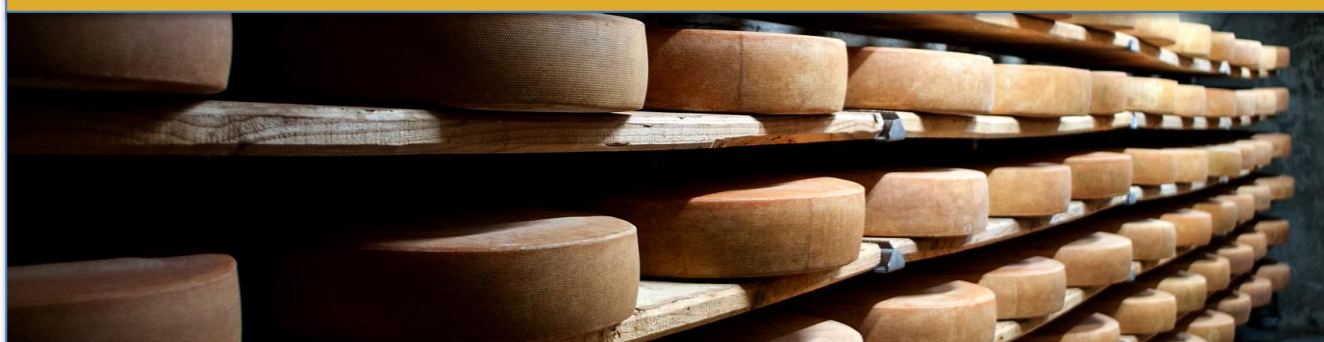


PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES



DECEMBER 2017

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DISCLAIMER

This report is based on data provided by the EU Member States' national authorities that have competence for quality policies of agri-food, and on complementary information from open sources. The information given is in no way intended to be an audit on national systems of control, nor an assessment on effectiveness of performance.

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PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

December 2017

ABBREVIATION LIST

AAC	Administrative Assistance and Cooperation System
ADR	Alternative Dispute Resolution
BTSF	Better Training for Safer Food Programme
CA	Competent Authority
CB	Control Body
DG AGRI	European Commission Directorate-General for Agriculture and Rural Development
DG SANTE	European Commission Directorate-General for Health and Food Safety
EA	European Cooperation for Accreditation
EC	European Commission
EEC	European Economic Community
EEA	European Economic Area
EU	European Union
EUIPO	European Union Intellectual Property Office
FBO	Food Business Operator
FFCP	Food Fraud Contact Point
FFN	European Food Fraud Network
GI	Geographical Indication
IPR	Intellectual Property Right
MANCP	Multi-Annual National Control Plan
MS	Member State
NCA	National Central Authority
OBSERVATORY	European Observatory on Infringements of Intellectual Property Rights
PDO	Protected Designation of Origin
PG	Producer Group
PGI	Protected Geographical Indication
RASFF	Rapid Alert System for Food and Feed
RAPEX	Rapid Exchange of Information System
TRIPs	Trade-Related Aspects of Intellectual Property Rights
TSG	Traditional Speciality Guaranteed
WTO	World Trade Organization

EXECUTIVE SUMMARY

This report is the result of a study on protection and controls of agricultural geographical indications, for which the EU Commission, Directorate-General for Agriculture and Rural Development (DG AGRI) requested the collaboration of the EUIPO's European Observatory on Infringements of Intellectual Property Rights. The main objective of the study is to provide better knowledge of the landscape of the control and protection systems for geographical indications (GIs) in the 28 EU Member States, through the mapping of all the competent authorities and the procedures in place, including enforcement measures against infringements.

The report provides a general overview and description of each national control system for foodstuffs and agricultural products, wines, spirit drinks and aromatised wine drinks. In addition, a guide is attached with a comprehensive inventory of all national competent authorities (CAs) and control bodies (CBs) together with the relevant contact data, as well as some useful information for GI users to help them in seeking better protection against infringements.

The study has been conducted on the basis of desk and field research carried out in order to collect a consistent set of information. This research activity started with the preparation and submission to the 28 EU Member States of a common 'data collection scheme', which aimed to gather structured information on the functioning of the control and protection systems for GIs within the European Union.

Following this extensive research activity, all of the data returned was then gathered, assessed and organised in this report. Hence, not only the overall coverage achieved, but also the structure and the level of detail of the information given strongly relies on the extent of each Member State's contribution. In detail, out of 28 Member States, 23 provided information for this survey. Therefore, the remaining 5 Member States are not included in the report.

Despite a harmonised reporting structure based on a single research scheme applied to all of the Member States, the information provided is diverse in terms of level of detail and extent, as well as sometimes uneven in covering the different areas of interest. This reflects the high heterogeneity in the approach the Member States have adopted to implementing controls — although still under the umbrella of the common EU legal framework. Of course, the diverse economic value of agri-food GIs in each national economy (both in terms of domestic production and general consumption of high quality products) also plays a role in this. Some clear examples are:

control procedures are not always specifically designed for verification of GIs (more often they are merged within the general system of national controls on safety of food and feed), and resources are not always accordingly assigned to them;

the enforcement apparatus for GIs only includes national measures to be enacted *ex officio* in some cases;

the administrative sanction systems against unlawful users are diversely detailed in terms of types of infringement and in providing for precautionary measures and remedies;

different types of criminal offence only specifically address the infringement of rules on geographical indications of origin of food products in some cases.

Although it is not the aim of this work to assess the efficiency and the effectiveness of the various national systems in place, nevertheless, the picture resulting from the survey and the different national approaches

allow for some general considerations that will be given in more detail below under the paragraph ‘General overview’.

The contents of this work are presented as follows:

- a general background of the study carried out;
- information about the study’s methodology;
- a general overview of some of the main outcomes;
- the single national systems in place in the Member States described in dedicated chapters.

As previously mentioned, a Guide is attached as an annex to the study, with the threefold objective of providing practical information for the benefit of economic operators and GI users and consumers.

Finally, a compilation of the good practices identified in the course of the survey, which was elaborated in collaboration with DG Agriculture and Rural Development and its network of experts on GIs, is attached as an appendix, as a tool to support public authorities in the Member States in fine-tuning their procedures and to inspire improvement in their performance¹.

¹ At the time of publication of this report, the Appendix on good practices was still being prepared.

GENERAL BACKGROUND

The specific domain of GIs lies within the wider intellectual property rights (IPR) strategy of the European Union (EU), which aims to ensure the correct functioning of the single market for intellectual property.

According to the World Trade Organization (WTO) regulation and related obligations, all WTO members have implemented the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement).

In this framework, the EU has established a protection and control system for GIs, which aims to emphasise the quality of agricultural products and foodstuffs², wines³, spirits⁴ and aromatised wines⁵ by identifying those products whose excellence and reputation are strictly connected to the geographical area where they are produced and/or processed.

Over the last few years, the EU institutions have particularly focused on protecting GIs by moving towards:

amending the legislation initially enacted;

better defining the control procedures applicable at all stages of marketing products, both before and after being placed in the marketplace;

enforcement of suitable instruments guaranteeing that products bearing registered names that are available on the market comply with their product specifications, and that registered names are protected against misuse as well as fraudulent practices⁶.

Taking the paradigmatic rules set forth by Regulation (EU) No 1151/2012 on the protection of agricultural products and foodstuffs, GIs are identified as follows:

Protected Designation of Origin (PDO): identifies products that are made in a specific area/region or, exceptionally, in a country; whose production, processing or preparation all take place in a defined geographical area. The quality and/or characteristics of such products are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors. They must adhere to a precise set of specifications and may bear the PDO logo;

Protected Geographical Indication (PGI): identifies products whose quality or reputation is strictly related to the geographical area where they are produced, processed or prepared, although the

² Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

³ Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 992/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671).

⁴ Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39, 13.2.2008, p. 16).

⁵ Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of GIs of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).

⁶ See in particular the 'quality package' proposed on 10 December 2010 to the Council and the European Parliament by the European Commission, regarding the issue of better protection of GIs.

ingredients used need not necessarily come from that geographical area. All PGI products must also adhere to a precise set of specifications and may bear the PGI logo⁷.

The same principles are included in the definition of quality schemes for the other sectors regulated at EU level, namely wines, spirits drinks and aromatised wine drinks — where for the latter, the quality scheme is only defined as ‘geographical indication’⁸.

In order to register a GI, the product must comply with detailed specifications including, at least, the raw materials and the principal physical, chemical, microbiological or organoleptic characteristics of the product. Moreover, the evidence of the geographical area of production must be provided, together with the production method, with all of these elements demonstrating that the product originates in the defined geographical area, and that it complies with the labelling method.

When requirements are met and the name is registered as a GI by the European Commission, the product can legitimately be marked with the quality logos seen below⁹.



As regards the scope of protection ensured by the EU regulations, registered names of GIs are legally protected against imitation and misuse. Protection refers to:

any direct or indirect commercial use of a registered name in respect of products not covered by registration, where such products are comparable to registered ones or when using the name exploits the reputation of the protected name;

any misuse, imitation or evocation, even if the true origin of the product is indicated or accompanied by expressions such as ‘style’, ‘type’, ‘method’, ‘mode’, ‘imitation’ or similar, including when such products are used as ingredients.

Protection must be assured against any false or misleading indication (related to the origin, or essential qualities of the product, packaging, advertising or related documents) that is capable of implying a false impression about the origin of the product.

The EU regulations establish obligations and principles for a system of **official controls** that must be implemented by Member States on users of a registered name. The scope of protection covers both the production phase and the surveillance of the use of the protected name once the product has been placed on the market. Both kinds of control are the responsibility of the Member States.

Further to official controls, EU regulations do not include specific obligations concerning sanctioning and enforcement measures, which as a result, also fall within the competence of national authorities. Therefore, in order to ensure that complete protection is guaranteed for registered names, Member

⁷ Traditional Speciality Guaranteed is also protected by regulations, but as they do not fall in the definition of right as intellectual property rights according to the TRIP Agreement notion, TSGs are not considered in this study.

⁸ See the Note on terminology below.

⁹ Commission Implementing Regulation (EU) No 668/2014. The logos in the text are for information only; any use of them is bound by the rules and requirements established in Annex X of the Implementing Regulation.

States are also called on by EU regulations to take appropriate measures, in particular administrative and judicial steps, to prevent or stop unlawful use of protected names that are produced or marketed in that Member State. This general obligation falls under what are usually known as **ex officio protection measures** (although this notion has no legal recognition). *Ex officio* protection should provide a safeguard for all producers of GIs with actions undertaken without any prior claim or request having been made, including when infringements are committed in another Member State.

Within this context, a report issued in November 2011 by the European Court of Auditors on the management system of the GI schemes¹⁰, recommended that the European Commission should monitor the implementation of such schemes within Member States more closely and acquire complete information on the type of controls carried out in each Member State. The present study intends to contribute to this task through a stocktaking description inventory of control bodies, control procedures and types of measures against infringements.

With regard to the scope of the study, only schemes that are considered as IPR in the meaning of the TRIPs Agreement are addressed, that is to say, those indications that identify a product as originating in one territory or region or locality, where a given quality, reputation or other characteristic of the goods is essentially attributable to its geographical origin. For this reason the 'traditional specialities guaranteed' are not in the scope of the survey, although they fall into the EU quality schemes regarding agricultural products and foodstuffs (Regulation (EU) No 1151/2012) and share the same principles for official controls.

Therefore, the study focuses on:

PDOs and PGIs for foodstuffs and agricultural products and wines;
GIs for spirit drinks and aromatised wine products.

¹⁰ <http://eca.europa.eu/portal/pls/portal/docs/1/9944808.PDF>.

METHODOLOGY

The methodology followed to develop the study included a series of activities in two main phases.

1. **Data collection:** information was collected on a Member State basis via a common 'data collection scheme', both from available documents and from the national competent authorities;
2. **Data gathering and elaboration:** all information collected was then gathered and organised in this report.

With regard to phase 1, out of 28 Member States, 23 provided information, namely: Austria (AT), Belgium (BE), Bulgaria (BG), the Czech Republic (CZ), Denmark (DK), Germany (DE), Ireland (IE), Greece (EL), Spain (ES), France (FR), Croatia (HR), Italy (IT), Latvia (LV), Lithuania (LT), Luxembourg (LU), Hungary (HU), Netherlands (NL), Poland (PL), Portugal (PT), Romania (RO), Slovenia (SI), Slovakia (SK) and the United Kingdom (UK).

Five Member States did not provide any information, namely: Cyprus (CY), Malta (MT), Finland (FI), Estonia (EE) and Sweden (SE).

With regard to phase 2, the data collected was gathered, analysed and assessed against certain criteria in order to identify gaps in coverage. On the basis of the results of the data assessment, supplementary research was carried out and information retrieved through ancillary research was added to the information made available by the Member States.

For each Member State the information collected is structured around:

an inventory of the authorities involved in the control system (all entities involved at different levels, including public and private bodies, regulatory framework of the organisation, allocation of duties and responsibilities, etc.);
the performance of controls, both before and after the product has been placed on the market;
penalties and remedies provided for by national laws;
criminal enforcement laws established at national levels;
administrative and legal measures actually provided for by the Member State (including *ex officio* protection measures);
tools assisting producers to address detected/suspected infringements; this area includes practical tools to inform, communicate or submit claims to competent authorities in cases of suspected infringements, as well as the civil law remedies available.

GENERAL OVERVIEW

As previously mentioned, Member States showed a different level of commitment to the implementation of the protection system of GIs in the agri-food sector, although they complied with the general obligations set forth by EU regulations. This is due traditionally to the different weight of GIs in the national economies all across the EU (both in terms of domestic production and general consumption of high quality products), influencing the way Member States approach the implementation of official controls¹¹.

This heterogeneous picture reflects on the general content of this report, which, notwithstanding a harmonised structure based on a single research scheme applied to each Member State, appears uneven as regards the coverage of all of the survey's areas of interest in the different Member States and the level of details provided.

However, detailed analysis of the data collected has allowed some general conclusions to be outlined related to the organisation and the state of play of control systems for GIs across EU Member States. This section aims to provide an overview of the main evidence of the analysis, which is described below.

When talking about official controls and relevant legislation in place for GIs for wine, spirits, agricultural products and foodstuffs, the analysis has shown that for all the Member States considered, there is a system in place. However, the effectiveness of control systems varies among Member States depending on the organisational structure and procedural measures for carrying out controls.

As emerged from the information gathered, **official controls before GI products are placed on the market are often delegated to private and public CBs**. In particular, the Member States in which the CAs delegate controls — or at least parts of them — to CBs, such as Austria, Belgium, Bulgaria, Croatia, Denmark, France, Germany, Italy, Luxembourg, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and the United Kingdom.

With few exceptions, the **rules of accreditation** of the delegated CBs as established at EU level are generally respected. The national accreditation bodies of Member States delegating certain control tasks provide for the accreditation of CBs in accordance with ISO/IEC standard 17065:2012 ('Conformity assessment — Requirements for bodies certifying products, processes and services'). It should be noted that this standard replaced the EN 45011 standard, originally required by Regulation (EU) No 1151/2012 for agricultural products and foodstuffs, and by Regulation (EU) No 110/2008 on spirits, as from 2012. The new ISO/IEC standard 17065:2012 is indeed required by Regulation (EU) No 251/2014 for accrediting CBs for aromatised wine drinks.

An exception is constituted by the Croatian Centre for Agriculture, Food and Rural Regions (the Croatian CB for wine GIs), for which it was reported by the local CA that accreditation for the verification of compliance with product specifications is undertaken in accordance with the HRN EN ISO/IEC 17025:2007 standard for laboratory analysis, instead of ISO/IEC 17065 for bodies certifying products.

As far as general organisation is concerned, it is possible to identify one central administration in the Member State, usually at ministerial level, in charge of the overall coordination and supervision of the control system. In some Member States, different administrations have a role per product sector, as for example in Bulgaria, where quality policies are shared between the Ministry of Agriculture (food and

¹¹ On markets of GIs in the EU, see the EUIPO's *Study on Infringement of Protected Geographical Indications for Wine, Spirits, Agricultural Products and Foodstuffs in the European Union*, Chapter 6, GI Product Market.

wines) and the Ministry of Economy (wines and spirits). In some other Member States, different ministries supervise controls respectively **on production** and **surveillance of the marketplace** (France and Spain are two examples).

The national administrative structure influences significantly the distribution of competences.

As regards federal/regional countries, responsibilities and tasks for official controls are assigned to CAs at both national and local level as, for example, in Spain, Austria, Germany and Belgium. In Austria, for example, the CAs are responsible for drafting legislation establishing the responsibilities of the CAs and for the general coordination of the system, whereas at regional level, the State Governors implement the federal food policy by following the instructions issued by the CAs. Similarly, the powers in relation to the control and protection of GIs in Spain have been transferred to the local Autonomous Communities (*Comunidades Autónomas* (CCAA)). As a result, there are 18 CAs in Spain, one for each of the 17 CCAA, and one at the national level for the 'supra-autonomous' GIs, for example, those involving territories of more than one community. As regards Germany, the general structure of the control system of GIs is decentralised, implying that the verifications and monitoring required in accordance with EU laws is incumbent on the CAs, pursuant to the law of each federal state (Bundesland). The situation is similar in Belgium, where controls over production are decentralised to three 'regions', with the state coordinating surveillance of the market through the Ministry of Economy.

The public CAs designated for official controls and the delegated CBs are almost exclusively in charge of the official controls on GIs. It must be noted that with reference to the role of **customs**, with the exception of Italy, the United Kingdom and Ireland, no relevant task is assigned to them beyond their competences and legal obligations under Regulation (EU) No 608/2013 on enforcement of IPR at the borders¹². As regards the United Kingdom, customs are one of the designated CAs for spirits, wines and aromatised wines both for controlling production and the market, whereas in Italy and Ireland they are among CAs for controlling production of GI spirits. The Italian approach is noteworthy, as customs ensure tax and IP compliance in the spirit sectors in a unique verification cycle, namely through optimised use of the customs' chemical laboratories, which are highly specialised in alcoholic substances.

