EC) No 479/2008, the Commission shall inform the Member State or the third-country authorities or the applicant established in the third country in question of the grounds for refusal, and shall invite him to withdraw or amend the request or submit comments within a period of two months.

3 If the obstacles to the conversion into a geographical indication are not remedied by the Member State or third-country authorities or the applicant established in the third country in question before the time limit expires, the Commission shall reject the request.

4 Any decision to reject the conversion request shall be taken by the Commission on the basis of the documents and information available to it. Such decision on rejection shall be notified to the Member State or the third-country authorities or the applicant established in the third country in question.

5 Articles 40 and 49(1) of Regulation (EC) No 479/2008 shall not apply.

CHAPTER III

TRADITIONAL TERMS

SECTION 1

Application

Article 29

Applicants

1 Competent authorities of Member States or third countries or representative professional organisations established in third countries may submit to the Commission an application for protection of traditional terms within the meaning of Article 54(1) of Regulation (EC) No 479/2008.

2 ‘*Representative professional organisation*’ shall mean any producer organisation or association of producer organisations having adopted the same rules, operating in a given or more wine designation of origin or geographical indication area(s) where it includes in its membership at least two thirds of the producers in the designation of origin or geographical indication area(s) in which it operates and accounts for at least two thirds of that areas’ production. A representative professional organisation may lodge an application for protection only for wines which it produces.

Article 30

Application for protection

1 The application for protection of a traditional term shall conform to the model set out in Annex VII and shall be accompanied by a copy of the rules regulating the use of the term concerned.

2 In case of an application filed by a representative professional organisation established in a third country, the details of the representative professional organisation shall also be communicated. This information, including relevant details of members of the representative professional organisation, as appropriate, is listed in Annex XI.

Article 31

Language

1 The term to be protected shall be either:

- a in the official language(s), regional language(s) of the Member State or third country where the term originates; or
- b in the language used in commerce for this term.

The term used in a certain language shall refer to specific products referred to in Article 33(1) of Regulation (EC) No 479/2008.

2 The term shall be registered with its original spelling(s).

Article 32

Rules on traditional terms of third countries

1 Article 54(1) of Regulation (EC) No 479/2008 applies *mutatis mutandis* to terms traditionally used in third countries in connection with wine sector products with geographical indications of the third countries concerned.

2 Wines originating in third countries whose labels bear traditional indications other than the traditional terms listed in Annex XII, may use these traditional indications on wine labels in accordance with the rules applicable in the third countries concerned, including those emanating from representative professional organisations.

SECTION 2

Examination procedure

Article 33

Filing of the application

The Commission shall mark the documents making up the application with the date of its receipt and the file number of the application. The application shall be submitted to the Commission in paper or electronic form. The date of submission of the application to the Commission shall be the date on which the application is entered in the Commission's mail registry. This date and the traditional term are made available to the public by appropriate means.

The applicant shall receive an acknowledgement of receipt indicating at least:

- (a) the file number;
- (b) the traditional term;
- (c) the number of the documents received; and
- (d) the date of their receipt.

Article 34

Admissibility

The Commission verifies that the application form is fully completed and is accompanied by the requested documentation as provided for in Article 30.

If the application form is incomplete or the documentation is missing or incomplete, the Commission shall inform the applicant accordingly and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the application as inadmissible. The decision on inadmissibility shall be notified to the applicant.

Article 35

Conditions of validity

- 1 The recognition of a traditional term shall be accepted if:
 - a it fulfils the definition as laid down in Article 54(1)(a) or (b) of Regulation (EC) No 479/2008 and the conditions laid down in Article 31 of this Regulation;
 - b the term exclusively consists of either:
 - (i) a name traditionally used in commerce in a large part of the territory of the Community or of the third country concerned, to distinguish specific categories of grapevine products referred to in Article 33(1) of Regulation (EC) No 479/2008; or
 - (ii) a reputed name traditionally used in commerce in at least the territory of the Member State or third country concerned, to distinguish specific categories of grapevine products referred to in Article 33(1) of Regulation (EC) No 479/2008;
 - c the term shall:
 - (i) not be generic;
 - (ii) be defined and regulated in the Member State's legislation; or
 - (iii) be subject to conditions of use as provided for by rules applicable to wine producers in the third country concerned, including those emanating from representative professional organisations.
- 2 For the purpose of paragraph (1), point (b), traditional use means:
 - a at least five years in case of terms filed in language(s) referred to in Article 31(a) of this Regulation;
 - b at least 15 years in case of terms filed in a language referred to in Article 31(b) of this Regulation.
- 3 For the purpose of paragraph (1), point (c)(i), 'generic' means the name of a traditional term although it relates to a specific production method or ageing method, or the quality, colour, type of place, or a particular linked to the history of a grapevine product, has become the common name of the grapevine product in question in the Community.
- 4 The condition listed in paragraph 1(b) of this Article does not apply to traditional terms referred to in Article 54(1)(a) to Regulation (EC) No 479/2008.

Article 36

Grounds for refusal

1 If an application for a traditional term does not meet the definition laid down in Article 54(1) of Regulation (EC) No 479/2008 and the requirements laid down in Articles 31 and 35, the Commission shall inform the applicant of the grounds for refusal, setting a deadline of two months from the issuance date of such communication, for the withdrawal or amendment of the application or for the submission of comments.

The Commission shall decide on the protection based on the information available to it.

2 If the obstacles are not remedied by the applicant within the deadline referred to in paragraph 1, the Commission shall reject the application. Any decision to reject the traditional term concerned shall be taken by the Commission on the basis of the documents and information available to it. Such decision on rejection shall be notified to the applicant.

SECTION 3

Objection procedures

Article 37

Submission of a request of objection

1 Within two months from the date of publication provided for in the first sub-paragraph of Article 33, any Member State or third country, or any natural or legal person having a legitimate interest may object to the proposed recognition by lodging a request of objection.

2 The request of objection shall be drawn up on the basis of the form set out in Annex VIII and shall be submitted to the Commission in paper or electronic form. The date of submission of the request of objection to the Commission is the date on which the request is entered in the Commission's mail registry.

