

Commission Communication — Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients

(2010/C 341/03)

1. INTRODUCTION

1.1. Background

The European Union has been developing a specific policy with regard to geographical indications for agricultural products and foodstuffs since 1992 ⁽¹⁾. Rules on the labelling of foodstuffs to be delivered in their existing state to the final consumer and on the advertising of such products are laid down in the Labelling Directive ⁽²⁾.

The legislation relating to protected designations of origin (PDOs) and protected geographical indications (PGIs) stipulates, *inter alia*, that registered names are to be protected against any direct or indirect commercial use in respect of products not covered by the registration in so far as such products are comparable to those registered and in so far as that use makes it possible to profit from the reputation of the protected name ⁽³⁾. The Labelling Directive also states that the labelling of a foodstuff and related advertising must not be of a kind that could mislead a consumer, particularly as to the nature, identity, properties and composition of the said foodstuff ⁽⁴⁾.

In this context, while the incorporation of a product with a PDO or PGI in a foodstuff could of course constitute a major outlet for such quality products, care should nevertheless be taken to ensure that any reference to such incorporation in the labelling of a foodstuff is made in good faith and does not mislead consumers.

1.2. Guidelines

In its Communication on agricultural product quality policy (COM(2009) 234), the Commission undertook to draw up guidelines on the labelling and advertising of processed products using geographical indications as ingredients.

Those guidelines are intended to illustrate the legislative provisions applicable in this area and to help economic operators define their room for manoeuvre. In particular, they set out the Commission's point of view concerning:

— the conditions under which names registered as a PDO or PGI can be used in the labelling, presentation and advertising of foodstuffs containing such names as ingredients,

— good practice to ensure that names registered as a PDO or PGI and employed as ingredients in food products are not used in a manner that damages the reputation of the product benefiting from such a designation or misleads consumers as to the composition of the product produced.

Uptake of the guidelines is voluntary.

The examples mentioned in the guidelines are provided purely for illustrative purposes and do not reflect situations or contentious issues brought to the Commission's attention.

The present guidelines should not be deemed to constitute a legally binding interpretation of EU legislation on PDOs and PGIs or the Labelling Directive. Indeed, such an interpretation falls solely within the remit of the European Court of Justice; furthermore, the issue of whether a specific product's labelling could mislead purchasers or consumers, or any decision regarding the potentially misleading nature of a trade name is the responsibility of domestic courts ⁽⁵⁾.

These guidelines may be amended.

2. RECOMMENDATIONS

In the light of the above, the Commission wishes to set out below a series of recommendations relating to, on the one hand, the rules on using a name registered as a PDO or PGI and relevant European Union terms, abbreviations or symbols in the labelling of foodstuffs containing products benefiting from such a designation and, on the other hand, the specifications relating to names registered as a PDO or PGI and incorporated as ingredients in foodstuffs.

2.1. Recommendations on the use of registered names

1. According to the Commission, a name registered as a PDO or PGI may legitimately be included in the list of ingredients of a foodstuff.

2. The Commission also considers that a name registered as a PDO or PGI may be mentioned in or close to the trade name of a foodstuff incorporating products benefiting from a registered name, as well as in the labelling, presentation and advertising relating to that foodstuff, provided that the following conditions are met.

⁽¹⁾ Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 93, 31.3.2006, p. 12) and Commission Regulation (EC) No 1898/2006 of 14 December 2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 (OJ L 369, 23.12.2006, p. 1).

⁽²⁾ Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ L 109, 6.5.2000, p. 29).

⁽³⁾ Article 13(1)(a) of Regulation (EC) No 510/2006.

⁽⁴⁾ Article 2(1)(a) of Directive 2000/13/EC.

⁽⁵⁾ Refer to, in this regard, the Court's judgment in Case C-446/07 *Alberto Severi v Regione Emilia Romagna* (2009) ECR I-8041 (paragraph 60).

- The foodstuff in question should not contain any other 'comparable ingredient', i.e. any other ingredient which may partially or totally replace the ingredient benefiting from a PDO or PGI. As a non-restrictive example of the concept of 'comparable ingredient', the Commission considers that a blue-veined cheese (commonly known as 'blue cheese') could be considered comparable to 'Roquefort' cheese.
 - This ingredient should also be used in sufficient quantities to confer an essential characteristic on the foodstuff concerned. However, given the wide range of possible scenarios, the Commission is not able to suggest a minimum percentage to be uniformly applied. As an example, the incorporation of a minimum amount of a spice benefiting from a PDO/PGI in a foodstuff could, if appropriate, be sufficient to confer an essential characteristic on that foodstuff. By contrast, the incorporation of a minimum amount of meat benefiting from a PDO/PGI in a foodstuff would not a priori be sufficient to confer an essential characteristic on a foodstuff.
 - Finally, the percentage of incorporation of an ingredient with a PDO or PGI should ideally be indicated in or in close proximity to the trade name of the relevant foodstuff or, failing that, in the list of ingredients, in direct relation to the ingredient in question.
3. On the assumption that the conditions referred to in point (2) are met, the Commission feels that the European Union terms, abbreviations⁽¹⁾ or symbols accompanying the registered name should be used in labelling, within or close to the trade name or in the list of ingredients of the foodstuff only if it is made clear that the said foodstuff is not

itself a PDO or PGI. Otherwise, the Commission takes the view that this would result in the undue exploitation of the reputation of the PDO or PGI and result in consumers being misled. For example, the trade names 'Pizza au Roquefort' (Pizza with Roquefort) or 'Pizza élaborée avec du Roquefort AOP' (Pizza prepared with Roquefort PDO) would hardly give rise to a dispute in the eyes of the Commission. By contrast, the trade name 'Pizza au Roquefort AOP' (Pizza with Roquefort PDO) would clearly be ill-advised, in as much as it could give the consumer the impression that the pizza as such was a product benefiting from a PDO.

4. The Commission takes the view that, if an ingredient comparable to an ingredient benefiting from a PDO/PGI has been incorporated in a foodstuff, the name registered as a PDO/PGI should appear only in the list of ingredients, in accordance with rules similar to those applicable to the other ingredients mentioned. In particular, it would be appropriate to use characters that are identical in terms of font, size, colour, etc.

2.2. Recommendations concerning specifications relating to names registered as a PDO or PGI and incorporated as an ingredient in foodstuffs

According to the Commission, provisions governing the use of a name registered as a PDO or PGI in the labelling of other foodstuffs should not be included, in principle, in the specification for that name; compliance with existing EU legislation by economic operators should constitute an adequate guarantee. They may be included by way of exception only in order to resolve a specific, clearly identified difficulty and provided they are objective, proportionate and non-discriminatory. In any case, any provisions contained in the specifications could not be aimed at or result in modifying the legislation in force.

⁽¹⁾ The terms in question are 'protected designation of origin' and 'protected geographical indication' and the abbreviations PDO and PGI.