Challenges have been faced during research activities when looking for specific information on the actual **control procedures** carried out by CAs and CBs in several Member States. Data on control procedures in the food chain, specific information on laboratories and resources involved in controls of GI products were not available in several Member States.

The survey clearly indicates that many Member States make use of the procedures, resources and tools put in place for the implementation of official controls on food and feed safety as established by Regulation (EC) No 882/2003¹³ to undertake their control obligations for GIs at the same time. Provided that this organisational model proves successful in some Member States in terms of use of available resources, it can be considered acceptable. However, as stated before, this approach did not allow for GI-related data to be collected on some of the topics of the survey, such as assigned resources and staff training, as well as the risk analysis criteria and planning methodology applied.

Furthermore, the obligation set forth by EU regulations on GIs to inform the European Commission about official control plans on GIs and related results in separate sections of the Multi-Annual National Control Plan and national reports on food and feed safety under Regulation (EC) No 882/2004 is not always respected by Member States.

¹² Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003.

¹³ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules. It should be noted that, in the course of this survey, this regulation was replaced by Regulation (EU) No 625/2017 of the European Parliament and the Council of 15 of March 2017, on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products.

Turning to **national enforcement measures**, it is noteworthy that Member States comply with the general obligation to provide for an administrative sanction system for GI users not complying with product technical specifications (including precautionary measures) in the form of fines and marketing or processing prohibitions. Categorisation and classification of administrative fines are diversely provided for by the national systems, from being very detailed (Italy, Poland, the Spanish local legislation, inter alia) to being more generic.

With regard to data on national legislation and/or measures related to **ex officio protection of GIs**, significant data was available from only a few jurisdictions (e.g. Italy, France, Germany, Spain, Latvia, Croatia, Poland, Romania and Hungary).

As already mentioned, the current European framework protects GIs by delegating to Member States the responsibility of enforcing *ex officio* protection, leaving it to Member States to determine the modalities of its execution. Indeed, the lack of concrete measures related to *ex officio* protection may hamper the proper enforcement of GI rights, especially when infringements are perpetrated in a different Member State's market or using e-commerce.

The notion of *ex officio* protection does not correspond to any of the legal categories established by EU regulations for controls on GIs. Rather it refers to a category of national measures the Member States are called on to implement (starting from administrative and judicial ones) to better guarantee protection for names in the market for all GIs registered in the EU, in addition to the national official control plans.

Apart from the implementation of administrative and penal sanction systems, most Member States have been reluctant to provide details on additional initiatives or provisions to enforce GIs. On the contrary, in some Member States, such as Italy, where a specific body is appointed by law for *ex officio* protection, successful actions are taken on a permanent basis, including, but not limited to, controlling e-commerce and entering into specific cooperation agreements with major e-commerce platforms.

The **criminal legal protection** system is also fragmented, albeit to a lesser degree. Most national legislation of EU Member States provides for specific criminal sanctions in cases of infringements of GIs, while in some, for example, Belgium, Greece, Hungary, Latvia, Lithuania and the Netherlands, general criminal offences and penalties that are envisaged in cases of IPR infringements apply. Furthermore, as far as **civil enforcement** is concerned, there are several legal tools in national laws, such as trade mark laws, unfair competition and consumer protection laws, which provide for efficient remedies for users of GIs, as well as for consumers.

As part of the enforcement systems, information was also sought on **cooperation measures among Member States** to ensure that infringement cases are effectively followed up at EU level. Almost all of the Member States analysed have mentioned the European Commission's European Food Fraud Network and the Rapid Alert System for Food and Feed (RASFF) as the environment for exchanging information and alerts on cases affecting GIs. In this context, the Administrative Assistance and Cooperation (AAC) system, a dedicated IT tool for handling administrative assistance, has also been mentioned as a tool for cooperation on GI cases (Spain, Lithuania, Italy, France, the Czech Republic, Bulgaria and Austria).

THE EU NATIONAL CONTROL SYSTEMS FOR GEOGRAPHICAL INDICATIONS

In the present section, all national systems of control and protection of GIs in the Member States that participated in the survey are presented, in single dedicated chapters. For each Member State, contents are presented as follows.

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However, in some cases the common structure has been adapted, mainly due to availability of data, as well as the peculiarities of the individual Member State organisation.

NOTE ON TERMINOLOGY

For each of the Member States taken into consideration, the inventory of all the authorities and bodies diversely involved in protection of GIs starts from the identification of the central administration entrusted with the general administrative competence on quality schemes — legislation, registration, administrative aspects, coordination of controls, etc.

This authority mostly coincides with the national ministry of agriculture, or one of its departments. The authors indicate it as the **National Competent Authority**, with the abbreviation NCA.

When it comes to control tasks, under the EU provisions on quality schemes, the Member States can:

designate the competent authority or authorities responsible for them,
or delegate the task to control bodies.

Designated competent authorities are usually public offices or entities, and they are indicated in the survey as **Competent Authority**, with the abbreviation CA.

Delegated control bodies are usually private entities, responding to characteristics and requirements set by Regulation (EC) No 882/2004 and are duly authorised (generally by the CA) and accredited. They are indicated in the survey as **Control Body**, with the abbreviation CB.

However, in many Member States, control entities are diverse in terms of legal status, administrative organisations and powers, and the EU categories are not always clearly applicable.

As regards official controls, they consist of:

verification that a product complies with the corresponding product specifications; this is indicated as **controls on compliance**; and
monitoring the use of registered names to describe the product once placed on the market; this is indicated as **surveillance**.

As regards products, the word **agri-food** has been used to generically indicate edible products of agriculture, or to qualify the relevant industry, without specific reference to the protection through a registered geographical indication of a specific product category. To be more precise, the word agri-food has been used as the English word equivalent, in the five EU official languages of the EUIPO, for *Landwirtschaftliche Erzeugnisse*, *agroalimentaire*, *agroalimentario*, and *agroalimentare* respectively.

However, the following terms have been used when referring to products as protected by a registered name:

foodstuffs, meaning the products covered by Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs;

wine/s, meaning the wine/s whose denomination of origin and geographical indications are regulated by Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products;

aromatised wines, meaning the products covered by Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products;

spirits, meaning the products covered by Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.

As far as the protected rights are concerned, these are described above under the paragraph 'General background' as:

protected denomination of origin (**PDO**) and protected geographical indications (**PGI**) for foodstuffs and agricultural products and wines;
geographical indications (**GI**) for spirit drinks and aromatised wine products.

However, the acronym **GI/GIs** is also used generically in the survey, to indicate the intellectual property right.

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BELGIUM



ABBREVIATION LIST

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

ADEI	Belgium Directorate-General for Economic Inspection (Algemene Directie Economische Inspectie)
BELAC	Belgian Accreditation Board (Belgische accreditatie-instelling)
BEW	Ministry of the Brussels-Capital region, Department for Economy and Labour — Management Conception and Coordination (Ministerie van het Brussels Hoofdstedelijk Gewest — Bestuur Economie en Werkgelegenheid, Directie Conceptie en Coördinatie)
DD	Department of Development of the Directorate-General for Agriculture, Natural Resources and Environment of the Public Service of Walloon
DGARNE or DGO3	Directorate-General for Agriculture Natural Resources and Environment of the Public Service of Walloon (Direction Générale Opérationnelle de l'Agriculture, Ressources naturelles et Environnement)
DLV	Flemish Government Department of Agriculture and Fishery (Departement Landbouw en Visserij)
DQ	Department of Quality of the Directorate-General for Agriculture, Natural Resources and Environment of the Public Service of Walloon
EVA	External autonomous agency of the Agriculture and Fisheries of the Flemish Government
FAVV	Belgian Federal Agency for the Safety of the Food Chain (Federaal Agentschap voor de veiligheid van de voedselketen)
FOD Economie	Belgian Federal Public Service of Economy (Federale Overheidsdienst Economie)
SPW	Public Service of Walloon (Service Public de Wallonie)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The Kingdom of Belgium is a constitutional monarchy and parliamentary democracy. The Constitution was revised in 1993 to create a federal state on the basis of a three-level structure.

The Federal State, the Communities and the Regions form the top level, while the Provinces constitute the second level and the Communes form the third level. All three levels are equal from the legal point of view, but have powers and responsibilities for different areas.

In particular, in the Belgian national system for controls on GIs, competences are settled on a federal level as well as on a regional level (Flemish region, Walloon region, Brussels-Capital region — see below).

At federal level, the **Belgian Federal Public Service of Economy (Federale Overheidsdienst Economie — FOD Economie)** is the central authority competent for controlling GI products on the market and their labelling for the entire country of Belgium. In particular, the **Directorate-General for Economic Inspection (Algemene Directie Economische Inspectie — ADEI)**, within the FOD Economie, is in charge of all official controls on the market.

1.2 GENERAL STRUCTURE OF THE SYSTEM

In line with the Belgian administrative structure, controls on GIs are organised as follows:

verification of compliance with product specifications of GIs is delegated, in principle, to CAs at regional level in the region of Walloon, Flanders (also the Flemish region) and Brussels-Capital region; controls on GIs on the market are carried out by FOD Economie — ADEI for all the country and, as from 2016, also by the regional CA in the Walloon region (see below).

As regards controls before placing the product on the market, competences are distributed as follows.

*Walloon region*¹⁴

The regional CA for controls on GIs in Walloon is the **Directorate-General for Agriculture, Natural Resources and Environment (Direction Générale Opérationnelle de l'Agriculture, Ressources naturelles et Environnement — DGARNE or DGO3)** of the **Public Service of Walloon (Service Public de Wallonie — SPW)**, through its **Department of Development (DD)** and **Directorate for Quality (DQ)**.

¹⁴ The legal basis of protection of GIs in Walloon is given by the Walloon Government Order of 14 July 2016 on European quality systems and the regional facultative quality mentions (in particular Articles 71-89 on controls,) and the Ministerial Order of 14 July 2016, giving effect to the abovementioned Walloon Government Order, with implementing provisions on quality systems (in particular, Articles 15-35 refer to the certification of wines with protected denominations).

The official control at producer/processor level has been delegated by DGO3 to CB, whereas DGO3 is responsible for their supervision.

Flemish region¹⁵

The **Flemish Government Department of Agriculture and Fishery (Departement Landbouw en Visserij — DLV)** is the CA for the recognition and protection of GIs. However, the Flemish Government has delegated the implementation of controls on GIs to the FOD Economie-ADEI, in an agreement signed on 17 July 2006, which also involves the **External Autonomous Agency of the Agriculture and Fisheries of the Flemish Government (EVA)**, a body promoting products and services within agriculture, horticulture, fisheries and agri-food. Consequently, in Flanders, the ADEI is responsible for carrying out both official controls on GIs at production/processing level and controls on the market.

Brussels-Capital region¹⁶

The **Ministry of the Brussels-Capital region, Department for Economy and Labour — Management Conception and Coordination (Ministerie van het Brussels Hoofdstedelijk Gewest — Bestuur Economie en Werkgelegenheid, Directie Conceptie en Coördinatie — BEW)** is the central CA in the region for the recognition and protection of GIs.

In principle, verification of compliance with the product specifications is delegated to CBs designated by the Brussels Minister in charge of agricultural policy and the controls are performed in accordance with the provisions made by that Minister. However, no control is currently implemented, since there are no national GI products in the Brussels Capital region.

Cooperation and coordination amongst CAs is regulated in protocols between the regions and between the regions and the FOD Economie.

Moreover, the three regional CAs attend annual inter-regional meetings; the main topics of these meetings are new applications for GIs, major cases of non-compliance and preparing the Belgian position at EU level on GIs. There are also biweekly meetings of the three regional CAs and the federal CA; these meetings are dedicated to discussing agricultural legislation and to provide a forum for preparing a Belgian position¹⁷ at EU level.

Capacity of laboratories

To date there are official laboratories that must be accredited by the ADEI and designated by the Directorate-General for Quality and Safety of the FOD Economie.

No further information on the capacity of laboratories was provided.

¹⁵ The Decision of the Flemish Government of 19 October 2007 determines the legal framework for the registration and control of GI products in Flanders, stating that the Minister of Agriculture can determine additional rules on controls. On this basis, implementing provisions were issued by Ministerial Decree of 7 March 2008. The 2008 Decree was followed by the Flemish Government's decision of 17 February, 2012 on the protection of GIs, designations of origin and traditional terms of wine products and the protection of GIs of spirit drinks.

¹⁶ The Decree of the Government of the Brussels Capital Region of 22 October 2009 on the protection of GIs and designations of origin for agricultural products and foodstuffs and traditional specialties guaranteed for agricultural products and foodstuffs, and the Ministerial Order of 27 April 2012 on the protection of GIs constitute the legal basis of protection of GIs in the Region

¹⁷ Source: Final report of an audit carried out in Belgium to evaluate the control systems related to PDO, PGI and traditional specialties guaranteed (DG(SANCO) 2012-6811 — MR FINAL).

1.3 CONTROL BODIES

Walloon region

As already indicated, DGO3 delegated official controls at producer/processor level to CBs in the Walloon region. DGO3 is responsible for the supervision of the CBs.

There is currently one private CB delegated for official controls called PROMAG sprl, which is in charge of verification of compliance for agricultural products and foodstuffs.

Accreditation is delivered upon approval of the Ministry of Agriculture of the region. The CB must be accredited in accordance with ISO/IEC 17065:2012; the standard requires that the CB is independent, impartial and has the human and technical resources to carry out the tasks related to product certification. This is checked periodically by both the **Belgian Accreditation Board (Belgische accreditatie-instelling — BELAC)** and the DQ.

Furthermore, as an approved CB for GIs, PROMAG must comply with conditions described in the Walloon Government Order of 14 July 2016 related to European quality systems and the regional facultative quality indications. In addition, in accordance with the ISO 17065 standard, it must guarantee sufficient objectivity and impartiality towards producers or processors undergoing controls and must, at all times, have experts and necessary resources to ensure controls of agri-food GIs.

Although there is currently no other CB in Walloon, if other CBs were ever in charge of verifying compliance with a given specification, the Minister might, at the time of granting the authorisation, oblige the CBs to implement control and certification elements deemed necessary to harmonise the control and certification of the specifications.

As regards wines, the DQ temporarily assumes the role of an 'independent certification body'.

In relation to spirits, no CBs have been delegated as yet.

1.4 ACCREDITATION BODY

In the Belgian control system, the BELAC acts as an accreditation body in charge of issuing accreditations in accordance with ISO/IEC 17065:2012.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The supervision of CAs and CBs at the federal and regional level as well as information about verification of compliance with product specifications at federal and for the Walloon region are described below. No relevant information on the Flemish region and Brussels-Capital region was provided.

Federal level

Each year, FOD Economie submits data on the official controls undertaken to the **Federal Agency for the Safety of the Food Chain (Federaal agentschap voor de veiligheid van de voedselketen — FAVV)** for the purpose of completing the **Multi-Annual National Control Plan (MANCP)** and the annual report. This information is also sent to the Flemish Government.

In Walloon, DGO3 also transmits data to FAVV for the purpose of completing the MANCP and the annual report. As regards the controls on the market, contacts take place between the ADEI and the DQ.

Walloon region

All departments involved in controls have internal audits, which aim to improve the control methods.

DGO3 is responsible for the supervision of CBs. Informal exchanges are frequently held at regional level between the DQ and PROMAG to deal with specific issues or to obtain information. The DQ participates in the meetings of the CB Impartiality Committee and BELAC audits the certification of GI products.

Each year BELAC observes an audit performed by a CB inspector on one specific GI product, as part of the assessment of PROMAG's accreditation status in accordance with ISO/IEC 17065:2012.

An annual meeting is held with the **Producers Group (PG)** and the CB, to review all issues relating to official controls in that year. In addition, there is an annual assessment by BELAC to confirm the accreditation of the CB, and DGO3 attends this assessment. The assessment consists of an audit on the quality system of the CB and *in situ* supervision at the premises of a controlled producer.

The CB must submit an annual report containing the description of the control methods applied; a synthesis of the acquired results and the financial results of the past financial year; the draft budget for the next year and the list of the directors and managers who are in charge.

1.6 MEASURES AGAINST STAFF CONFLICTS OF INTERESTS

With regard to the Walloon region, conflicts of interest are prevented under the ISO 17065 standard. For example, the designated person within the CB involved in a given control must sign a declaration of absence of any conflict of interest.

No further detailed information was provided on measures against conflicts of interests implemented by other regions or on measures at the federal level.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

Considering that in Belgium the number of registered GIs is still limited, each producer receives at least one inspection a year. All new national products with European GIs are inspected before they are placed on the market.

As regards the Walloon region, the CB undertakes at least one audit of each producer/processor per year. Audits are announced in advance and the business operator pays the CB for each audit.

In the Flemish region, producers of GI products are checked on a yearly basis.

Moreover, the management of the CB prepares an annual audit plan for the CB. The audit files,

consisting of the inspection history and laboratory analytical reports, are prepared by the secretary and given to the designated CB auditor, who takes it into consideration for the audit programme.

2.1.2 Verification of compliance with product specifications

Information about verification of compliance with product specifications both at federal and for the Walloon region is described below. As regards the Flemish region and the Brussels-Capital region, no relevant information was provided.

Federal level

From a general point of view, checks before placing the product on the market are carried out at all stages of production and processing of GI products.

Samples are taken according to methods established by an internal regulation and the business operator always has the right to do a counter-analysis. Analyses are carried out by laboratories that must be accredited by the Economic Inspection elected by the Directorate-General for Quality and Safety of the FOD Economie. The costs of inspections and analysis are borne by the government.

Walloon region

Controls before placing the product on the market are conducted at all stages of the production process, from the supply of raw materials to the storage of labelled products ready to be marketed.

Analytical tests are carried out and the methods (precisely described by the CB) vary according to the product under verification. Tools for on-site sampling and analysis (pH, weighing, luminosity, etc.) must be calibrated.

Business operators whose products are subject to sampling and analysis have the right to apply for a supplementary expert opinion. A sealed sample is left with the producer and 2 samples are taken by the CB: one for analysis and one to be kept in storage for 3 months for possible counter-examination.

Laboratories designated for the analysis must comply with ISO 17025 for all kinds of analysis requests.

