



SUBMISSION GUIDE FOR EXISTING WINE NAMES

Disclaimer:

This document is a draft working document designed to assist national authorities dealing with the submission to the Commission of the technical files related to existing protected wine names pursuant Article 118s of Regulation (EC) No 1234/2007. It carries no legal or interpretative value and does not substitute, amend or otherwise modify the rules laid down by legislation.

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I. FOREWORD

This document is aimed at Member State National Authorities dealing with existing wine PDO-PGI technical files, including product specifications. The guide covers the main elements that need to be checked by national administrations in preparing existing Wine name technical files for submission to the Commission services.

This document is for guidance only and has no legal force. The applicable rules are laid down in Regulation (EC) No 1234/2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), and the implementing rules contained in Regulation (EC) No 607/2009. References to these regulations ("1234" for the former; "607" for the latter) are given as appropriate.

Observations, suggestions, contributions are welcome to mail box: AGRI-CONTACT-DOCGWINE@ec.europa.eu

The sections below refer primarily to the material that must be sent to the Commission pursuant to Article 118s(2)/1234, and in particular to the Single Document (see template in Annex II /607) and the product specification (Article 118c(2) /1234).

II. SCOPE OF THE INFORMATION

1. Files to be transmitted

To facilitate the submission to the Commission of the technical files of existing PDOs/PGIs pursuant to Article 118s, paragraph 2(a) /1234 and to facilitate the examination of these files in due time, we invite Member States to provide the information described in Article 118c, paragraph 1, of the aforesaid regulation as follows:

- **the single document** mentioned in Article 118c(1) /1234 in the electronic format defined by the Commission services. Up to now, the electronic format requested is an MS-Excel file provided by the Commission which shall be sent to the following e-mail address: AGRI-CONTACT-DOCGWINE@ec.europa.eu. A new Web form will be available during the first semester 2011;
- **the national decision of approval** of the existing protected wine names as in force on 1 August 2009. It is not required to send other pieces of national legislation unless there are particularly pertinent for the case. The relevant provisions of other national legislation will be included in the product specification under the section "Applicable requirements", and;
- **the product specification**. The details of the product specification will be discussed in the section III.

2. Existing names

(a) *Names that were adopted on 1 August 2009*

The submission obligation pursuant to Article 118s /1234 concerns all the PDO/PGI which had been adopted by 1 August 2009, even if they have not been published by the Commission before this date (Article 73(1) /607).

The product specification will represent the **legal situation on 1 August 2009**. If the product specification document did not physically exist on 1 August 2009, the applicant is entitled to establish it later but it shall only include legal elements which were applicable on this date. For instance, the description of the link with the geographical area may be established after 1 August 2009 but it will only refer to elements (like the human factors, the reputation of the product or other relevant details of the product) that existed on this date.

(b) *Names to be adopted on 1 August 2009*

According to Article 73(2) /607, wine names not yet protected on 1 August 2009 shall be considered as an existing name according Article 118s(1) /1234 provided that :

- they have been filed with the Member State at the latest on 1 August 2009, **and**
- their approval decision and the technical files (single document + product specification) are transmitted to the Commission at the latest on 31 December 2011.

The applicant will provide the Commission with factual elements that demonstrate that those wine names were filed with the Member State at the latest on 1 August 2009 (Article 73(2) /607).

3. Amendments

As regards amendments to the product specification to be submitted, the two following situations shall be underlined:

- **Amendments filed with the Member State at the latest on 1 August 2009**

Amendments to the existing wine name product specification shall be included in the product specification to be submitted only if they have been filed with the Member State at the latest on 1 August 2009. The applicant will provide the Commission with factual elements that demonstrate that the amendments were filed with the Member State at the latest on 1 August 2009 (Article 73(2) /607).

- **Amendments filed with the Member State after 1 August 2009**

If the amendments were filed with the Member State after 1 August 2009, the applicant will transmit to the Commission, before 31 December 2011, the product specification that represents the legal situation on 1 August 2009 (i.e. without the amendments). The amendments will be taken into consideration by the Commission once the amendment procedure defined in Article 118q /1234 is carried out.

III. THE PRODUCT SPECIFICATION

The product specification should be established, as much as possible, as a stand alone document. Avoid making too many references to annexes, national legislations and rules, EU legislation, or other documents. The product specification does not need to be very long, but must be very precise and concrete.