3 The Commission shall mark the documents making up the request of objection with the date of receipt and the file number allocated to the request of objection.

The objector shall receive an acknowledgement of receipt indicating at least the following:

- a the file number;
- b the number of pages received; and
- c the date of receipt of the request.

Article 38

Admissibility

1 For the purposes of determining whether an objection is admissible, the Commission shall verify that the request of objection mentions the prior right(s) claimed and the ground(s) for the objection and was received by the Commission within the deadline provided for in the first paragraph of Article 37.

2 If the objection is based on the existence of an earlier trademark of reputation and renown, in accordance with Article 41(2), the request of objection shall be accompanied by proof of the filing, registration or use of that earlier trademark, such as the certificate of registration and proof of its reputation and renown.

3 Any duly substantiated request of objection shall contain details of the facts, evidence and comments submitted in support of the objection, accompanied by the relevant supporting documents.

The information and evidence to be produced in support of the use of an earlier trademark shall comprise particulars of the location, duration, extent and nature of the use made of the earlier trademark, and of its reputation and renown.

4 If the details of the prior right(s) claimed, ground(s), facts, evidence or comments, or the supporting documents, as referred to in paragraphs 1 to 3, have not been produced at the same time as the request of objection or if some are missing, the Commission shall inform the opponent accordingly and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the request as inadmissible. The decision on inadmissibility shall be notified to the objector and to the Member State or the third-country authorities or the representative professional organisation established in the third country in question.

5 Any request of objection that is deemed admissible shall be notified to the Member State or the third-country authorities or the representative professional organisation in the third country in question.

Article 39

Scrutiny of an objection

1 If the Commission has not rejected the request of opposition in accordance with Article 38(4), it shall communicate the objection to the Member State or the third-country authorities or the representative professional organisation established in the third country in question and shall invite him to file observations within two months from the issuance date of such communication. Any observations received within this two months period shall be communicated to the objector.

In the course of its scrutiny of an objection, the Commission shall request the parties to submit comments, if appropriate, within a period of two months from the issuance date of such request, on the communications received from the other parties.

2 If the Member State or the third-country authorities or the representative professional organisation established in the third country in question or the objector files no observations in response, or does not respect the time periods, the Commission gives ruling on the opposition.

3 Any decision to reject or recognise the traditional term concerned shall be taken by the Commission on the basis of the evidence available to it. It shall consider whether the conditions referred to in Article 40(1), or laid down in Articles 41(3) or 42 are not fulfilled. The decision on rejection shall be notified to the objector and to the Member State or the third-country authorities or the representative professional organisation established in the third country in question.

4 In the event of multiple requests of objection, following a preliminary examination of one or more such requests of objection, it may not be possible to accept the application for recognition; in such cases, the Commission may suspend the other objection procedures. The Commission shall inform the other objectors of any decision affecting them which was taken in the course of the procedure.

Where an application is rejected, objection procedures which have been suspended shall be deemed to be closed and the objectors concerned shall be duly informed.

SECTION 4

Protection

Article 40

General protection

1 If an application satisfies the conditions laid down in Article 54(1) of Regulation (EC) No 479/2008 and in Articles 31 and 35 and is not rejected under Articles 38 and 39, the traditional term shall be listed in Annex XII to this Regulation.

2 The traditional terms listed in Annex XII, are protected only in the language and for the categories of grapevine products claimed in the application, against:

- a any misuse even if the protected term is accompanied by an expression such as ‘style’, ‘type’, ‘method’, ‘as produced in’, ‘imitation’, ‘flavour’, ‘like’ or similar;
- b any other false or misleading indication as to the nature, characteristics or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to it;
- c any other practice liable to mislead the consumer, in particular to give the impression that the wine qualifies for the protected traditional term.

Article 41

Relationship with trademarks

1 Where a traditional term is protected under this Regulation, the registration of a trademark, which corresponds to one of the situations referred to in Article 40, shall be refused if the application for registration of the trademark does not concern wines qualified to use such a traditional term and is submitted after the date of submission of the application for protection of the traditional term to the Commission and the traditional term is subsequently protected.

Trademarks registered in breach of the first subparagraph shall be declared invalid on application in accordance with the applicable procedures as specified by Directive 2008/95/EC of the European Parliament and of the Council⁽³⁾ or Council Regulation (EC) No 40/94⁽⁴⁾.

2 A trademark, which corresponds to one of the situations referred to in Article 40 of this Regulation, and which has been applied for, registered or established by use, if that possibility is provided for by the legislation concerned, in the territory of the Community before 4 May 2002 or before the date of submission of the application for protection of the traditional term to the Commission, may continue to be used and renewed notwithstanding the protection of the traditional term.

In such cases the use of the traditional term shall be permitted alongside the relevant trademark.

3 A name shall not be protected as a traditional term, where in the light of a trademark's reputation and renown, such protection is liable to mislead the consumer as to the true identity, nature, characteristic or quality of the wine.

Article 42

Homonyms

1 A term, for which an application is lodged, wholly or partially homonymous with that of a traditional term already protected under this Chapter shall be protected with due regard for local and traditional usage and the risk of confusion.

A homonymous term which misleads consumers as to the nature, quality or the true origin of the products shall not be registered even if the term is accurate.

The use of a protected homonymous term shall be subject to there being a sufficient distinction in practice between the homonym protected subsequently and the traditional term already listed in Annex XII, having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumer.

2 Paragraph 1 shall apply *mutatis mutandis* for traditional terms protected before 1 August 2009, which are partially homonymous with a protected designation of origin or geographical indication or a wine grape variety name or its synonym listed in Annex XV.

Article 43

Enforcement of the protection

For the purposes of the application of Article 55 of Regulation (EC) No 479/2008, in case of illegal use of protected traditional terms, competent national authorities, on their own initiative or at the request of a party, take all measures to stop the marketing, including any export, of the products concerned.

SECTION 5

Cancellation procedure

Article 44

Grounds of cancellation

The grounds for cancelling a traditional term shall be that it no longer meets the definition laid down in Article 54(1) of Regulation (EC) No 479/2008 or the requirements laid down in Articles 31, 35, 40(2), 41(3) or 42.

