

DOLPHINS WP 6 CHECKLIST SPAIN

Authors: Spanish DOLPHINS team

A. Legal protection for OLPs	
1. Legal frame for the protection of OLPs	
A.1.1. What are the legal provisions in order to implement the EC Regulation 2081/92 in your country?	Orden 25 Enero de 1994 Real Decreto 1643/1999
A.1.2. What are the other legal regulations and provisions to provide protection for OLPs in your country, out of the EC Regulation 2081/92?	Ley 25/1970; Decreto 835/1972; Decreto 3711/1974; Real Decreto 972/1982; Real Decreto 830/1984; Real Decreto 1573/1985; Real Decreto 2671/1985; Real Decreto 1297/1987; Real Decreto 728/1988; Real Decreto 759/1988; Real Decreto 251/1990; Real Decreto 645/1990; Real Decreto 1254/1990; Real Decreto 729/1993; Real Decreto 730/1993; Real Decreto Ley 14/1993; Real decreto 1396/1993; RD322/2000; RD 1554/1990; LEY2/1993; RD 1129/1985; RD157/1988; RD 1906/1995; Orden 1/8/1979; RD 2004/1979 (Constitution of the Nacional Instituto of Regulatory Bodies (INDO); Orden 6/9/1991 (aids to the set up and performance of the Regulatory Bodies)
A.1.3. What is your national jurisprudence about non geographical names which would have been requested to be registered as protected OLPs?	They are considered as collective brands and they are not allowed to include the geographical indication as part of their names.
A.1.4. What are the procedures for the definition of the product characteristics regulation and the area of production for protected OLPs in your country? Mention the consultation and decisions bodies which are involved in the procedures.	For PDO/PGI and OLPs in the transition to PDO/PGI there is a Regulatory Body (<i>Consejo Regulador</i>). The Regulatory Body defines the characteristics of the product and area of production. These rules have to be first approved by the regional administration, then by the national administration and finally by the EU. In other OLPs such as collective brands, there is an external body to regulate the characteristics and monitor, and the rules are ratified by the regional administration. Normally, the initiative to protect an OLP comes from the private sector but strongly encouraged by the Administration. In the initial steps for protection of OLP, it is necessary to certificate, through historical and literary documents, that the product has existed for long time, and there has been a continuity along history in the production and processing methods.
A.1.5. In your country, how would it be decided that a geographical name is a generic one? Mention the jurisprudence, the procedure and the decision bodies.	The geographical names belong to the municipalities. Orden 11/12/1986 (use of geographic names for wines); orden 23/12/1999. Conflicts may arise when in the same administrative region there are several PDO/PGI for the same product, and the Regional Government rules a new umbrella designation for all of them. This has happened in Cataluña, for wines, with the aim of offering a common image to a great variety of DO wines

	and ease their marketability abroad.
2. Institutional frame	
A.2.1. Which are in your country the public and private institutions involved in the application of EC Regulation 2081/92?	Both, the regional Government (Department of Agriculture) and central Government (Ministry of Agriculture, Food and Fisheries –MAPA-).
A.2.2 Which are in your country the public and private institutions involved in the application of legal systems of protection for OLPs other than EC Regulation 2081/92?	The Regional Governments can promote and regulate the creation of regional labels; Association of producers can also promote the creation of collective brands based on the Ley de Marcas (1988).
A.2.3. Which are the different regional levels for the application of legal systems of protection for OLPs, and which are the institutions linking these different levels?	There is only one level, regional. This is linked to Central Government, who corroborates the OLP in regions.
A.2.4 What is the expected evolution for the institutional frame in your country?	Spain is a very decentralised country and the most important institutions are already performing.
3. Relations between OLPs and trademarks	
A.3.1. What are the legal provisions concerning the indication of origin and the trademark with geographical indication in your country?	Ley de Marcas (1988) (“Law of Brands”) allows the creation of collective (and private) brands. There has been some experiences about incorporating geographical names in the collective brand, that later has been found to be illegal, and has been removed from the brand name (e.g. “C” de Calidad Alimentaria, previously was known as “C” de Aragón, where Aragón is a geographical name.
A.3.2. Could you give some cases of jurisprudence in your country concerning the conflicts between geographical indications (protected and non protected ones) and trademarks?	Conflict between a previous private brand and a Designation: “Jabugo” is the name of a village, and also a registered trademark for ham. It was tried to use this name for a PDO of ham, but finally the designation had to change to the name of the province “Huelva”. At an international level, Portugal proposed the creation of PDO called “Torres”, which is a well known private brand for wine in Spain. The issue is at Court.
A.3.3. Could you give some cases in your country concerning the conflicts between previously registered trademarks and registered PDOs and PGIs?	No. The registration process for a PDO stops when it is found out that there is already a brand with that name. So, there are no cases with already registered PDOs and registered brands.
A.3.4. What are the procedures to provide protection to geographical indications of other countries which do not have a sui generis system of protection?	Application of the Ley de Marcas
4. Monitoring and certification for OLPs	
A.4.1. How is the EC Regulation 2081/91 implemented in your country concerning the	The Regional Governments are in charge of the application of this regulation; The approval of a new OLP is taken in the Region but it must be ratified by the Central Government, which

