

## COMMISSION IMPLEMENTING REGULATION (EU) No 670/2011

of 12 July 2011

**amending Regulation (EC) No 607/2009 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**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 on the common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular points (k), (l) and (m) of the first paragraph of Article 121 and Article 203b, in conjunction with Article 4 thereof,

Whereas:

- (1) Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands <sup>(2)</sup> lays down common rules for notifying information and documents by the competent authorities of the Member States to the Commission. Those rules cover in particular the obligation for the Member States to use the information systems made available by the Commission and the validation of the access rights of the authorities or individuals authorised to send notifications. In addition, that Regulation sets common principles applying to the information systems so that they guarantee the authenticity, integrity and legibility over time of the documents and provides for personal data protection.
- (2) The Commission has developed, in its own internal working procedures and in its relations with the authorities involved in the management of protected designations of origin, protected geographical indications and traditional terms, in accordance with Section Ia of Chapter I of Title II of Regulation (EC) No 1234/2007, an information system allowing the management by electronic means of the documents and procedures required under Regulation (EC) No 1234/2007 and 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 <sup>(3)</sup>, both with the competent authorities in Member States and third

countries and with the trade organisations and natural or legal persons that have an interest in the framework of this Regulation.

- (3) It is considered that this system, in accordance with Regulation (EC) No 792/2009 or by applying *mutatis mutandis* the principles that it sets out, enables certain communications provided for by Regulation (EC) No 607/2009, in particular as regards procedures applicable to the protection of geographical indications, designations of origin and traditional terms, the maintenance of the database of the designations concerned and the registers foreseen for the protection of these designations.
- (4) Furthermore, the information systems that have already been put in place operationally by the Commission for communicating information regarding the authorities and bodies responsible for the controls to be carried out under the common agricultural policy allow the specific objectives in this area to be met as regards geographical indications, designations of origin and traditional terms. These systems should be made applicable for the communication of information concerning the authorities responsible for examining applications for the protection of designations at the level of Member States or third countries, as well as for the communication of information concerning the authorities responsible for certifying wines that do not have a protected designation of origin or a protected geographical indication.
- (5) In the interests of effective administrative management and taking account of the experience acquired through the use of information systems put in place by the Commission, communications should be simplified and the way in which information is managed and made available should be improved under Regulation (EC) No 607/2009 in accordance with Regulation (EC) No 792/2009. To this end, with a view to giving the competent authorities of the Member States the means of becoming familiar with the legislative, regulatory and administrative provisions, introduced at national level in accordance with Articles 118z(2) and 120a of Regulation (EC) No 1234/2007, and to simplifying and facilitating the controls and the cooperation between Member States, provided for by Commission Regulation (EC) No 555/2008 <sup>(4)</sup>, Member States should be asked to communicate to the Commission certain information that is of specific interest for the certification of products, with a view to the Commission's making this information available to the competent authorities and to the public, where this information is useful for the consumer.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 228, 1.9.2009, p. 3.

<sup>(3)</sup> OJ L 193, 24.7.2009, p. 60.

<sup>(4)</sup> OJ L 170, 30.6.2008, p. 1.

- (6) Furthermore, it is appropriate, in the interests of clarity and reducing the administrative burden, to determine the content of certain communications provided for by Regulation (EC) No 607/2009 and to simplify the procedures.
- (7) The transitional measures adopted in order to facilitate the transition from the provisions of Council Regulations (EC) No 1493/1999 <sup>(1)</sup> and (EC) No 479/2008 <sup>(2)</sup> to those of Regulation (EC) No 1234/2007 present difficulties of interpretation as regards the scope and duration of the applicable procedures. Moreover the scope of the provisions of Article 118s of Regulation (EC) No 1234/2007, taken together with those of Article 118q, as regards the nature of the amendments covered, the reference periods and the duration of the transitional period should be made more precise.
- (8) Regulation (EC) No 607/2009 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

#### Article 1

Regulation (EC) No 607/2009 is hereby amended as follows:

- (1) Article 3 is replaced by the following:

*'Article 3*

#### **Application for protection**

An application for the protection of a designation of origin or of a geographical indication shall comprise the documents required in Articles 118c and 118d of Regulation (EC) No 1234/2007, the product specification and the single document.

The application and the single document shall be communicated to the Commission in accordance with Article 70a(1) of this Regulation.;

- (2) Article 9 is replaced by the following:

*'Article 9*

#### **Filing of the application**

1. The date of submission of an application to the Commission shall be the date on which the application is received by the Commission.

