

# POSITION PAPER ON EU FOOD QUALITY SCHEMES

## EVALUATION OF GEOGRAPHICAL INDICATIONS AND TRADITIONAL SPECIALITIES GUARANTEED PROTECTED IN THE EUROPEAN UNION

### I. INTRODUCTION

ECTA supports the European Commission's project in order to evaluate the legal framework for EU quality schemes. Furthermore, ECTA highly appreciates being invited to participate in the consultation process on the effects of the quality schemes rules applying to the agricultural products, foodstuffs, spirit drinks, wines and aromatised wines. Following an intense discussion within ECTA's Geographical Indications Committee, which is composed of different actors, in particular consumers, legal advisors and producers, this Position Paper contains additional comments to the questions raised in the Survey (Evaluation of Geographical Indications and Traditional Specialities Guaranteed), see section II, as well as some general considerations and conclusions, which are presented in section III below.

### II. COMMENTS

We would like to present below statements on specific questions where the Survey allows additional comments:

#### 1. Question 9

*In your opinion, what are the costs and benefits of EU registration under EU quality schemes? Please give your opinion, if any, separately for the Geographical Indications (GI, PDO, PGI) and on TSG, from the perspective of the three groups of stakeholders mentioned below.*

##### a) Producers

In ECTA's view, the advantages of the EU system on PDOs, PGIs and GIs clearly outweigh the disadvantages for producers, while such clear conclusion may not be reached for TSGs. We have identified the following key benefits for producers concerning PDOs, PGIs and GIs:

- high protection against infringement and strong measures of enforcement;
- marketing tool and economic tool to justify higher prices.

However, some disadvantages for producers must also be noted, in particular:

- a rather long, complex, slow and cost-intensive application process.

Concerning TSGs there seems to be only little awareness among the producers and, thus, the benefits, if any, are not exploited.

##### b) Consumers

The benefits of the EU system on PDOs, PGIs and GIs clearly outweigh the disadvantages for the consumers as well, in ECTA's view. Although consumers might have to accept higher prices compared to non-protected agricultural goods, they gain guarantees for:

DATE

30 January 2020

ECTA AISBL  
Rue des Colonies 18/24,  
Box 8, 8th Floor, BE-1000  
Brussels, Belgium  
Tel: +32/2 513 52 85  
Fax: + 32/2 513 09 14  
E-mail: [ecta@ecta.org](mailto:ecta@ecta.org)  
Website: [www.ecta.org](http://www.ecta.org)  
(VAT BE) 0738 648 961  
RLE Brussels

PAGE

1

# POSITION PAPER ON EU FOOD QUALITY SCHEMES

## EVALUATION OF GEOGRAPHICAL INDICATIONS AND TRADITIONAL SPECIALITIES GUARANTEED PROTECTED IN THE EUROPEAN UNION

- a high quality of the products, including assurance of strict quality controls;
- preservation of traditions and uniqueness of products;
- reliability and traceability of the way of production.

With regard to TSGs there seems to exist little consumer knowledge and awareness and, thus, the benefits seem rather limited.

### c) Member States and Regions

The benefits of the EU system on PDOs, PGIs and GIs for the Member States and regions are very strong in ECTA's view. To name only some of them we refer to the following benefits:

- visibility of regional agricultural areas;
- economic strengthening of rural regions;
- creation and promotion of tourism.

However, the above mentioned advantages require substantial public investments into (i) the national control system and (ii) the EU institutions aiming at the preservation, maintenance and enforcement of the EU quality schemes.

ECTA doubts that comparable benefits exist with regard to TSGs. At the same time, the costs for TSGs seem low, as utilization seems rather little.

