

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of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (repealed)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 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).

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Changes to legislation: There are currently no known outstanding effects for the Commission regulation (EC) No 607/2009 (repealed), CHAPTER II. (See end of Document for details)

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.

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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

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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.

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,

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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.

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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.

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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.

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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.

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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

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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.

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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.

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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.

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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.

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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.

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- (1) See page 1 of this Official Journal.
- (2) [OJ L 170, 30.6.2008, p. 1.](#)

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