

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of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (repealed)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

TRADITIONAL TERMS

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.