The CB carries out checks at the producers' premises for all products registered as GIs from the Walloon region and certifies compliant products. In particular, the CB is required¹⁸ to examine, whether the requirements laid down in the product specifications are met on the premises of the holders of occupancy permits.

The auditor performing the control prepares a report on the findings and sends the report to the management of the CB. The management of the CB issues a report to the business operator.

The CB must at least send an annual report to the DQ. Cases of non-compliance are not automatically reported to the DQ. Depending on the non-compliance, the CB applies a grid of sanctions and orders the business operator to comply with a specific measure. If the certification is withdrawn, the CB must inform the DQ immediately.

¹⁸ In accordance with the Decree of 19 December 2002 amending the Decree of 7 September 1989 concerning the granting of the Walloon quality label, designation of local origin and the designation of Walloon origin, and the decision of 25 September 2003.

2.2 CONTROLS ON THE MARKET

At federal level, a protocol was signed between the FOD Economie and the FAVV on the 'control distribution' of the labelling and composition of food. Statements related to GIs fall under the competence of the FOD Economie, which is therefore the CA for controlling GI products already on the market and their labelling for the entire country of Belgium, including those of the quality labels.

Foreign products are usually controlled either randomly or following a complaint.

Surveillance of the use of the name in the marketplace is carried out at federal and at regional levels, as follows. As regards the Brussels-Capital region, no relevant information was available as there are still no registered national GIs in the region.

Federal level

The ADEI is responsible for carrying out official controls on the market. During controls, the ADEI uses instructions and there are also checklists for each product. The FOD Economie/ADEI generally uses written procedures in place for undertaking official controls and dealing with cases of non-compliance.

For product analysis, the Directorate-General for Quality and Safety of the FOD Economie is involved and designates a suitable laboratory.

The regions and the ADEI are holding annual meetings and annual progress reports concerning the status of ongoing cases and investigations are produced.

Inspectors have access to the premises and the documentation of the producers, based on the general (police) competence of the ADEI.

A report of the inspection is always prepared. However, a copy of the report is given to the business operators only when cases of non-compliance have been detected. In the case of infringements or anomalies, the business operator receives a warning police report and will be informed of the grounds for the warning. The reports include a description of the purpose of the official controls, the control methods applied, the results of the official controls and, where appropriate, a description of the action that the business operator must undertake.

Walloon region

As of 2016, surveillance of the use of the name of a GI on the market in Walloon has been assigned to the region's central authority, although to date, the cooperation protocol with the FOD Economie is still under preparation.

During controls, the correct use of the registered GI name, the use of European logos, the composition of the products described on the label in relation to the specifications, the location of the producer in relation to the specific area are verified (e.g. traceable).

The ADEI immediately informs the DQ of cases of detected non-compliance concerning the Walloon region. The results are reported in the MANCP.

Protected GI names from third countries will be controlled by the ADEI only on the basis of complaints.

Since 2017, a risk analysis selection system for controls on the market has been applied in Walloon. Selection criteria include, inter alia:

previous records;
volume of production put on the market;
product value;
size of the producers.

The system will include random checks and cover GI products originating from the EU, third countries, Belgium and Walloon.

Flemish region

In the Flemish region, surveillance of the use of the name of GIs on the market takes place on an ad hoc and risk analysis basis, which is expected to be drawn up officially during 2017. The main risk indicators include:

previous records and non-compliance;
type of marketplace (shops, etc.);
production of similar products within the same company;
complaints from consumers, producers or others.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

With regard to available resources and training, information at federal and regional level is provided below.

Federal level

At central level, the FOD Economie-ADEI has three full-time equivalent staff working on the official control of GIs¹⁹. They are responsible for all market controls in Belgium, as well as for producer/processor controls in Flanders.

ADEI has seven Directorates throughout Belgium with approximately 120 members, who can be redeployed for any special national campaign relating to the control of GIs.

Staff from the FOD Economie-ADEI attended the European Commission's **Better Training for Safer Food (BTSF)** training on Quality Schemes. Staff at the FOD Economie-ADEI are obliged to transfer their knowledge gained through this training to other staff members.

Walloon region

The DGO3 has personnel dedicated to working on GIs, whose main tasks refer mainly to registration of GIs and supervision of the CB.

The CB has an experienced inspector involved in official controls of two out of the four GIs registered for

¹⁹ DG (SANCO) 2012-6811 — MR FINAL.

that region. However, there are other qualified staff members who can take over if necessary. This organisation of the CB has been accepted by BELAC.

One person from the DGO3 and one from the CB attended the BTSF training on Quality Schemes.

CB staff are required, as part of the accreditation procedure, to follow relevant training for official control tasks at least every 3 years.

Flemish region

Flemish Government staff are mainly involved in registration issues. One person from the Flemish Government attended the BTSF training on Quality Schemes.

Brussels-Capital region

One staff member from the Brussels region attended the BTSF training on Quality Schemes.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Generally, annual audit reports are made publicly available by the ADEI. However, data related to single audits remain confidential.

In the Walloon region, information related to controls before placing a product on the market is made publicly available on the web page of the CB in real time, by names of operators. There is also private access to information, available only to the DQ.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

To date the Belgian system for controls has no structured cooperation with other European countries, but there are regular meetings in the EU.

Belgium also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States. The national contact points for the FFN system are the FOD Economie — ADEI and the National Investigation Unit of the FAVV.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

Administrative sanctions are contemplated at federal and regional level.

At federal level, in accordance with the regional decisions, refusal of control or obstruction thereof equals the finding that the product does not conform to the product specification.

If the inspection demonstrates that products are not compliant with the relevant requirements, the producer/trader should immediately remove the European logo and/or the name from the packages and advertising. A warning report is prepared in accordance with the Code of Economic Law (*Code de droit économique*).

In accordance with the Code of economic law, ADEI officials are competent to determine the infringement. While exercising their duties they may seek assistance from the federal police.

Please see the Guide for details on the administrative sanctions at regional level.

6.2 CRIMINAL PROSECUTION

According to the data collected, infringement of a GI does not constitute a specific criminal offence.

However, the Belgian Criminal Code punishes²⁰ those who deceive the buyer in relation to the nature or origin of the products sold by selling or delivering a product similar in appearance to that which the buyer has bought or thought to have purchased. This conduct may lead to an imprisonment from one month up to one year or a fine from ranging between EUR 50 and 1 000.

6.3 FOLLOW-UP OF CASES

Procedures for handling non-compliance at producer/processor level in the Walloon region

The CB is primarily responsible for handling all non-compliance relating to GI products in the Walloon region. The CB has the power to remove the certification from a producer if non-compliance is not resolved. However, most non-compliance is rectified within a one-month period.

Procedures for handling non-compliance on the market and at producer/processor level in the Flemish region

Any non-compliance detected by the FOD Economie-ADEI at any stage of the official controls on GIs results in the issuing of a written police report, which requires the non-compliance to be remedied within a specified period of time.

The follow-up of non-compliance can include documentary evidence or an inspection. If the problems are

²⁰ Article 498 of the Belgian Criminal Code.

not remedied within the specified time frame, the next step is the issuing of a 'judicial process'²¹ to the business operator.

7. REMEDIES FOR USERS

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

In Belgium, registered GIs are protected against:

- (A) the direct or indirect commercial use of a registered name for products not covered by the registration, to the extent that those products are comparable to those registered under that name or to the extent that they use the reputation of the protected name;
- (B) usurpation, imitation or evocation, even if the true origin of the product is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'imitation' or similar expression;
- (C) any false or misleading statement about the origin, nature or substantial qualities of the product on the packaging, advertising or documents relating to the product concerned, used for packaging a container that can create a mistaken impression about the origin;
- (D) any other practices capable of deceiving the consumer in relation to the true origin of the product²².

In the event of infringement, the owner of the GI may ask the judge to order the termination of the illicit conduct and the judge may also issue a termination order against intermediaries whose services are used by a third party to infringe a GI²³.

Please see the Guide for more details on civil action.

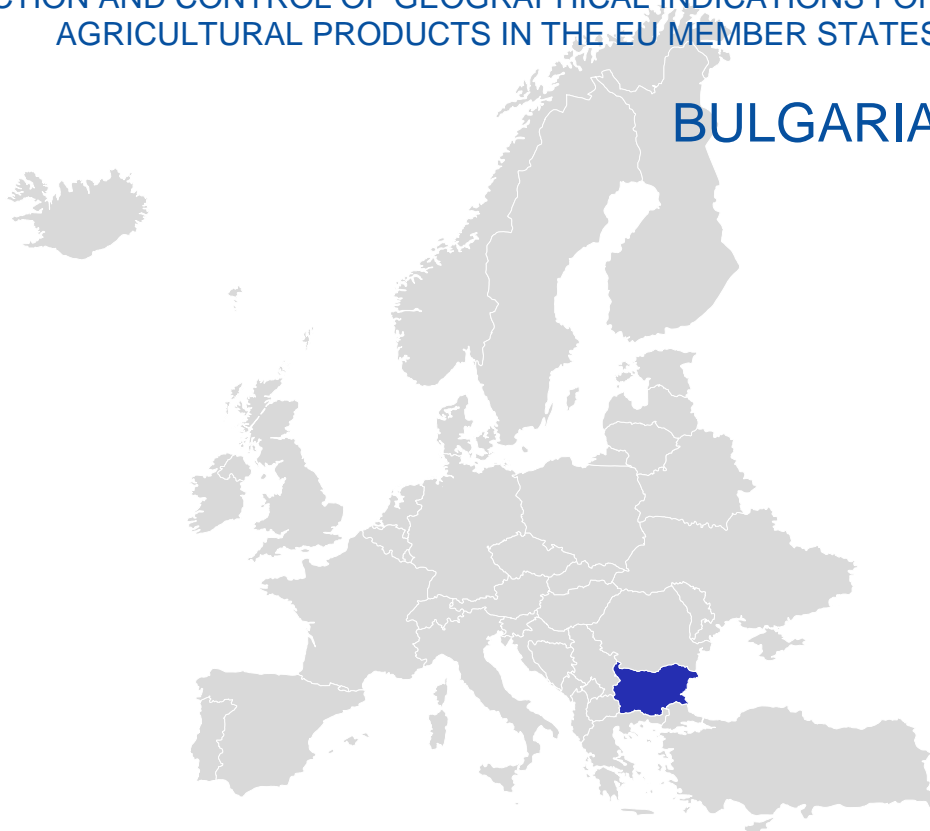
²¹ A legal instrument to initiate court proceedings.

²² Article 124, Book VI of the *Code de Droit économique*.

²³ Article 125, Book VI of the *Code de Droit économique*.

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

BULGARIA



ABBREVIATION LIST

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

BFSA	Bulgarian Food Safety Agency (Българска агенция по безопасност на храните)
CCP	Commission for Consumer Protection (Комисия за защита на потребителите)
EA 'BAS'	Executive Agency 'Bulgarian Accreditation Service' (Изпълнителна агенция "Българска служба за акредитация")
EAVW	Executive Agency on Vine and Wine of the Bulgarian Ministry of Agriculture, Food and Forestry (Изпълнителна агенция по лозата и виното)
MAFF	Bulgarian Ministry of Agriculture, Food and Forestry (Министерство на земеделието, храните и горите на Република България)
ME	Bulgarian Ministry of Economy (Министерство на икономиката)
PAFCD	Directorate for Policies on the Agri-Food Chain (Дирекция за политики в областта на хранителната верига в селското стопанство)
NVWC	National Vine and Wine Chamber (Националната лозаро-винарска ка-мара)
RFSDs	Regional Food Safety Directorates (Регионални дирекции по безопасност на храните)
RLC	Directorate of Registration, Licensing and Control (Регистриране, лицензиране и контрол)
RVWCs	Regional Vine and Wine Chambers (Регионални лозаро-винарски камари)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITY

Foodstuffs

The **Ministry of Agriculture, Food and Forestry (Министерство на земеделието, храните и горите на Република България — MAFF)** is responsible for implementing food quality policy and ensuring compliance with the requirements of Regulation (EU) No 1151/2012.

Wines and aromatised wines

As regards wines and aromatised wines, the **Ministry of Economy (Министерство на икономиката — ME)** and the **Executive Agency on Vine and Wine of the Bulgarian Ministry of Agriculture and Food (Изпълнителна агенция по лозата и виното — EAVW)** and **Regional Vine and Wine Chambers (Регионални лозаро-винарски камари — RVWCs)** are the competent central authorities.

Spirits

The ME also implements the government policy with respect to the production of ethyl alcohol of agricultural origin, distillates of agricultural origin and spirits, in compliance with the requirements of Regulation (EC) No 110/2008.

1.2 GENERAL STRUCTURE OF THE SYSTEM

Foodstuffs

The **Directorate of Policies on Agri-Food Chain (Дирекция политики по агрохранителната верига — PAFCD)** within the MAF, in particular its Quality Schemes and Promotions unit, functions as the CA for official controls pursuant to Regulation (EU) No 1151/2012.

The control of compliance with the corresponding product specifications of foodstuff GIs is implemented through planned and additional on-the-spot controls carried out by authorised CBs to check whether the applicable requirements are met.

Surveillance of the use of registered names of GIs in the marketplace is carried out by the **Bulgarian Food Safety Agency (Българска агенция по безопасност на храните — BFSA)**, which is a specialised body of the MAFF. The BFSA has its central office in Sofia and 28 **Regional Food Safety Directorates (Регионални дирекции по безопасност на храните — RFSDs)** are distributed across the country.

Wines and aromatised wines

In accordance with the Wine and Spirit Drinks Act, the EAVW²⁴ is the CA exercising control for compliance with the requirements of the law regarding vineyards and wine sector products, fruit wines and vinegar.

The EAVW consists of a head office in the city of Sofia and nine territorial units, which carry out on-site controls of vineyard estates, wine-making facilities and distributive trade establishments to check compliance with the requirements of the product specifications for wine and aromatised wine GIs.

Spirits

The Department for Registration and Control of Alcohol, Distillates and Spirits, which is part of the **Directorate of Registration, Licensing and Control (Регистриране, лицензиране и контрол — RLC)** within the ME, operates as the CA under national law and in compliance with EU law, with respect to exercising control over the production of ethyl alcohol of agricultural origin, distillates and spirits, including those protected by a GI.

Controlling the compliance with the provisions of the national legislation with respect to commercialisation of bottled spirit drinks is the responsibility of the **Commission for Consumer Protection (Комисия за защита на потребителите — CCP)** under the ME.

Legal status and powers of staff of Competent Authorities

All experts and inspectors of CAs have the legal status of civil servants and, as such, must comply with the relevant provisions of the law. In Bulgaria, the Civil Servants' Code of Conduct was adopted in December 2000 in accordance with civil service law.

The Code of Conduct identifies in its preamble the following principles: legality, loyalty, integrity, impartiality, political neutrality, responsibility and accountability both to the public and in the service hierarchy. In the chapter on professional conduct, some other principles are mentioned, such as: loyalty to government, honesty, competence, respect for the law, disinterestedness, effectiveness and efficiency.

Those principles are explained through fundamental, understandable prohibitions not to deceive or knowingly mislead the authorities, not to disclose data or facts in certain situations, not to misuse official positions or information, not to receive benefits of any kind, not to be involved in financial dependence or other commitments.

The Bulgarian legislation provides the staff of CAs with the necessary legal powers to carry out controls, including the powers of accessing food business premises and documentation. There is an obligation on **Food Business Operators (FBOs)** to undergo controls by the CAs.

Capacity of laboratories

As regards wines, there are two accredited testing laboratories: one in the city of Sofia and one in the city of Plovdiv, where physical-chemical and microbiological analyses are carried out.

²⁴ Executive Agency on Vine and Wine, City of Sofia 1113, 125 Tsarigradsko Shose Blvd., Bldg. 1, Fl. 3, tel. 0297081111, fax. 0297081122, email: sofia@eavw.com.

1.3 CONTROL BODIES

Official controls are delegated to CBs for foodstuff GIs only.

CBs must be accredited by an accreditation body (national or foreign) in accordance with the requirements of ISO/IEC 17065:2012, and they must be authorised by the MAFF to exercise such control. In fact, according to the national legislation, only accredited private CBs can apply for approval by the Ministry.

The authorisation procedure is included in Section II of the Law on the Implementation of the Common Market Organisation and Chapter VI of Ordinance 16/2007. According to the provisions, the CBs, when applying for permission from the MAFF, are required to present, amongst other documents, a notarised copy of the certificate of accreditation.

There is a Standing Joint Consultative Commission on Geographical Indications, which takes part in the examination of applications for permission to exercise control and which makes a proposal to the MAFF to grant the permission for performing this control or to issue a motivated refusal.

The MAFF has approved two CBs, complying with the requirements to exercise control in the territory of the Republic of Bulgaria:

Bioagricert Italia Bulgaria Ltd — Plovdiv city, Belgrade St. 2, 3rd floor, office 305;
QCertificazioni Ltd — Italy, villa Parigini, Località Basciano, 5305 Monteriggioni/Siena, Operative office in Bulgaria — Plovdiv city, Leonardo da Vinci St 42a.

QCertificazioni no longer acts as a CB of GIs, with effect from 10 November 2016.

1.4 ACCREDITATION BODY

The **Executive Agency ‘Bulgarian Accreditation Service’** (Изпълнителна агенция ‘Българска служба за акредитация’ — EA ‘BAS’) is a signatory to the Multilateral Agreement for the Mutual Recognition of Accreditation Schemes and, accordingly, it is the national body for the accreditation in the following fields:

calibration of laboratories;
testing laboratories;
inspection bodies;
products’ certification bodies;
persons’ certification bodies;
management systems’ certification bodies;
environmental management systems’ certification bodies.

The EA ‘BAS’ has been a full member of the **European Co-operation for Accreditation (EA)** since 2001 and participates in the sessions of the EA General Assembly and has the right to vote.

The EA ‘BAS’ operates in accordance with the ISO/IEC 17000 series of standards and the EA and ISO/IEC guidance documents. The EA ‘BAS’ has developed and adopted a variety of regulations, norms, procedures, documents and organisational practices for implementation.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES`

Foodstuffs

Supervision of the activity of the CBs by the CAs includes examination of:

- the copies of checklists presented for each of the performed inspections;
- the annual summary reports;
- on-the-spot checks at producers' sites in cases of more serious non-compliance found by the CBs. A protocol is drawn up as a result of the on-the-spot check.

