

PDOs v PGIs: European Commission not bound by national authorities' assessment

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- The General Court confirmed the European Commission's power to check whether a PGI application fulfils the conditions for registration
- The fact that the national authorities, including the national courts, upheld an application is not binding on the Commission
- The decision confirms the broad application of the concept of 'evocation'

On 12 July 2023, in [Cunsorzio di i Salamaghji Corsi - Consortium des Charcutiers Corses v European Commission](#) (Case T-34/22), the General Court has dealt extensively with the sharing of powers between the national authorities and the European Commission, and delivered significant answers on the issue of conflicts between geographical indications.

Background

The denominations '*Jambon sec de Corse*'/'*Jambon sec de Corse - Prisuttu*', '*Lonzo de Corse*'/'*Lonzo de Corse - Lonzu*' and '*Coppa de Corse*'/'*Coppa de Corse - Coppa di Corsica*' have been protected designations of origin (PDOs) since 2014.

In December 2015 the Consortium des Charcuteries Corses, an association of producers of cold meats from Corsica, filed seven applications for registration of protected geographical indications (PGIs) with the French national authorities, pursuant to [Regulation 1151/2012](#) on quality schemes for agricultural products and foodstuffs (OJ 2012 L 343, page 1), including '*Jambon sec de l'Île de Beauté*', '*Coppa de l'Île de Beauté*' and '*Lonzo de l'Île de Beauté*'.

In April 2018 the French minister of agriculture and food and the minister for economics and finance issued decrees approving the corresponding specifications with a view to forwarding them to the European Commission for approval, according to the procedure fixed by Regulation 1151/2012.

Given that ‘*Île de Beauté*’ is a common phrase in French to designate the Island of Corsica, the union of producers holding the Corsican PDOs applied before the Supreme Administrative Court of France (*Conseil d'Etat*) for the annulment of the decrees, on the grounds, among others, that the term ‘*Île de Beauté*’ evoked the term ‘Corsica’ and therefore caused confusion with the names already registered as PDOs. The French court rejected the applications for annulment.

However, by its Implementing Decision 2021/1879 of 26 October 2021, the European Commission rejected the applications for registration of the PGIs in question. The consortium sought the annulment of this decision before the General Court.

Interest of the judgment

By rejecting the application for annulment, the General Court highlighted two major questions on the European law on geographical indications.

On the one hand, the court confirmed the power of the European Commission to scrutinise an application for registration if it considers that the conditions for registration are not fulfilled. This ‘last word’ prerogative also stands if the Commission believes that the use in trade of the name in question is unlawful (Article 7(1)(a) of Regulation 1151/2012). The fact that the national authorities, including the national courts, eventually upheld the applications for registration was not binding on the European Commission.

On the other hand, by scrutinising the case in the light of the protective clauses of Article 13 of the same regulation, the judgment confirmed the large field of application of the concept of ‘evocation’, as established progressively by the case law of the Court of Justice of the European Union. The decision underlined the conceptual proximity between the name ‘Corse’ and the designation ‘*Île de Beauté*’, which was enough to trigger an association of thoughts between the two denominations in the mind of the average (French) consumer. Further, the court rightly rejected the applicant’s argument that there was a sufficient degree of distinction between the denominations in conflict due to the mere fact that they were PDOs and PGIs, respectively. The fine line of distinction between the two legal regimes is beyond the knowledge of the average consumers and is not capable of preventing the risk of evocation.

Comment

This is one of the rare cases in which the General Court has considered a concrete conflict between PDOs and PGIs. The decision, delivered in the name of the prevention of their misuse (not only in the interests of buyers, but also in the interests of producers), establishes an important precedent in this field.

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