monitoring and certification of the PDOs and PGIs?	in turn is in charge of the registration procedure in the EU. The same process applies every time the Code of Practice of the PDO/PGI is modified.
A.4.2. Are the monitoring and certification of OLPs legally required for systems of protection out of EC Regulation 2081/92 in your country?	Yes
A.4.3. Are the monitoring and certification of OLPs made by public or private institutions?	The institution in charge of the PDO/PGI certification is a Committee, inside the Regulatory Body that is private. The Regulatory Body depends on the Regional Administration (the Agriculture department), which funds partially its performance. However, when a PDO/PGI covers different administrative regions, the Regulatory Body depends on the Central Administration. The Regulatory Body is composed by, one president and one vice-president appointed by the Regional Minister of Agriculture upon the proposal of the Regulatory Body; members amongst the producers and processors of the product; 2 members appointed by the Department of Agriculture with special knowledge on this area; 1 secretary appointed by the Regulatory Body. The financial resources of the Regulatory Body are: public subsidies and levies on the firms/farms and product.
A.4.4. Which is the role of the public institutions in the definition of the plans for monitoring and non conformities to the product requirements?	None. Plans for monitoring and non conformities to the product requirements are totally in charge of the Regulatory Body.
A.4.5. What are the means of enforcement in relation with the monitoring and certification (financial sanctions, monitoring of the certification body...)?	There are financial sanctions, and the maximum penalty is the expulsion of the firm of the Designation of Origin or Geographical Identification collective.
A.4.6. Are there public subsidies for monitoring and certification of OLPs in your country?	Yes
5. Action against misleading of the consumers	
A.5.1. What are the legal bases for preventing misleading geographical indications in your country?	RD 1945/1983 (agri-food production); RD 1129/1985 (wine); Reglamento 835/1972; RD 1398/1993 (sanction power)
A.5.2. Are the infringements in relation to geographical indications treated ex officio or only on the request of an interested party?	On the request of an interested party, in general (e.g. Consumers associations).
A.5.3. What are the institutions which are in charge of the repression of the misleading of the consumers? What are their means, and what are the sanctions?	Departments of consumption and health in the Regional Administration. They use financial sanctions.