The purpose of the product specification is not to regroup all the existing rules related to the production of PDO/PGI wines. For instance, it is not necessary to include, in the product specification, the rules related to the composition of the degustation committees, the rules describing the method of demarcation of the geographical areas or other fiscal or social rules dedicated to the wine sector.

Basically, the product specification should include all the rules that have a direct influence on the product, so that if a wine is considered as "non-compliant" (and is not consequently placed on the market with the relevant PDO/PGI), the **criteria of non compliance** are in the product specification.

Additionally, the product specification should include other elements specifically identified in EU regulations (like the information related to the verification).

This document should be divided into the following numbered sections:

1. Name to be protected

(a) *Language(s)*

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. The language versions can be official languages of the EU, lesser-used languages, or dialects and other variants.

Furthermore, the name shall be registered with its original spelling(s) (Article 4(2) /607) in normal upper and lower case and all accents (that may not appear in the capital version, according to usage) shall be shown.

If more than one language is used, separate by ‘ / ’ (e.g. "French / Spanish").

(b) *Scope*

The name to be registered will **not include**

- the transcription, translation or transliteration, even in the case of PDO or PGI using a non-Latin alphabet;
- the name of a smaller or larger geographical unit.

(c) *Traditionally used names*

If the specification deals with a traditionally used name (Article 118b(2) /1234), it should be claimed in the product specification for the use of a traditional non-geographical name.

(d) *Country Names*

If the PDO/PGI corresponds to a Country name, the justification of exceptional circumstances mentioned in Article 118b(1) /1234 must be provided in the product specification.

2. Description of the wine(s)

The description must enable the wine to be clearly and accurately identified. The description must be consistent with the information given under Section 7(b) details of the product, but should not be too repetitive.

The description should be scientific, in the style, and using the language of a wine expert ("œnologue"), a chemist and/or an agronomist.

The description of the wine(s) shall cover:

- for PDO wines, its principal analytical and organoleptic characteristics;
- for PGI wines, its principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics.

The purpose of the present section 2 is to list the analytical and/or organoleptic elements that enable the body in charge of the analytical and organoleptic testing foreseen in Article 26 /607 to verify the conformity of the wine.

(a) *Analytical characteristics*

Considering the compulsory analytical testing foreseen in Article 26 /607, the analytical description should at least cover the following characteristic properties:

- 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;
- carbon dioxide, in the case of semi-sparkling and sparkling wines, and
- optionally, any other characteristic properties provided for in Member States legislation or product specifications.

(b) *Organoleptic characteristics*

The organoleptic description will cover :

- visual appearance of the wine,
- odour of the wine, and

- taste of the wine.



Please avoid subjective and non-precise descriptions such as "delicious", "perfect", "tasty", "beautiful", etc., and avoid exaggerations and unscientific superlatives: "best", "most sought after", etc.



The development of the aroma and taste of a wine grape variety depends on the geographical area and in particular, as regards the PDO, natural and human factors. It is not enough to limit the organoleptic characteristics of a wine to a reference to the grape variety(ies) which is(are) used.

(c) *Multiple descriptions*

Depending on the production or ageing method, the grape varieties, or the quality, colour, type of place, or a particular event linked to the history of the product, it could be necessary to provide more than one description under this section. This description will be used to establish the link with the geographical area.



The details of the product under section 7(b) will repeat the analytical and/or organoleptic elements that are attributable to the geographical area.

As far as possible avoid unnecessary repetitions.

3. **Specific oenological practices**

This section should include:

- the specific oenological practices,
- the relevant restrictions on making the wines, and
- by extension, the cultural practices (Vine training systems, harvesting of wine grapes, etc).

Only the practices which are compulsory and that are used to declare a wine **non compliant**, should appear under this section.

4. **Demarcation of the geographical area**

According to Article 5 /607, the area shall be demarcated in a detailed, precise and unambiguous manner.

For instance, it could be described by reference to physical boundaries (e.g. rivers, roads) or administrative boundaries (e.g. provinces, cities, etc). It must be clear to a farmer and to an inspector whether each individual parcel is in the area or outside the area. General terms should be avoided.

The geographical area must be delimited with regard to the link between the place and the product.

The area is limited to particular zones or soil types within the area. A continuous and homogeneous area is preferable, also in the peculiar characteristics of the environment, which is decisive to prove the link

5. Maximum yields

The maximum yields should be expressed both

- in kilogram of grape per hectare, and
- in hectolitre of the final product per hectare.



