

Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs

TITLE II

**PROTECTED DESIGNATIONS OF ORIGIN AND
PROTECTED GEOGRAPHICAL INDICATIONS**

Article 4

Objective

A scheme for protected designations of origin and protected geographical indications is established in order to help producers of products linked to a geographical area by:

- (a) securing fair returns for the qualities of their products;
- (b) ensuring uniform protection of the names as an intellectual property right in the territory of the Union;
- (c) providing clear information on the value-adding attributes of the product to consumers.

Article 5

Requirements for designations of origin and geographical indications

1 For the purpose of this Regulation, ‘designation of origin’ is a name which identifies a product:

- a originating in a specific place, region or, in exceptional cases, a country;
- b whose quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and
- c the production steps of which all take place in the defined geographical area.

2 For the purpose of this Regulation, ‘geographical indication’ is a name which identifies a product:

- a originating in a specific place, region or country;
- b whose given quality, reputation or other characteristic is essentially attributable to its geographical origin; and
- c at least one of the production steps of which take place in the defined geographical area.

3 Notwithstanding paragraph 1, certain names shall be treated as designations of origin even though the raw materials for the products concerned come from a geographical area larger than, or different from, the defined geographical area, provided that:

- a the production area of the raw materials is defined;
- b special conditions for the production of the raw materials exist;
- c there are control arrangements to ensure that the conditions referred to in point (b) are adhered to; and

- d the designations of origin in question were recognised as designations of origin in the country of origin before 1 May 2004.

Only live animals, meat and milk may be considered as raw materials for the purposes of this paragraph.

4 In order to take into account the specific character of production of products of animal origin, the Commission shall be empowered to adopt delegated acts, in accordance with Article 56, concerning restrictions and derogations with regard to the sourcing of feed in the case of a designation of origin.

In addition, in order to take into account the specific character of certain products or areas, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, concerning restrictions and derogations with regard to the slaughtering of live animals or with regard to the sourcing of raw materials.

These restrictions and derogations shall, based on objective criteria, take into account quality or usage and recognised know-how or natural factors.

Article 6

Generic nature, conflicts with names of plant varieties and animal breeds, with homonyms and trade marks

1 Generic terms shall not be registered as protected designations of origin or protected geographical indications.

2 A name may not be registered as a designation of origin or geographical indication where it conflicts with a name of a plant variety or an animal breed and is likely to mislead the consumer as to the true origin of the product.

3 A name proposed for registration that is wholly or partially homonymous with a name already entered in the register established under Article 11 may not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and presentation of the homonym registered subsequently and the name already entered in the register, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

A homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name is accurate as far as the actual territory, region or place of origin of the products in question is concerned.

4 A name proposed for registration as a designation of origin or geographical indication shall not be registered where, in the light of a trade mark's reputation and renown and the length of time it has been used, registration of the name proposed as the designation of origin or geographical indication would be liable to mislead the consumer as to the true identity of the product.

Article 7

Product specification

1 A protected designation of origin or a protected geographical indication shall comply with a specification which shall include at least:

- a the name to be protected as a designation of origin or geographical indication, as it is used, whether in trade or in common language, and only in the languages which are or were historically used to describe the specific product in the defined geographical area;
- b a description of the product, including the raw materials, if appropriate, as well as the principal physical, chemical, microbiological or organoleptic characteristics of the product;
- c the definition of the geographical area delimited with regard to the link referred to in point (f)(i) or (ii) of this paragraph, and, where appropriate, details indicating compliance with the requirements of Article 5(3);
- d evidence that the product originates in the defined geographical area referred to in Article 5(1) or (2);
- e a description of the method of obtaining the product and, where appropriate, the authentic and unvarying local methods as well as information concerning packaging, if the applicant group so determines and gives sufficient product-specific justification as to why the packaging must take place in the defined geographical area to safeguard quality, to ensure the origin or to ensure control, taking into account Union law, in particular that on the free movement of goods and the free provision of services;
- f details establishing the following:
 - (i) the link between the quality or characteristics of the product and the geographical environment referred to in Article 5(1); or
 - (ii) where appropriate, the link between a given quality, the reputation or other characteristic of the product and the geographical origin referred to in Article 5(2);
- g the name and address of the authorities or, if available, the name and address of bodies verifying compliance with the provisions of the product specification pursuant to Article 37 and their specific tasks;
- h any specific labelling rule for the product in question.

2 In order to ensure that product specifications provide relevant and succinct information, the Commission shall be empowered to adopt delegated acts, in accordance with Article 56, laying down rules which limit the information contained in the specification referred to in paragraph 1 of this Article, where such a limitation is necessary to avoid excessively voluminous applications for registration.

The Commission may adopt implementing acts laying down rules on the form of the specification. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).

