

QUALIFICAÇÃO DE PRODUTOS AGRO-ALIMENTARES E SEU CONTROLO ESPECÍFICO
QUALIFICATION OF AGRI-FOOD PRODUCTS AND ITS SPECIFIC CONTROL SYSTEM
CALIFICACIÓN DE LOS PRODUCTOS AGROALIMENTARIOS Y SUS CONTROLES ESPECÍFICOS

*Ana Soeiro*¹

¹ Qualifica oriGIn Portugal, Portalegre, Portugal.

Ana Soeiro - ana.soeiro@qualificaportugal.pt



Corresponding Author

Ana Soeiro

Mercado Municipal de Portalegre - Loja 114

Rua Conde Jorge de Avilez

7300-186 Portalegre - Portugal

ana.soeiro@qualificaportugal.pt

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HISTORICAL FACTORS AND BACKGROUND REASONS

Since ancient times, certain products have begun to be called by the name of the land where they were produced or processed. This was already customary among the ancient Mediterranean people, who used to call and order wines, olive oils, cheeses, bread, olives, fish pastes and others by the names of the lands from which they came.

It's easy to understand this logic when you know the products and their origins: local products, produced in a traditional way, with a quality stamped by the soils, the climate and their farmers or producers know-how!

The use of "designations of origin" and "geographical indications" thus began, i.e. the first signs of qualification and recognition by consumers of the differentiated quality of certain products, associated with their place of origin and the particular way they were produced.

Those were perhaps the beginnings of the reasons and logic behind the recognition and commercial differentiation of certain products, with the corresponding economic value, given the reputation they had managed to earn.

Jumping ahead in History, Portugal was the first country in Europe to legally institute the system of protection of a denomination of origin, naturally associated to a delimited production region and to specific product characteristics and production rules. We are, of course, talking about Port Wine, the year 1756 and the Marquis of Pombal.

What did the public authorities and interested parties do at that time? Faced with the abuses and usurpation of the name "Port" on the English market, the Marquis of Pombal laid down four fundamental guidelines

- study and describe the product and its method of production
- delimitate the production region
- a Producers' Group was to be formed to manage the name and the production and sale of the product
- a law should be passed to reserve the name "Port" for the genuine product and prevent the abusive use of the same name on products without the defined characteristics and or not produced in the delimited region.

Nothing new has been invented since the time of the Marquis to date in the area of Denominations of Origin (DO) and Geographical Indications (GI), except

1. the fact that DOs and GIs are now considered to be Intellectual Property figures;
2. the need to extend legal protection to geographical areas much wider than the countries of origin;
3. the need to establish a system for monitoring production and the market which will make it possible to verify the quality and origin of products and also to prevent protected names from being abused on the global market, thereby damaging producers, defrauding consumers and preventing free competition and the balanced operation of the market.

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The problems linked to misuse are far from being resolved, especially as the commercial value of products benefiting from DOs or GIs is increasing, curiously, at the same rate as globalisation.

Despite the large number of international conventions and agreements on GIs, the situation is far from resolved, either because there are countries (even WTO members) that do not respect international agreements on the matter, or because there are other countries which, perhaps due to a lack of tradition and culture in this area, or perhaps because of unseen commercial interests, do not respect this form of Intellectual Property.

Even so, in Europe there is legislation that allows protecting the DOs and GIs not only for wines and other products in the wine sector, but also for spirits and agricultural and agri-food products. And in the short term, the EU will also have legislation for non-food, craft and industrial products.

The EU is now protecting 3711 names of agricultural and agri-food products, wines and spirits from within the EU and 1720 names from outside the EU, as we open the doors and offer ways to qualify, register, recognise and protect names from third countries even if they are not members of the WTO and do not grant equivalent protection to EU names.

Europe has opened up to foreign designations in an attempt to prevent the loss of mankind's cultural heritage and the trivialisation or usurpation of geographical names that are valuable because they characterise quality products, genuine and typical of regions that are more or less distant but, undoubtedly, just as legitimate and true as "our own".