Obviously the description of the wine under the section 2 is influenced by the yields of the vine.

6. Wine grape variety or varieties

All the allowed wine grape varieties should be mentioned in the product specification.

The PDO/PGI shall be made from wine grape varieties classifiable according to Article 120a /1234.

PDOs are obtained from vine varieties belonging to *Vitis vinifera* (Article 118b(1)(a) /1234).



Obviously the description of the wine under the section 2 is influenced by the wine grape varieties used to make the wine.

7. Link with the geographical area;

This section includes the details bearing out the link referred to in Article 118b(1)(a)(i) or, as the case may be, in Article 118b(1)(b)(i).

The definition of this link is the difficult and essential part of the product specification.

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 (Article 7(1) /607).

Depending on the production or ageing method, the grape varieties, or the quality, colour, type of place, or a particular event linked to the history of the product, it could be necessary to provide more than one description under this section. There could be for example one section for each traditional term related to the PDO/PGI.



Here again, please avoid subjective and non-precise descriptions such as "delicious", "perfect", "tasty", "beautiful", etc., and avoid exaggerations and unscientific superlatives: "best", "most sought after", etc.

(a) *Details of the geographical area*



Do not include features of the geographical area that have no influence on the specificity of the product. Do not include general or fanciful terminology, e.g. "beautiful landscape".

(i) For PDO

For PDO wines, the details of the geographical area should cover both the natural and human factors.

- Natural factors

Natural factors are the characteristics of the defined geographical area relevant to the link. These may include the pedo-climatic features; topography, climate, soil, rainfall, exposure, altitude, etc.



Avoid general statements about 'microclimate', and 'low rainfall' etc. Statements should be precise: give average rainfall in mm (provided this is relevant to the specific product); explain which aspects of the climate give rise to the effects on the product, etc



Should be consistent with section 4. Demarcation of the geographical area.

- Human factors

Considering the natural factors, the PDO(PGI) producers have historically defined:

- the wine grape variety(ies) allowed in the PDO(PGI) area,
- the maximum yields;
- the specific oenological practices which are allowed or compulsory;
- the relevant restrictions on making the wines, and
- the cultural practices which are allowed or compulsory.

The "savoir faire" of the local producers can also be described here. The "savoir faire" must be a special and particular skill: normal production is not sufficient.



Should be consistent with section 3-specific oenological practices, section 5-maximum yields and section 6-wine grape variety or varieties, and as far as possible avoid repetitions.

(ii) For PGI

For PGI wines, the details of the geographical area cover the natural and/or human factors.



Should be consistent with section 3-specific oenological practices, section 4-demarcation of the geographical area, section 5-maximum yields and section 6-wine grape variety or varieties, and as far as possible avoid repetitions.

(b) *Details of the product*

Ask yourself: what makes this PDO/PGI wine different from wines using the same grape variety(ies) in another geographical area?

We do not insist on uniqueness of the wine, but if there is nothing to distinguish this wine from other wines using the same grape variety(ies) in another "terroir", it will not be possible to establish the link with the geographical area.



The purpose of section 2 - description of the wine(s) is to list of the analytical and/or organoleptic elements that enable the body in charge of the analytical and organoleptic testing foreseen in Article 26 /607 to verify the conformity of the wine.

The details of the product under section 7(b) will only list the analytical and/or organoleptic elements that are attributable to the geographical area. Do not include under section 7(b) features of the product that have no relation to the geographical area.

As far as possible avoid repetitions.

(i) For PDO

List the **analytical and/or organoleptic elements** which are **essentially** or **exclusively** attributable to the geographical environment (natural and human factors).

(ii) For PGI

The details of the product cover:

- the **analytical and/or organoleptic elements** which are attributable to the geographical origin (natural and/or human factors), **or**
- facts that demonstrate that the product is **reputed** because it comes from this area. All relevant facts must be taken into consideration in assessing the reputation, and in particular the market share held by the PGI, the intensity, geographical extent and duration of the marketing under this PGI name (historical elements), and the size of investment made by the undertakings in using and promoting the PGI name¹.

The product specification for a PGI shall **explicitly** state whether the link is based on a specific quality or reputation or other characteristics linked to its geographical origin (Article 7(4) /607).