Article 8

Content of application for registration

- 1 An application for registration of a designation of origin or geographical indication pursuant to Article 49(2) or (5) shall include at least:
- a the name and address of the applicant group and of the authorities or, if available, bodies verifying compliance with the provisions of the product specification;
 - b the product specification provided for in Article 7;
 - c a single document setting out the following:

- (i) the main points of the product specification: the name, a description of the product, including, where appropriate, specific rules concerning packaging and labelling, and a concise definition of the geographical area;
- (ii) a description of the link between the product and the geographical environment or geographical origin referred to in Article 5(1) or (2), as the case may be, including, where appropriate, the specific elements of the product description or production method justifying the link.

An application as referred to in Article 49(5) shall, in addition, include proof that the name of the product is protected in its country of origin.

- 2 An application dossier referred to in Article 49(4) shall comprise:
- a the name and address of the applicant group;
 - b the single document referred to in point (c) of paragraph 1 of this Article;
 - c a declaration by the Member State that it considers that the application lodged by the applicant group and qualifying for the favourable decision meets the conditions of this Regulation and the provisions adopted pursuant thereto;
 - d the publication reference of the product specification.

Article 9

Transitional national protection

A Member State may, on a transitional basis only, grant protection to a name under this Regulation at national level, with effect from the date on which an application is lodged with the Commission.

Such national protection shall cease on the date on which either a decision on registration under this Regulation is taken or the application is withdrawn.

Where a name is not registered under this Regulation, the consequences of such national protection shall be the sole responsibility of the Member State concerned.

The measures taken by Member States under the first paragraph shall produce effects at national level only, and they shall have no effect on intra-Union or international trade.

Article 10

Grounds for opposition

- 1 A reasoned statement of opposition as referred to in Article 51(2) shall be admissible only if it is received by the Commission within the time limit set out in that paragraph and if it:
- a shows that the conditions referred to in Article 5 and Article 7(1) are not complied with;
 - b shows that the registration of the name proposed would be contrary to Article 6(2), (3) or (4);
 - c shows that the registration of the name proposed would jeopardise the existence of an entirely or partly identical name or of a trade mark or the existence of products which have been legally on the market for at least five years preceding the date of the publication provided for in point (a) of Article 50(2); or
 - d gives details from which it can be concluded that the name for which registration is requested is a generic term.

2 The grounds for opposition shall be assessed in relation to the territory of the Union.

Article 11

Register of protected designations of origin and protected geographical indications

1 The Commission shall adopt implementing acts, without applying the procedure referred to in Article 57(2), establishing and maintaining a publicly accessible updated register of protected designations of origin and protected geographical indications recognised under this scheme.

2 Geographical indications pertaining to products of third countries that are protected in the Union under an international agreement to which the Union is a contracting party may be entered in the register. Unless specifically identified in the said agreement as protected designations of origin under this Regulation, such names shall be entered in the register as protected geographical indications.

3 The Commission may adopt implementing acts laying down detailed rules on the form and content of the register. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).

4 The Commission shall make public and regularly update the list of the international agreements referred to in paragraph 2 as well as the list of geographical indications protected under those agreements.

Article 12

Names, symbols and indications

1 Protected designations of origin and protected geographical indications may be used by any operator marketing a product conforming to the corresponding specification.

2 Union symbols designed to publicise protected designations of origin and protected geographical indications shall be established.

3 In the case of products originating in the Union that are marketed under a protected designation of origin or a protected geographical indication registered in accordance with the procedures laid down in this Regulation, the Union symbols associated with them shall appear on the labelling. In addition, the registered name of the product should appear in the same field of vision. The indications 'protected designation of origin' or 'protected geographical indication' or the corresponding abbreviations 'PDO' or 'PGI' may appear on the labelling.

4 In addition, the following may also appear on the labelling: depictions of the geographical area of origin, as referred to in Article 5, and text, graphics or symbols referring to the Member State and/or region in which that geographical area of origin is located.

5 Without prejudice to Directive 2000/13/EC, the collective geographical marks referred to in Article 15 of Directive 2008/95/EC may be used on labels, together with the protected designation of origin or protected geographical indication.

6 In the case of products originating in third countries marketed under a name entered in the register, the indications referred to in paragraph 3 or the Union symbols associated with them may appear on the labelling.

7 In order to ensure that the appropriate information is communicated to the consumer, the Commission shall be empowered to adopt delegated acts, in accordance with Article 56, establishing the Union symbols.

The Commission may adopt implementing acts defining the technical characteristics of the Union symbols and indications as well as the rules of their use on the products marketed under a protected designation of origin or a protected geographical indication, including rules concerning the appropriate linguistic versions to be used. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).

