

Protection of geographical indications and designations of origin

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1. Legal grounds for protection

Geographical names and other terms associating a product with a particular place have great commercial importance for the consumer, who often makes choices on the basis of such indications. Therefore national, international and community jurisdictions provide for the protection of geographical indications and designations of origin.

2. The concept

Specific legal acts vary in their definition of the terms "geographical indications and designations of origin". According to the provisions of the [TRIPS Agreement](#), "geographical indications" are indications that identify a product as originating from the territory of a State that is party to the Agreement, or from a region or from a place located in the territory, if a specific quality, reputation, or other characteristics of the product is essentially attributable to its geographical origin.

Under [Council Regulation \(EC\) No 510/2006](#)

- "designation of origin" (named as PDO) means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff:
 - originating in that region, specific place or country,
 - the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and
 - the production, processing and preparation of which take place in the defined geographical area;
- "geographical indication" (named as PGI) means the name of a region, a specific place or, in exceptional cases, a country, used to describe an agricultural product or a foodstuff:
 - originating in that region, specific place or country, and
 - which possesses a specific quality, reputation or other characteristics attributable to that geographical origin, and
 - the production and/or processing and/or preparation of which take place in the defined geographical area.

3. Purpose of protection

Geographical indications and designations of origin protect:

- the interests of entrepreneurs who offer goods that bear marks indicating which geographical region they come from,
- consumers from being misled as to the origin of goods and their quality (their attributes and characteristics).

Regulation 510/2006 protects geographical indications and designations of origin that mark agricultural products and foodstuffs. The indications which are used on industrial products and services are protected by the [Paris Convention](#), the [TRIPS Agreement](#) and national legislations.

4. In what cases is a geographical indication and/or designation of origin legally protected?

Under Regulation 510/2006, designations of origin are protectable when all stages of making a product (an agricultural product or a foodstuff) take place in one and the same geographical area to which the indication pertains.

Geographical indications enjoy protection when at least one stage of production of the product takes place in the territory concerned.

It is also possible to protect so-called "indirect geographical indications of origin", i.e. traditional (geographical or non-geographical) names indicating that products originate from a particular region or a specific place, under the condition that they fulfil the requirements foreseen to PDO or PGI.

5. Who is entitled to apply for a geographical indication or designation of origin?

Under Regulation 510/2006, the following are entitled to apply for a registration of a geographical indication or a designation of origin:

- any association (irrespective of its legal form or composition) of producers or processors working with the same agricultural product or foodstuff,
- natural or legal persons (in exceptional cases).

Designations of origin and geographical indications are protectable if they have been entered in the register of protected designations of origin and protected geographical indications. The register is maintained by the European Commission.

6. Registration procedure for geographical indication and/or designation of origin

Under Regulation 510/2006, there are usually two stages in the registration procedure, namely:

- the procedure before an authorized national body (bodies) of an EU Member State (which is used when the application concerns a geographical area located in the specific Member State) and
- the procedure before the European Commission.

If the application concerns a geographical area located in a country which is not an EU Member State, it is forwarded to the Commission directly or through competent authorities.

If the application is admissible, protection is granted for a geographical indication or a designation of origin.

A refusal to register by the European Commission can be appealed before the European Court of Justice.

7. Who can use a geographical indication and/or designation of origin ?

A registered geographical indication or designation of origin may be used by any operator marketing agricultural product or foodstuffs conforming to the corresponding specification. It includes among others: a product or foodstuff description (eg. the raw materials), a definition of the geographical area, evidence that the agricultural product or the foodstuff originates in the defined geographical area, a description of the production method.

These operators enjoy an exclusive right to the designation or indication.

Producers and their products are subject to control by appropriate bodies verifying that the products comply with the requirements set in the specification

8. Does Community protection of geographical indication and/ or designation of origin prevent national protection?

Under Regulation 510/2006, where a designation of origin or geographical indication has been entered into the Register of Protected Designations of Origin and Protected Geographical Indications (Community protection), the designation or geographical indication cannot be simultaneously protected by national law.

9. Protection of geographical indication and/ or designation of origin of wines and spirits

Special regulations apply to geographical indication and designation of origin of wines and spirits. Therefore, the rules of protection specified in Regulation 510/2006 do not apply to the protection of such marks. The law for the method of marking and protecting quality wines, table wines with geographical indications and wines marked with the v.q.p.r.d. acronym is laid down in [Council Regulation \(EC\) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine.](#)

Members of the TRIPS Agreement (including the EU) should guarantee legal measures to prevent the use of geographical indications for wines and spirits that do not originate from places to which the respective geographical indications pertain. This obligation exists - as a rule - even if the true origin of the goods is indicated or the geographical indication is used in translation, or is accompanied by an expression like "a kind of", "a type of", "quality of", etc. However, the TRIPS Agreement provides numerous exceptions to this rule.