Article 45

Submission of a request of cancellation

1 A duly substantiated request of cancellation may be filed with the Commission by a Member State, a third country or a natural or legal person having a legitimate interest in accordance with the form set out in Annex IX. The request of cancellation shall be submitted to the Commission in paper or electronic form. The date of submission of the request of

cancellation to the Commission is the date on which the request is entered in the Commission's mail registry. This date shall be made available to the public by appropriate means.

2 The Commission shall mark the documents making up the request for cancellation with the date of receipt and the file number allocated to the request of cancellation.

The author of the request of cancellation shall receive an acknowledgement of receipt indicating at least:

- a the file number;
- b the number of pages received; and
- c the date of receipt of the request.

3 Paragraphs 1 and 2 do not apply when the cancellation is initiated by the Commission.

Article 46

Admissibility

1 For the purposes of determining whether a request of cancellation is admissible, the Commission shall verify that the request:

- a mentions the legitimate interest of the author of the request of cancellation;
- b the ground(s) for cancellation; and
- c refers to a statement from the Member State or third country where the residence or registered office of the author of the request is located explaining the legitimate interest, reasons and justification of the author of the cancellation.

2 Any request for cancellation shall contain details of the facts, evidence and comments submitted in support of the cancellation, accompanied by the relevant supporting documents.

3 If detailed information concerning the grounds, facts, evidence and comments, as well as the supporting documents referred to in paragraphs 1 and 2, have not been produced at the same time as the request of cancellation, the Commission shall inform the author of the request of cancellation accordingly and shall invite him to remedy the deficiencies noted within a period of two months. If the deficiencies are not remedied before the time limit expires, the Commission shall reject the request as inadmissible. The decision on inadmissibility shall be notified to the author of the request of cancellation and to the Member State or the third-country authorities or the author of the request of cancellation established in the third country in question.

4 Any request of cancellation that is deemed admissible, including Commission own-initiative cancellation procedure, shall be notified to the Member State or the third-country authorities or the author of the request of cancellation established in the third country whose traditional term is affected by the cancellation.

Article 47

Scrutiny of a cancellation

1 If the Commission has not rejected the request of cancellation in accordance with Article 46(3), it shall communicate the request of cancellation to the Member State or the third-country authorities or the applicant established in the third country in question and shall invite him to file observations within two months from the issuance date of such communication. Any observations received within this two months period shall be communicated to the author of the request of cancellation.

In the course of the scrutiny of a cancellation, the Commission shall request the parties to submit comments, if appropriate, within a period of two months from the issuance date of such request, on the communications received from the other parties.

2 If the Member State or the third-country authorities or the applicant established in the third country in question or the author of a request of cancellation files no observations in response, or does not respect the time periods, the Commission gives ruling on the cancellation.

3 Any decision to cancel the traditional term concerned shall be taken by the Commission on the basis of the evidence available to it. It shall consider whether the conditions referred to in Article 44 are no longer fulfilled.

Such decision on cancellation shall be notified to the author of the request of cancellation and to the Member State or the third-country authorities in question.

4 In the event of multiple requests of cancellation, following a preliminary examination of one or more such requests of cancellation, it may not be possible to accept to continue to protect a traditional term, in which case the Commission may suspend the other cancellation procedures. In this case the Commission shall inform the other authors of the request of cancellation of any decision affecting them which was taken in the course of the procedure.

Where a traditional term is cancelled, cancellation procedures which have been suspended shall be deemed to be closed and the authors of the request of cancellation concerned shall be duly informed.

5 When a cancellation takes effect, the Commission shall remove the name concerned from the list set out in Annex XII.

SECTION 6

Existing protected traditional terms

Article 48

Existing protected traditional terms

Traditional terms, which are protected in accordance with Articles 24, 28 and 29 of Regulation (EC) No 753/2002, shall automatically be protected under this Regulation, provided:

- (a) a summary of the definition or the conditions of use was submitted to the Commission by 1 May 2009;
- (b) Member States or third countries have not ceased to protect certain traditional terms.

CHAPTER IV

LABELLING AND PRESENTATION

Article 49

Common rule to all labelling particulars

Save as otherwise provided for in this Regulation, the labelling of the products referred to in paragraphs 1 to 11, 13, 15 and 16 of Annex IV to Regulation (EC) No 479/2008 (hereinafter 'products') may not be supplemented by any particulars other than those provided for in Article 58 and those regulated in Article 59(1) and 60(1) of that Regulation, unless they satisfy the requirements of Article 2(1)(a) of Directive 2000/13/EC.

SECTION 1

Compulsory particulars

Article 50

Presentation of the compulsory particulars

1 Compulsory particulars referred to in Article 58 of Regulation (EC) No 479/2008 as well as those listed in Article 59 thereof shall appear in the same field of vision on the container, in such a way as to be simultaneously readable without having to turn the container.

However, the compulsory particulars of the lot number and those referred to in Articles 51 and 56(4) of this Regulation may appear outside the visual field in which the other compulsory particulars appear.

2 The compulsory particulars referred to in paragraph 1 and those applicable by virtue of the legal instruments mentioned in Article 58 of Regulation (EC) No 479/2008 shall be presented in indelible characters and shall be clearly distinguishable from surrounding text or graphics.

Article 51

Application of certain horizontal rules

1 Where one or more of the ingredients listed in Annex IIIa to Directive 2000/13/EC are present in one of the products referred to in Annex IV to Regulation (EC) No 479/2008, they must be indicated on the labelling, preceded by the term 'contains'. For sulphites, the following terms may be used: 'sulphites', 'sulfites', 'sulphur dioxide' or 'sulfur dioxide'.

2 The labelling obligation referred to in paragraph 1 may be accompanied by the use of the pictogram included in Annex X to this Regulation.

Article 52

Marketing and export

1 Products whose label or presentation does not conform to the corresponding conditions as laid down in this Regulation cannot be marketed in the Community or exported.