The PAFCD examines the checklists sent by the CB, to monitor the measures and actions taken to correct the non-compliance. There are also supervisory checks carried out by the PAFCD based on a risk assessment.

Wines and aromatised wines

The MAFF supervises the activity of the EAVW, which is under its authority.

Spirits

Supervision includes a review of:

the findings' reports written up as a result of the inspections performed;
the corrective actions prescribed;
the activities undertaken in relation to the performance of control functions;
the process logs kept by producers at every stage in the production process;
the annual declarations submitted regarding the quantities and assortments of ethyl alcohol of agricultural origin, distillates and spirits produced, kept in stock and sold or imported.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

CBs must be independent and impartial in exercising their functions. If these conditions do not apply, the MAF can revoke the authorisation to operate.

Inspectors and other staff of CAs, who have the legal status of civil servants, are subject to certain restrictions connected to official positions in Bulgaria. They cannot use official information for their personal interest or accept benefits of any kind that might be seen to compromise their personal judgement or integrity. Civil servants are not allowed to be involved in any financial dependency or other commitments with outside individuals or organisations that might influence the fulfilment of their duties. To this regard, each public official must sign a declaration that he or she has no conflict of interest, plus a declaration on the property owned, each year.

All CAs have a system of signs indicating a possible conflict of interest that can be lodged by individual citizens, civil servants, colleagues, etc. Each CA has developed the procedures/internal rules on dealing with signs indicating a conflict of interest. Furthermore, inspectors are rotated for the same purpose²⁵.

Moreover, certified testing laboratories must be impartial and their staff must not be dependent on any business, financial or other entity that may influence their technical opinion.

²⁵ DG (SANTE) 2016-8836 Country Profile Final Version dated July 2016.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

Border controls are applied on the basis of a written request from the holder of the registered GI, as well as on the initiative of customs officials.

If the GI rights holder's residence or headquarter is abroad, the GI user must give an address for service in the territory of the Republic of Bulgaria.

The customs officials may, on their own initiative or at the request of another state agency, detain goods for which there is good reason to believe that they are infringing registered GIs²⁶.

It must be noted that in the spirits sector, when necessary, coordinated control measures can be undertaken by the CA with the Ministry of Interior, the Customs Agency, the Ministry of Health, the **Commission for Consumer Protection (Комисия за защита на потребителите — CCP)** and other executive bodies, within their respective competences.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

Foodstuffs

CBs have procedures in place that include a control plan for every GI product. Bulgaria has two GIs in the European database DOOR for agricultural products and foodstuffs: PGI Bulgarsko rozovo maslo and PGI Gornooryahovski sudzhuk. The control plan includes corrective measures in cases of non-compliance. The CB also provides a checklist for each product.

In compliance with the national legislation, CBs carry out a comprehensive initial inspection of the producer to check the producer's readiness to comply with the GI product specifications. The CB performs a mandatory annual inspection of all producers of GI goods, which is announced. Furthermore, it may carry out additional planned or unannounced inspections when non-compliance is detected during the annual inspection.

The CB may, in accordance with the relevant control plan for the product, not only perform an additional on-the-spot check, but also collect samples for testing more frequently.

The CB draws up an annual report of its overall control activity and submits the report to the PAFCD at MAFF by 31 January of the following year at the latest. The annual report includes a summary of the inspections, their results, the prescribed measures, as well as a summary of the quantities produced and export volumes of the products.

²⁶ Article 79 of the Law on Trade Marks and Geographical Indications.

Wines and aromatised wines

The vineyards used for producing GI wines are inspected annually before the grapes are harvested.

In accordance with the ordinance on the conditions that quality wines produced in a specified region must satisfy and on the procedure and manner for the approval of such wines, the quality wines produced in a specified region are subject to a mandatory physical-chemical and microbiological analysis and organoleptic assessment. Each year by 31 March, the samples of the wines produced from the relevant harvest are submitted to the Regional Tasting Committees for organoleptic assessment and approval. The committees consist of members of the RVWCs and mandatorily include an EAVW official²⁷. The results for each sample of a wine sector product submitted to the committee are set forth in a memorandum.

Memoranda of ascertainment and reports are drawn up on the inspections carried out at vineyard estates and at establishments. The reports on the inspections carried out and the memoranda of the Regional Tasting Committees are sent to the EAVW Head Office.

The EAVW officials may also carry out surprise inspections of establishments and in the retail network.

Spirits

The CA schedules inspections and draws up an annual plan that includes document reviews, on-site inspections and tracing compliance with prescribed corrective actions. Where necessary, joint inspections are conducted by the Ministry of Interior, the Customs Agency, the Ministry of Health, the CPP and other agencies of the executive branch, within their respective competences.

In accordance with national legislation, all producers of ethyl alcohol of agricultural origin, distillates and spirits are included in a special register kept at the ME. On-site inspections at the production facilities can be performed:

in advance, prior to the producers' entry in the register, in order to ascertain whether their declarations correspond to the facts on the ground and whether conditions are met for producing the declared assortments;

on an ongoing basis, to make sure that process requirements are adhered to in the production process.

Periodically, as part of the process of control, averaged samples are taken from the finished product intended for the retail network. The samples taken are submitted for analysis to an accredited laboratory, designated by an order of the ME. Producers of ethyl alcohol, distillates and spirits must keep logs where they enter data allowing for the authenticity, origin, and category of products and the production processes they have undergone to be ascertained and controlled. The logs are stored on the premises of the production facility for a period of 5 years and must be made available to the CBs at all times.

Every year, producers submit to the ME a declaration about the quantities and assortments of ethyl alcohol of agricultural origin, distillates and spirits produced, kept in stock and sold. The declaration must also be submitted by the recipients of imported products.

²⁷ The National Vine and Wine Chamber (Националната лозаро-винарска ка-мара — NVWC) and the Regional Vine and Wine Chambers (RVWCs) are inter-professional organisations of the producers, processors and traders in wine sector products. Their activity is regulated by the 'Wine and Spirit Drinks Act'.

2.1.2 *Verification of compliance with product specifications*

Official controls on foodstuffs include identification and traceability of the raw materials, of the products in storage, the processed products and the final products, as well as the labelling requirements for the final products.

The CB sends the completed checklist after each control to the PAFCD. Samples are usually collected for analysis and the results are sent to the PAFCD for information.

Regarding wines and aromatised wines, compliance with the product specifications is checked by means of:

- annual inspections of the vineyard estates that produce grapes for GI wines;
- a physical-chemical analysis of each production lot of GI wines of the samples taken during the inspections at the establishments;
- an organoleptic analysis of samples of GI wines by the Regional Tasting Committees.

The EAVW carries out inspections of documents at the establishments, namely production registers and certificates of origin for the grapes from which the wines are produced. Samples are taken from the production lots of GI wines that are submitted for a physical-chemical and microbiological analysis at one of the two EAVW accredited laboratories to establish their conformity with the specifications.

Regarding spirits with GIs, product specifications are developed by the producer for each product in a standard form approved by the ME. These are certified by officials authorised by the ME. The specifications include parameters of the basic raw materials, additives, the physical, chemical and organoleptic characteristics, the machines and equipment used, an exact description of the production method, labelling details, etc. This guarantees the safety and quality of the product to a large extent.

As has already been mentioned, compliance control in respect of these requirements is carried out both in advance, prior to their entry into the official producers' Register kept by the ME, and, on an ongoing basis, to ensure compliance with the process requirements.

In performing official controls, officers of the Department for Registration and Control of Alcohol, Distillates and Spirits under the RLC perform on-site inspections of production facilities to ascertain the availability of the necessary technological capacity to produce the declared quantities of beverages and/or other products as well as the good working order of the available technological equipment for the production of ethyl alcohol, distillates and spirits. In this respect, inspectors carry out the following activities:

- inspecting compliance with process requirements in the production of ethyl alcohol, distillates and spirits;
- performing document reviews and on-site inspections to ascertain the regularity and accuracy of entries in the process logs and their conformity with the supporting documents and stocks;
- taking samples of ethyl alcohol of agricultural origin, distillates and spirits for purposes of physical and chemical analysis and organoleptic assessment;
- issuing binding instructions for corrective action and setting deadlines for their execution;
- making final rulings on objections related to the established irregularities;
- protecting production and trade secrets and do not divulge the findings of such inspections;
- notifying the relevant specialised CB in cases of infringement of a regulation outside their immediate competence.

2.2 CONTROLS ON THE MARKET

Foodstuffs

Surveillance of the use of registered names of GIs in the marketplace is carried out by the BFSA.

After each new entry into the European registers of Bulgarian agricultural products or foodstuffs with GIs, the PAFCD sends the relevant database of producers to the BFSA to ensure the effective official controls on the market. The databases are simultaneously published on the MAFF's website. A regular information exchange is performed between the DPQS and the BFSA, also for cases of misuse of Bulgarian or foreign denominations entered in the European registers.

Controls by the BFSA follow the requirements of Regulation (EU) No 1151/2012, the Law on the Implementation of the Common Market Organisation and Ordinance No 6 of 2011 on the specific requirements of the official control on the use of GIs.

The BFSA inspects the use of names, symbols and indications of GIs²⁸. As regards planning, the inspections at retail level on GIs are part of the official controls on food safety and hygiene carried out by the BFSA twice a year. In addition, thematic inspections may also be carried out, as well as ad hoc inspections, to follow up on complaints. The official control inspections of GIs are scheduled in the regional control plans for the control of foodstuff units at the regional departments of the BFSA and are carried out according to a standardised procedure approved by the Executive Director of the BFSA.

When carrying out controls, the BFSA inspects the production units and the wholesale and retail stores; requests information and documents from those being audited; checks the proper use of symbols, indications and names of agricultural products and foodstuffs with GIs. The official inspections are carried out without prior warning and/or any indication.

In the event of non-compliance being detected relating to non-Bulgarian GIs, the BFSA notifies the MAFF, which is responsible for overseeing the follow-up. The BFSA submits an annual report by the end of March to the MAFF/PAFCD detailing the inspections performed, irregularities detected and measures taken regarding official controls on the use of protected denominations. The MMPO includes the information in the annual report of the **Multi-Annual National Control Plan (MANCP)**.

Wines and aromatised wines

The EAVW is also competent for controls at retail level.

Spirits

The ME officially monitors every stage in the production process.

For the retail trade, the responsibility for control falls on the CPP. Surprise inspections in response to tip-offs are also provided for. For each inspection, a report is drawn up, stating any irregularities found and the corrective actions prescribed.

²⁸ The control methods and techniques are set out in detail in the Procedure for Official Controls on GIs at Retail and Wholesale Level, which was approved by Order No 11-136/2014 of the Executive Director of the BFSA.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

In order to coordinate the activities under the BTSF programme, two contact points exist: one within the BFSA and one within the MAFF, nominated respectively when the BFSA was created in 2015.

The BFSA created a database containing information on skills/qualifications of staff, training institutes and qualified trainers. In addition, a separate database of all training conducted at national level and under the BTSF programme was created.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Foodstuffs

As a CA, PAFCD has created and maintains the following databases:

producers of agricultural products and foodstuffs with GIs;
CBs, responsible for verification of compliance of agricultural products and foodstuffs with GIs.

The databases are simultaneously published on the website of the MAFF. A regular information exchange is performed between the PAFCD and the BFSA, also in cases of an indicated misuse of Bulgarian or foreign denominations entered in the European registers²⁹.

After each new entry into the European registers of Bulgarian agricultural products or foodstuff with GI, the MMPO sends the database of producers to the BFSA to ensure effective official controls on the market.

Wines and aromatised wines

The register of producers of wine sector products, fruit vines and vinegar and the instruments of approval (national decisions) of GI wines, as well as their specifications, are published on the official internet site of the EAWV³⁰.

Spirits

The RLC maintains a public register on the website of the ME, listing producers of ethyl alcohol, distillates and spirits. It exchanges information with the customs agency and other CAs in relation to control and preventive functions. It keeps the files of registered spirits producers, including those with a GI.

²⁹ Information available on the website: <http://www.mzh.government.bg/MZH/bg/ShortLinks/ZashiteniNaimenovania.aspx>

³⁰ <http://www.eavw.com/index.php?lg=bg&menuid=6&submenuid=1214>.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Bulgaria is a member of the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation System (AAC)** as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States.

The national contact point for the FFN system is the MAFF, Department of Food Safety Animal Health and Food Safety Directorate, together with the PAFCD.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

Foodstuffs

The Law on the Implementation of the Common Market Organisation provides for administrative sanctions in cases of misuse of registered GIs.

In particular, it prohibits the use of names, symbols and/or indications of agricultural products and foodstuffs with a GI, when:

the names, symbols and/or indications are used on products that are not listed with European registries of agricultural products and foodstuffs with GIs;

the names of the products are registered as GIs, but the products or foodstuffs in question do not comply with the specifications;

the names of the products are registered as GIs, but the products are not controlled as established by the law³¹.

When BFSA inspectors investigate irregularities identified at retail level, they trace the product back to identify the FBO responsible for placing the product on the market and capable of correcting the non-compliance.

Wines and aromatised wines

Pursuant to Article 203 of the Wine and Spirit Drinks Act³², any person who, upon the labelling and presentation of wine and/or wine sector products, uses an assumed name and/or an assumed/fictitious domicile and/or registered office address of a producer, bottler, wine cellar or other business unit, is liable

³¹ Article 25(1) and (2).

³² Available in English at: <https://www.mi.government.bg/en/library/wine-and-spirit-drinks-act-83-c25-m258-1.html>.

to a specific fine.

Spirits

The Wine and Spirit Drinks Act provides also for administrative sanctions related to the violations in the production of, and trade in, ethyl alcohol of agricultural origin, distillates and spirits, including products bearing a GI, by imposing a range of fines depending on the type and measure of infringement³³.

Please see the Guide for more details on the administrative sanctions.

6.2 CRIMINAL PROSECUTION

There are criminal prosecution provisions in the Bulgarian Criminal Code that are applicable to infringements of all kinds of GIs (foods and agricultural products, wines and spirits).

More details on criminal prosecution are given in the Guide.

6.3 FOLLOW-UP OF CASES

Measures taken in cases of non-compliance are described in the MANCP and also in the annual report under the relevant sectors of official controls.

The national CAs provided specific examples on how cases of irregularities have been followed up on.

As regards food and agricultural GIs, there has been a case of non-compliance on the market, where a market trader was instructed by the BFSA to stop slicing a specific GI since the Product Specification stated that the product could only be sliced in the region where it was produced. To check whether the non-compliant activity had ceased, follow-up visits were undertaken by the BFSA inspectors. In this case, no financial sanction was imposed.

In another case, the BFSA was informed about an irregularity and inspected the FBO, which had to rectify a particular processing problem, but no financial penalty was imposed.

There are recorded cases of wines that resulted in not conforming with the requirements of the specifications for a particular GI after being submitted to an organoleptic analysis and for approval to the Regional Tasting Committees or to a physical-chemical analysis by the EAVW-accredited laboratories. For example, the variety or varieties from which such wines are produced are not listed in the relevant specifications. In these cases, wines are not approved as wines with a GI.

As regards spirits, until, no infringements of the law have been established regarding spirit drink GIs.

³³ Articles 208 and 223.

7. REMEDIES FOR USERS

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

Any unauthorised use of a GI or designation of origin or the use of any other sign, or practice, prohibited pursuant to the Law on Marks and Geographical Indications, will be considered an infringement of a GI.

Compensation is due for all material and non-material damages suffered and profits lost that are a direct and immediate consequence of the infringement.

The GI holder may also ask for the destruction of the infringing goods and the publication of the court decision in two daily publications at the expense of the infringer.

Please see the Guide for more details on civil action.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

CZECH REPUBLIC



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CAI	Czech Accreditation Institute (Český institut pro akreditaci)
COI	Czech Trade Inspection Authority (Česká obchodní inspekce)
CVA	Central Veterinary Administration (Ústřední veterinární správa)
MZe	Ministry of Agriculture of the Czech Republic (Ministerstvo zemědělství)
RVA	Regional Veterinary Administration (Krajská veterinární správa)
SVS	State Veterinary Administration (Státní veterinární správa)
SZPI	Czech Agriculture and Food Inspection Authority (Státní zemědělská a potravinářská inspekce)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The national central authority of the Czech GI control system is the **Ministry of Agriculture of the Czech Republic (Ministerstvo zemědělství — MZe)** covering all sectors: foodstuffs, wines and spirit drinks.

1.2 GENERAL STRUCTURE OF THE SYSTEM

MZe delegated the official controls to two CAs depending on the product origin:

the **State Veterinary Administration (Státní veterinární správa — SVS)**³⁴, which is responsible for controls of GI products of animal origin (agricultural products and foodstuffs) during the production phase and, in specific cases, also after their placement on the market (see below);

the **Czech Agriculture and Food Inspection Authority (Státní zemědělská a potravinářská inspekce — SZPI)**³⁵, which is responsible for the controls on GI products of plant origin (agriculture products and foodstuffs, spirits, wines and aromatised wines) during the production phase and after their placement on the market. In addition, it is further responsible for the controls on the market with reference to those products of animal origin that do not fall under the competence of SVS.

The provisions of Regulation (EC) No 882/2004 are integrated and complemented by national legislation³⁶ on organisation of controls, duties and requirements of CAs.

In addition to the tasks at producer/processor level, as already mentioned, the SVS is in charge of implementing controls on the market in the following cases:

products of animal origin displayed in marketplaces or market-halls;
products of animal origin displayed in retail outlets or their sections where no self-service is offered and where meat, milk, fish, poultry or eggs are involved.

The **Regional Veterinary Administration (Krajská veterinární správa — RVA)** of the SVS carries out the official controls.

Official veterinarians of the relevant RVAs perform inspections. The RVAs are managed in methodological terms by the **Central Veterinary Administration (Ústřední veterinární správa — CVA)** of the SVS³⁷.