## 2. Question 12

*Do you have any other suggestions on how to simplify the legal framework for EU quality schemes and their practical implementation?*

ECTA takes the view that the following measures could help simplify the EU quality schemes:

- concentration of the rules for all different kind of products that may be subject of a PDO, PGI, GI or TSG into a single law (possibly also containing rules for non-agri GIs);
- avoiding as much as possible reference from and to different legislation;
- providing clear rules to the order of precedence and proportionality between EU law and national laws;
- clear communication and education of producers about benefits and costs of the system;
- easy access and personal support with regard to information to the registration process of PDOs, PGIs, GIs and TSGs;
- clear communication to consumers about reasons and scope of protection of EU quality schemes in all languages of the Member States;
- easier access to contact persons and addresses of national institutions for any question of protection, controls, infringements and enforcement;
- harmonisation of the national treatment of GIs in different Member States;
- keeping politics out of the way (e.g. the "halloumi" case).

# POSITION PAPER ON EU FOOD QUALITY SCHEMES

## EVALUATION OF GEOGRAPHICAL INDICATIONS AND TRADITIONAL SPECIALITIES GUARANTEED PROTECTED IN THE EUROPEAN UNION

### 3. Question 18

*In your opinion, what are the most essential benefits of EU quality schemes of GI, PDO, PGI and TSG, that national and regional quality schemes could not provide?*

ECTA strongly supports EU wide regulations on matters with EU wide impact and significance. Particularly, in light of globalisation of markets, unified EU quality schemes help to build up a strong European agricultural economy and to show the traditional values that Europe has to offer. Main benefits are the following:

- a coherent, efficient, clear and strong supranational protection and enforcement within all EU Member States;
- an enhanced international market acceptance of EU agricultural products and a greater awareness;
- the possibility to provide a clear communication to consumers as to the values of PDO, PGI, GI and TSG based on a unified labelling system leading to an enhanced recognition.

### 4. Question 19

*In your opinion, are the visual differences between EU quality schemes' symbols clear enough to differentiate between them? Please give your opinion on the two cases presented below*



In ECTA's view the EU quality schemes' symbols require revision and restyling which could be combined with a new approach to inform the public about the EU food quality system and to raise awareness. Below we highlight the main reasons for the above conclusion:

- The average consumer will hardly note and understand the differences between the logos;
- The text of the PDO and PGI/GI logo is hard to read, in particular on small sized packaging. It could be a solution to, in addition, use abbreviations in the middle of the logo such as "PDO" or "PGI" and to create, also in the consumer's mind, familiar abbreviations in the respective language of each Member State (which does not seem to exist e.g. the German abbreviations "g.U."/"g.g.A." are not well-known among the German public);

# POSITION PAPER ON EU FOOD QUALITY SCHEMES

## EVALUATION OF GEOGRAPHICAL INDICATIONS AND TRADITIONAL SPECIALITIES GUARANTEED PROTECTED IN THE EUROPEAN UNION

- While, of course, a uniform appearance should be maintained, the differences of the logos should be stronger; a different color might not be a sufficient tool for distinction for those people who are not familiar with the concept of Geographical Indications;
- The difference between the TSG symbol and the PDO/GI/PGI symbols should be more pronounced as the basic requirements of protection and the scope of protection differ significantly.

### III. CONCLUSIONS

First of all, ECTA would like to conclude that EU legislation on EU food quality schemes is comprehensive and provides a high standard of protection and enforcement. Secondly, ECTA notes that the practical significance and economic impact of agricultural products, foodstuffs, spirit drinks, wines and aromatised wines is high and constantly increasing. Thirdly, ECTA believes that the EU system does not only provide economic advantages, but equally advantages for consumers allowing them to rely on a high quality of agricultural products as well as on the maintenance of the values and traditions that result from a long and important agricultural European history.

Having said this, the well-established EU system should be maintained and further refined. In this regard, ECTA would like to make the following suggestions:

#### 1. Unification of the legal framework

Although ECTA is aware of the fact that there are reservations against a unification of law treating the different groups of agricultural products, we deem essential to find a way of harmonisation. The main rules of the respective regulations are identical or similar, and the intention to seek for a harmonisation of rules has been manifested in the recitals of different regulations. Furthermore, obviously it is the aim of EU legislative, executive and judiciary to unify the interpretation of the respective regulations. The existence of different legal frameworks leads to a lack of transparency and uncertainty which could and should be avoided. Thus, ECTA suggests: one law for all PDOs, PGIs, GIs and TSGs should be developed with specific provisions concerning each regime.