2 By way of derogation from Chapters V and VI of Regulation (EC) No 479/2008, where the products concerned are to be exported, Member States may allow that particulars, which conflict with labelling rules as provided for by Community legislation, appear on the label of wines for export, when they are required by the legislation of the third country concerned. These particulars may appear in languages other than the official Community languages.

Article 53

Prohibition of lead-based capsules or foil

The closing devices for products as referred to in Article 49 shall not be enclosed in lead-based capsules or foil.

Article 54

Actual alcoholic strength

1 The actual alcoholic strength by volume referred to in Article 59(1)(c) to Regulation (EC) No 479/2008 shall be indicated in percentage units or half units.

The figure shall be followed by ‘% vol’ and may be preceded by ‘*actual alcoholic strength*’, ‘*actual alcohol*’ or ‘*alc*’.

Without prejudice to the tolerances set for the reference analysis method used, the strength shown may not differ by more than 0,5 % vol from that given by analysis. However, the alcoholic strength of products with protected designations of origin or geographical indications stored in bottles for more than three years, sparkling wines, quality sparkling wines, aerated sparkling wines, semi-sparkling wines, aerated semi-sparkling wines, liqueur wines and wines of overripe grapes, without prejudice to the tolerances set for the reference analysis method used, may not differ by more than 0,8 % vol from that given by analysis.

2 The actual alcoholic strength shall appear on the label in characters at least 5 mm high if the nominal volume is over 100 cl, at least 3 mm high if it is equal to or less than 100 cl but more than 20 cl and 2 mm high if it is 20 cl or less.

Article 55

Indication of the provenance

1 The indication of provenance as referred to in Article 59(1)(d) of Regulation (EC) No 479/2008, shall be indicated as follows:

a for wines referred to in paragraphs 1, 2, 3, 7 to 9, 15 and 16 of Annex IV to Regulation (EC) No 479/2008, without protected designation of origin or geographical indication, one of the following:

(i) the words '*wine of(...)*', '*produced in (...)*', or '*product of(...)*', or expressed in equivalent terms, supplemented by the name of the Member State or third country where the grapes are harvested and turned into wine in that territory;

In the case of a trans-border wine produced from certain wine grapes varieties as referred to in Article 60(2)(c) of Regulation (EC) No 479/2008, only the name of one or more Member State(s) or third country(ies) may be mentioned.

(ii) either the words '*European Community wine*', or expressed in equivalent terms, or '*blend of wines from different countries of the European Community*' in the case of wine resulting from a blending of wines originating in a number of Member States, or

the words '*blend of wines from different countries outside the European Community*' or '*blend from (...)*' citing the names of the third countries in question, in the case if wine resulting from a blending of wines originating in a number of third countries;

(iii) either the words '*European Community wine*', or expressed in equivalent terms, or '*wine obtained in (...) from grapes harvested in (...)*', supplemented by the names of the Member States concerned in the case of wines produced in a Member State from grapes harvested in another Member State, or

the words '*wine obtained in (...) from grapes harvested in (...)*' citing the names of the third countries in question, for wines made in a third country from grapes harvested in another third country;

b for wines referred to in paragraph 4, 5 and 6 to Annex IV of Regulation (EC) No 479/2008, without protected designation of origin or geographical indication, one of the following:

(i) the words '*wine of(...)*', '*produced in (...)*', '*product of(...)*' or '*sekt of(...)*', or expressed in equivalent terms, supplemented by the name of the Member State or third country where the grapes are harvested and turned into wine in that territory;

(ii) the words '*produced in (...)*', or expressed in equivalent terms, supplemented by the name of the Member State where the second fermentation takes place;

c for wines with protected designation of origin or geographical indication, the words '*wine of(...)*', '*produced in (...)*' or '*product of(...)*', or expressed in equivalent terms, supplemented by the name of the Member State or third country where the grapes are harvested and turned into wine in that territory.

In the case of a trans-border protected designation of origin or geographical indication, only the name of one or more Member State(s) or third country(ies) shall be mentioned.

This paragraph is without prejudice to Articles 56 and 67.

2 The indication of provenance as referred to in Article 59(1)(d) of Regulation (EC) No 479/2008, on labels of grape must, grape must in fermentation, concentrated grape must or new wine still in fermentation shall be indicated as follows:

- a *'must of (...)'* or *'must produced in (...).'* or expressed in equivalent terms, supplemented by the name of the Member State, an individual country forming part of the Member State where the product is produced;
 - b *'blend made from the produce of two or more European Community countries'* in case of coupage of products produced in two or more Member States;
 - c *'must obtained in (...) from grapes harvested in (...).'* in case of grape must which has not been made in the Member State where the grapes used were harvested.
- 3 In the case of United Kingdom, the name of the Member State may be replaced by the name of an individual country forming part of United Kingdom.

Article 56

Indication of the bottler, producer, importer and vendor

1 For the purposes of the application of Article 59(1)(e) and (f) of Regulation (EC) No 479/2008 and of this Article:

- a *'bottler'* means a natural or legal person or a group of such persons carrying out *bottling* or having bottling carried out on their behalf;
- b *'bottling'* means putting the product concerned in containers of a capacity *not* exceeding 60 litres for subsequent sale;
- c *'producer'* means a natural or legal person or a group of such persons by whom or on whose behalf the processing of the grapes, grape musts and wine into sparkling wines, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wines is carried out;
- d *'importer'* means a natural or legal person or group of such persons established within the Community assuming responsibility for bringing into circulation non-Community goods within the meaning of Article 4(8) of Council Regulation (EEC) No 2913/92⁽⁵⁾;
- e *'vendor'* means a natural or legal person or a group of such persons, not covered by the definition of producer, purchasing and then putting sparkling wines, aerated sparkling wine, quality sparkling wine or quality aromatic sparkling wines into circulation;
- f *'address'* means the indications of the local administrative area and the Member State in which the head office of the bottler, producer, vendor or importer is situated.

2 The name and address of the bottler shall be supplemented either,

- a by the words *'bottler'* or *'bottled by (...).'*; or
- b by terms, whose conditions of use are defined by Member States, where bottling of wines with protected designation of origin or geographical indication takes place:
 - (i) on the producer's holding; or
 - (ii) on the premises of a producer group; or
 - (iii) in an enterprise located in the demarcated geographical area or in the immediate proximity of the demarcated geographical area concerned.