Article 13

Protection

- 1 Registered names shall be protected against:
 - a any direct or indirect commercial use of a registered name in respect of products not covered by the registration where those products are comparable to the products registered under that name or where using the name exploits the reputation of the protected name, including when those products are used as an ingredient;
 - b any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation' or similar, including when those products are used as an ingredient;
 - c any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product that is used on the inner or outer packaging, advertising material or documents relating to the 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.

Where a protected designation of origin or a protected geographical indication contains within it the name of a product which is considered to be generic, the use of that generic name shall not be considered to be contrary to points (a) or (b) of the first subparagraph.

2 Protected designations of origin and protected geographical indications shall not become generic.

3 Member States shall take appropriate administrative and judicial steps to prevent or stop the unlawful use of protected designations of origin and protected geographical indications, as referred to in paragraph 1, that are produced or marketed in that Member State.

To that end Member States shall designate the authorities that are responsible for taking these steps in accordance with procedures determined by each individual Member State.

These authorities shall offer adequate guarantees of objectivity and impartiality, and shall have at their disposal the qualified staff and resources necessary to carry out their functions.

Article 14

Relations between trade marks, designations of origin and geographical indications

1 Where a designation of origin or a geographical indication is registered under this Regulation, the registration of a trade mark the use of which would contravene Article 13(1) and which relates to a product of the same type shall be refused if the application for registration of the trade mark is submitted after the date of submission of the registration application in respect of the designation of origin or the geographical indication to the Commission.

Trade marks registered in breach of the first subparagraph shall be invalidated.

The provisions of this paragraph shall apply notwithstanding the provisions of Directive 2008/95/EC.

2 Without prejudice to Article 6(4), a trade mark the use of which contravenes Article 13(1) which has been applied for, registered, or established by use if that possibility is provided for by the legislation concerned, in good faith within the territory of the Union, before the date on which the application for protection of the designation of origin or geographical indication is submitted to the Commission, may continue to be used and renewed for that product notwithstanding the registration of a designation of origin or geographical indication, provided that no grounds for its invalidity or revocation exist under Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark⁽¹⁾ or under Directive 2008/95/EC. In such cases, the use of the protected designation of origin or protected geographical indication shall be permitted as well as use of the relevant trade marks.

Article 15

Transitional periods for use of protected designations of origin and protected geographical indications

1 Without prejudice to Article 14, the Commission may adopt implementing acts granting a transitional period of up to five years to enable products originating in a Member State or a third country the designation of which consists of or contains a name that contravenes Article 13(1) to continue to use the designation under which it was marketed on condition that an admissible statement of opposition under Article 49(3) or Article 51 shows that:

- a the registration of the name would jeopardise the existence of an entirely or partly identical name; or
- b such products have been legally marketed with that name in the territory concerned for at least five years preceding the date of the publication provided for point (a) of Article 50(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).

2 Without prejudice to Article 14, the Commission may adopt implementing acts extending the transitional period mentioned in paragraph 1 of this Article to 15 years in duly justified cases where it is shown that:

- a the designation referred to in paragraph 1 of this Article has been in legal use consistently and fairly for at least 25 years before the application for registration was submitted to the Commission;

- b the purpose of using the designation referred to in paragraph 1 of this Article has not, at any time, been to profit from the reputation of the registered name and it is shown that the consumer has not been nor could have been misled as to the true origin of the product.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).

3 When using a designation referred to in paragraphs 1 and 2, the indication of country of origin shall clearly and visibly appear on the labelling.

4 To overcome temporary difficulties with the long-term objective of ensuring that all producers in the area concerned comply with the specification, a Member State may grant a transitional period of up to 10 years, with effect from the date on which the application is lodged with the Commission, on condition that the operators concerned have legally marketed the products in question, using the names concerned continuously for at least the five years prior to the lodging of the application to the authorities of the Member State and have made that point in the national opposition procedure referred to in Article 49(3).

The first subparagraph shall apply *mutatis mutandis* to a protected geographical indication or protected designation of origin referring to a geographical area situated in a third country, with the exception of the opposition procedure.

Such transitional periods shall be indicated in the application dossier referred to in Article 8(2).

Article 16

Transitional provisions

1 Names entered in the register provided for in Article 7(6) of Regulation (EC) No 510/2006 shall automatically be entered in the register referred to in Article 11 of this Regulation. The corresponding specifications shall be deemed to be the specifications referred to in Article 7 of this Regulation. Any specific transitional provisions associated with such registrations shall continue to apply.

2 In order to protect the rights and legitimate interests of producers or stakeholders concerned, the Commission shall be empowered to adopt delegated acts, in accordance with Article 56, concerning additional transitional rules.

3 This Regulation shall apply without prejudice to any right of coexistence recognised under Regulation (EC) No 510/2006 in respect of designations of origin and geographical indications, on the one hand, and trade marks, on the other.

(1) [OJ L 78, 24.3.2009, p. 1.](#)