#### 2. Clarification of the relation of EU and national laws and harmonisation of national enforcement measures

ECTA sees the need to evaluate and harmonise national laws and enforcement measures. While, in general, it is a common principle that EU food quality schemes supersede national law, additional concepts of protection exist, such as independent lists of traditional names for different group of products (Italy). In ECTA's view, for reasons of simplification, strengthening of the system and transparency, parallel national systems must be hindered and the question of protection of a product should only result from the EU law. Furthermore, clear rules to the order of precedence and proportionality between the EU law and national laws should be established.

Moreover, it is a well-known problem that national controls and enforcement measures highly differ in practice within the different Member States. While some countries have a well-established system to ensure that EU quality schemes are fulfilled, some other countries (generally those with little interest in GIs) do not provide for effective protection. Such problems do not only occur with regard to national executive authorities, but also with regard to courts, which have a very different awareness of the protection of GIs and, thus, also treat them very differently. In order to solve the inconsistency caused by this, efforts on education should be increased and a close cooperation of the national authorities should be organized and led by the EU.

### **3. Reconsidering the role of TSGs**

ECTA would like to draw the attention to the existence and treatment of TSGs. Although being part of Reg. 1151/2012 and, thus, having the same basis as PDOs and PGIs for foods which are of major importance in the food sector, TSGs are hardly known and utilized. Also, among persons permanently working in this field, TSGs are a mystery for many of them and it is obvious that TSGs have not reached equal importance as PDOs/PGIs. It should be assessed who are the interested parties in the protection of TSGs and what the benefits are. In any case, based on the assumption that the category of TSGs shall be maintained, ECTA sees the necessity to increase communication about TSGs and to explain the different concept of TSGs compared with PDOs and PGIs, as well as to promote their use.

### **4. Improvement of communication and education**


As a general wish, ECTA would like to mention that education and communication about GIs should be centralized and improved. There should be one place, probably an EU-webpage to which national authorities will be able to refer, where all necessary information in all languages of the Member States can be found, in particular information on (1) the relevant EU law, (2) the different types and levels of protection including their graphic appearance, (3) the registered names (including the respective data), (4) the registration process and possible objections, (5) the national control system, (6) contact data of the national authorities for enforcement measures, including a summary to the relevant procedures in the different Member States.

ECTA is aware of the fact that such central information already exists in part, but we see room for improvement and, therefore, ECTA supports further development and intensification of communication and education, which is a basic requirement for a general acceptance of the EU food quality schemes.

\*\*\*

# POSITION PAPER ON EU FOOD QUALITY SCHEMES

## EVALUATION OF GEOGRAPHICAL INDICATIONS AND TRADITIONAL SPECIALITIES GUARANTEED PROTECTED IN THE EUROPEAN UNION



**ECTA, which was formed in 1980, is an organisation concerned primarily with trade marks and designs. ECTA has approximately 1,500 members, coming from all the Member States of the EU, with associate Members from more than 50 other countries throughout the world.**

ECTA brings together those practicing in the field of IP, in particular, trade marks, designs, geographical indications, copyright and related matters. These professionals are lawyers, trade mark and patent attorneys, in-house lawyers concerned with IP matters, and other specialists in these fields. ECTA does not have any direct or indirect links to, and is not funded by, any section of the tobacco industry.

The extensive work carried out by the Association, following the above guidelines, combined with the high degree of professionalism and recognised technical capabilities of its members, has established ECTA at the highest level and has allowed the Association to achieve the status of a recognised expert spokesman on all questions related to the protection and use of trade marks, designs and domain names in and throughout the European Union, and for example, in the following areas:

- Harmonisation of the national laws of the EU member countries;
- European Union Trade Mark Regulation and Directive;
- Community Design Regulation and Directive;
- Organisation and practice of the EUIPO.

In addition to having close links with the European Commission and the European Union Intellectual Property Office (EUIPO), ECTA is recognised by WIPO as a non-Government Organisation (NGO).

ECTA does also take into consideration all questions arising from the new framework affecting trade marks, including the globalization of markets, the explosion of the Internet and the changes in the world economy.