In case of contract bottling, the indication of the bottler shall be supplemented by the words *'bottled for (...).'* or, where the name, address of the person who has carried out the bottling on behalf of a third party are indicated, by the words *'bottled for (...) by (...).'*

Where bottling takes place in another place than that of the bottler, the particulars referred to in this paragraph shall be accompanied by a reference to the exact place

where the operation took place and, if it is carried out in another Member State, the name of that State.

In case of containers other than bottles, the words '*packager*' and '*packaged by (...)*' shall replace the words '*bottler*' and '*bottled by (...)*' respectively, except when the language used does not indicate by itself such a difference.

3 The name and address of the producer or vendor shall be supplemented by the words '*producer*' or '*produced by*' and '*vendor*' or '*sold by*', or equivalent. Member States may make compulsory the indication of the producer.

4 The *name* and address of the importer shall be preceded by the words '*importer*' or '*imported by (...)*'.

5 The indications referred to in paragraphs 2, 3 and 4 can be grouped together, if they concern the same natural or legal person.

One of these indications may be replaced by a code determined by the Member State in which the bottler, producer, importer or vendor has its head office. The code shall be supplemented by a reference to the Member State in question. The name and address of another natural or legal person involved in the commercial distribution other than the bottler, producer, importer or vendor indicated by a code shall also appear on the wine label of the product concerned.

6 Where the name or the address of the bottler, producer, importer or vendor consists of or contains a protected designation of origin or geographical indication, it shall appear on the label:

- a in characters which are no more than half the size of those used either for the protected designation of origin or geographical indications or for the designation of the category of the grapevine product concerned; or
- b by using a code as provided for in paragraph 5, second sub-paragraph.

Member States may decide which option applies to products produced in their territories.

Article 57

Indication of the holding

1 The terms referring to a holding listed in Annex XIII, other than the indication of the name of the bottler, producer or vendor, shall be reserved for wines with protected designation of origin or geographical indication provided that:

- a the wine is made exclusively from grapes harvested in vineyards exploited by that holding;
- b the winemaking is entirely carried out on that holding;
- c Member States regulate the use of their respective terms listed in Annex XIII. Third countries establish the rules on use applicable to their respective terms listed in Annex XIII, including those emanating from representative professional organisations.

2 The name of a holding may be used by other operators involved in the marketing of the product only where the holding in question agrees to that use.

Article 58

Indication of the sugar content

1 The terms listed in Part A of Annex XIV to this Regulation indicating the sugar content shall appear on the label of the products provided for in Article 59(1)(g) of Regulation (EC) No 479/2008.

2 If the sugar content of the products, expressed in terms of fructose and glucose (including any sucrose), justifies the use of two of the terms listed in Part A of Annex XIV, only one of those two terms shall be chosen.

3 Without prejudice to the conditions of use described in Part A of Annex XIV, the sugar content may not differ by more than 3 grams per litre from what appears on the product label.

Article 59

Derogations

In accordance with Article 59(3)(b) to Regulation (EC) No 479/2008, the terms '*protected designation of origin*' may be omitted for wines bearing the following protected designations of origin, provided this possibility is regulated in the Member State legislation or in the rules applicable in the third country concerned, including those emanating from representative professional organisations:

(a)	Cyprus:	Κουμανδαρία (Commandaria);
(b)	Greece:	Σάμος (Samos);
(c)	Spain:	Cava, Jerez, Xérès or Sherry, Manzanilla;
(d)	France:	Champagne;
(e)	Italy:	Asti, Marsala, Franciacorta;
(f)	Portugal:	Madeira or Madère, Port or Porto.

Article 60

Specific rules for aerated sparkling wine, aerated semi-sparkling wine and quality sparkling wine

1 The terms '*aerated sparkling wine*' and '*aerated semi-sparkling wine*' as referred to in Annex IV to Regulation (EC) No 479/2008 shall be supplemented in characters of the same type and size by the words '*obtained by adding carbon dioxide*' or '*obtained by adding carbon*

anhydride’, except when the language used indicates by itself that carbon dioxide has been added.

The words ‘*obtained by adding carbon dioxide*’ or ‘*obtained by adding carbon anhydride*’ shall be indicated even where Article 59(2) of Regulation (EC) No 479/2008 applies.

2 For quality sparkling wines, the reference to the category of the grapevine product may be omitted for wines whose labels include the term ‘*Sekt*’.

SECTION 2

Optional particulars

Article 61

Vintage year

1 The vintage year referred to in Article 60(1)(a) of Regulation (EC) No 479/2008 may appear on the labels of products as referred to in Article 49 provided that at least 85 % of the grapes used to make the products have been harvested in the year in question. This does not include:

- a any quantity of products used in sweetening, ‘*expedition liqueur*’ or ‘*tirage liqueur*’ or
- b any quantity of product as referred to in Annex IV(3)(e) and (f) to Regulation (EC) No 479/2008.

2 For products traditionally obtained from grapes harvested in January or February, the vintage year to appear on the label of wines shall be that of the previous calendar year.

3 Products without protected designation of origin or geographical indication shall also comply with the requirements laid down in paragraphs 1 and 2 of this Article and in Article 63.

Article 62

Name of wine grape variety

1 The names of the wine grape varieties or their synonyms referred to in Article 60(1)(b) of Regulation (EC) No 479/2008 used for the production of products as referred to in Article 49 of this Regulation may appear on the labels of the products concerned under the conditions laid down in points (a) and (b) of this Article.

- a For wines produced in the European Community, the names of the wine grape varieties or their synonyms shall be those mentioned in the wine grape varieties classification as referred to in Article 24(1) of Regulation (EC) No 479/2008.

For Member States exempted from the classification obligation as provided for in Article 24(2) of Regulation (EC) No 479/2008, the names of the wine grape varieties or synonyms shall be mentioned in the ‘International list of vine varieties and their synonyms’ managed by the International Organisation of Vine and Wine (OIV).

