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# **PROTECTED DESIGNATIONS OF ORIGIN and PROTECTED GEOGRAPHICAL INDICATIONS**

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Porto, 16 November 2010

## Existing wine names



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***‘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]



## New definitions [Art. 118b]



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# 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*)]

## New definitions [Art. 118b]



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# 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*.



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# 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]



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# Positive right

- right to use the PDO/PGI



# 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.***

# PDO/PGIs vs. Trademarks [Arts 118I]



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- 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.



# Registration procedure [118f to 118i]



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## A new registration procedure

National procedure	Community procedure
Filing of the application	
Absolute ground examination	
Relative ground procedure	
National registration →	Filing of the application Receipt + publication for opposition purposes
	Absolute ground examination
	Relative ground procedure
	Registration
	Cancellation procedure



# Conversion *[art. 28]*



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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.



# Amendment of the product specification



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[Art. 118q; art. 20]

- 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.



# Controls [Arts 118o and 118p]



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- 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 .



# Controls in details

[art. 25]



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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]



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- 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.

# Back to Existing Wine Names [118s]



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- Member States shall submit the technical file and the decision of approval before **31.12.2011** otherwise the denomination **loses its protection**.
- No objection and cancellation procedure is allowed.
- Only the Commission may, **until 31.12.2014**, **cancel** the protection if the definition of '*designation of origin*' or '*geographical indication*' is not fulfilled.

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



# Content of applications

[Art 118c]



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## The Technical File

- **Name** to be protected
- Name and address of the **Applicant**
- **Product Specification**
- **Single document**



# Wine specification



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[Art.118c]

- (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;

# Wine specification



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[Art.118c]

...

- (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;



# Back to Amendments

[Art 73]



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- 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***



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## More information:

[http://ec.europa.eu/agriculture/markets/wine/index\\_en.htm](http://ec.europa.eu/agriculture/markets/wine/index_en.htm)

# Thank you for your attention.