2. The Commission shall confirm receipt of the application to the competent authorities of the Member State or those of the third country or the applicant established in the third country in question and shall attribute a file number to the application.

The confirmation of receipt shall include at least the following:

- (a) the file number;  
(b) the name to be registered;

(c) the date of receipt of the request.;

- (3) Article 11 is replaced by the following:

*'Article 11*

#### **Admissibility of the application**

1. An application shall be admissible when the single document is duly completed and the supporting documents are enclosed. The single document shall be considered to be duly completed when all the mandatory fields, as presented in the information systems referred to in Article 70a, have been filled in.

In this case, the application shall be considered admissible on the date on which it is received by the Commission. The applicant shall be informed.

This date shall be made known to the public.

2. If the application has not been completed or has been partially completed, or if the supporting documents referred to in paragraph 1 have not been submitted at the same time as the application or some are missing, the application shall be inadmissible.

3. Where the application is inadmissible, the competent authorities of the Member State or those of the third country or the applicant established in the third country in question shall be informed of the reasons for its inadmissibility and that they are entitled to submit another application duly completed.;

- (4) Article 12(1) is replaced by the following:

*'1. If an admissible application does not meet the requirements laid down in Articles 118b and 118c of Regulation (EC) No 1234/2007, the Commission shall inform the Member State or authorities of the third country or the applicant established in the third country in question of the grounds for refusal, setting a deadline of at least 2 months for the withdrawal or amendment of the application or for the submission of comments.;*

- (5) Article 14 is replaced by the following:

*'Article 14*

#### **Submission of objections under Community procedure**

1. The objections referred to in Article 118h of Regulation (EC) No 1234/2007 shall be communicated in accordance with Article 70a(1) of this Regulation. The date of submission of an objection to the Commission shall be the date on which the objection is received by the Commission. This date shall be made known to the authorities and persons concerned by the present Regulation.

2. The Commission shall confirm receipt of the objection and assign a file number to the objection.

The confirmation of receipt shall include at least the following:

- (a) the file number;  
(b) the date of receipt of the objection.;

<sup>(1)</sup> OJ L 179, 14.7.1999, p. 1.

<sup>(2)</sup> OJ L 148, 6.6.2008, p. 1.

(6) Article 18 is replaced by the following:

‘Article 18

### Register

1. A “register of protected designations of origin and protected geographical indications”, hereinafter “the Register”, is established and kept updated by the Commission in accordance with Article 118n of Regulation (EC) No 1234/2007. It is established in the electronic database “E-Bacchus” on the basis of the decisions granting protection to the designations in question.

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

In the case of names registered under Article 118s(1) of Regulation (EC) No 1234/2007, the Commission shall enter in the Register the data provided for in paragraph 3 of this Article.

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

- (a) the protected designation;
- (b) the file number;
- (c) a record of the fact that the name is protected as either a geographical indication or designation of origin;
- (d) the name of the country or countries of origin;
- (e) the date of registration;
- (f) the reference to the legal instrument protecting the name;
- (g) the reference to the single document.

4. The register shall be made available to the public.;

(7) paragraphs 1, 2 and 3 in Article 20 are replaced by the following:

‘1. An application for approval of amendments to the product specification submitted by an applicant as referred to in Article 118e of Regulation (EC) No 1234/2007 of a protected designation of origin or geographical indication shall be communicated in accordance with Article 70a(1) of this Regulation.

2. An application for the approval of the amendment of a product specification under Article 118q(1) of Regulation (EC) No 1234/2007 shall be admissible if the information required under Article 118c(2) of that Regulation and the request duly drawn up have been communicated to the Commission.

3. For the purposes of applying the first sentence of Article 118q(2) of Regulation (EC) No 1234/2007, Articles 9 to 18 of this Regulation shall apply *mutatis mutandis*.;

(8) Article 21 is replaced by the following:

‘Article 21

### Submission of a request for cancellation

1. A request for cancellation submitted in accordance with Article 118r of Regulation (EC) No 1234/2007 shall

be communicated in accordance with Article 70a(1) of this Regulation. The date of submission of request for cancellation to the Commission shall be the date on which the request is received by the Commission. This date shall be made known to the public.

2. The Commission shall confirm receipt of the request and assign a file number to the request.

The confirmation of receipt shall include at least the following:

- (a) the file number;
- (b) the date of receipt of the request.