- b For wines originating in third countries, the conditions of use of the names of the wine grape varieties or their synonyms shall conform with the rules applicable to wine producers in the third country concerned, including those emanating from

representative professional organisations and the names of the wine grape varieties or their synonyms are mentioned in at least one of the following lists:

- (i) the International Organisation of Vine and Wine (OIV);
 - (ii) the Union for the Protection of Plant Varieties (UPOV);
 - (iii) the International Board for Plant Genetic Resources (IBPGR).
- c For products with protected designation of origin or geographical indication or with a geographical indication of a third country, the names of the wine grape varieties or their synonyms may be mentioned:
- (i) if only one wine grape variety or its synonym is named, at least 85 % of the products have been made from that variety, not including:
 - any quantity of products used in sweetening, ‘*expedition liqueur*’ or ‘*tirage liqueur*’; or
 - any quantity of product as referred to in Annex IV(3)(e) and (f) to Regulation (EC) No 479/2008;
 - (ii) if two or more wine grape varieties or their synonyms are named, 100 % of the products concerned have been made from these varieties, not including:
 - any quantity of products used in sweetening, ‘*expedition liqueur*’ or ‘*tirage liqueur*’; or
 - any quantity of product as referred to in Annex IV(3)(e) and (f) of Regulation (EC) No 479/2008.
- In the case referred to in point (ii), the wine grape varieties must appear in descending order of the proportion used and in characters of the same size.
- d For products without protected designation of origin or geographical indication, the names of the wine grape varieties or their synonyms may be mentioned provided the requirements laid down in points (a) or (b), and (c) of paragraph 1 and in Article 63 are fulfilled.

2 In the case of sparkling wines and quality sparkling wines, the wine grape variety names used to supplement the description of the product, namely, ‘*pinot blanc*’, ‘*pinot noir*’, ‘*pinot meunier*’ or ‘*pinot gris*’ and the equivalent names in the other Community languages, may be replaced by the synonym ‘*pinot*’.

3 By way of derogation from Article 42(3) of Regulation (EC) No 479/2008, the wine grape variety names and their synonyms listed in Part A of Annex XV to this Regulation, that consist of or contain a protected designation of origin or geographical indication may only appear on the label of a product with protected designation of origin or geographical indication or geographical indication of a third country if they were authorised under Community rules in force on 11 May 2002 or on the date of accession of Member States, whichever is later.

4 The wine grape variety names and their synonyms listed in Part B of Annex XV to this Regulation, that partially contain a protected designation of origin or geographical indication and directly refers to the geographical element of the protected designation of origin or geographical indication in question, may only appear on the label of a product with protected designation of origin or geographical indication or geographical indication of a third country.

Article 63

Specific rules on wine grape varieties and vintage years for wines without protected designation of origin or geographical indication.

1 Member States shall designate the competent authority or authorities responsible for ensuring certification as provided for in Article 60(2)(a) of Regulation (EC) No 479/2008, in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council⁽⁶⁾.

2 Certification of wine, at any stage of the production, including during the conditioning of the wine, shall be ensured either by:

- a the competent authority or authorities referred to in paragraph 1; or,
- b one or more control bodies within the meaning of point 5 of the second subparagraph of Article 2 of Regulation (EC) No 882/2004 operating as a product certification body in accordance with the criteria laid down in Article 5 of that Regulation.

The authority or authorities referred to in paragraph 1 shall offer adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks.

The certification bodies referred to in point (b) of the first subparagraph shall comply with, and from 1 May 2010 be accredited in accordance with, the European standard EN 45011 or ISO/IEC Guide 65 (General requirements for bodies operating product certification systems).

The costs of the certification shall be borne by the operators subject to it.

3 The Certification procedure as provided for in Article 60(2)(a) of Regulation (EC) No 479/2008 shall ensure administrative evidence to support the veracity of the wine grape variety(-ies) or the vintage year shown on the label of the wine(s) concerned.

In addition, producing Member States may decide on:

- a an organoleptic test of the wine relating to the odour and the taste with the view to verifying that the essential characteristic of the wine is due to the wine grape variety(-ies) used may be carried out and shall concern anonymous samples;
- b an analytical test in case of a wine made from a single wine grape variety.

The certification procedure shall be carried out by competent authority(-ies) or control body(-ies) as referred to in paragraphs 1 and 2 in the Member State in which production took place.

The certification shall be carried out either through:

- a random checks based on a risk analysis;
- b sampling; or
- c systematically.

In the case of random checks, they shall be based on a control plan pre-established by the authority(-ies) covering different stages of production of the product. The control plan shall be known by the operators. Member States shall select randomly the minimum number of operators to be subjected to this check.

In the case of sampling, Member States shall ensure that by their number, nature and frequency controls, they are representative of the whole of their territory and correspond to the volume of wine-sector products marketed or held with a view to their marketing.

Random checks may be combined with sampling.

4 As regards Article 60(2)(a) of Regulation (EC) No 479/2008, producing Member States shall ensure that producers of the wines in question are approved by the Member State where the production takes place.

5 As regards control, including traceability, producing Member States shall ensure that Title V of Regulation (EC) No 555/2008 and Regulation (EC) No 606/2009 apply.

6 In case of a trans-border wine as referred to in Article 60(2)(c) of Regulation (EC) No 479/2008, certification can be carried out by either one of the authority(-ies) of the Member States concerned.

7 For wines produced in accordance with Article 60(2) of Regulation (EC) No 479/2008, Member States may decide to use the terms ‘*varietal wine*’ supplemented by the name(s) of:

- a the Member State(s) concerned;
- b the wine grape variety(-ies).

For wines without protected designation of origin, protected geographical indication or geographical indication produced in third countries which bear on labels the name of one or more wine grape varieties or the vintage year, third countries may decide to use the terms ‘*varietal wine*’ supplemented by the name(s) of the third country(ies) concerned. In the case of the indication of the name(s) of the Member State(s) or third country(ies), Article 55 of this Regulation shall not apply.