³⁴ Act No 166/1999 Coll. Veterinary Act.

³⁵ Act No 146/2002 Coll. on the Czech Agricultural and Food Inspection Authority.

³⁶ Mainly: Section 16a (3-5) of Act No 110/1997 Coll. on Foodstuffs and tobacco products; Act No 321/2004 Coll. on Viticulture and Viniculture; Act No 452/2001 Coll. on the Protection of Designations of Origin and Geographical Indications.

³⁷ Sections 47 and 49 of Act No 166/1999 Coll. Veterinary Act.

The CVA:

issues methodological manuals/information to secure unified procedures;
conducts training for RVA inspectors;
organises meetings with CVA Directors/Veterinary Hygiene Directors of RVAs;
performs controls at RVA level.

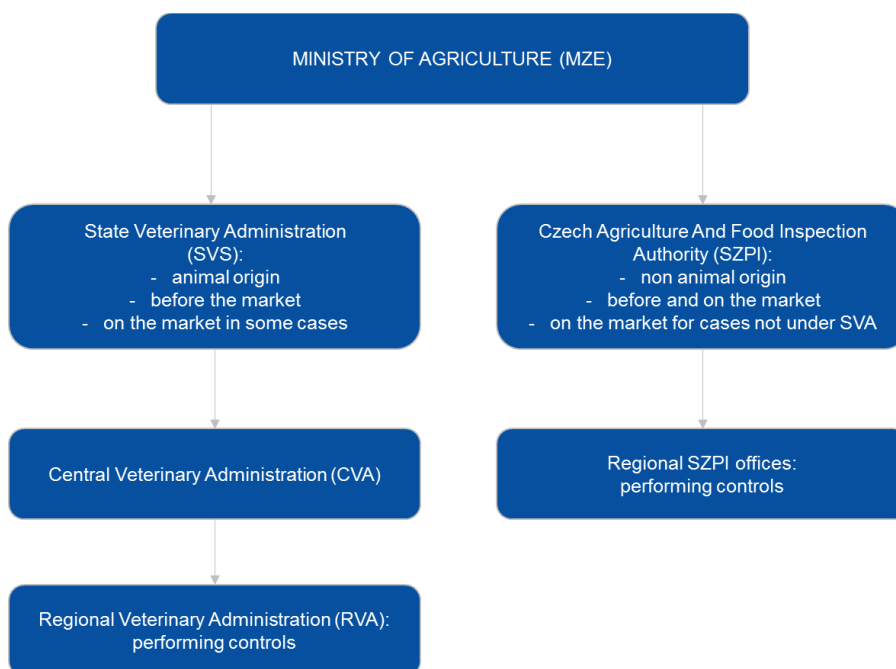
The SVS has an internal alert system for the transfer of information between individual regional veterinary services and the CVA.

The SZPI is responsible for:

official controls on products of plant origin during the production phase;
official controls on products of plant origin after their placement on the market;
official controls on products of animal origin after their placement on the market with the exception of those falling under the scope of SVS market controls;
issuing judgments, opinions or certificates of compliance with product specifications upon request.

The official controls are carried out by the regional SZPI offices.

The figure below represents the general structure of the control system:



Legal status and powers of staff of Competent Authorities

According to available data, inspectors performing state control functions, have the legal status of civil servants.

Therefore, inspectors are obliged to follow the rules of behaviour of civil servants and employees and are bound by related provisions of the Act on the Civil Service and the Inspection Code.

Information regarding powers of the controllers was not provided.

Capacity of laboratories

In the Czech Republic there are official and accredited laboratories that perform tests and analysis on GI products.

The SZPI has two laboratories that are capable of performing official controls and are accredited by the **Czech Accreditation Institute (Český institut pro akreditaci — CAI)**³⁸ in accordance with ISO/IEC 17025:2005.

The testing laboratories of the SZPI must comply with the metrology subsystem, including the requirements of the accreditation criteria, the requirements for ensuring accuracy of the measuring equipment as well as those included in the standards defined in the ISO 9000 series.

The SVS uses three state veterinary institutes (respectively located in Prague, Jihlava and Olomouc), which are accredited in accordance with ISO/IEC 17025:2005.

1.3 CONTROL BODIES

There are currently no authorised CBs for controls on GIs.

1.4 ACCREDITATION BODY

In the Czech control system, the national accreditation body is the CAI, which is in charge of issuing accreditations in accordance with ISO/IEC 17065:2013.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The MZe is the competent authority for supervising CAs. Data on controls are stored in the Department of Inspections at the MZe.

The directors of the CAs attend regular weekly meetings with the MZe.

In addition, there are further internal and external audits that are carried out by the CAs regarding their internal controllers, with no predefined frequency.

In particular, controls regarding the activities of the RVA are performed by both the Veterinary Hygiene and Public Health Protection Department of the SVS CVA and the Internal Audit and Controls Department of the SVS CVA.

The SZPI Headquarters coordinate and supervise SZPI regional inspectorates. The SZPI headquarters and the regional inspectorates hold quarterly meetings. Ad hoc committees may also be established for special controls in specific circumstances (e.g. methanol found in liquors or alike).

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

The staff involved in official controls should be free from any conflict of interests under several national acts.

³⁸ <http://www.cai.cz/en>.

In particular, the Civil Service Act³⁹ (section 77) states, inter alia, that civil servants must:

perform their duties impartially, within the limits of their authority and refrain during the exercise of their duties from anything that would undermine confidence in their impartiality;

maintain confidentiality on matters they have learned about during the performance of their duties, which should not be communicated to third parties in the interests of the service authority;

refrain from behaviours that may lead to a conflict of interest with their own personal interests, and in particular avoid misusing information obtained in connection with the performance of their professional duties to their own advantage or for the advantage of third parties, and avoid abusing their positions as civil servants to their own advantage or to the advantage of third parties.

Moreover, according to Sections 20(1) and (2) of the Inspection Code⁴⁰:

the inspector or the invited person is obliged to uphold confidentiality regarding all matters that they have learned in connection with an inspection operation or during the steps preceding the inspection, and not to abuse any information acquired in this way;

the confidentiality obligation of the inspector or the invited person extends beyond the end of their employment or other relationship.

The Inspection Code also obliges all the CAs in the Czech Republic to cooperate with anyone and coordinate their inspection activities regarding all aspects referring to official controls.

They must exchange data and any other information required to conduct the inspection, and must share the results of the inspection, if required. The employees working at these authorities are obliged to preserve the confidentiality of these facts.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

Under special circumstances, the representatives of other entities (sanitary service, police, customs authorities and trade licensing office) may cooperate with the SZPI and SVS.

However, to date no similar cases related to GI infringement have been reported.

In particular, Act No 355/2014 establishes rules on the competences of the customs administration authorities of the Czech Republic in connection with the enforcement of intellectual property rights (IPRs). This Act applies only to goods that have been already placed on the Czech market (i.e. are offered, sold, distributed offline or online) and enables the seizure of goods suspected of infringing IPRs (including GIs) on the basis of the customs surveillance registration of the respective owner or *ex officio* and their subsequent destruction either in the so-called simplified procedure or on the basis of a court decision.

Moreover, there is an inter-department group set up for fighting unfair competition, in which representatives of various ministries participate. However, this group is empowered to deal with a wide range of infringement cases (music, clothing or pharmaceutical industry), and therefore it is not specialised as regards GI products.

³⁹ Act No 234/2014 Coll.

⁴⁰ Act No 255/2012 Coll. on Inspection.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

As a general rule, the inspectors must carry out controls in accordance with the Inspection Code, and in particular:

inspections (with the exception of audits) must be performed without prior notice;

at the beginning of an inspection, official veterinarians must show their service pass and announce that the inspection is starting;

furthermore, the official veterinarian must:

- explain the purpose, scope and objectives of the inspection;
- inform the business operator(s) of the inspection results;
- confirm the termination of the inspection before leaving the site at which the inspection took place.

All the controls are documented in accordance with Section 9 of the Inspection Code, which specifically obliges inspectors to prepare an inspection report and deliver a copy of the same to the inspected entity.

Section 12 enumerates the mandatory requirements that must be taken into account when preparing the report, such as:

the indication of the legal provision defining the competent control authority for the execution of the inspection;

the description of the findings of the inspection, referring to the current status of the matter, indicating the shortcomings and the legal regulations that have been breached, including any documentation on which the findings are based.

The inspection report must be prepared within 30 days of the last inspection step. In cases of high complexity, the report must be prepared within 60 days.

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

As regards the SZPI, an internal regulation establishes its competence on regular controls on foods using GIs.

All the SZPI controls are based on risk analysis. To this end, the following risk indicators are used:

commodity position in the consumption basket;
commodity risks;
'analyte risks'⁴¹;

⁴¹ This risk category is based on the substance or sample being analysed (see the SZPI web page, <http://www.szpi.gov.cz/en/article/cafia-control-activities.aspx>).

inspected entity (volume of its production);
new foodstuffs on the market.

In addition, specific criteria can also be taken into account, such as:

findings from previous inspections;
data analyses available in the internal SZPI Information System⁴²;
actual findings of inspectors in the specific field;
findings of other public authorities (sanitary service, veterinary administration, police, customs authorities, trade licensing office) regarding the same field;
consumers' suggestions;
suggestions from mass media (press, radio and television) and advertising;
findings of foreign partner organisations in the same field;
European Commission recommendations;
information from the RASFF system.

Plans regarding controls carried out by the SZPI are defined in the second half of the year for the following year. The plans are included in the 'Plan of the centrally operated controls', which includes controls performed by the regional inspectorates and is supervised by the SZPI headquarters.

Regional inspectorates perform controls on their own initiative as well. The necessity and efficiency of these controls are in any case verified and supervised by the SZPI headquarters.

As regards the controls performed by the SVS, in order to unify and make inspections uniform, the SVS CVA has defined instructions regarding 'Methodological information for performing inspections of foodstuffs bearing the designations "Protected Geographical Indication", "Protected Designation of Origin", and "Guaranteed Traditional Speciality".'

The SVS CVA has established a recommended inspection frequency of once a year for the verification of compliance with the product specifications before placing the product on the market.

In particular, the first control takes place at the producer's request, as the producer is obliged to inform the SVS before starting production of a certain product bearing a protected name and a GI label. The relevant RVA verifies compliance with the product specifications and issues a certificate of compliance. The subsequent verification of compliance of certified products takes place at least once a year.

In addition, ad hoc controls can be carried out upon:

the SVS's own initiative;
an initiative of other state authorities (SZPI, customs, police);
an initiative of consumers, rights holders or third parties;
an initiative of other EU Member States.

The inspection is conducted on the basis of risk analysis, mainly based on the size of the production site, the volume of production or previous experiences with the business operator.

All products that are manufactured as GIs falling within the competence of an RVA are subject to the verification of compliance.

A possible increase of the frequency of controls may be determined by the RVA based on results of regular controls.

⁴² For more information on the SZPI Information System see <http://www.szpi.gov.cz/en/article/cafia-information-system.aspx>

The hygiene directors of single RVAs ensure that each of the individual official veterinarians operates in compliance with the plan.

2.1.2 Verification of compliance with product specifications

The SZPI performs controls before placing the product on the market only with regard to local (national) products.

If possible, reasonable and efficient, the SZPI performs the official controls of the production and primary production.

For Czech producers, an assessment is made regarding compliance with the product specifications, by verifying the technological procedure, including the raw materials used, and the food sensory properties that may be evaluated *in situ* or on samples that can be taken for laboratory analysis.

During controls:

past cases of non-compliance are taken into account;
sampling is carried out for all GIs (foods, wines, spirits and aromatised wines);
controls include organoleptic and analytical testing;
checks are conducted to see if the producer has a traceability system for the ingredients or material used;
checks are conducted to see if the producer has a quality control system in place (this is not done as a part of the GI control but as a part of common feed and foodstuff controls).

For business operators whose GI products fall within the competency of the SVS, a check is conducted as to whether the laboratory samples have already been taken by the producer. If so, and if it is possible to prove that the results of these samples comply with the product specifications, it is not necessary for RVA to undertake additional sampling.

However, if the producer does not take any samples, or if the reliability of the results of samples is somehow questioned, or if the results do not comply with the product specifications, the RVA inspectors will take samples.

In addition, the RVA determines, in its plan of controls, the total number of samples that may be taken randomly for the purpose of verifying compliance with product specifications.

Furthermore during the RVA control, checks are made as to whether the producer has a proper traceability system for the ingredients or materials used, and a quality control system *in situ*.

2.2 CONTROLS ON THE MARKET

The SZPI controls on the market are carried out within the 'common' official controls on food safety. Therefore, it is not possible to properly define how often they are performed (since they are not performed on a regular basis).

The surveillance of the use of the name in the marketplace is focused not only on Czech products but also on GI products originating from other Member States or from third countries.

For foodstuffs of animal origin that are produced in the Czech Republic, the SVS is informed if cases of non-compliance are found during controls, and it then resolves the situation with the producer.

As regards GIs, the performance and frequency of SVS inspections depend, in particular, on whether the interested business operator sells/stores foodstuffs bearing GI labels. This is normally detected when other type of controls are also carried out (e.g. hygienic controls, labelling controls or the like).

There are also ad hoc special inspection campaigns organised centrally by the SVS, during which the inspected subjects are chosen on a risk analysis basis. For example, controls on Christmas carp (sale of live fish), including controls on the PDO Pohořelice Carp and the PGI Třeboň Carp, were reported to have been carried out recently.

For foodstuffs produced in other Member States that are found to be non-compliant, the results of the controls are transferred to the supervisory authorities, referred to in the relevant product specifications in the DOOR database of the European Commission.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The SZPI has approximately 300 inspectors involved in official controls. In addition, there are also the supervisors and the control, laboratory and certification department of the SZPI headquarters, whose employees are (among other duties) involved in official controls.

Therefore, approximately 360 SZPI employees are involved in the activities directly connected with the official controls. Among these employees, about 20 inspectors are responsible for the GI controls.

All SZPI employees are specifically trained. In particular, a specific training is carried out at the moment when the employee is hired and further kinds of training that are subsequently repeated. Moreover, some specific training courses are compulsory, while others are voluntary.

The SZPI has a complex and effective system of training and every SZPI inspector spends approximately 5 to 10 days per year on these seminars and training.

Moreover, seven members of SZPI staff (four from the central office and three from the regional level) attended the European Commission's **Better Training for Safer Food (BTSF)** programme on Quality Schemes⁴³.

The SVS has approximately 700 inspectors employed in the fields of veterinary hygiene and public health protection.

The last available data on resources dedicated to controls on GIs are those contained in the audit carried out by the European Commission, DG Health and Consumers in 2013, reporting that⁴⁴ 11 full-time equivalent staff were dealing with official controls on GIs.

Training programmes usually consist of training courses, certification and participation in conferences organised by the SVS CVA.

Individual RVAs may also conduct training and conferences for the inspectors in their respective regions. Staff from other organisations, for example, the Ministry of Defence, the Czech police and customs

⁴³ DG (SANCO) 2013-6649 – MR FINAL, p. 5.

⁴⁴ See DG (SANCO) 2013-6649 – MR FINAL.

authorities may also take part in this training.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

There is a website⁴⁵ called 'Food pillory — poor-quality, adulterated and dangerous food' where the public can consult the products with unsatisfactory results in controls.

An extended search can be made by a single category, food group and subgroup, establishment type, country of origin or supervisory authority (SZPI or SVS). For wines, a subgroup named 'Still wine with PDO or PGI' can be selected.

On the SVS website⁴⁶, it is also possible to look up inspections at individual facilities.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The Czech Republic also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation System (AAC)** as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate exchange of information between MS. The national contact point for the FFN is the SZPI.

As already indicated, for foodstuffs originating in other Member States that are non-compliant, the findings from the controls are transferred to the supervisory authorities referred to in the relevant product specifications in the DOOR database of the European Commission.

Results of inspections performed by foreign inspection bodies are taken into account within proceedings before the Czech Industrial Property Office, based on the international convention or reciprocity⁴⁷.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

⁴⁵ <http://www.potravinynapranyri.cz/Default.aspx?lang=en&design=default&archive=actual&listtype=tiles>.

⁴⁶ <http://www.svscr.cz/mapove-vystupy-z-kontrolni-cinnosti-statni-veterinarni-spravy/>.

⁴⁷ Act No 452/2001 Coll. on the Protection of Designations of Origin and Geographical Indications.

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

During the controls on the market, the SZPI may impose different kinds of measures⁴⁸, including the seizure of agricultural products or foodstuffs and the imposition of fines.

The inspection authority may not impose a fine if a remedy has been found in accordance with the imposed measure immediately after the breach of the obligation, provided that no damage has been caused to the health of consumers and they have not been misled.

These administrative torts in the first instance are dealt by the SZPI and the income from the fines forms part of the State budget revenue.

Please see the Guide for more details on the administrative sanctions.

6.2 CRIMINAL PROSECUTION

According to the Criminal Code⁴⁹, anyone who, for the purpose of economic gain, distributes products illegally marked by a registered designation of origin or GI or by an indication confusable with it, or who for this purpose offers, mediates, manufactures, imports, exports or otherwise handles the products for himself or herself or for a third party, will be sentenced to imprisonment for up to 2 years or to confiscation.

In addition to the criminal offence against industrial property rights, the Criminal Code further provides measures against unfair competition.

More details on criminal offences are given in the Guide.

6.3 FOLLOW-UP OF CASES

The SZPI has its own dedicated database of past records, which is not accessible by the public.

All of the SZPI employees who perform controls can access this database and collect all the information they need, including information regarding the controlled subject or regarding potential situations of non-compliance.

The follow-up is ensured by the controls that are specifically focused on fulfilling the imposed measure.

All control results are entered into the SVS internal information system.

As already mentioned, on the SVS website it is possible to look up the inspections at individual facilities. In the event that non-compliance is detected, basic information on any shortcomings found is given to the interested organisation.

7. REMEDIES FOR USERS

⁴⁸ Section 5 of Act No 146/2002 Coll. on the Czech Agricultural and Food Inspection Authority.

⁴⁹ Act No 40/2009 Coll, Section 268.

