PROTECTED DESIGNATIONS OF ORIGIN and PROTECTED GEOGRAPHICAL INDICATIONS

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Existing wine names

‘Quality wines produced in a specified region’ becomes
‘Protected Denomination of Origin (PDO)’

and

‘Table wines with geographical indication’ becomes
‘Protected Geographical Indication (PGI)’

[Art 118s]
PDO:

means the name of a region, a specific place or, in exceptional cases, a country used to describe a wine that complies with the following requirements:

(i) its **quality** and **characteristics** are essentially or exclusively due to a particular geographical environment with its **inherent natural and human factors**;

(ii) the **grapes** from which it is produced come **exclusively** from this geographical area;

(iii) its production takes place in this geographical area;

(iv) it is obtained from vine varieties belonging to *Vitis vinifera*.

[+ derogation for ‘certain traditionally used names’ (Vino nobile di Montepulciano)]
**PGI:**

means an **indication referring to a region**, a specific place or, in exceptional cases, a country, used to describe a wine that complies with the following requirements:

(i) it possesses a specific **quality**, **reputation** or **other characteristics** attributable to that geographical origin;

(ii) at least **85 %** of the grapes used for its production come exclusively from this geographical area;

(iii) its production takes place in this geographical area;

(iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis.*
Different possibilities

- **PYRAMIDE**: a succession of PDOs/PGIs, from the larger geographical area to the smaller geographical unit; the product specifications being more and more restrictive.

- **PATCHWORK**: several limitroph PDOs/PGIs which are independent from each others;

- **UMBRELLA-PATCHWORK**: a large PDO/PGI which includes several limitroph PDOs/PGIs which are independent from each others;

- **PDO/PGI and geographical names**: PDO/PGI may regulate the use of smaller geographical units or larger geographical areas. Combination of IPR and labelling rules.
Community protection [Art 118m]

Positive right

- right to use the PDO/PGI
Community protection [Art 118m]  

Negative rights

protection against:

- any direct or indirect commercial use of a protected name by comparable products not compliant with the product specification of the protected name, or in so far as such use exploits the reputation of a designation of origin or a geographical indication;
- 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;
- 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;
- any other practice liable to mislead the consumer as to the true origin of the product.

Member States shall take the steps necessary to stop unlawful use of PDOs/PGIs.
A PDO/PGI application may be rejected if it conflicts with an existing reputed or well-known trademark (likelihood of confusion as to the origin of the products).

A registered PDO/PGI prevails over a trademark application.

An existing trademark may continue to be protected even though an identical or similar PDO/PGI is further registered = co-existence.
# A new registration procedure

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Conversion of a PDO into a PGI if the compliance with the product specification of a PDO is no longer possible or can no longer be guaranteed.

The request shall conform with the PGI conditions and the conditions required for the drawing up of the product specification.

No opposition procedure foreseen.

The provision of the amendment of the product specification does not apply.
In case of a **substantial** amendment: the whole registration procedure applies.

In case of a **minor** amendment: the examinations’ and oppositions’ procedures do not apply.

A minor amendment:
– does not relate the essential characteristics of the product;
– does not alter the link;
– does not include a change in the name of the product;
– does not affect the demarcated geographical area;
– does not entail any further restrictions on the marketing of the product.

In such a case, the decision belongs to the MS which shall inform the Commission. For third countries, the decision belongs to the Commission.
Member States shall designate the competent authority or authorities responsible for controls of PDO/PGI wines.

Annual verification of compliance with the product specification, during the production and during or after conditioning of the wine, shall be ensured by:

- the competent authority or authorities with adequate guarantees of objectivity and impartiality, and have at their disposal the qualified staff and resources needed to carry out their tasks; or,

- one or more independent control bodies to which the competent authority has delegated certain control tasks, operating as a product certification body.
Concerns:

- Verification of the conditions laid down in the product specification;
  
- PDO: organoleptic and analytical analysis;
  
- PGI: analytical analysis + possible organoleptic analysis.

=> anonymous samples, the wine shall conform with the characteristics and qualities described in the product specification. The control can be carried out at any stage in the production process, including after the packaging stage.
Controls in details
[art. 25]

- 3 systems:
  (a) **Systematic**;
  (b) **Random check** based on a risk analysis (minimum of producers subject to the control shall be precised);
  (c) **Sample** (number, nature and frequency of the controls shall be foreseen).

=> 1) verification of the premises 2) verification of the products based on a pre-established control plan.
(a), (b) and (c) may be combined together.

- If the control is negative, the product can be placed on the market, but without the relevant PDO/PGI, provided the other legal requirements are satisfied.
Member States shall submit the technical file and the decision of approval before 31.12.2011 otherwise the denomination **looses its protection**.

No objection and cancellation procedure is allowed.

Only the Commission may, **until 31.12.2014, cancel** the protection if the definition of ‘designations of origin’ or ‘geographical indications’ is not fulfilled.

Need to provide specification documents that represent the state of the law on 31.7.2009
The Technical File

- Name to be protected
- Name and address of the Applicant
- Product Specification
- Single document
(a) the **name** to be protected;

(b) a **description** of the wine(s);

(i) for wines with a designation of origin, its principal analytical and organoleptic characteristics;

(ii) for wines with a geographical indication, its principal analytical characteristics as well as an evaluation or indication of its organoleptic characteristics;

(c) where applicable, the specific **oenological practices** used to make the wine(s) as well as the relevant restrictions on making the wine(s);

(d) the **demarcation** of the geographical area concerned;
(e) the **maximum yields** per hectare;
(f) an indication of the **wine grape variety** or varieties the wine(s) is obtained from;
(g) the details bearing out **the link** referred to in Article 34(1)(a)(i) or, as the case may be, in Article 34(1)(b)(i);
(h) **applicable requirements** laid down in Community or national provisions or, where foreseen by Member States, by an **organisation which manages the protected designation of origin or geographical indication**, having regard to the fact that such requirements shall be objective and non-discriminatory and compatible with Community law;
- Amendments adopted before 1.8.2009 but not published by the Commission

- Amendments filed with before 1.8.2009 but adopted later

Again:

*Need to provide specification documents that represent the state of the law on 31.7.2009*
More information:

http://ec.europa.eu/agriculture/markets/wine/index_en.htm

Thank you for your attention.