

Controls and Enforcement of Geographical Indications in the EU

Seminar on Geographical Indications, MERCOSUR

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Challenges



Infringements in the EU market



Infringements in export markets



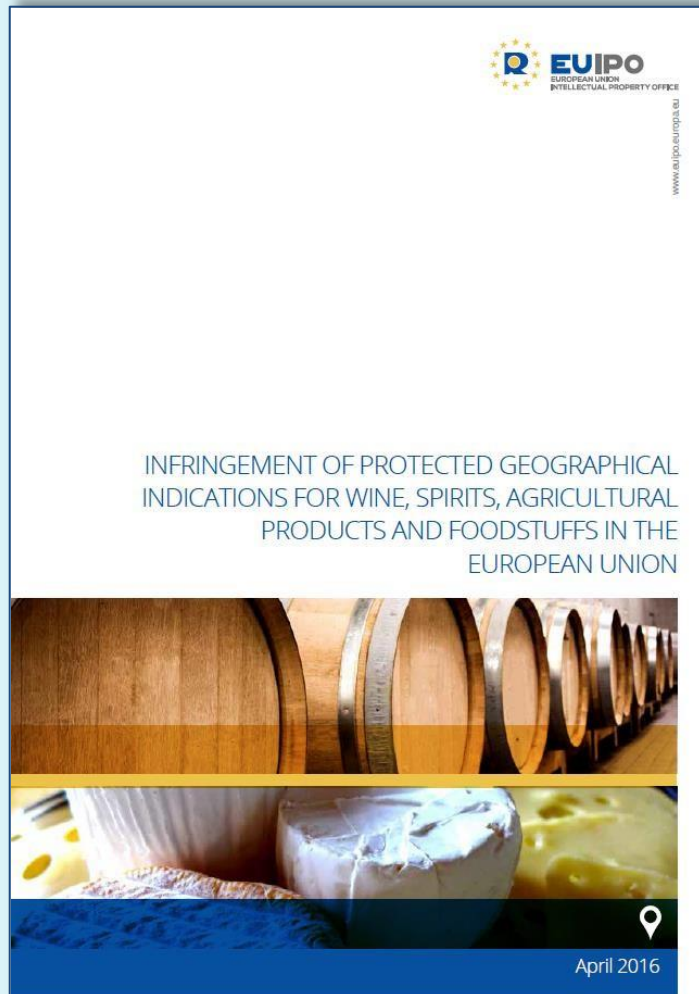
Infringements and misappropriations on the web: e-commerce

INFRINGEMENTS OF GEOGRAPHICAL INDICATIONS

Value of GI infringing products (2014)


VALUE (€ billion)	% OF GI PRODUCT MARKET
4.3	9.0%

Estimates based on data from 17 Member States representing approximately 82% of the EU GI product market





INFRINGEMENTS OF GEOGRAPHICAL INDICATIONS


Infringement rates vary considerably by
GI product



 EUROPEAN UNION
 INTELLECTUAL PROPERTY OFFICE
www.euiipo.europa.eu

INFRINGEMENT OF PROTECTED GEOGRAPHICAL
 INDICATIONS FOR WINE, SPIRITS, AGRICULTURAL
 PRODUCTS AND FOODSTUFFS IN THE
 EUROPEAN UNION


 April 2016

Class	Infringement Rate	Infringing market (€ million)	Consumer loss value (€ million)	Consumer loss (%)
Wine	8.4%	2,182.0	1,349.0	5.3%
Spirits	12.7%	811.6	485.5	7.8%
Cheeses	10.6%	644.7	235.1	3.9%
Fresh meat and meat products	11.0%	402.3	141.3	4.0%
Beers	0.1%	1.2	0.4	0.02%
Fruits, vegetables and cereals	11.5%	94.0	23.3	2.9%
Other	10.0%	277.1	90.5	3.3%
Total	9.0%	4,327.2	2,325.1	4.8%

High Level of Protection of GIs – Crucial Pillar of the EU GI Policy

Article 13 of Regulation (EU) 1151/2012, Article 21 of Regulation (EU) 2019/787, Article 103 of Regulation (EU) 1308/2013

- a) Any **direct or indirect commercial use** of a registered name:
 - in respect of **comparable products** not covered by the registration, or
 - where using the name **exploits the reputation** of the protected name, including when those products are used as an **ingredient**.
- b) Any **misuse, imitation or evocation**, including when those products are used as an **ingredient**.
- c) Any **other false or misleading indication** as to the provenance, origin, nature or essential qualities of the product that is used on the inner or outer packaging, advertising material.
- d) Any **other practice liable to mislead the consumer** as to the true origin of the product.

This protection shall also apply with regard to:

- a) **goods entering the customs territory of the Union** without being released for free circulation within the customs territory of the Union; and
- b) goods sold by means of **distance selling**, such as electronic commerce.