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

(9) the following paragraph 5 is added to Article 22:

‘5. The communications to the Commission referred to in paragraph 3 shall be carried out in accordance with Article 70a(1).;

(10) at Article 23(1), the following third subparagraph shall be added:

‘The communications to the Commission referred to in the first and second subparagraphs shall be carried out in accordance with Article 70a(1).;

(11) at Article 28(1), the second subparagraph is replaced by the following:

‘The application shall be communicated in accordance with Article 70a(1). The date of submission of an application for conversion to the Commission shall be the date on which the application is received by the Commission.;

(12) Article 30 is replaced by the following:

‘Article 30

### Application for protection

1. The application for protection of a traditional term shall be communicated by the competent authorities of the Member States or those of the third countries or by the representative trade organisations in accordance with Article 70a(1). The application shall be accompanied by the legislation of the Member States or rules applicable to wine producers in third countries governing the use of the term in question and the reference to that legislation or those rules.

2. In the case of a request submitted by a representative trade organisation established in a third country, the applicant shall communicate to the Commission the information regarding the representative trade organisation and its members, in accordance with Article 70a(1). The Commission shall make this information public.;

(13) Article 33 is replaced by the following:

‘Article 33

### Filing of the application

1. The date of submission of an application to the Commission shall be the date on which the application is received by the Commission.

2. The Commission shall confirm receipt of the application to the authorities of the Member State or of the third country or the applicant established in the third country in question and shall attribute a file number to the application.

The confirmation of receipt shall include at least the following:

- (a) the file number;
- (b) the traditional term;
- (c) the date of receipt of the request.;

(14) Article 34 is replaced by the following:

*Article 34*

#### **Admissibility**

1. An application shall be admissible where the application form is duly filled in and the documents required in accordance with the provisions of Article 30 are enclosed with the application. The application form shall be considered to be duly filled in when all the mandatory fields, as presented in the information systems referred to in Article 70a, have been filled in.

In this case, the application shall be considered admissible on the date on which it is received by the Commission. The applicant shall be informed.

This date shall be made known to the public.

2. If the form has not been completed or has only been partially completed, or if the documents referred to in paragraph 1 were not submitted at the same time as the application or some are missing, the application shall be inadmissible.

3. Where the application is inadmissible, the authorities of the Member State or those of the third country or the applicant established in the third country in question shall be informed of the reasons for its inadmissibility and that they are entitled to submit another application duly completed.;

(15) Article 37(2) and (3) are replaced by the following:

2. The objection shall be communicated in accordance with Article 70a(1). The date of submission of an objection to the Commission shall be the date on which the application is received by the Commission.

3. The Commission shall confirm receipt of the objection and assign a file number to the objection.

The confirmation of receipt shall include at least the following:

- (a) the file number;
- (b) the date of receipt of the objection.;

(16) Article 40 is replaced by the following:

*Article 40*

#### **General protection**

1. If a traditional term for which protection is requested meets the conditions set out in Article 118u(1) of Regulation (EC) No 1234/2007 and in Articles 31 and 35 of this Regulation and is not rejected by virtue of Articles 36, 38 and 39 of this Regulation, the traditional term is listed and defined in the 'E-Bacchus' database, in accordance with Article 118u(2) of Regulation (EC) No 1234/2007 on the basis of the information communicated to the Commission in accordance with Article 70a(1) of this Regulation, mentioning the following:

- (a) the language referred to in Article 31(1);
- (b) the grapevine product category or categories concerned by the protection;
- (c) a reference to the national legislation of the Member State or third country in which the traditional term is defined and regulated, or to the rules applicable to wine producers in the third country, including those originating from representative trade organisations, in the absence of national legislation in those third countries;
- (d) a summary of the definition or conditions of use;
- (e) the name of the country or countries of origin;
- (f) the date of inclusion in the electronic database "E-Bacchus".

2. The traditional terms listed in the electronic database "E-Bacchus", shall be protected only in the language and for the categories of grape vine 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.

3. The traditional terms listed in the electronic database "E-Bacchus" shall be made known to the public.;

(17) at Article 42(1), the third subparagraph shall be replaced by the following:

'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 listed in the electronic database "E-Bacchus", having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumer.;

(18) Article 45 is replaced by the following:

‘Article 45

**Submission of a request for cancellation**

1. A duly substantiated request for cancellation may be communicated to the Commission by a Member State, a third country or a natural or legal person having a legitimate interest in accordance with Article 70a(1). The date of submission of a request to the Commission shall be the date on which the request is received by the Commission. This date shall be made known to the public.

