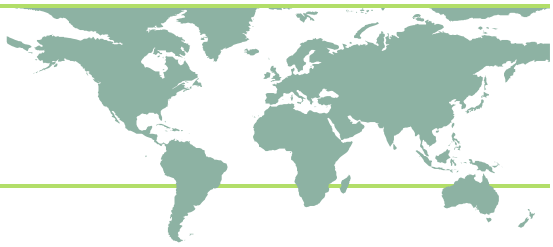
oriGIn
Organisation for an International
Geographical Indications Network



# Debate on the EU Quality Policy Simplification:
# oriGIn paper

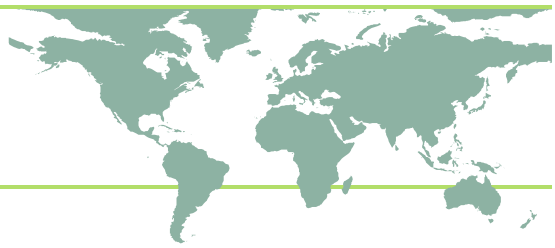
oriGIn is the global alliance of Geographical Indications, which counts among its members 400 associations of producers from 40 countries, including some of the most famous European Protected Designations of Origin (PDO), Protected Geographical Indications (PGI) and Geographical Indications (GIs). oriGIn advocates for an effective legal protection of Geographical Indications at the national, regional and international level and promotes them as a sustainable development tool.

## *I. Introduction*

The current European legal framework concerning GIs, composed of four Regulations, reflects historical and practical reasons.

As a way of example, the EU rules for PDOs and PGIs in the foodstuffs sector were originally developed to enable speciality foodstuffs, mainly recognised at local level, to obtain protection at EU level. To promote intra-union and international trade in those goods, Regulation 1151/2012 provides that the EU has exclusive competence in this area. With respect to spirits (and wines), products such as Scotch Whisky and Champagne were defined in domestic legislation many decades ago and built up world reputation before the existence of the European Union. In many cases, the industry concerned has succeeded in persuading third countries to define the drinks in question in terms of the domestic legislation of the country of production. For example, Scotch Whisky is defined in the US Federal Code as whisky which is produced in Scotland in accordance with UK law. Separately, since 1994, these established industries have sought to register their GIs in as many countries as possible, and those registrations have also been based on the domestic legislation of the country of production. This means domestic legislation is of paramount importance in the protection of many spirit (and wine) GIs in third countries. It is for that reason that the current regime for protecting spirit GIs in the EU does not give the EU exclusive competence. Competence is shared, as is apparent from Article 6.1 of Regulation 110/2008 which gives member states the competence to apply a quality policy.

In light of the above, in the framework of the debate on the simplification in the area of quality policy in the EU, oriGIn believes that the specificities of the spirit, wine and agricultural product sectors (not only with respect to reflect the above-mentioned differences in terms of competence, but also in terms of definition of PDO, PGI, GIs and quality requirements) should be maintained.



Having said that, the simplification/harmonization of some administrative aspects of the registration process can prove to be useful.

Meanwhile, simplification in the framework of legal protection would be acceptable only if the highest level of protection currently available among the existing Regulations is confirmed and taken as the standard for the others.

Finally, we believe that any simplification exercise should be an opportunity to clarify/strengthen some elements of the legal protection conferred to PDO, PGI and GIs in the EU.

## *II. From an administrative point of view*

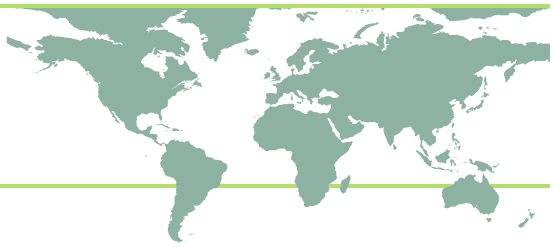
Some level of simplification/harmonisation in the registration procedures, in particular with respect to the timeframe for scrutiny by the Commission, oppositions and cancelations, would reinforce the transparency of the system.

Likewise, we do not have any specific opposition to enter all European PDO, PGI and GIs into a single registry. In this respect, it would be necessary to provide more information for wines and spirits GIs (E-Bacchus and E-Spirit-Drinks currently do not provide much information of the PDO, PGI and GIs therein contained).

With respect to the possibility that the Office for Harmonisation of the Internal Market (OHIM) becomes the authority in charge of GI registration in the EU, we believe the following: on the one hand, the OHIM has recently made encouraging progress in applying in a coherent way the EU regulations concerning the *ex officio* refusal of trade marks' applications confining with PDO, PGI and GIs. On the other hand, some of its decisions still contradict the EU GIs Regulations as well as its own internal guidelines. Such inconsistency – which is detrimental to transparency and legal certainty – in our view represents an obstacle for the OHIM to be appointed as the EU authority in charge of GIs.

## *III. From the perspective of legal protection*

As mentioned in the introduction, simplification in the framework of legal protection would be acceptable only if the highest level of protection currently available among the existing Regulations is confirmed and taken as the standard for the others. Areas which this exercise would be useful are: the ex officio protection, the refusal by national trade mark offices as well as by the OHIM of applications conflicting with PDO, PGI and GIs and the use of PDO, PGI and GIs as ingredients.



On the other hand, a simplification of the EU quality policy should be an opportunity to clarify/strengthen some elements of the legal protection conferred to PDO, PGI and GIs. In this respect we see two areas of work:

- The current reform of the Community trade mark will lead to the possibility for public authorities to size counterfeited goods in transit in the EU, even if such goods will not be diverted into the EU market. We believe that such option should be provided in the field of GIs as well (currently is not the case), also in light of the relevant amount of resources the EU is devoting to the protection and promotion of European GIs in third countries.
- The ICANN process for the attribution of new generic Top-Level Domains (gTLDs) - as well the system of traditional gTLDs, such as ".com", ".int", ".org", etc. – does not yet take into account GIs as prior rights deserving protection in case of irregular use on the Internet. Parallel with the promotion by the EU at the global level of a thorough debate on the most effective ways to ensure an effective protection for GIs in gTLDs, it should be ensured that all the EU country code Top-Level Domains - ccTLDs - (such as ".uk", ".dk", ".fr", etc.) consider GIs as a legitimate prior rights deserving protection in case of irregular use on the Internet.

## *IV. From the point of view of consumers' perception*

As current definitions and quality requirements should be maintained (see point I), we do not believe there is a real need to merge existing concepts. Rules on the use of existing GI logos should not be changed either.

What should be improved *is* the communication strategy vis-à-vis consumers. In this respect, Regulation 1144/2014/EU on information provision and promotion measures concerning agricultural products implemented in the internal market and in third countries represents an interesting opportunity.