(c) *Casual interaction*

All the elements of the casual interaction between the geographical area and the product should already appear under sub-section (a) and sub-section (b) of the current section. If needed, complete the description of the casual interaction under the current sub-section.



A too-common failing of the product specification is to describe a unique geographical place, and to describe a particular quality of product. However, there is no causal relation between the place and the product.

8. **Applicable requirements**

This section groups all the applicable requirements which are not already mentioned elsewhere in the product specification.

However, do not include any requirements by national or EU rules which apply to the producers irrespective of the concerned PDO or PGI. If those rules are amended, the PDO/PGI producers may have to file for an amendment.

(a) *Legal framework*

Those requirements must be defined:

- in EU legislation,
- in national legislation, and/or
- by an organisation which manages the PDO/PGI, where foreseen by Member States.

¹ To determine which elements can be used to demonstrate the reputation, see the judgment of the Court of 14 September 1999. - General Motors Corporation v Yplon SA. - Reference for a preliminary ruling: Tribunal de commerce de Tournai - Belgium. - Directive 89/104/EEC - Trade marks - Protection - Non-similar products or services - Trade mark having a reputation. - Case C-375/97.

(b) *Objective, non-discriminatory and compatible with EU law*

Those requirements shall be objective, and non discriminatory and compatible with EU law.

For instance, restrictions that impose the use of the business premises of a single company, or that require membership of an organisation that has power to refuse membership to an applicant, should be avoided.

(c) *Example of additional requirements*

(i) Derogation on the production in the demarcated geographical area

Article 6 /607 defines a number of derogation on **condition that the product specification so provides**:

- production in an area in the immediate proximity of the demarcated area concerned;
- production in an area located within the same administrative unit or within a neighbouring administrative unit, in conformity with national rules;
- 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), production of PDO/PGI wine in an area situated in the immediate proximity of the demarcated area in question;
- production beyond the immediate proximity for PGI until 31 December 2012;
- production of sparkling or semi-sparkling PDO wine beyond the immediate proximity of the demarcated area in question if this practice was in use prior to 1 March 1986.

(ii) Packaging within the demarcated area

Article 8 /607 states that 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, **justification** for this requirement shall be given in respect of the product concerned.

(iii) Additional provisions relating to labelling

Based on Article 70(1) /607, the use of the particulars hereafter may be rendered compulsory, prohibited or limited in the product specification:

- Vintage year (Article 61 /607);
- Name of wine grape variety (Article 62 /607);
- Indication of the sugar content (Article 64 /607)
- Indication of the EU symbols (Article 65 /607)
- Terms referring to certain production methods (Article 66 /607)

- Name of a smaller or larger geographical unit (Article 67 /607)

9. Checks:

Article 118p /1234 foresees the carrying out of an annual verification of compliance with the product specification. Article 118c(2)(i) /1234 requests, first, to provide the name and address of the authorities or bodies verifying compliance with the provisions of the product specification and, second, to list their specific tasks.

(a) *Competent control authorities or bodies*

Those authorities or bodies should comply with the requirements of Articles 118o and 118p /1234.

(b) *Tasks*

The description of the specific tasks should demonstrate that the elements of Articles 24 to 26 of Commission Regulation (EC) No 607/2009 are covered, namely:

(i) Scope of the checks

- Organoleptic and/or analytical testing

For PGI, the organoleptic testing is optional.

According Article 25(2) /607, the organoleptic and analytical testing aims demonstrate that the product tested complies with the characteristics and qualities described in the product specification. The elements described under section 2 - description of the wine(s) will serve as frame of reference for the testing. The results of the testing prove that the product in question complies with the conditions in the specification and possesses all the appropriate characteristics of the PDO/PGI concerned. A wine may not fail the testing based on requirements not described in the product specification.

- Other conditions set out in the product specification

For the purposes of checking compliance with these other conditions set out in the product specification, the control authority shall check:

- the premises of operators, consisting in checking that the operators are actually able to meet the conditions laid down in the product specification. The list of the tasks of the control authorities shall also demonstrate that controls are organised in the premises of operator; and
- 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. A summary of the inspection plan shall be included in the list of the tasks.

(ii) Methodology of the checks

The annual verification shall be conducted in the Member State in which production took place in accordance with the product specification (Article 25(1) second sub-paragraph /607).

The methodology shall then be described in the list of the tasks:

- random checks based on a risk analysis;
- sampling;
- systematically; or
- a combination of any of the above.