

WP1 – Main findings

F. Casabianca

assisted by

D. Barjolle and V. Lemeur-Baudry

6 points

Definition of OLP

Historical view of European Regulation

National implementation of EC reg.

Certification and Control

Dynamics of local production

D4B Report

1 – Definition of OLP's

The definition of OLPs has to be made definitively taking into account the work made by the other WP.

The legal point of view about the definition is the following. The problem of definition of OLPs is large: Geographical Indication are only part of the concept. The "indication de provenance simple » are also part of the concept of OLPs and . Figurative trademarks with generic geographical indication like region or country (for the small countries) are also part of the concept. For the legal point of view, collective trademark with geographical indications are permitted in the case of figurative trademark only.

The geographical names or designation for very small products not applying for PDO-PGI protection are also part of the concept.

The different problems faced by every type of OLPs have to be studied. Table of Berenguer avec une colonne supplémentaire pour la provenance simple (sans qualité liée à la région).

The collective trademark may be a way to obtain a certain provisional protection (first step). Yet the geographical indication as such is not protected against imitations or misuses through the trademark protection, but due to the distinctive character of the sign.

2 - European regulation as result of compromise (historical point of view)

International context of European protection, in particular the influence of world approach (TRIPS).

? National influences on the agreements about PDO, including the problems of distortion within EU. Problems in the adoption at the beginning of the regulation 2081/92.

? Creation of PGI and the differences between national constraints.

?

Legitimacy of the regulation 2081/92 : which goal is more important for the citizens: rural development, consumer's protection, unfair competition, etc...

? There is a need of empirical research evidences about the benefits of the reg. 2081/92 in these different topics, in order to convince the other parties in the frame of international negotiations about GI's protection.

3 – National implementation of the application of EC regulation 2081/92

Regulation 2081/92 asks for a national law to be implemented in each country. Nevertheless, the question of national objection procedure is not well regulated in each country: this is a weakness of the current situation not to have been implemented an national objection procedure at each national level.

- ? National integration into the institutions: different cultures and history which leads different level of requirements to be proposed at the EC-level.
- ? Creation of commissions for validating the local projects, composition and decision-making.
- ? The national institutions and laws can charge the procedure in a proportional amount regarding the work made.

4 - Certification and Controls

- ? 2 different levels of controls : producers controls and misusing controls. There are 3 levels of supply chain controls: self-controls, controls by the certification body, accreditation of the certification body. There is an additional public control made in order to fight frauds and misuses of names and labelling.
- ? There is a need of a complete review about this subject all over Europe, concerning the methods, the costs and the procedures. The problem of credibility is very important, also the problem of the controls.
- ? The problem of the certification costs is very important. The internal control are more appropriate and the external controls are to be considered as controls about internal controls. Elsewhere the external controls are generating too high costs.

5 – Dynamics of Local Production Systems related to EC regulation

- ? Normalisation process. Relationship between local organisations and technical contents (elements to be protected, connection with traditional dimensions, etc.), at the same time justification of the protection and basis of control procedures,
- ? Resources specification. How to rely biological materials to manage and local knowledge to insure and to transmit
- ? Local competencies and decision-making. To be clarified the influence of various types of producers (farmers, industrials, retailers, commercial, etc.) and the role of scientists.
- ? Relationship with Competition Law. In particular, restricted access to market and questions of “traceability” (origin and process modality).

6 - D4B Report

GI are part of intellectual property rights. The inclusion of the regulation 2081/92 in the agricultural policy does not make this clear. It could be an improvement of the regulation to expressly state the intellectual property nature of GI's in the reg. 2081/92.

Reg. 2081/92 may need to be amended in order to extend its scope to products beyond the agri-food field, should WTO negotiations on extension succeed (demand driven by Switzerland, certain east Europe and developing countries).