8 Paragraphs 1 to 6 shall apply for products produced from grapes harvested as from and including 2009.

Article 64

Indication of the sugar content

1 Save as otherwise provided for in Article 58 of this Regulation, the sugar content expressed as fructose and glucose as provided for in Part B of Annex XIV to this Regulation, may appear on the label of the products as referred to in Article 60(1)(c) of Regulation (EC) No 479/2008.

2 If the sugar content of the products justifies the use of two of the terms listed in Part B of Annex XIV to this Regulation, only one of those two terms shall be chosen.

3 Without prejudice to the conditions of use described in Part B of Annex XIV to this Regulation, the sugar content may not differ by more than 1 gram per litre from what appears on the product label.

4 Paragraph 1 shall not apply for products referred to in paragraphs 3, 8 and 9 of Annex IV of Regulation (EC) No 479/2008 provided that Member States or third countries regulate the conditions of use of the indication of the sugar content.

Article 65

Indication of the Community symbols

1 The Community symbols referred to in Article 60(1)(e) of Regulation (EC) No 479/2008 may appear on labels of wines as laid down in Annex V to Commission Regulation (EC) No 1898/2006⁽⁷⁾. Notwithstanding Article 59, the indications ‘*PROTECTED DESIGNATION OF ORIGIN*’ and ‘*PROTECTED GEOGRAPHICAL INDICATION*’ within the

symbols may be replaced by the equivalent terms in another official language of the Community as laid down in the aforesaid Annex.

2 Where the Community symbols or the indications referred to in Article 60(1)(e) of Regulation (EC) No 479/2008 appear on the label of a product, they shall be accompanied by the corresponding protected designation of origin or geographical indication.

Article 66

Terms referring to certain production methods

1 In Accordance with Article 60(1)(f) of Regulation (EC) No 479/2008, wines marketed in the Community may bear indications referring to certain production methods, among others, those which are laid down in paragraphs 2, 3, 4, 5 and 6 of this Article.

2 The indications listed in Annex XVI are the only terms which may be used to describe a wine with protected designations of origin or geographical indications or with a geographical indication of a third country that has been fermented, matured or aged in a wood container. Member States and third countries may, however, establish other indications equivalent to those laid down in Annex XVI for such wines.

Use of one of the indications referred to in the first subparagraph shall be permitted where the wine has been aged in a wood container in accordance with the national rules in force, even when the ageing process continues in another type of container.

The indications referred to in the first subparagraph may not be used to describe a wine that has been produced with the aid of oak chips, even in association with the use of a wood container or wood containers.

3 The expression '*bottle-fermented*' may be used only to describe sparkling wines with protected designations of origin or geographical indication of a third country or quality sparkling wines provided that:

- a the product was made sparkling by a second alcoholic fermentation in a bottle;
- b the length of the production process, including ageing in the undertaking where the product was made, calculated from the start of the fermentation process designed to make the *cuvée* sparkling, has not been less than nine months;
- c the process of fermentation designed to make the *cuvée* sparkling and the presence of the *cuvée* on the lees lasted at least 90 days; and
- d the product was separated from the lees by filtering in accordance with the racking method or by disgorging.

4 The expressions '*bottle-fermented by the traditional method*' or '*traditional method*' or '*classical method*' or '*classical traditional method*' may be used only to describe sparkling wines with protected designations of origin or with a geographical indication of a third country or quality sparkling wines provided the product:

- a was made sparkling by a second alcoholic fermentation in the bottle;
- b stayed without interruption in contact with the lees for at least nine months in the same undertaking from the time when the *cuvée* was constituted;
- c was separated from the lees by disgorging.

5 The expression '*Crémant*' may only be used for white or '*rosé*' quality sparkling wines with protected designations of origin or with a geographical indication of a third country provided:

- a the grapes shall be harvested manually;
- b the wine is made from must obtained by pressing whole or destemmed grapes. The quantity of must obtained shall not exceed 100 litres for every 150 kg of grapes;
- c the maximum sulphur dioxide content does not exceed 150 mg/l;
- d the sugar content is less than 50 g/l;
- e the wine complies with the requirements laid down in paragraph 4; and
- f without prejudice to Article 67, the term ‘*Crémant*’ shall be indicated on labels of quality sparkling wines in combination with the name of the geographical unit underlying the demarcated area of the protected designation of origin or the a geographical indication of a third country in question.

Points (a) and (f) does not apply to producers who own trademarks containing the term ‘*crémant*’ registered before 1 March 1986.

6 References to the organic production of grapes are governed by Council Regulation (EC) No 834/2007⁽⁸⁾.

Article 67

Name of a smaller or larger geographical unit than the area underlying the designation of origin or geographical indication and geographical area references

1 As regards Article 60(1)(g) to Regulation (EC) No 479/2008 and without prejudice to Articles 55 and 56 of this Regulation, the name of a geographical unit and geographical area references may only appear on labels of wines with protected designation of origin or geographical indication or with a geographical indication of a third country.

2 For the use of the name of a smaller geographical unit than the area underlying the designation of origin or geographical indication the area of the geographical unit in question shall be well defined. Member States may establish rules concerning the use of these geographical units. At least 85 % of the grapes from which the wine has been produced originate in that smaller geographical unit. The remaining 15 % of the grapes shall originate in the geographical demarcated area of the designation of origin or geographical indication concerned.

Member States may decide, in the case of registered trademarks or trademarks established by use before 11 May 2002 which contain or consist of a name of a smaller geographical unit than the area underlying the designation of origin or geographical indication and geographical area references of the Member States concerned, not to apply the requirements laid down in the third and fourth sentences of the first subparagraph.

3 The name of a smaller or larger geographical unit than the area underlying the designation of origin or geographical indication or a geographical area references shall consist of:

- a a locality or group of localities;
- b a local administrative area or part thereof;
- c a wine-growing sub-region or part thereof;
- d an administrative area.

SECTION 3

Rules on certain specific bottle shapes and closures and additional provisions laid down by the producer Member States*Article 68***Conditions of use of certain specific bottle shapes**

To qualify for inclusion in the list of specific types of bottle set out in Annex XVII, a bottle type shall meet the following requirements:

- (a) it shall have been exclusively, genuinely and traditionally used for the last 25 years for a wine with a particular protected designation of origin or geographical indication; and
- (b) its use shall evoke for consumers a wine with a particular protected designation of origin or geographical indication.

