



EXAMINATION OF GEOGRAPHICAL INDICATIONS IN A SUI GENERIS SYTEM: FRENCH INSIGHT WITHIN THE EUROPEAN UNION

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Framework of the GIs in the French system: a special frame dedicated to GI

- A sui generis system unified at the European Union level lead by the **European Commission**
 - Harmonized and unified set of legal norms for all Member States
 - A unique register for all EU GIs and GIs from Third Countries: **eAmbrosia**
 - A unique public authority representative and competent on the top of the EU system: the **European Commission**
- A French system establishing a sui generis system for GIs:
 - A set of European and French legal rules supervising the recognition, the control and the protection of GIs
 - Representative groups of producers entitled to act and represent every GI
 - A specific public body for agricultural GIs in France: INAO



Negotiates and concludes bilateral agreements for the protection of GIs with Third Countries

European Commission

Ensure the defense of GIs at the multilateral level (cf. Geneva Act)

Unified and harmonized legal scheme

A unique register:
eAmbrosia

GIs of Member States
(PDO, PGI, GI)



Procedure of recognition of a French GI

Application by a group of producers



Drafting of a product specification identifying a name to protect and application for recognition



INAO

*Examination, national procedure of opposition then proposal of recognition
(verification regarding the use of the name, the specification, etc.)*



French Government

Decision of recognition and forwarding to the EU



European Commission

*Examination + publication and european procedure of opposition, then
registration within the EU unified register*



Features of the registration of a GI in the French and European sui generis system

The registration of a GI before the EU Commission guarantees:

- The **recognition and the protection of a name against any use** which is not complying with the specification of the GI
 - The **link between characteristics of the product and the geographical environment** (including the human and natural factors)
 - *Preserves know-how, traditions and the excellence of producers*
 - An **official specification**, examined and validated by the national authorities and by the EU Commission
 - **Representativity of the applicant** concerning all stakeholders involved in the production process (producers, transformers, conditionners, etc.)
 - A **strict control** of all steps of the production and of all categories of producers under the supervision of public authorities
 - *Ensures the transparency and the neutrality of the controls scheme*
 - No requirement of intending of use to use the GI given that a recognition of a new GI implies necessarily the acknowledgement of prior use and prior know-how
 - **A free registration**, supported and fostered by French authorities
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Level of a legal protection of GIs differentiated in the sui generis system and the trademark system

Legal protection scope of GIs within a sui generis system:

A collective right, recognized by the State. Right to act for the protection is shared with public authorities (i.e. in France, INAO). Enforcement of the legal protection is thus allocated between groups of producers along with public bodies.

Official specification laying down the characteristics and qualities due to the geographical environment.
A set of mandatory requirements is determined by law.

Unlimited legal protection granted. No need of renewal.
Protection granted without limit at the lowest cost as possible.

Can never become generic.

« Absolute » protection for similar products
« Relative » protection for other products in so far as the use of the name exploits the reputation of that protected name.
Protection against any obvious and apparent reference to the universe of the GI.

Ex officio protection ; any application comprising or evoking a protected name automatically rejected by the examiners of the office (or sanctioned by judges).
Protection at the lowest cost.

Legal protection scope of GIs within the trademark system:

Private right, right holder is a legal person.
Only the trademark owner is entitled to act for the protection (of the registered GI as a Trademark). Enforcement of the legal protection depends and leans on the owner only.

Private regulation/specification governing the use of the trademark.
No harmonization nor unification of legal rules to manage private regulation/specification of GIs registered as trademarks.

Legal protection must be renewed, involving additional costs for every renewal. Requirement of use of the trademark (implies potential further costs)
May become generic according to the way the mark is used (or if not used).

Protection for similar products only if the use of the name strictly identical to the GI.
In practice, no exclusive right to the geographical name for similar products given that the trademark corresponds most often to a complex/combined sign.

Most of the time, the trademark owner has to monitor its trademark by its own, and act against applications of new trademark which would refer to it.
That implies important costs for the monitoring task and for legal actions (i.e. opposition and/or cancellation)

Merci!

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