

Variety denomination information notice :

legal bases and general principles / administrative process

○ Legal basis :

The analysis of the denominations in order to establish their eligibility is based on the following texts:

- Commission Regulation (EC) N° 2021/384: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021R0384&qid=1666796221076&from=EN>
- Council Regulation (EC) No 2100/94 - Article 63: <https://cpvo.europa.eu/sites/default/files/documents/en2100consolide.pdf>
- Explanatory Notes to the CPVO Guidelines: https://cpvo.europa.eu/sites/default/files/documents/cpvo_guidelines_on_art_63_with_explanatory_notes.pdf
- UPOV Convention: Article 20 and Explanatory Notes UPOV/EXN/DEN/1: https://www.upov.int/edocs/expndocs/en/upov_exn_den.pdf

○ General principles :

In order to be acceptable, a denomination must:

- **Be recognised** as a denomination and easily reproducible

→ no descriptive term (characteristic) alone, no superlative or comparative term, no botanical term or technical term in the scope of breeding, avoid common or botanical names of species (special rules)

- Enable **the identification** of a single variety (without risk of confusion with another variety)

→ must not be identical or similar to a denomination of a variety (of the same UPOV class of denominations*) which already exists or has existed (*unless, in the case of a similar name, it has been cancelled for more than ten years / the re-use of an identical denomination for the same species is not recommended and could be refused if there is a risk of confusion with an old variety (always included in a collection, a network of genetic resources...).*)

The similarity is analysed at the visual, phonetic and conceptual level (meaning of the name).

- **Do not mislead** about the variety, the breeder ...

→ no term suggesting a particular characteristic or value which the variety does not have, no term giving the false impression that the variety is related to another variety (*common term between the two denominations*), no identifying term used by another breeder, no geographical name which could be misleading as to the origin of the variety ...

- Not opposing a **prior right**

→ not to use an identical or similar trademark name, geographical indication (PGI, PDO, TSG) for identical or similar products (*in particular class 31 of the Treaty of Nice*)

* Available in the Annex to the Explanatory Notes UPOV/EXN/DEN/1, link above

○ Administrative process of a variety denomination at GEVES (CTPS / INOV files)

1

Denomination proposal (in the application file for registration / protection or subsequently, with the denomination proposal form sent to the CTPS secretariat or INOV (as the case may be).

2

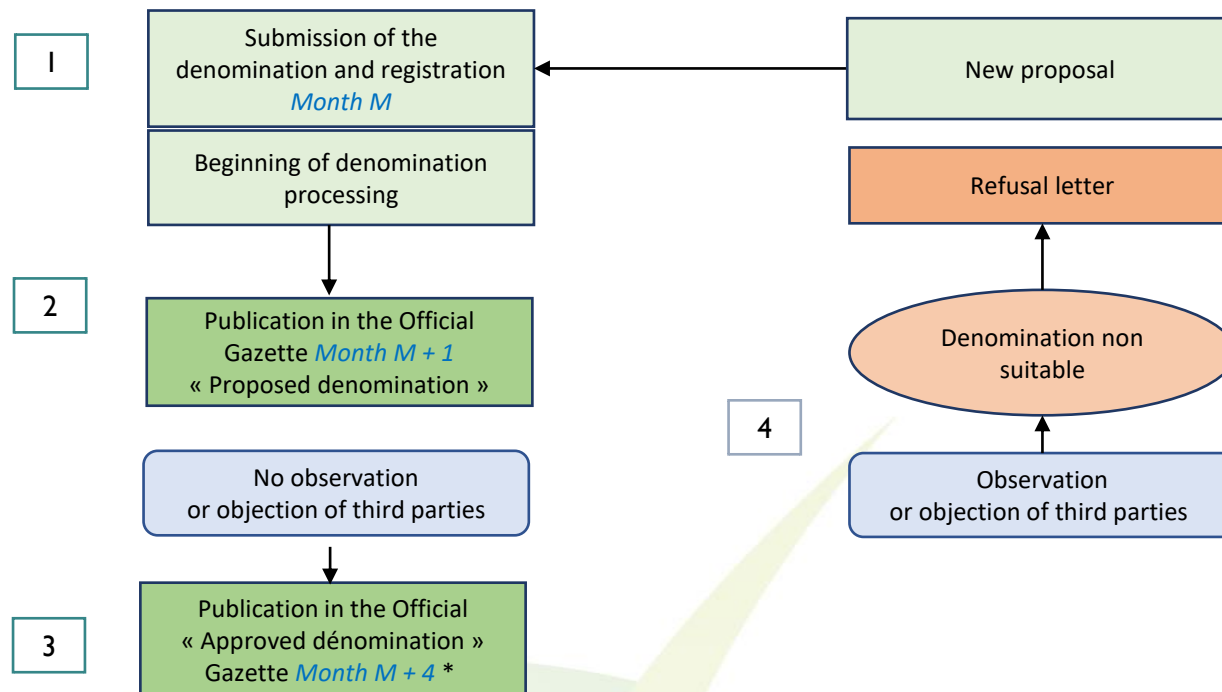
Analysis of the denomination within the Denominations Commission and request for an advice from the CPVO. Publication in the INOV Official gazette of the following month in the section "Proposed denominations".

3

If denomination is deemed admissible and no objection from a third party
 → publication in the INOV Official gazette 3 months later, under the section "Approved denominations".
 If the denomination is not acceptable or if a third party raises a valid objection

4

→ rejection letter sent to the applicant
 → request for proposal for a new denomination.



Exemple: a denomination proposed in January will be published for the first time as a "Proposed denomination" in February and then, without observations or objections, will be published for the second time as an "Approved denomination" three months later, in May.

* The administrative approval, after 3 months of publication, could be rejected at the end of the technical examination if the denomination refers to a characteristic not confirmed by the technical examination, to an unproven biological link, if the identity with the old variety claimed is not confirmed, ...