If rights holders suspect that their rights have been infringed, they can contact the SZPI via email, telephone, letter or personally. All of the contacts are available on the SZPI's official websites.

The Czech national system also provides particular remedies for consumers to take initiatives against the spread of non-compliant products⁵⁰. More details are provided in the Guide.

As regards the SVS, queries, suggestions and comments may be sent directly through the relevant website⁵¹ as well as by email⁵².

The Czech Consumer Protection Act⁵³ also defines what may represent a deceptive trade practice and bans sale and storage of goods infringing IPRs, including the unlawful use of GIs.

The Act also covers the **Alternative Dispute Resolution (ADR)** procedure⁵⁴. Based on this law, the **Czech Trade Inspection Authority (Česká obchodní inspekce — COI)** ensures the possibility of alternative dispute resolution for consumer disputes and sets ADR rules that lay down the procedure for out-of-court resolution of consumer disputes. The aim of the ADR scheme is to facilitate an amicable settlement of disputes and reach agreements acceptable to both parties.

In cases of cross-border disputes, consumers may seek assistance in the European Consumer Centre of the Czech Republic⁵⁵.

CIVIL ACTION

The Czech Act on Protection of Designations of Origin and Geographical Indications⁵⁶ states:

Everybody may claim with the relevant court that it should be prohibited to use the registered indication for comparable goods which does not fulfil conditions for utilisation of designation of origin or geographical indication and that the goods identified in a manner which jeopardises or infringes the rights arising from registered designation of origin or, as appropriate, geographical indication, should be withdrawn from the market.

Moreover, a GI rights holder has the right to ask and receive information on the origin of the product and may also ask the Court to order the destruction of the infringing goods in a suitable way.

Furthermore, the provisions of the Czech Civil Code⁵⁷ related to unfair competition may also apply in the area of GIs. These provisions are also applicable for holders of GIs that are registered only in other MS and not in the Czech Republic.

Please see the Guide for more details.

⁵⁰ To file an initiative against a product, tools are available at the following webpage:

<http://www.szpi.gov.cz/en/docDetail.aspx?docid=1117103&docType=ART&nid=&chnum=2>.

⁵¹ <http://eagri.cz/public/web/svs/portal/nejcastejsi-dotazy/>.

⁵² epodatelna@svscr.cz.

⁵³ Act No 634/1992 Coll.

⁵⁴ More information on ADR and ADR at <https://adr.coi.cz/en>.

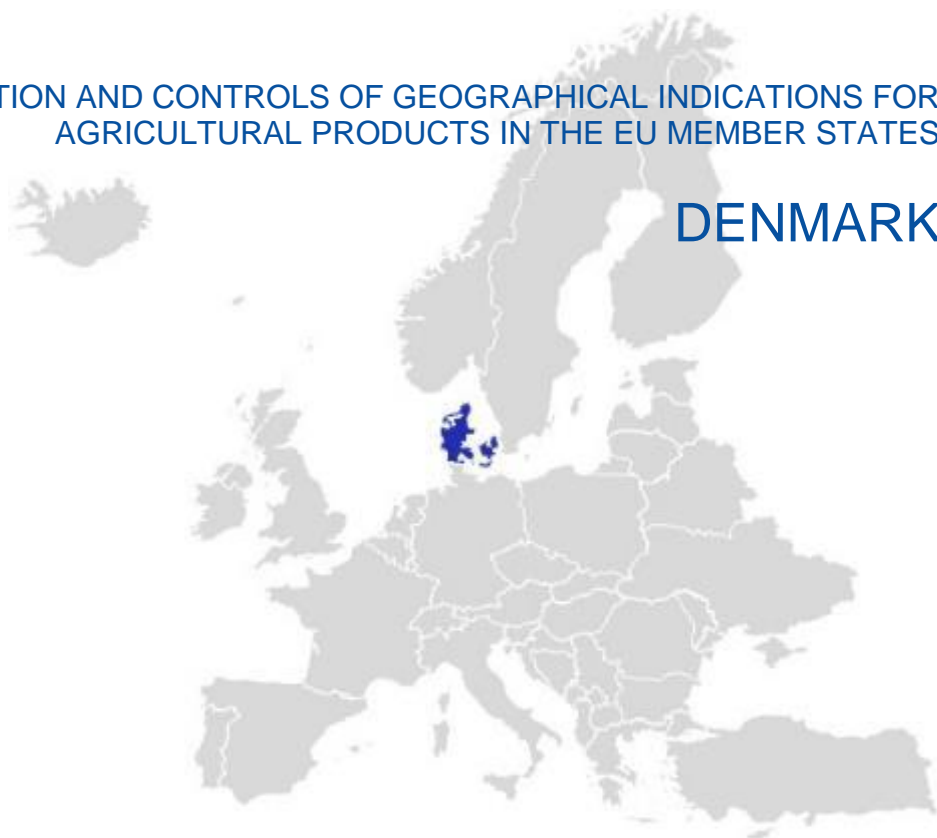
⁵⁵ <http://www.evropskyspotrebitel.cz/eng>

⁵⁶ Section 24 of Act No 452/2001 Coll. on the Protection of Designations of Origin and Geographical Indications.

⁵⁷ Act No 89/2012 Coll.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

DENMARK



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

DANAK	Danish Accreditation Fund (Den danske akkrediteringsfond)
FVST	Danish Veterinary and Food Administration (Fødevarestyrelsen)
MFVM	Ministry of Environment and Food (Miljø- og Fødevareministeriet)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

In Denmark, the **Danish Veterinary and Food Administration (Fødevarestyrelsen — FVST)**, an agency of the **Ministry of Environment and Food (Miljø- og Fødevareministeriet — MVFM)**, is the national CA designated for controls on GIs for agricultural products and foodstuffs, wines and spirits.

As an official authority, the FVST:

- carries out controls according to the general inspection manual and other guidelines and legislation;
- has the right to conduct controls in any site of the production plant and inspect, for example, premises, products, documents and electronic data;
- has the right to issue necessary sanctions like enjoining orders, prohibitions, injunctions, administrative fines and reporting to the police;
- has the right to take the necessary samples;
- must respect the rights of establishments and provide necessary information during an inspection (e.g. about observations and legal rights);
- must produce reports related to the inspections.

1.2 GENERAL STRUCTURE OF THE SYSTEM

The FVST consists of five departments. Three cover the areas of animals, food and meat inspection. Two have support functions, such as finance and accounting, communication and innovation⁵⁸:

the Veterinary Department (Veterinærområdet) handles inspections of farm animals and develops, maintains and coordinates emergency measures against infectious livestock diseases. Furthermore, the section fights outbreaks and handles legislation and policy formulation in relation to animal health, animal welfare and veterinary medicine;

the Food Safety Department (Fødevareområdet) handles food inspections of raw materials as well as finished products. Inspections at food establishments include checks on internal control schemes, hygiene and labelling. Moreover, the section handles legislation and policy formulation in relation to food and feed safety, chemistry and food quality, diet and nutrition;

the Meat Inspection Department (Kødkontrollen) monitors food law compliance during the animal slaughtering process, meat cutting and meat processing in slaughterhouses exporting beef, pork and poultry from Denmark;

the Department of Communication and Innovation (Kunde- og udviklingsområdet) handles business development, coordination of inspections and communication and quality concerning the areas of: international coordination, international trade, legal services, control coordination and customer services;

⁵⁸ Source: <https://www.foedevarestyrelsen.dk/english/Aboutus/Organization/Pages/default.aspx>.

the Department of Finance (Administrations- og laboratorieområdet) handles finance and accounting, HR, IT, the laboratories and the operations division⁵⁹.

The five departments report to the executive director of the FVST.

Controls by the FVST are covered in Section 5.1.22 of the **Multi-Annual National Control Plan (MANCP)**.

In addition, the FVST has delegated foodstuff GI control tasks to two accredited CBs to carry out analysis and certification at six dairy establishments (see below). The Chemistry and Food Quality Division (Kemi og Fødevarekvalitet) of the FVST is responsible for surveillance of use of the name in the marketplace.

As regards wines and spirits, the Chemistry and Food Quality Division of the FVST carries out controls before placing the product on the market and surveillance of the use of the name in the marketplace.

Legal status and powers of staff of Competent Authorities

The main legislative framework for controls and enforcement measures is the Regulating Act on foodstuffs⁶⁰.

This act empowers the CAs to: enter establishments, access documentation, implement enforcement measures and put in place necessary decisions and orders. The CA's competence includes the powers of access to food business premises and documentation when carrying out executive orders⁶¹. The CA may call for police assistance when access is denied.

Capacity of laboratories

There are accredited laboratories that perform microbiological and chemical analyses. Tasks of the laboratories include: analyses according to the national monitoring sampling plans, sampling included in risk-based campaigns, locally managed targeted sampling and samples connected to import controls.

All FVST laboratories in Denmark are accredited in accordance with ISO/IEC 17025 by the **Danish Accreditation Fund (Den danske akkrediteringsfond — DANAK)**.

1.3 CONTROL BODIES

As regards food products, the FVST has delegated the verification of compliance with product specifications to two different CBs, both accredited in accordance with ISO/IEC 17065:2012.

Agro Management;
EUROFINS Steins Laboratorium A/S.

In particular, the FVST has a contract with the CBs, which regulates requirements and obligations.

1.4 ACCREDITATION BODY

DANAK is the national accreditation body in Denmark, appointed by the Danish Safety Technology

⁵⁹ NaturErhvervstyrelsen.

⁶⁰ Law order No 43 of 12 January 2016; Articles 52 to 54 and 60.

⁶¹ Inspectors can impose sanctions for establishments (plants).

Authority, under the Ministry of Business and Growth. As the national accreditation body, the DANAK is responsible for the accreditation of laboratories and CBs.

The DANAK is established as an independent non-profit business fund. CBs can be accredited to certify products in accordance with ISO/IEC 17065:2012.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The FVST will soon start to audit the two CBs.

Measures against irregularities depend on the type of irregularity, in the worst case, the FVST can terminate the contract with the CB.

Since 2013, internal audits as per Regulation (EC) No 882/2004 have been performed by the FVST's internal audit unit. This unit reports directly to the FVST Board of Directors. Its auditors have passed a lead auditor course.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

CBs have, in accordance with the signed contract with the FVST, an obligation to ensure there are no conflicts of interests for the employees.

National legislation includes provisions on conflict of interest in public administration. This is covered in Chapter 2 of the Danish Public Administration Act⁶².

Employees of the FVST can have additional employment; however, a second job must be exercised within the limits imposed by Section 17 of the Civil Servants Law, which implies that the additional employment:

- must not involve any risk of conflicts of interest in relation to his or her main post;
- must not occupy the employee's time to the detriment of his or her main post;
- must not be incompatible with the decorum required of his or her main post.

The FVST has guidelines that specify the content of the Civil Servants Law rules.

Management ensures that members of staff do not engage in activities that conflict with their employment at the FVST. Staff in the FVST must inform their manager of potential situations of conflict of interest. In such cases, the manager decides upon necessary actions.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

National Authorities and police forces are in charge of controls against counterfeiting, in particular regarding the agri-food sector.

Denmark's MANCP 2012-2016 includes all control authorities deputed for food and feed safety, animal health, animal welfare and plant health controls. The plan was mainly prepared by the FVST and, in detail, the International Coordination Division of the FVST is the contact body for the national control plan.

⁶² Consolidation Act No 433 of 22 April 2014.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The controls on GIs have a two-tier structure: national products are checked either before or after being placed on the market. Foreign products are exclusively controlled after being placed on the market.

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

The FVST has a risk-oriented control system in almost all food and feed sectors encompassing all relevant criteria as laid down in Regulation (EC) No 882/2004. For most sectors, there are risk-based standard checks integrated by extra inspection visits, risk-based inspection campaigns and sampling.

The FVST Administrative Divisions develop guidelines and instructions regulating all sectors, which are available on the FVST website and/or the intranet⁶³.

Checks on operators and the applicant **Producers Group (PG)** (see below) are undertaken seasonally according to the product under certification (especially if it is a seasonal product). Controls are carried out either on all operators that must obtain new certification and on certified operators (surveillance programmes aimed to confirm the standard of certified products).

Law No 442 of 9 June 2004 on legal rights establishes pre-inspection procedures for public authorities.

All authorities must provide the business operator with written information (purpose, legal basis, time and location) within 14 days before the inspection. In some cases (e.g. when required by EU legislation), inspections can be carried out without prior warning.

Most inspections are carried out without prior warning in accordance with Regulation (EC) No 882/2004. However, when it is necessary to secure the effectiveness of the official control, inspections are executed with prior notice.

The FVST has a risk-oriented control system in almost all food and feed sectors encompassing all relevant criteria as outlined in Regulation (EC) No 882/2004.

2.1.2 *Verification of compliance with product specifications*

All **Food Business Operators (FBOs)** must undergo controls.

GI products are checked for compliance with the requirements given in their product specifications and whether they are labelled in accordance with the applicable regulations.

For certain GIs, organoleptic tests are also used.

⁶³ General guidelines (e.g. Inspection Manual) are developed by the Control Coordination Division, while more specific guidelines and instructions concerning specific matters are developed by the designated divisions.

In general, the CBs control the FBOs and verify if the requirements of the product specifications (including labelling requirements) are met, in addition to taking samples and making analyses. If non-compliance is detected, the CBs will contact the FVST, which decides how to sanction the operator.

In relation to EUROFINS, the CB reports on a yearly basis on cases of detected non-compliance to the FVST, which may implement enforcement measures.

2.2 CONTROLS ON THE MARKET

As already underlined, the surveillance of the use of the name in the marketplace is executed by FVST on national and foreign GIs.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

No national mandatory qualification profiles have been set for recruited staff, since those are determined by each head of office.

In 2011 and 2012, the FVST Supervision Unit prepared reports based on 'systematic supervision' inspections on food establishments, in order to report that executed controls had been performed in accordance with applicable legislation/guidelines.

Those reports were also aimed to contribute to staff training (knowledge sharing).

The International Trade Division of the FVST is responsible for international training programmes.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Since January 2012, documents generated during controls on premises have been accessible to all FVST staff.

Inspectors and laboratory staff enter results/data of inspections and laboratory results in dedicated databases. The Administrative Division prepares data reports providing an overview of results through standard dashboard reports, available to all FVST staff.

When inspection results or documents are not available through IT applications, the Inspection Units send the results to FVST staff.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Denmark also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States. The national contact point for the FFN system is the FVST.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

The main legislative basis for controls and enforcement measures is the Regulating act on foodstuffs⁶⁴. This Regulation empowers CAs to: enter establishments (plants), access documentation, implement enforcement measures and put in place necessary decisions and orders. For example, the FVST can ban the marketing of a specific product.

The level for administrative fines is based on previous court cases or decided by the Danish Parliament. The sanction must be proportional to the non-compliance, and the CA will always make a specific assessment.

Please see the Guide for more information on administrative sanctions.

6.2 CRIMINAL PROSECUTION

In the Danish sanctioning system, only police authorities may initiate prosecutions. Prosecutions may be pursued in response to serious offences, complicated fraud cases and repeat offenders.

All courts in Denmark have competence to handle these cases. If the infringement is committed with wilful or gross negligence, the sanction is imprisonment. The courts also have competence to issue fines.

6.3 FOLLOW-UP OF CASES

An inspection report, signed by the inspector, is always given to the business operator after each audit or inspection. If the inspector expects to issue an injunction, a prohibition or a fine, or to issue a report to the police, a provisional inspection report is given to the business operator.

⁶⁴ Articles 52 to 54 and 60.

A final inspection report is sent together with the written decision concerning the sanction or on its own, if it is decided not to issue any sanctions.

The main practical enforcement instruments are:

warnings;
enforcement notices (injunctions or prohibitions such as imposing improvements to self-checks, bans on production, seizure or detention of food, corrective actions, external training and consultancy);
administrative fines;
reporting to the police for prosecution.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

Civil remedies related to GI infringements are not regulated by a specific Danish law or a national registration system for GIs. However, trade mark laws apply if GIs are registered by relevant rights holders as trade marks or collective marks.

In such a case, rights holders can request enforcement measures to the competent court in order to secure evidence of an infringement and/or to demonstrate its extent.

To obtain a search and seizure order, the rights holder must provide proof of the potential trade mark infringement. Moreover the claimant must demonstrate that executing the search order might produce evidence of the infringement and its extent.

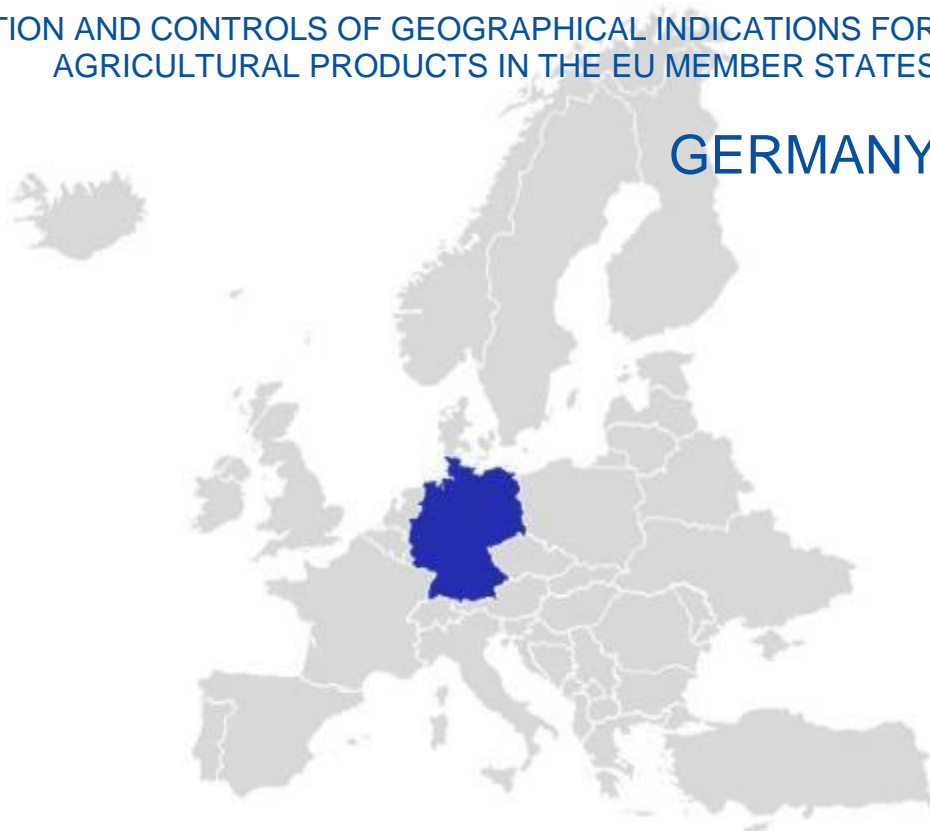
Furthermore, the rights holder may file a preliminary injunction to:

prohibit use of the conflicting sign;
claim disclosure and seizure of unlawfully marked products.