2. The Commission shall confirm receipt of the request and assign a file number to the request.

The confirmation of receipt shall include at least the following:

- (a) the file number;
- (b) the date of receipt of the request.

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

(19) in Article 47, paragraph 5 is replaced by the following:

‘5. When a cancellation takes effect, the Commission shall remove the name concerned from the list set out in the electronic database “E-Bacchus”.’;

(20) in Article 63, paragraph 1 is replaced by the following:

‘1. Member States shall designate the competent authority or authorities responsible for ensuring certification as provided for in Article 118z(2)(a) of Regulation (EC) No 1234/2007, in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004 of the European Parliament and of the Council (\*).

Each Member State shall communicate to the Commission the following details before 1 October 2011, as well as any amendments to those details in accordance with Article 70a(1) of this Regulation:

- (a) the name, address and contact points, including e-mail addresses, of the authority or authorities responsible for the application of this Article;
- (b) where applicable, the name, address and contact points, including e-mail addresses, of all the bodies authorised by an authority for the application of this Article;
- (c) the measures they have taken to implement this Article, where those measures are of specific value for the purposes of cooperation between Member States as referred to in Regulation (EC) No 555/2008;
- (d) the wine grape varieties concerned by the application of Articles 118z(2) and 120a of Regulation (EC) No 1234/2007.

The Commission shall draw up and keep up-to-date a list containing the names and addresses of the competent

authorities and authorised bodies, as well as the authorised wine grape varieties, based on information communicated by the Member States. The Commission shall make this list known to the public.

(\*) OJ L 165, 30.4.2004, p. 1.’;

(21) in Chapter V, the new Articles 70a and 70b are inserted as follows:

‘Article 70a

**Method applicable to communications between the Commission, the Member States, third countries and other operators**

1. As regards the present paragraph, the documents and information required for the implementation of this Regulation shall be communicated to the Commission in accordance with the following method:

- (a) for the competent authorities of Member States, through the intermediary of the information system made available to them by the Commission in accordance with the provisions of Regulation (EC) No 792/2009;
- (b) for the competent authorities and representative trade organisations of third countries, as well as natural or legal persons who have a legitimate interest under this Regulation, through electronic means, using the methods and forms made available to them by the Commission and made accessible under the conditions specified in Annex XVIII to this Regulation.

However, paper-based communication is also possible, using those forms.

The filing of an application and the content of the communications is a matter for the competent authorities designated by the third countries, or the representative trade organisations, or the legal or natural persons that are involved, as the case may be.

2. Information shall be communicated and made available by the Commission to the authorities and persons affected by this Regulation and, where applicable, to the public, through the information systems put in place by the Commission.

The authorities and persons affected by this Regulation may contact the Commission, in accordance with Annex XIX, in order to obtain information on the practicalities of accessing the information systems, of communication and of making information available.

3. Article 5(2) and Articles 6, 7 and 8 of Regulation (EC) No 792/2009 apply *mutatis mutandis* to the communication and making available of information, referred to in paragraph 1(b) and paragraph 2 of this Article.

4. As regards the implementation of paragraph 1(b), the rights to access the information systems for the competent authorities and the representative trade organisations of third countries, as well as for natural or legal persons who have a legitimate interest under this Regulation, shall be assigned by those responsible for the information systems in the Commission.

Those who are responsible for the information systems in the Commission shall approve access rights, as appropriate, on the basis of:

- (a) information regarding the competent authorities designated by the third country with their contact points and e-mail addresses, held by the Commission under international agreements or communicated to the Commission in accordance with these agreements;
- (b) an official request from a third country specifying information regarding the authorities responsible for the communication of the documents and information required for the implementation of paragraph 1(b), as well as the contact points and e-mail addresses of the authorities concerned;
- (c) a request from a representative trade organisation in a third country or a legal or natural person, with proof of identity, evidence of its legitimate interest and an e-mail address.

After access rights have been approved, they shall be activated by those responsible for the information systems in the Commission.

#### Article 70b

#### **Communication and provision of information regarding the authorities responsible for examining applications at national level**

1. Member States shall communicate to the Commission before 1 October 2011, in accordance with Article 70a(1), the name, address and contact points, including e-mail addresses of the authorities responsible for the implementation of Article 118f(2) of Regulation (EC) No 1234/2007 as well as any changes to these details.