GIs Controls and Enforcement

– Key for Effective Implementation of the GIs System



Producers' protection: fair competition



Consumers' confidence: reliable information



State guarantee

EU Framework for Official Controls

- **Official Controls System** must be implemented by Member States and covers:
 1. **Control at production level:** Verification of compliance with the PDO/PGI product specification before placing the product on the market
 2. **Controls in the marketplace:** Monitoring of the use of protected names in the market
- **Ex officio protection:** Member States shall take appropriate administrative and judicial steps to prevent or stop the unlawful use of the name of **GI products that are produced or marketed in that Member State**
- Member States **shall designate the authorities** that are responsible for taking these steps in accordance with procedures determined by each individual Member State.

Verification of compliance with the product specification

- Shall be carried out by:

National central authority



designated competent authorities (CA)

- impartial and objective
- qualified staff
- necessary resources



delegated control bodies (CB)

- usually, private entities
- operating as certification bodies
- ISO/IEC 17065
- only on production

1. Controls at production level: Verification of compliance with the product specification



VERIFICATION OF COMPLIANCE WITH SPECIFICATION



on the basis of an approved control plan designed by Competent authority

Checking documents like:
Delivery notes, Invoices,
Production declarations,
Registers of production,
Traceability records,
Other relevant documents



On-spot checks

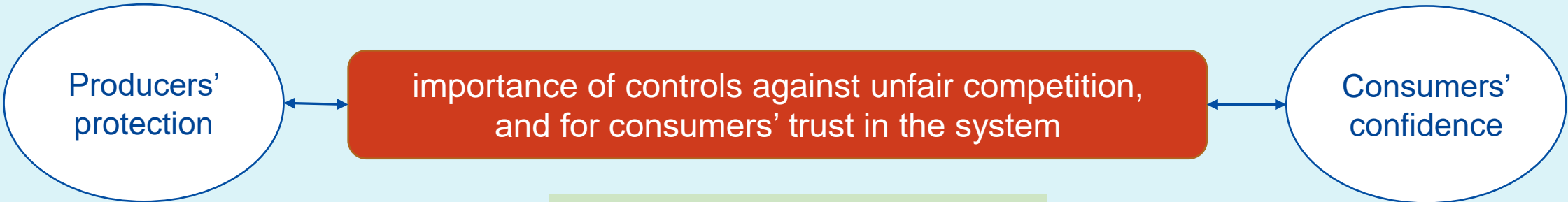
- Raw materials
- Balance of masses
(inputs/output → yield)
- Final products stocked
(bulk and packed)
- Etc.

Sampling → Food analysis

Chemical / Organoleptic
assessment both on raw
materials and final products



Main idea of verification of compliance production with specification



CONFIRMATION
Requirements of PDO/PGI or TSG product's specification are observed on each level of production

RESULT
Producer receives a "certificate of conformity" or any other document showing he fulfills the rules of product specification (control by **DB / CA**)

OFFICIAL GUARANTEE
Product covered by a PDO, PGI or TSG is unique and has the specific quality described in specification



Compliance?



2. Controls in the marketplace: Monitoring of the use of protected names in the market

- Verification that products comply with the product specification after they are placed on the market and surveillance of the use of registered names to assure protection against any misuse
- **Carried out by** public authority (may be different from authority for verification of compliance), in implementation of the ex officio protection
- Cover **EU's GIs** and **third countries' GIs**
- Operators who prepare and store a product marketed under a GI or who place such products on the market shall also be subject to the controls
- Mainly **controls on** traceability, labelling, presentation, advertising and relevant packaging materials
- Carried out systematically, through random checks based on risk analysis

Retail Controls can be carried out at:

- Physical market
- ✓ Mass Market Retailer
- ✓ Small and specialised grocery
- ✓ Ho.re.ca. circuits
- ✓ Open-air market
- ✓ Direct – selling producers



- Electronic Market (e-commerce)

amazon



ebay™

Rakuten



Actions against infringement of GIs

- Member States shall lay down **the rules on penalties** applicable to infringements ... and take all measures necessary to ensure that they are implemented.
- The penalties provided for shall be effective, proportionate and dissuasive.
- **Different national approaches** → Civil and criminal laws establishing sanctions against infringements and frauds

Protection of GIs – Example of Evocation

- The sale of the product '**Culatello di Parma**' by a company located in the province of Parma for a pre-sliced cured pork-based product marketed in some EU countries, mainly in Germany
- Brought to the Court by **the Consorzio del Prosciutto di Parma** which defends the intellectual property represented by the **PDO 'Prosciutto di Parma'**
- German Courts issued judgments favourable to the Consorzio confirming that 'Culatello di Parma' unlawfully **exploits the reputation of the PDO**, with the inclusion in its name of the toponym 'Parma' and seeks to gain a commercial advantage **by evoking the name 'Prosciutto di Parma'** for a foodstuff considered comparable to the product covered by the PDO
- The supplier was prohibited from selling its ham under the name "Culatello di Parma"



France destroys 35,000 'champagne' soda bottles

© 25 May



By Antoinette Radford

BBC News

French border police have destroyed nearly 35,000 bottles of a soda drink that called itself champagne.