THE GROUNDS FOR PROTECTION IN THE CONTEXT OF RURAL DEVELOPMENT AND THE PROTECTION OF CONSUMER RIGHTS

The need to protect geographical names used to designate products which, being produced in a given region, possess quality, characteristics or reputation that are intrinsically linked to the region of origin, sometimes even completely and exclusively, including human factors and local knowledge and forms of production, is based on the understanding that this is a way of sustainably boosting rural development, local cultural heritage, employment and the settling of populations.

In fact, in the preamble to Regulation 2081/92 on the protection of GIs and DOs for agricultural and agri-foodstuff products, one can already read, in a personal summary of the aforementioned text

Within the framework of the ADJUSTMENT OF THE COMMON AGRICULTURAL POLICY, it is important to CHOOSE a policy of DIVERSIFICATION OF PRODUCTION, providing for the PROMOTION OF CERTAIN PRODUCTS, which by their way of production and nature may constitute an IMPORTANT ASSET for the RURAL WORLD, and in particular in its LESS DEVELOPED AREAS, providing an IMPROVEMENT INCOME for producers and enabling the population to settle, while at the same time respecting CONSUMER POLICY, who are beginning to favour QUALITY over QUANTITY.

In fact, the protection of DOs and GIs makes it possible to strengthen and understand the sustainability of many productions, based on:

- a specific "quality", differentiated and linked to geographical origin;
- traditional know-how, generating specific and differentiated "tastes and textures" when compared to common products on the globalised market;
- Raw materials obtained from native breeds and varieties, or at least from those very well adapted to the production region, which ensures not only respect for biodiversity but also good agricultural practices, sustainability and the protection of a healthy environment;
- With natural ingredients and ancestral production techniques, from the animal feeding and management, to the technological operations of cutting, salting, fermenting, curing, smoking, air or sun drying, known and used since immemorial times, attesting its sustainability;
- With food safety and sovereignty, insofar as some products have been on the market for centuries and others for decades, pleasing their consumers and contributing to a local, healthy and balanced diet.

THE SPECIFIC CONTROL SYSTEM

But there can be no guarantees without control....

When a geographical name is qualified, registered and protected as a DO or as a GI, producers and other operators are granted the exclusive right to use certain geographical names for certain products, preventing these names from becoming generic or being abused, evoked, imitated, falsified, etc.

And normally these products, due to their reputation, reach higher prices on the market than ordinary ones.

So, in order to avoid

- genuine producers and other operators from being disadvantaged;
- unfair competition on the market between operators who comply with the rules in the product specification and those who don't;
- consumers are misled, the entire production and commercial circuit (including the electronic one) must be under official control, planned so as to take into account the risk presented by each operator.

Official controls on PDO and PGI include

- a) verification of the conformity of the products with the corresponding specification; and
- b) monitoring the use of registered names to describe products placed on the market

As a logical consequence of a) above, all other official controls regarding food hygiene and safety, current legal obligations, general labelling, animal welfare etc. fall outside the scope of these specific controls on PDO or PGI products.

Official controls must be carried out by competent authorities which, according to the law, must "offer adequate guarantees of objectivity and impartiality and have at their disposal the qualified staff and resources necessary to carry out their functions".

However, verification of compliance with the product specification, before placing the product on the market, may be carried out by delegated bodies that are accredited in accordance with the European standard EN ISO/IEC 17 065 for product certification bodies.

In addition to the authorities being able to delegate control tasks to delegated bodies, Producer Groups may also assume responsibilities in this regard, as the legislation provides: "the Groups shall be entitled to carry out related activities to ensure compliance of the product with its specifications".

Control activities carried out by the Producer Groups must be included in the Control Plan and naturally be subject to verification by the competent Authority or Delegated Body.

It therefore makes the most basic sense to incorporate the controls carried out by producers and their groups into the specific control plan for each PDO or PGI product.

This is the only way to reduce the control costs borne by operators and not to increase the prices of PDO or PGI products.