2. The Commission shall draw up and maintain a list containing the names and addresses of the competent authorities of the Member States or third countries on the basis of information communicated by the Member States in accordance with paragraph 1 or by third countries in accordance with international agreements concluded with the EU. The Commission shall make this list known to the public.;

(22) Article 71(1) and (2) are replaced by the following:

#### *'Article 71*

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

1. The documents referred to in Article 118s(2) of Regulation (EC) No 1234/2007, hereinafter "the file" and

the amendments to a product specification referred to in Article 73(1)(c) and (d) and 73(2) of this Regulation, shall be sent by the Member States in accordance with Article 70a(1) of this Regulation in accordance with the following rules and procedures:

- (a) the Commission shall confirm receipt of the file or of the amendment, as indicated in Article 9 of this Regulation;
- (b) the file or amendment shall be considered as admissible on the date on which it is received by the Commission, under the conditions set out in Article 11 of this Regulation and provided that they are received by the Commission at the latest on 31 December 2011;
- (c) the Commission shall confirm the registration of the designation of origin or the geographical indication in question in the register in accordance with Article 18 of this Regulation, with any amendments, and assigns it a file number;
- (d) the Commission shall examine the validity of the application file, taking account where applicable of the amendments received, in accordance with the time-limit laid down in Article 12(1) of this Regulation.

2. The Commission may decide to withdraw the designation of origin or geographical indication concerned in accordance with Article 118s(4) of Regulation (EC) No 1234/2007 on the basis of the documents available to it under Article 118s(2) of that Regulation.;

(23) Article 73 is replaced by the following:

#### *'Article 73*

#### **Transitional provisions**

1. The procedure set out in Article 118s of Regulation (EC) No 1234/2007 shall apply in the following cases:

- (a) for any wine designation submitted to a Member State as a designation of origin or geographical indication and approved by that Member State before 1 August 2009;
- (b) for any wine designation submitted to a Member State as a designation of origin or geographical indication before 1 August 2009, and approved by that Member State before 31 December 2011;
- (c) for any modification to the product specification submitted to a Member State before 1 August 2009 and sent to the Commission by that Member State before 31 December 2011;
- (d) for any minor modification to the product specification submitted to a Member State on or after 1 August 2009 and sent to the Commission by that Member State before 31 December 2011.

2. The procedure set out in Article 118q of Regulation (EC) No 1234/2007 does not apply to amendments to a product specification submitted to a Member State on or after 1 August 2009 and sent to the Commission by that Member State before 30 June 2014, where these amendments are concerned exclusively with bringing the product specification sent to the Commission under Article 118s(2) of Regulation (EC) No 1234/2007 into compliance with Article 118c of Regulation (EC) No 1234/2007 of this Regulation.

3. 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.;

- (24) Annexes I to IX, XI and XII are deleted;
- (25) Annexes XVIII and XIX are replaced by the texts set out in Annexes I and II hereto.

#### Article 2

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

However, Article 1 point 20 of this Regulation concerning Article 63(1) of Regulation (EC) No 607/2009 as well as Article 1 point 21 of this Regulation as regards Article 70b of Regulation (EC) No 607/2009 shall apply from 1 September 2011.

Communications made by the competent authorities of Member States on a voluntary basis, via the information systems put in place by the Commission, in accordance with Regulation (EC) No 607/2009 as amended by Article 1 of this Regulation between 1 June 2011 and the date of entry into force of this Regulation shall be considered as having been made in compliance with Regulation (EC) No 607/2009 prior to its amendment by this Regulation.

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

Done at Brussels, 12 July 2011.

For the Commission  
The President  
José Manuel BARROSO

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*ANNEX I**'ANNEX XVIII***Access to the methods and electronic forms referred to in Article 70a(1)(b)**

The methods and electronic forms referred to in Article 70a(1)(b) are freely accessible through the "E-Bacchus" electronic database by the Commission through its information systems:

<http://ec.europa.eu/agriculture/markets/wine/e-bacchus/>

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*ANNEX II**'ANNEX XIX***Practicalities of communication and making information available referred to in Article 70a(2)**

In order to obtain information as to the practicalities of accessing information systems, of communications and of making information available, the authorities and persons affected by this Regulation should contact the Commission at the following address:

Functional mailbox: [AGRI-CONTACT-EBACCHUS@ec.europa.eu](mailto:AGRI-CONTACT-EBACCHUS@ec.europa.eu)

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