

Council Regulation (EC) No 479/2008 of 29 April 2008 on the common organisation of the market in wine, amending Regulations (EC) No 1493/1999, (EC) No 1782/2003, (EC) No 1290/2005, (EC) No 3/2008 and repealing Regulations (EEC) No 2392/86 and (EC) No 1493/1999 (repealed)

TITLE III

REGULATORY MEASURES

CHAPTER IV

Designations of origin and geographical indications

Section 5

Protection and control

Article 45

Protection

- 1 Protected designations of origins and geographical indications may be used by any operator marketing a wine which has been produced in conformity with the corresponding product specification.
- 2 Protected designations of origins and geographical indications and the wines using those protected names in conformity with the product specification shall be protected against:
 - a any direct or indirect commercial use of a protected name:
 - (i) by comparable products not complying with the product specification of the protected name; or
 - (ii) in so far as such use exploits the reputation of a designation of origin or a geographical indication;
 - b any misuse, imitation or evocation, even if the true origin of the product or service is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation', 'flavour', 'like' or similar;
 - c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, on the inner or outer packaging, advertising material or documents relating to the wine product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;
 - d any other practice liable to mislead the consumer as to the true origin of the product.
- 3 Protected designations of origin or protected geographical indications shall not become generic in the Community within the meaning of Article 43(1).
- 4 Member States shall take the steps necessary to stop unlawful use of protected designations of origin and geographical indications as referred to in paragraph 2.

Article 46

Register

The Commission shall establish and maintain an electronic register of protected designations of origin and geographical indications for wine which shall be publicly accessible.

Article 47

Designation of competent control authority

1 Member States shall designate the competent authority or authorities responsible for controls in respect of the obligations established by this Chapter in accordance with the criteria laid down in Article 4 of Regulation (EC) No 882/2004.

2 Member States shall ensure that any operator complying with this Chapter is entitled to be covered by a system of controls.

3 Member States shall inform the Commission of the competent authority or authorities referred to in paragraph 1. The Commission shall make their names and addresses public and update them periodically.

Article 48

Verification of compliance with specifications

1 In respect of protected designations of origin and geographical indications relating to a geographical area within the Community, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:

- a the competent authority or authorities referred to in Article 47(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 costs of such verification shall be borne by the operators subject to it.

2 In respect of protected designations of origin and geographical indications relating to a geographical area in a third country, annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:

- a one or more public authorities designated by the third country; or
- b one or more certification bodies.

3 The certification bodies referred to in paragraphs 1(b) and 2(b) 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).

4 Where the authority or authorities referred to in paragraphs 1(a) and 2(a), verify compliance with the product specification, they shall offer adequate guarantees of objectivity

and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks.

Article 49

Amendments to product specifications

1 An applicant satisfying the conditions of Article 37 may apply for approval of an amendment to the product specification of a protected designation of origin or geographical indication, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area referred to in (d) of the second subparagraph of Article 35(2). Applications shall describe and give reasons for the amendments requested.

2 Where the proposed amendment involves one or more amendments to the single document referred to in Article 35(1)(d), Articles 38 to 41 shall apply *mutatis mutandis* to the amendment application. However, if the proposed amendment is only minor, it shall be decided, in accordance with the procedure referred to in Article 113(2), whether to approve the application without following the procedure laid down in Article 39(2) and Article 40 and in the case of approval, the Commission shall proceed to publication of the elements referred to in Article 39(3).

3 Where the proposed amendment does not involve any change to the single document, the following rules shall apply:

- a where the geographical area is in a given Member State, that Member State shall express its position on the amendment and, if it is in favour, shall publish the amended product specification and inform the Commission of the amendments approved and the reasons for them;
- b where the geographical area is in a third country, the Commission shall determine whether to approve the proposed amendment.

Article 50

Cancellation

It may be decided, in accordance with the procedure referred to in Article 113(2), at the initiative of the Commission or at a duly substantiated request of a Member State, of a third country or of a natural or legal person having a legitimate interest, to cancel the protection of a designation of origin or a geographical indication if compliance with the corresponding product specification is no longer ensured.

Articles 38 to 41 shall apply *mutatis mutandis*.

Article 51

Existing protected wine names

1 Wine names, which are protected in accordance with Articles 51 and 54 of Regulation (EC) No 1493/1999 and Article 28 of Regulation (EC) No 753/2002, shall automatically be protected under this Regulation. The Commission shall list them in the register provided for in Article 46 of this Regulation.

2 Member States shall, in respect of existing protected wine names referred to in paragraph 1, transmit to the Commission:

- a the technical files as provided for in Article 35(1);
- b the national decisions of approval.

3 Wine names referred to in paragraph 1, for which the information referred to in paragraph 2 is not submitted by 31 December 2011, shall lose protection under this Regulation. The Commission shall take the corresponding formal step of removing such names from the register provided for in Article 46.

4 Article 50 shall not apply in respect of existing protected wine names referred to in paragraph 1.

It may be decided, until 31 December 2014, at the initiative of the Commission and in accordance with the procedure referred to in Article 113(2), to cancel protection of existing protected wine names referred to in paragraph 1 if they do not meet the conditions laid down in Article 34.