B. Policies concerning OLPs production-marketing systems	
1. Competition and antitrust legislation	
B.1.1. In your country, what is the national regulation regarding antitrust law ? When and how was the European regulation adapted? Mention the national texts and the authorities and legal proceedings (at the regional and national level).	National regulation: Ley 16/1989; Ley 3/1991; Real Decreto 157/1992; Texto Refundido Ley 16/1989; Real Decreto 295/1998; Real Decreto Ley 6/1999; Ley 52/1999; Real Decreto Ley 6/2000; Real Decreto 2/2001; European Adaptation: Real Decreto 1882/1986; Real Decreto 295/1998 Authority: <i>Tribunal de Defensa de la Competencia</i> (Defence of competition Court)
B.1.2. Are there inquiries of your antitrust law authorities that concern(ed) an OLP supply chain ? a) Which was the reason for inquiry : fixing of global quantities, fixing of indicative prices on intermediary markets, attribution of production quotas to enterprises, disagreement on the relevant market size ...? b) Which were the conclusions of the inquiry (please send documents such as law papers or trial decisions)? c) Did this recommendation or decision lead to a modification of the national law rules ?	No. Any mention on OLPs has been found in the reports, resolutions and memories of the Defence of competition Court.
B.1.3. If there was no inquiry in your country, why ? What is the philosophy of your national antitrust law authorities regarding the OLP supply chains ?	The Regulatory Bodies do not intervene with respect to quantities, quotas and prices.
2. Collective institutions of the supply chain	
<i>We call "interprofession" a multi-professional institution that has no commercial statute and whose mission is to co-ordinate the market operations between at least two levels of a given food product supply chain. An "interprofession" is generally an association that is composed of two bodies or more (such as producers, processors, traders, sometimes retailers...), which may negotiate and make decisions in order to improve the collective efficiency of the supply chain. (In France and Switzerland : interprofessions ; in Italy : consorzio ; in Germany : Branchenorganisationen).</i>	
B.2.1. Is this kind of institution at work in your country? Which are its national legal basis (texts) ?	Yes Ley 38/1994; ley 13/1996; Real Decreto 705/1997; Real Decreto 1789/1997; Real Decreto 1660/2000; Ley 2/2000;
B.2.2. Do they concern a specific product (such	The interprofession (<i>interprofesional</i>) concerns specific products at national level. They do not refer to

<p>as milk, fruits, meat...), specific geographic areas (regional, national), specific quality labels, specific OLP products ? (please if possible send a list of these multi-professional entities)</p>	<p>specific quality labels or OLPs.</p> <p>AIFE: forage (1997); INPROVO: egg products (1998); AIPEMA: pear and apple (1998); OIAH: dry fig and its products (1998); INVAC: indigine beef meat of quality (1998); ALIMPO: lemon and grapefruit (1998); INTERCITRUS: Spanish citrics (1998); PROPOLLO: Spanish poultry (1999); ASICI: Iberic Pig (1999); OILE: Spanish linen (1999); INCERHPAN: cereal products (1999); IVIM: table wine included wine with "land quality label" and with PGI (2000); INTERMOSTO: must and grape juices (2000); INTERCUN: Interprofesion to enhance rabbit breeding (2000); INTERATÚN: tuna (2001); INTEROVIC: sheep meat (2001); INLAC: milk (2000)</p>
<p>B.2.3. Which are their possible missions : marketing studies, strategic analysis, promotion, quality control, negotiation of contract templates, fixing of indicative prices on intermediary markets within the supply chain, fixing of global quantities, attribution of production quotas to processing units...?</p>	<p>The general missions are:</p> <ul style="list-style-type: none"> To improve markets transparency and efficiency (e.g. fixing floor prices; publishing market prices) To improve quality of products and processes To do or promote research and development To promote the product To improve information to consumers To develop actions of enviromental improvement To adapt supply to demand To negotiate contracts compatible with the European legislation
<p>B.2.4. What are the punitive sanctions, when a decision is not respected by a member ?</p>	<p>The membership might be reconsidered when the decisions are continuously disregarded. Sometimes there are monetary sanctions.</p>
<p>B.2.5. Is the extension of agreements to non-members authorised and supported par the State ? [can a decision taken by the interprofession become compulsory for non-members?].</p>	<p>Yes</p>
<p>B.2.6. Does the State control the institutions (assessment of the effectiveness, control of an eventual competencies violation, accounting control)?</p>	<p>The functions developed by the State are: recognition and guardianship. RD 1398/1993 (procedure to exert sanctions, wine sector)</p>
<p>B.2.7. What are the financial resources of the</p>	<p>There are both, subsidies from the state and contribution from the members.</p>

interprofessions (subsidies from the state, contribution from the members, etc)?	There are public subsidies to cover expenses on: constitution, performance, staff, transport, office material, communication, promotion campaigns, research activities, consultancy etc.
B.2.8. Do you think that these multi-professional entities are going to develop or to decline in your country? Why (benefits and limits)?	We think they are going to develop, as it happens with the organisation of the agro-food system in general.
3. Public support to OLP supply chain management	
<p>B.3.1. Do you have programs in your country to support the leaders training and to improve the quality of management of OLPs supply chains ?</p> <p><i>Training programs for leaders: marketing, business, quality control, management, social leadership, negotiation</i></p> <p><i>Communication tools within the supply chain</i></p> <p><i>Strategic analysis</i></p> <p><i>Quality control operations</i></p> <p><i>Programs at local regional or national scale</i></p>	<p>Yes there are programmes of training, but not specifically for OLPs and for some of the activities mentioned. The programmes are designed by regional authorities and applied at a regional scale.</p> <p>There are also initiatives of the Regulatory Bodies, in order to promote the product but also to integrate with the human and cultural aspects of the area. For instance, in wine D.O.s it is frequent to have wine taste courses. Others are formation courses: languages, software, and courses in collaboration with the Administration in specific training programmes.</p>