- Customs officials in the northern port of Le Havre said the bottles originated from Haiti and contained a "bright orange liquid"
- They were seized in October 2021 after customs noticed their label "**Couronne Fruit Champagne**"
- The bottles were intended for sale on the French market
- Only sparkling wine products from the French Champagne region can use the title → PDO "Champagne"
- In October 2022, a Parisian court ruled the bottles should be destroyed as they infringed the GI regulation

Source:

<https://www.bbc.com/news/world-europe-65707792>



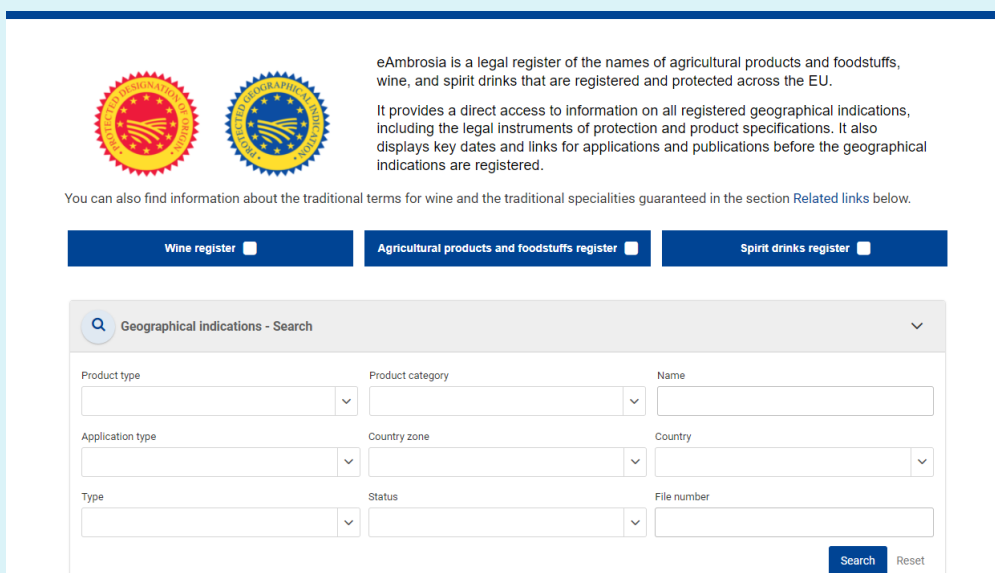
Communication and cooperation among Member States

- **The Alert and Cooperation Network (ACN)** facilitates the exchange of administrative information and the cooperation between Member States on official controls in the agri-food chain.
- **The Food Fraud Network (FF)** – exchange of information and cooperation regarding violations of the EU agri-food chain legislation of a cross-border nature, including GI violations.



Digitalisation

eAmbrosia: The legal register for direct GIs applications (EU and non-EU)



eAmbrosia is a legal register of the names of agricultural products and foodstuffs, wine, and spirit drinks that are registered and protected across the EU.

It provides a direct access to information on all registered geographical indications, including the legal instruments of protection and product specifications. It also displays key dates and links for applications and publications before the geographical indications are registered.

You can also find information about the traditional terms for wine and the traditional specialties guaranteed in the section Related links below.

Wine register Agricultural products and foodstuffs register Spirit drinks register

Geographical indications - Search

Product type Product category Name

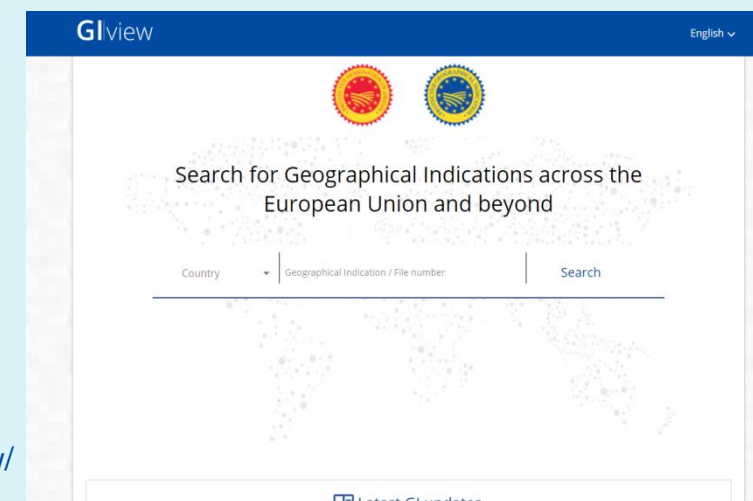
Application type Country zone Country

Type Status File number

Search Reset

- <https://ec.europa.eu/info/food-farming-fisheries/food-safety-and-quality/certification/quality-labels/geographical-indications-register/>

- **Giview: a searchable database**
- all GIs applied for, published or registered in the EU and protected under international agreements.
- the country authorities and Producer Groups can edit information on the products
- GI representatives gain access to the IP Enforcement Portal



Giview English

Search for Geographical Indications across the European Union and beyond

Country Geographical Indication / File number Search

Latest GI updates

- <https://www.tmdn.org/giview/>

Thank you!



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