Annex XVII indicates the conditions governing the use of the recognised specific types of bottles.

*Article 69***Rules on presentation for certain products**

1 Only sparkling wine, quality sparkling wine and quality aromatic sparkling wine shall be marketed or exported in ‘*sparkling wine*’-type glass bottles closed with:

- a for bottles with a nominal volume more than 0,20 litres: a mushroom-shaped stopper made of cork or other material permitted to come into contact with foodstuffs, held in place by a fastening, covered, if necessary, by a cap and sheathed in foil completely covering the stopper and all or part of the neck of the bottle;
- b for bottles with a nominal volume content not exceeding 0,20 litres: any other suitable closure.

2 Member States may decide that the requirement laid down in paragraph 1 applies to:

- a products traditionally bottled in such bottles and which:
 - (i) are listed in Article 25(2)(a) of Regulation (EC) No 479/2008;
 - (ii) are listed in paragraphs 7, 8 and 9 of Annex IV of Regulation (EC) No 479/2008;
 - (iii) are listed in Council Regulation (EEC) No 1601/1991⁽⁹⁾; or
 - (iv) have an actual alcoholic strength by volume no greater than 1,2 % vol;
- b other products than those referred to in point (a) provided that they do not mislead consumers with regard the real nature of the product.

Article 70

Additional provisions laid down by the producer Member States relating to labelling and presentation

1 For wines with protected designation of origin or geographical indication produced on their territory, the particulars referred to in Articles 61, 62 and 64 to 67 may be rendered compulsory, prohibited or limited as regards their use by introducing conditions stricter than those laid down in this Chapter through the corresponding product specifications of those wines.

2 As regards wines without protected designation of origin or geographical indication produced on their territory, Member States may render compulsory the particulars referred to in Articles 64 and 66.

3 For control purposes, Member States may decide to define and regulate other particulars than those listed in Articles 59(1) and 60(1) of Regulation (EC) No 479/2008 for wines produced in their territories.

4 For control purposes, Member States may decide to render applicable Article 58, 59 and 60 of Regulation (EC) No 479/2008 for wines bottled in their territories but not marketed or exported yet.

CHAPTER V

GENERAL, TRANSITIONAL AND FINAL PROVISIONS

Article 71

Wine names protected under Regulation (EC) No 1493/1999

1 The Commission shall mark any document received from the Member States under Article 51(2) of Regulation (EC) No 479/2008, concerning a designation of origin or geographical indication as referred to in Article 51(3) of that Regulation, with the date of receipt and file number.

The Member State concerned shall receive an acknowledgement of receipt indicating at least:

- a the file number;
- b the number of documents received; and
- c the date of receipt of the documents.

The date of submission to the Commission shall be the date on which the documents are entered in the Commission's mail registry.

2 Any decision to cancel a designation of origin or geographical indication concerned in accordance with Article 51(4) of Regulation (EC) No 479/2008 shall be taken by the Commission on the basis of the documents available to it under Article 51(2) of that Regulation.

Article 72

Temporary labelling

1 By way of derogation from Article 65 of this Regulation, wines bearing a designation of origin or a geographical indication, whose designation of origin or geographical indication concerned meet the requirements as referred to in Article 38(5) of Regulation (EC) No 479/2008, shall be labelled in accordance with the provisions laid down in Chapter IV of this Regulation.

2 Where the Commission decides not to confer protection to a designation of origin or geographical indication pursuant to Article 41 of Regulation (EC) No 479/2008, wines labelled in accordance with paragraph 1 of this Article shall be withdrawn from the market or re-labelled in accordance with Chapter IV of this Regulation.

Article 73

Transitional provisions

1 Wine names recognised by Member States as designation of origin or geographical indication by 1 August 2009, which have not been published by the Commission under Article 54(5) of Regulation (EC) No 1493/1999 or Article 28 of Regulation (EC) No 753/2002, shall be subject to the procedure provided for in Article 51(1) of Regulation (EC) No 479/2008.

2 Any amendment to the product specification referred to wine names protected pursuant to Article 51(1) of Regulation (EC) No 479/2008, or wine names not protected pursuant to Article 51(1) of Regulation (EC) No 479/2008, which has been filed with the Member State at the latest on 1 August 2009, shall be subject to the procedure referred to in Article 51(1) of Regulation (EC) No 479/2008 provided that there is an approval decision by the Member State and a technical file as provided for in Article 35(1) of Regulation (EC) No 479/2008 communicated to the Commission at the latest on 31 December 2011.

3 Member States which have not introduced the laws, regulation, or administrative provisions necessary to comply with Article 38 of Regulation (EC) No 479/2008 by 1 August 2009, shall do it by 1 August 2010. In the meantime, Articles 9, 10, 11 and 12 apply *mutandis mutandis* as 'preliminary national procedure' referred to in Article 38 of Regulation (EC) No 479/2008 in the Member States concerned.

4 Wines placed on the market or labelled before 31 December 2010, that comply with the relevant provisions applicable before 1 August 2009 may be marketed until stocks are exhausted.

Article 74

Repeal

Regulations (EC) No 1607/2000 and (EC) No 753/2002 are hereby repealed.

Article 75

Entry into force

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

It shall apply from 1 August 2009.

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

Done at Brussels, 14 July 2009

For the Commission

Mariann FISCHER BOEL

Member of the Commission

- (1) See page 1 of this Official Journal.
- (2) OJ L 170, 30.6.2008, p. 1.
- (3) OJ L 299, 8.11.2008, p. 25.
- (4) OJ L 11, 14.1.1994, p. 1.
- (5) OJ L 302, 19.10.1992, p. 1.
- (6) OJ L 165, 30.4.2004, p. 1.
- (7) OJ L 369, 23.12.2006, p. 1.
- (8) OJ L 189, 20.7.2007, p. 1.
- (9) OJ L 149, 14.6.1991, p. 1.