C. Policies concerning the links between OLPs and rural development				
1. What public subsidies can the OLPs sectors/producers get, as public support for rural/local development ?				
# para-public institutions : public control institutions for PDO-PGI, public established interprofessional bodies, partly public funding NGOs, etc.				
	Local institutions	Regional institutions	National institutions	Para-public institutions (all scale)#
C.1.1. Financial subsidies for : investments - Production (enterprises equipment– buildings) - Transformation / elaboration (enterprises equipment– buildings) - Trade (enterprises equipment– buildings– transportation) - Communication (internal / external)	X	X X X X	X X X X	X
C.1.2. Financial subsidies : - How are they distributed? -Working of the professional structures: human resources, marketing operations	Among local producers who accomplish certain conditions. Part of the activity of the usual staff is dedicated to this task.	Amongst applicants that fulfil the conditions advertised. Some of them are jointly undertaken with national institutions (co-financing)	The same as regional institutions. Although some funds come from the EU.	The funds are used for collective actions.
C.1.3. Information : - Legal aspects (laws on trademarks <regional, collective, certification ones>, laws on PDO-PGI, ...) Means : easiness of access to the information (“guichet unique” ?...)		X	X	X
C.1.4. Training programs for people involved in the supply chain (marketing, management,		X See Section B.3.1.	X See Section B.3.1.	

economics, ...)				
C.1.5. Administration support (application files for registration of PDO-PGI, for grants...)		X		
C.1.6. Technical support (public monitoring and control against misleading of the consumers, production technical research, scientific popularization, ...)		X	X	
C.1.7. Political support (support to application files for registration of PDO-PGI, for grants...)		X	X	
C.1.8. Material support (equipment, land,...)		X		
C.1.9. Legal incentives (regulations for the use of public goods, ...)				
2. Integration and co-ordination of public policies				
C.2.1. What are the public policies aiming at creating or strengthening the links between OLPs and other economic activities?; normative, financial, promotional, technical supports...	None.			
C.2.2. Analysis of innovative projects based on OLPs within the frame of UE LEADER program	Yes, there are innovative projects on OLPs within the LEADER and PRODER, but in some areas they have just started.			
C.2.3. What are the public policies aiming at facilitating the development of OLPs production in small and craft firms (information, training...)?	There are not specific policies but OLPs can be developed thanks to other general policies aiming at small and craft firms. General public policies are: LEADER, PREDER, INTEREG, EQUAL,...			
C.2.4. What are the institutional tools aiming at integrating and co-ordinating different policy tools at a local scale (e.g. Contrats territoriaux d'Exploitation – CTE – in France, Agri-food Quality Districts and Rural Districts in Italy...)?	There is not such a policy tool in Spain.			
C.2.5. Role of OLPs related interventions within the frame of the EC Regulation 1257/99 (rural development): regional plans, priorities, specific means, etc.)	OLPs are considered as a part of rural development but there are not specific goals affecting OLPs.			

D. Policies concerning the relations between OLPs and consumers

1. PDO and PGI promotion

<p>D.1.1. In your country and language, which term is used to indicate on a package or a promotional advertising that a product is a PDO product?</p>	<p>Denominación de Origen</p>
<p>D.1.2. In your country and language, which term is used to indicate on a package or a promotional advertising that a product is a PGI product?</p>	<p>Legal term: Indicación Geográfica Protegida. Nevertheless, for commercial purposes the legal term is not usually applied because of low consumers' awareness although the EU logo is used. Instead, the term "Denominación Específica", corresponding to the previous national terminology, is used.</p>
<p>D.1.3. Is there any generic promotion of the PDO and/or PGI label in your country?</p> <ul style="list-style-type: none"> • When yes: <ul style="list-style-type: none"> - Which kind(s) of organisation(s) is/are in charge of this generic promotion? - With which kind of financial means? - What is the basic strategy to communicate on the PDO and/or PGI label (a promotion focused on the label, a promotion on the AOC label in link with some AOC products,)? • When no: <ul style="list-style-type: none"> - Could a generic promotion on PDO and/or PGI label be financially supported by public funds? With which kind of money? - Do you think that such a generic promotion would be necessary? 	<p>Very rarely with a national coverage.</p> <p>There are/have been campaigns promoted by regional governments and regulatory bodies, based on the regional territory and very rarely overtaking the limits of the region.</p> <p>Organisation in charge of the promotion: It can be, either the Regional Government, or the Regulatory Body of the specific PDO/PGI promoted or both.</p> <p>Financial means: Depending on the organisation in charge of it, but they are mainly public funds from the regional Government.</p> <p>Strategy: Normally is the link between label and specific products.</p>
<p>D.1.4. Do the PDO-PGI supply chains have any public financial resources to promote their denomination (as a collective product and not as private brand)?</p> <ul style="list-style-type: none"> • When yes : <ul style="list-style-type: none"> - With which kind of public means, and under which conditions? • When no : <ul style="list-style-type: none"> - Do you think that such a support should be possible? 	<p>Yes.</p> <p>It can be either total or partially financed by public funds. Conditions vary depending on the scope of the promotion. For instance, sometimes the agreement on a joint promotion of all the PDO/PGI/TSG products in one region was required.</p>

<p>D.1.5. In general, do the supply chains promote their protected denomination with reference to the PDO label (messages linked with the PDO label such as “this product is protected by a official label, a PDO.....)?</p>	<p>Yes.</p>
<p>D.1.6. In your country, do the supply chains communicate within their supply chains to make the PDO label well known among all the producers? Can the communication within a supply chain be supported by public funds?</p>	<p>The Regulatory Body usually takes care of communicating to producers. Indirectly, through the public subsidies received by the Regulatory Body from the regional administration.</p>
<p>2. Other OLPs promotion</p>	
<p>Precise to which OLP you will refer (here after called regional label or product)</p>	<p>Quality labels monitored somehow by the Administration jointly with producers organisations.</p>
<p>D.2.1. Is there any generic promotion of regional labels in your country? <ul style="list-style-type: none"> • When yes: <ul style="list-style-type: none"> - Which kind(s) of organisation(s) is/are in charge of this generic promotion? - With which kind of financial means? - What is the basic strategy to communicate on this regional label (a promotion focused on the label, a promotion on the AOC label in link with some regional products,)? • When no : <ul style="list-style-type: none"> - Could a generic promotion on a regional label be financially supported by public funds? With which kind of money? - Do you think that such a generic promotion would be necessary? </p>	<p>Never with a national coverage. There are/have been campaigns promoted by regional governments and regulatory bodies, always based on the regional territory. Organisation in charge of the promotion: It can be, either the Regional Government, or the specific product organisation or both. Financial means: Depending on the organisation in charge of it, but they are mainly public funds from the regional Government. Strategy: Normally is the link between label and specific products.</p>
<p>D.2.2. Do the regional organisation in charge of the regional label have any public financial resources to promote their denomination (as a collective product and not as private brand)? <ul style="list-style-type: none"> • When yes : <ul style="list-style-type: none"> - With which kind public means, and under which conditions? </p>	<p>Yes. Normally, there is total support by public institutions.</p>

<ul style="list-style-type: none"> When no : - Do you think that such a support should be possible? 				
3. Consumer survey				
Who does the survey ?	Food survey in general	PDO-PGI labels surveys ¹	PDO-PGI products surveys	Other OLP survey
State	X	X	X	X
Public funds	X	X	X	X
Region	X	X	X	X
Types of financial resources?	Public funds	Public funds	Public funds	Public funds
Research institutes	X	X	X	X
Types of financial resources?	Public funds	Public funds	Public funds	Public funds
Private organisations	X		X	X
Types of financial resources?	Private and/or public funds		Private and/or public funds	Private and/or public funds
Supply chains			X	X
Types of financial resources?			Private funds	Private funds
Other				
Types of financial resources?				

¹We are not aware of any survey on only labels without their connection with specific products