More details on civil enforcement are given in the Guide.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

GERMANY



FOREWORD

Due to the administrative structure of the Federal Republic of Germany, information on the German national systems is reported in two different chapters. The first chapter is dedicated to general principles of the organisation and to nationally applicable legal procedures. Data on control procedures assigned to the local level (Länder) are given in the following chapter.

ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

AVV RÜb	General Administrative Regulation on Framework Controls (Allgemeine Verwaltungsvorschrift Rahmen-Überwachung)
BAuA	German Federal Institute for Occupational Safety and Health (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin)
BMEL	German Federal Ministry of Food and Agriculture (Bundesministerium für Ernährung und Landwirtschaft)
BMJV	German Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz)
BVL	Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit)
DAkkS	German National Accreditation Body (Deutsche Akkreditierungsstelle GmbH)
MarkenG	German Trade Mark Act (<i>Markengesetz</i>)
OWiG	German Act on Administrative Offences (<i>Gesetz über Ordnungswidrigkeiten</i>)
UWG	German Act against Unfair Competition (<i>Gesetz gegen den unlauteren Wettbewerb</i>)
WeinG	German Wine Act (<i>Weingesetz</i>)
WeinÜV	Wine Surveillance Regulation (<i>Wein-Überwachungsverordnung</i>)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The national authorities responsible for GIs are the **Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz — BMJV)** in collaboration with the **Federal Ministry of Food and Agriculture (Bundesministerium für Ernährung und Landwirtschaft — BMEL)**⁶⁵.

In general, the BMJV is in charge of legislation and regulation concerning GI quality schemes in Germany.

Furthermore, in collaboration with the BMEL, the BMJV is in charge of matters relating to the registration procedure and protection of GIs for foodstuffs⁶⁶.

For wines, spirits and aromatised wines, the BMEL is the sole responsible authority.

1.2 GENERAL STRUCTURE OF THE SYSTEM

Germany is a Federal Republic consisting of sixteen states (in German: *Land*, plural *Länder*) and the general structure of the control system is therefore decentralised. The verification and monitoring required in accordance with EU laws on GIs are incumbent on the responsible CAs pursuant to the law of the Federal States⁶⁷.

While the Federal Government is responsible for policy and federal legislation, the *Länder* are responsible for official controls to comply with the legislation in the relevant areas. The Federal Government has no authority to instruct the *Länder* in these areas.

Under the **German Trade Mark Act (*Markengesetz — MarkenG*)**⁶⁸, the individual *Länder* governments are empowered to assign the performance of the inspections on GIs to approved private CBs, or to involve the CBs in performing these inspections.

The *Länder* governments may also regulate the prerequisites and the procedure for the approval of CBs by legal ordinance. In particular, they must assign the empowerment by legal ordinance to other authorities fully or in part, and they may assign inspections to public authorities as well as to private CBs.

⁶⁵ http://www.bmel.de/EN/Homepage/homepage_node.html.

⁶⁶ http://www.bmfv.de/EN/Home/home_node.html.

⁶⁷ Article 134(1) of the MarkenG.

⁶⁸ Article 139(2) of the MarkenG.



As regards wines/aromatised wines, in accordance with the **German Wine Act (*Weingesetz — WeinG*)**⁶⁹, the CAs responsible for monitoring appoint wine inspectors in each *Land* and empower them with sufficient authority.

The authorities responsible for monitoring must inform and assist each other in cases of infringements⁷⁰. If the investigating body finds any non-compliance, it must inform the CA promptly by communicating the results of its examinations. In accordance with the **Wine Surveillance Regulation (*Wein-Überwachungsverordnung — WeinÜV*)**⁷¹, the highest administrative state authority determines which authority is competent for monitoring measures for producers.

An exchange of samples for sensory and analytical assessment must be ensured in accordance with Article 28(4) of the WeinÜV between the CAs of the different *Länder*.

The highest competent national authorities, in order to supervise establishments with branches falling in the jurisdiction of different CAs, determine which body coordinates the monitoring measures for those establishments.

Monitoring of fraud is carried out by the food monitoring authorities of the various *Länder*.

⁶⁹ Article 31(3) of the WeinG.

⁷⁰ Article 28(1) of the WeinG.

⁷¹ Article 28(3) of the WeinÜV.

Legal status and powers of staff of Competent Authorities

According to the MarkenG⁷², CA staff entrusted with controls on foodstuff GIs are entitled to:

enter business premises and properties, sales facilities, means of transport and carry out inspections;
take samples;
inspect and examine business documents;
request information.

These powers also cover agricultural products or foodstuffs that are put on the market in public places, in particular in markets, places and streets, or by peddling.

As regards wines, wine inspectors may request all the necessary information, in particular concerning the scope of operations, processing, processing of substances, quantity and origin, and transactions⁷³.

Furthermore, wine inspectors may request business records, freight documentation, accompanying documents, import documents, financial books, analytical books and processing descriptions⁷⁴. Only officers that have experience in examining the products to be monitored, their processing method, and are familiar with the relevant legislation are appointed as wine inspectors.

Capacity of laboratories

Within their area of competence, the 16 Federal *Länder* designate laboratories for official food, feed, animal health and plant health analyses.

A list of laboratories in the individual *Länder* can be found in the individual control plans⁷⁵.

1.3 CONTROL BODIES

There is no delegated CB at the national level.

At *Länder* level, official controls on GIs may be delegated to CBs or carried out by CAs.

1.4 ACCREDITATION BODY

In Germany, on the basis of the Accreditation Body Act in conjunction with the AkkStelleG authorisation ordinance (AkkStelleG-Beleihungsverordnung), the **German National Accreditation Body (Deutsche Akkreditierungsstelle GmbH — DAkkS)** is entrusted with the duties and powers of a national accreditation body.

The DAkkS performs mandatory and voluntary accreditation of conformity assessment bodies in all sectors (manufacturing, construction, agriculture, transport, healthcare, telecommunications, etc.) as an official task of the Federal Government. It is under the technical supervision of each of the relevant ministries.

The DAkkS performs accreditations of official laboratories, as required by Regulation (EC) No 882/2004.

⁷² Article 134(2) of the MarkenG.

⁷³ Article 31(1) and (5) of the WeinG.

⁷⁴ Article 31(1) and (3) of the WeinG.

⁷⁵ <http://www.bvl.bund.de/mnkp>.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The Federal Government supervises the *Länder* to ensure that they implement federal laws correctly. Article 84 of the Basic Law for the Federal Republic of Germany (*Grundgesetz für die Bundesrepublik Deutschland*)⁷⁶ provides that, for the execution of federal laws, the Federal Government may issue individual instructions for particular cases. These instructions must be addressed to the highest *Land* authorities. Pursuant to Article 84 of the Basic Law, several General Administrative Regulations (*Allgemeine Verwaltungsvorschriften*) have been adopted.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

The **General Administrative Regulation on Framework Controls** (**Allgemeine Verwaltungsvorschrift Rahmen-Überwachung — AVV RÜb**), laying down the principles underlying the official surveillance of compliance with provisions of food, wine, feed and tobacco legislation, contains specific provisions for avoiding conflicts of interest and requires, inter alia, that any secondary functions that might constitute a conflict must be declared, and may only be carried out after prior verification and upon agreement by the CA.

In addition, individual *Länder* have regional supplementary provisions for this matter in some cases.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

In line with Article 1(1), Article 2(4)(f) and Article 5 of Regulation (EU) No 608/2013, German customs are entitled to control GIs and to take measures in cases of infringements, provided the goods are subject to customs supervision or customs control and an application for action has been granted.

The application for action can be filed by the rights holder at the Zentralstelle Gewerblicher Rechtsschutz — an organ of the German customs authority.

2. PERFORMANCE OF CONTROLS

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2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 Planning and prioritisation criteria and frequency

The first version of the AVV RÜb, laying down the principles underlying the official surveillance of compliance with provisions of food, wine, feed and tobacco legislation, was adopted by the Federal Government with the approval of the *Bundesrat*⁷⁷ in December 2004. With regard to food monitoring, it regulates activities according to uniform risk-based criteria, the flow of information and reporting between Federal and *Land* level, measures to avoid duplicating work, and linking the control activities of the

⁷⁶ The basic law for the Federal Republic of Germany is the Constitution of the Federal Republic of Germany (https://www.gesetze-im-internet.de/englisch_gg/).

⁷⁷ The *Bundesrat* is the German legislative body representing the sixteen *Länder* at national level.

Länder (nationwide control plan).

In order to accommodate the federal structure of Germany, the **Multi-Annual National Control Plan (MANCP)** for the Federal Republic of Germany is split into a framework plan and 16 plans for the Federal States.

The framework plan (Part I) describes the organisation, tasks, structures and cooperation of authorities and institutions of the Federal Government, as well as bodies and working groups, which are performed (i) jointly by the Federal Government and Federal States and (ii) at Federal State level.

Part II of the MANCP includes the individual control plans of the Federal States.

The framework plan is updated on a yearly basis. The contact point for the plan is the BMEL, while the coordination centre for compiling and updating the plan is the **Federal Office of Consumer Protection and Food Safety (Bundesamt für Verbraucherschutz und Lebensmittelsicherheit — BVL)**.

The Federal control plan is a risk-based control programme. This means that the samples to be tested and establishments to be checked are selected based on a risk assessment. Foodstuffs and commodities can be tested as part of the Federal control plan.

The testing may, for example, cover the following aspects:

- chemical parameters;
- microbiological parameters;
- use of specific procedures;
- control of labelling aspects.

2.1.2 Verification of compliance with product specifications

The controls of compliance with the GI product specifications are conducted at federal level by the various *Länder* authorities and/or control bodies.

2.2 CONTROLS ON THE MARKET

Surveillance of the use of the name in the marketplace is conducted at the federal level by the various *Länder* authorities.

3. TRANSPARENCY OF THE SYSTEM

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All 16 *Länder* plans and the national German Federal plan are published on the website of the BVL⁷⁸.

⁷⁸ <http://www.bvl.bund.de/mnkp>.

4. COORDINATION WITH OTHER MEMBER STATES

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Two rapid alert systems ensure a quick transmission of information within the EU: the **Rapid Alert System for Food and Feed (RASFF)** for food, feed and food contact materials and **Rapid Exchange of Information System (RAPEX)** for consumer products.

The EU has also set up a dedicated network of contact points, the **European Food Fraud Network (FFN)**, of which GIs are also part. The FFN is equipped with an IT system, the **Administrative Assistance and Cooperation system (AAC)**.

In 2003, the BVL was assigned the role of National Contact Point for the RASFF by means of a decree. In addition, the BVL forwards notifications about consumer products (chemical and hygiene risks) to the National Contact Point for the RASFF in Germany, which is the **Federal Institute for Occupational Safety and Health (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin — BAuA)**.

5. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

5.1 ADMINISTRATIVE SANCTIONS SYSTEM

The CAs involved in official controls have legal powers to take action in cases of non-compliance.

At national level, the MarkenG⁷⁹, which contains a specific section on GIs in cases of non-compliance with requests from CBs⁸⁰, establishes a regulatory fine of up to EUR 10 000⁸¹.

Enforcement bodies for applying administrative sanctions are the highest responsible *Länder* authorities⁸².

More details on administrative sanctions are given in the Guide.

5.2 CRIMINAL PROSECUTION

According to Article 144 of the MarkenG, anyone who in the course of trade unlawfully uses a GI, a name, an indication or a sign with the intention to exploit or impair the reputation or distinctive character of a GI will be punished with up to 2 years imprisonment or a criminal fine⁸³.

⁷⁹ http://www.wipo.int/wipolex/en/text.jsp?file_id=126234.

⁸⁰ Article 134 of the MarkenG.

⁸¹ Article 145 of the MarkenG.

⁸² Article 36(2) of the German Act on Administrative Offences (*Gesetz über Ordnungswidrigkeiten — OWiG*).

⁸³ http://www.gesetze-im-internet.de/englisch_markeng/englisch_markeng.html#p0832.

The same punishment will be imposed on anyone who, in the course of trade adopts or imitates a registered designation.

More details on criminal prosecution are given in the Guide.

5.3 EX OFFICIO PROTECTION

The national German authority generally responsible for *ex officio* protection, in compliance with Article 13 of Regulation (EU) No 1151/2012, is the BMJ⁸⁴.

However, the BMJ may delegate the task to the *Länder* governments, and the latter may involve private inspection agencies.

6. REMEDIES FOR USERS

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CIVIL ACTION

The following rights are conferred on the owner(s) of a GI:

- the right to sue for infringement;
- the right to bring a 'dilution' action if the GI has a particular reputation;
- the right to bring an unfair competition action (the right to bring an unfair competition action is subsidiary to the right to sue for infringement of a GI according to Articles 127 and 128 of the MarkenG);
- the right to claim damages.

Moreover, the **German Act against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb — UWG*)** provides for additional protection within its provisions against misleading advertising under which it is unfair to advertise goods or services with a misleading GI⁸⁵.

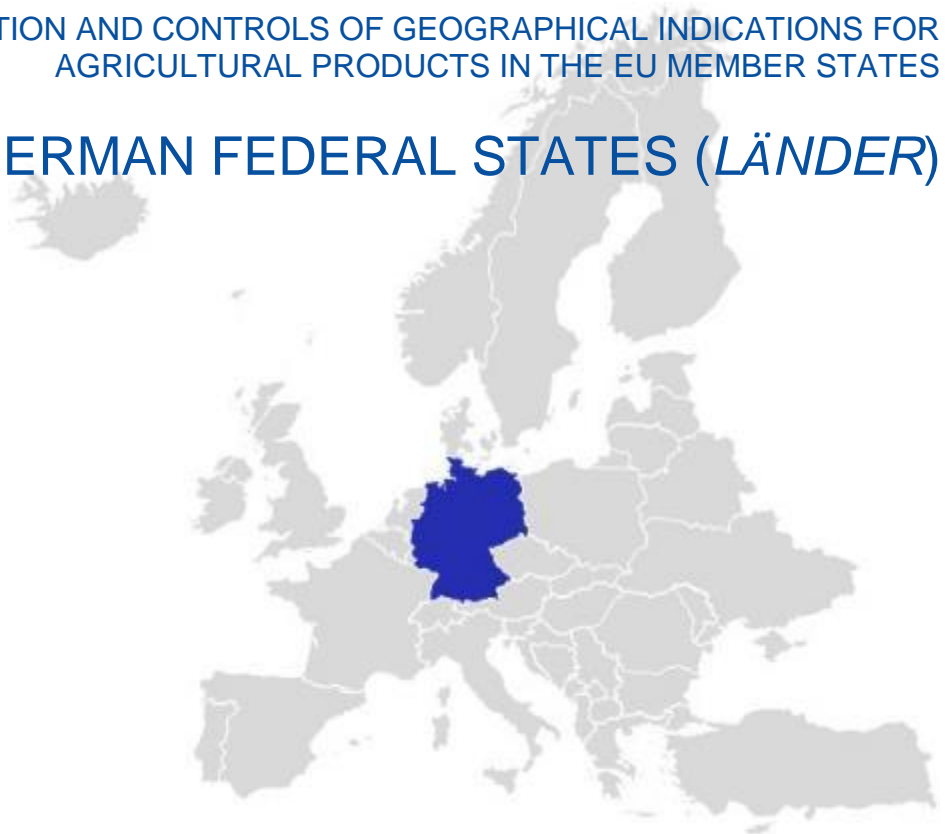
Please see the Guide for more details on civil action.

⁸⁴ Article 139 of the MarkenG.

⁸⁵ Article 5(2)(1) of the UWG.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
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GERMAN FEDERAL STATES (*LÄNDER*)



FOREWORD

Germany is a Federal Republic comprising sixteen States (in German: *Land*, plural *Länder*)⁸⁶.

The study presents information relating to *Länder* that have provided data, while for Berlin, Hamburg, Mecklenburg-Vorpommern, North Rhine-Westphalia and Saarland, only the contact details of the respective CAs are given in the Guide.

Moreover, the individual Multi-annual Control Plans of all *Länder* are available on the website of the **Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz — BMJV)**⁸⁷.

ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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AllgZustVO-Kom	General Jurisdiction of Municipalities and Counties for the Implementation of Federal Law (Allgemeine Zuständigkeitsverordnung für die Gemeinden und Landkreise zur Ausführung von Bundesrecht)
BMEL	German Federal Ministry of Food and Agriculture (Bundesministerium für Ernährung und Landwirtschaft)
BMJV	Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz)
BSUV	Bavarian State Ministry of the environment and consumer protection (Bayerisches Staatsministerium für Umwelt und Verbraucherschutz)
CVUA	Chemical and Veterinary Examination authorities (Chemischen und Veterinäruntersuchungsämter)
GDVG	German public health and consumer protection law (Gesundheitsdienst und Verbraucherschutzgesetz)
LAG	Länder Working Group (Länder Arbeitsgemeinschaft Gentechnik)
LAVES	Lower Saxony State Office for Consumer Protection and Food Safety (Niedersächsische Landesamt für Verbraucherschutz und Lebensmittelsicherheit)
LELF	Land Office for Rural Development, Agriculture and Land Reform (Landesamt für Ländliche Entwicklung, Landwirtschaft und Flurneuordnung)

⁸⁶ Baden-Württemberg (*Land* capital: Stuttgart); Bavaria (*Freistaat Bayern*, *Land* capital: Munich), Berlin (*Land* capital: Berlin, capital of the Federal Republic of Germany); Brandenburg (*Land* capital: Potsdam), Bremen (*Freie und Hansestadt Bremen*, *Land* capital: Bremen); Hamburg (*Freie und Hansestadt Hamburg*, *Land* capital: Hamburg); Hesse (*Hessen*, *Land* capital: Wiesbaden); Lower Saxony (*Niedersachsen*, *Land* capital: Hannover); Mecklenburg-Western Pomerania (*Mecklenburg-Vorpommern*, *Land* capital: Schwerin); North Rhine-Westphalia (*Nordrhein-Westfalen*, *Land* capital: Düsseldorf); Rhineland-Palatinate (*Rheinland-Pfalz*, *Land* capital: Mainz); Saarland (*Land* capital: Saarbrücken); Saxony (*Freistaat Sachsen*, *Land* capital: Dresden); Saxony-Anhalt (*Sachsen-Anhalt*, *Land* capital: Magdeburg), Schleswig-Holstein (*Land* capital: Kiel), Thuringia (*Freistaat Thüringen*, *Land* capital: Erfurt).

⁸⁷ http://www.bvl.bund.de/DE/01_Lebensmittel/01_Aufgaben/02_AmtlicheLebensmittelueberwachung/02_MNKP/lm_mnkp_node.html.

LFGB	Act on Foodstuffs, commodities and feedstuffs (<i>Lebensmittel-, Bedarfsgegenstände- und Futtermittelgesetzbuch</i>)
LfL	Bavarian State Research Centre for Agriculture (Bayerische Landesanstalt für Landwirtschaft)
LfULG	Land Office for Environment, Agriculture and Geology (Landesamt für Umwelt, Landwirtschaft und Geologie)
LGL	Bavarian State Office for Health and Food Safety (Bayerisches Landesamt für Gesundheit und Lebensmittelsicherheit — LGL)
LMTVET	Food Surveillance, Animal Protection and Veterinary Service of the State of Bremen (Lebensmittelüberwachungs-, Tierschutz- und Veterinärdienst des Landes Bremen)
LSH	State Laboratory Schleswig-Holstein (Landeslabor Schleswig-Holstein)
LSpG	Food Specialties Act (<i>Lebensmittelspezialitätengesetz</i>)
LUA	State authority for Chemistry, Hygiene and Veterinary Medicine (Landesuntersuchungsamt für Chemie, Hygiene und Veterinärmedizin)
LVwA	Federal Office of Administration of Saxony-Anhalt (Landesverwaltungsamt Sachsen-Anhalt)
MarkenG	German Trade Mark Act (<i>Markengesetz</i>)
MdJEV	Ministry of Justice and for Europe and Consumer Protection of the State of Brandenburg (Ministerium der Justiz und für Europa und Verbraucherschutz des Landes Brandenburg)
MJEVG	Ministry of Justice, European Affairs, Consumer Protection and Equality of Schleswig-Holstein (Ministerium für Justiz, Europa, Verbraucherschutz und Gleichstellung des Landes Schleswig-Holstein)
MLR	Ministry of Rural Areas and Consumer Protection of Baden-Württemberg (Ministerium für Ländlichen Raum und Verbraucherschutz Baden-Württemberg)
MRDEA	Ministry of Rural Development, Environment and Agriculture of the Federal State of Brandenburg (Ministerium für ländliche Entwicklung, Umwelt und Landwirtschaft)
MASI	Ministry of Labour and Social Affairs of Saxony-Anhalt (Ministerium für Arbeit und Soziales Sachsen-Anhalt)
MUEEF	Ministry of Environment, Energy, Nutrition And forests of Rhineland-Palatinate (Ministerium für Umwelt, Energie, Ernährung und Forsten des Landes Rheinland-Pfalz)
MULE	Ministry of Environment, Agriculture and Energy of Saxony-Anhalt (Ministerium für Umwelt, Landwirtschaft und Energie)
MWVLW	Ministry of Economy, Transport, Agriculture and Viticulture (Ministerium für Wirtschaft, Verkehr, Landwirtschaft und Weinbau)

NVOZustG	Act on Regulations and Responsibilities (<i>Niedersächsisches Gesetz über Verordnungen und Zuständigkeiten</i>)
OWiG	Act on Administrative Offences (<i>Gesetz über Ordnungswidrigkeiten</i>)
SMUL	Ministry of the Environment and Agriculture (Staatsministerium für Umwelt und Landwirtschaft)
TLL	Thuringian State Institute for Agriculture (Thüringer Landesanstalt für Landwirtschaft)
TMASGFF	Thuringian Ministry of Labour, Social Affairs, Health, Women and Family (Thüringer Ministerium für Arbeit, Soziales, Gesundheit, Frauen und Familie)
TMIL	Thuringian Ministry of Infrastructure and Agriculture (Thüringer Ministerium für Infrastruktur und Landwirtschaft)
ZustVO-SOG	Act on Regulation of Responsibility of Security (<i>Verordnung über Zuständigkeiten auf verschiedenen Gebieten der Gefahrenabwehr</i>)

BADEN WÜRTTEMBERG

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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FEDERAL STATE COMPETENT AUTHORITY

The highest Federal State authority for all GIs is the **Ministry of rural areas and consumer protection of Baden-Württemberg (Ministerium für Ländlichen Raum und Verbraucherschutz Baden-Württemberg — MLR)**.

The middle Federal State authorities for monitoring food, wines (including aromatised wines) and spirits are the Regional Councils of Freiburg, Karlsruhe, Stuttgart and Tübingen (Regierungspräsidien Freiburg, Karlsruhe, Stuttgart und Tübingen⁸⁸).

Lower administrative authorities of the counties in Baden-Württemberg, regarding wines (including aromatised wines), are assisted by wine inspectors of the **Chemical and Veterinary Examination authorities (Chemischen und Veterinäruntersuchungsämter — CVUA)** of Freiburg and Stuttgart under Article 31(3) of the Wine Act (*Weingesetz*).

ORGANISATION OF THE CONTROL SYSTEM

GIs may be used by any producer or processor, provided that the requirements of the relevant product specifications are met. In this regard, the Regierungspräsidium Karlsruhe is responsible for the controls on producers, and may delegate the task to private CBs. Information on the control system and the list of certified producers for each GI are available on its website⁸⁹.

⁸⁸ www.rp.baden-wuerttemberg.de.

⁸⁹ <https://rp.baden-wuerttemberg.de/Themen/Landwirtschaft/Seiten/Markenrecht.aspx>.

The results of the State's monitoring on GIs are published on a regular basis on the websites of the MLR⁹⁰ and the Chemical and Veterinary Examination authorities⁹¹.

Currently, the following private CBs are approved for controls on foodstuff GIs:

Lacon GmbH⁹²

QAL GmbH⁹³

ABCERT AG⁹⁴

ADIA — Zert Gesellschaft für Audit- und Zertifizierungsleistungen in der Agrar- und Ernährungswirtschaft mbH⁹⁵

Milchprüfring Baden-Württemberg — Gesellschaft für Dienstleistungen in der Milchwirtschaft mbH⁹⁶.

No CBs have been approved for wines and spirits GIs.

As regards supervision, according to a cascade organisation, the highest Federal State Authority supervises the middle Federal State authority, which supervises the lower Federal State authorities.

PERFORMANCE OF CONTROLS

As regards food and wine monitoring, risk-based controls are carried out in accordance with the general administrative framework for monitoring as described in the MANCP.

Baden-Württemberg is an active member of the **Länder Working Group (Länder Arbeitsgemeinschaft Gentechnik — LAG)**.

Verification of compliance with product specifications

The verification of compliance with product specifications before placing the products on the market is carried out by Regierungspräsidium Karlsruhe and through delegated CBs.

The responsibilities of the Regierungspräsidium Karlsruhe include the approval of accredited private CBs for GIs in Baden-Württemberg. Such accredited private CBs carry out controls on compliance with product specifications and act as product certification bodies. However, in specific cases, controls may be carried out by the Regierungspräsidium itself.

In order to uniform implementation of controls, the Regierungspräsidium makes control documentation available to approved CBs, including product specifications.

The Regierungspräsidium Karlsruhe has created checklists (forms) based on product specifications, general testing points for operational information and basic procedures for traceability, flow of goods, and labelling.

On the basis of these minimum test criteria, CBs prepare forms and guidelines for implementation of controls that are approved by the Regierungspräsidium Karlsruhe.

⁹⁰ <http://mlr.baden-wuerttemberg.de>.

⁹¹ www.ua-bw.de.

⁹² www.lacon-institut.com.

⁹³ www.qal-gmbh.de.

⁹⁴ <http://www.abcert.de/>.

⁹⁵ <http://www.adia-zert.de>.

⁹⁶ <https://www.milchpruefring.de/zertifizierung>.

Planned controls on product specifications are reported by the CBs to the Regierungspräsidium. Moreover, the CBs inform the Regierungspräsidium yearly on results of controls with an annual report.

Controls carried out by CBs are monitored by the Regierungspräsidium on a risk-oriented basis. Monitoring deals with 5-10 % of notified controls. Agency meetings are held, as a general rule, on an annual basis.

Before being placed on the market, quality or rated wines are assigned an official inspection number by the following institutes:

for Baden: the Freiburg State Wine Institute (Staatliches Weinbauinstitut Freiburg);
for Württemberg, the State Teaching and Testing Centre for Wine and Fruit Crops Weinsberg (Staatliche Lehr- und Versuchsanstalt für Wein und Obstbau).

Surveillance of the use of the name in the marketplace

According to the law, the lower administrative authorities are competent for surveillance of the use of names on the market in accordance with Article 38 of Regulation (EU) No 1151/2012.

The product specifications and characteristics of GIs are controlled within the general routine controls for foodstuffs and wines. These are random checks.

The CAs for surveillance of the market are listed in documents available online⁹⁷.

ADMINISTRATIVE SANCTIONS

The legal basis for administrative measures for foodstuffs is the Food and Feed Code (*Lebensmittel- und Futtermittelgesetzbuch*), and the Baden-Württemberg Implementing Act on the Food and Commodities Act (*Baden-Württembergische Ausführungsgesetz zum Lebensmittel- und Bedarfsgegenstandegesetz*). As regards wines, administrative measures are provided in the Wine Act.

⁹⁷ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

BAVARIA (BAYERN)

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FEDERAL STATE COMPETENT AUTHORITY

The **Bavarian State Institute for Agriculture (Bayerische Landesanstalt für Landwirtschaft — LfL)**, Institute for Food Economy and Markets, is the central CA for producers' GI controls in Bavaria.

The tasks of the LfL include the approval and supervision of private CBs that carry out the necessary checks on producers and processors.

For surveillance of the use of the name in the marketplace, the respective county administration authorities are responsible as the lower food inspection authorities. The coordination authority of the controls is the **Bavarian State Ministry for the Environment and Consumer Protection (Bayerisches Staatsministerium für Umwelt und Verbraucherschutz — BSUV)** for issues related to the State, and the district governments for issues regarding the district level.

ORGANISATION OF THE CONTROL SYSTEM

The LfL, Institute for Food Economy and Markets, provides information on the control system on its website.⁹⁸

GIs may be used by any producer or processor, provided that the requirements of the relevant product specifications are met. Controls on producers are carried out by delegated CBs.

The tasks of the LfL include the approval and monitoring of private CBs as well as adopting measures against non-compliant producers.

The LfL provides control documents (checklists, control concepts, etc.) to implement producer controls uniformly, including appropriate labelling by the inspection bodies.

At least once a year, a checkpoint meeting is held with all authorised CBs. In quarterly and annual reports, the CBs communicate all control data through the LfL interface of an internal database (DVGH). The LfL plans and accompanies controls for selected products.

A list of the controlled producers — but not the results of controls — is published on the LfL website (with the consent of the producers).

The CBs listed below are currently authorised to carry out controls on producers in the field of foodstuff GIs:

Lacon GmbH⁹⁹ (PDO, PGI and TSG)
QAL GmbH¹⁰⁰ (PDO, PGI)
ABCERT AG¹⁰¹ (PDO, PGI and TSG).

⁹⁸ <http://www.lfl.bayern.de/iem/herkunftsbezeichnungen/index.php>

⁹⁹ www.lacon-institut.com.

¹⁰⁰ www.qal-gmbh.de.

The CBs comply with the requirements of ISO/IEC 17065:2012. No CBs have been approved for wine and spirit GIs. The LfL is responsible for the supervision on producer controls.

PERFORMANCE OF CONTROLS

For foodstuff and wine GI monitoring, risk-based controls are carried out in accordance with the general administrative framework for monitoring as described in the MANCP.

Bavaria is an active member of the **Länder Working Group (Geoschutz — LAG)**. During recent meetings, uniform contributions were prepared for the MANCP and they are currently coordinated on a nationwide basis.

Verification of compliance with product specifications

The verification of compliance with product specifications is carried out by the approved CBs, which are provided with uniform control documents by the LfL (checklists). The checklists are created on the basis of the product specifications to be checked and also contain general checkpoints (e.g. for traceability, product stream analysis, labelling).

The on-site checks at producer level are risk based.

As far as wines are quality wines, an official inspection number must be given to them by the government before being placed on the market.

Surveillance of the use of the name in the marketplace

As regards foodstuffs GIs, the LfL and the **Bavarian State Office for Health and Food Safety (Bayerisches Landesamt für Gesundheit und Lebensmittelsicherheit — LGL)** are the higher state control authorities for surveillance in the marketplace.

The *Kreisverwaltungsbehörden* (county administrative boards) are the lower state control authorities competent for market controls pursuant to the **Food Specialties Act (Lebensmittelspezialitätengesetz — LSpG)**.

For this purpose, they can make use of their right of access and take samples, in accordance with the **German Trade Mark Act (Markengesetz — MarkenG)**¹⁰², as well as on the basis of the German Commercial Code. If the conditions of Article 13(1) of Regulation (EU) No 1151/2012 are not met, such authority may forbid the placement on the market in accordance with Article 13(3) Regulation (EU) No 1151/2012 or Article 39 of the German Commercial Code.

A risk based approach on market controls is coordinated by the LGL. The approach includes a risk categorisation for each product based on five headings: market relevance, ease of counterfeiting, economical gain in the event of counterfeiting, probability of detection and inspection history of the operator. This leads to three risk categorisations; low, medium, and high risk.

As regards market controls on aromatised wines and spirits, the county administrative authorities are the responsible monitoring authorities pursuant to Article 21 (1) GDVG (Bavarian public health service and consumer protection law).

¹⁰¹ <http://www.abcert.de/>.

¹⁰² Article 134 of the MarkenG.

The BSUV and the district governments are in charge of supervision of the surveillance of GIs in the marketplace.

The complete and updated list of CAs for surveillance of the use of the product in the marketplace is reported in documents available online¹⁰³.

ADMINISTRATIVE SANCTIONS

If breaches of product specifications and labelling requirements are found, the LfL may adopt measures at various stages, including the prohibition of marketing of the non-compliant product.

There are currently no specific rules regarding sanctions (in terms of Article 55 of Regulation (EC) No 882/2004) for violations of Regulation (EU) No 1151/2012. The LfL's list of measures was being revised including, regarding the various infringements, determination of the measures issued by the CBs as well as the CA. If measures in accordance with Article 54 of Regulation (EC) No 882/2004 need to be taken, the CA has exclusive competence.

¹⁰³ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

BRANDENBURG

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The central CA for foodstuffs and wine GIs in Brandenburg is the **Ministry of Rural Development, Environment and Agriculture of the Federal State of Brandenburg (Ministerium für ländliche Entwicklung, Umwelt und Landwirtschaft — MRDEA)**.

As regards spirits, the central CA is the **Ministry of Justice and for Europe and Consumer Protection of the State of Brandenburg (Ministerium der Justiz und für Europa und Verbraucherschutz des Landes Brandenburg — MdJEV)**.

ORGANISATION OF THE CONTROL SYSTEM

Inspections of producers in the field of foodstuff GIs are carried out by the following CB:

Lacon GmbH.

No CBs have been approved for wine and spirit GIs.

PERFORMANCE OF CONTROLS

Surveillance of the use of the name in the marketplace

The main CA for controls on the market of foodstuff GIs is the **Land Office for Rural Development, Agriculture and Land Reform (Landesamt für Ländliche Entwicklung, Landwirtschaft und Flurneuordnung — LELF)**.

For wine and spirit GIs, the CAs are the Veterinary and food monitoring offices.¹⁰⁴

The complete list of CAs for surveillance of the use of the name in the marketplace is given in documents available online¹⁰⁵.

¹⁰⁴ <https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

¹⁰⁵ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

BREMEN

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The central CA for GIs for all sectors is the **Food Surveillance, Animal Protection and Veterinary Service of the State of Bremen (Lebensmittelüberwachungs-, Tierschutz- und Veterinärdienst des Landes Bremen — LMTVET)**.

The **State Authority for Chemistry, Hygiene and Veterinary Medicine (Landesuntersuchungsamt für Chemie, Hygiene und Veterinärmedizin — LUA)** also has control competences with regard to agricultural GIs.

ORGANISATION OF THE CONTROL SYSTEM

There are no approved CBs in Bremen.

PERFORMANCE OF CONTROLS

Verification of compliance with product specifications

For wines, a risk-based surveillance is conducted including through sampling, by the Regional Inspection Office for Chemistry, Hygiene and Veterinary Medicine. Amongst others, this leads to the verification of product specifications before placing the product on the market.

Surveillance of the use of the name in the marketplace

The main CA for surveillance of the use of the name in the marketplace of foodstuff GIs is the Senator für Gesundheit¹⁰⁶.

For spirits, the main CAs are the Veterinary and food monitoring offices.

The complete and updated list of CAs for surveillance of the use of the name in the marketplace is included in documents available online¹⁰⁷.

¹⁰⁶ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf.

¹⁰⁷ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

HESSE (HESSEN)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The highest Federal State authority is the Hessian Ministry for the Environment, Climate Protection, Agriculture and Consumer Protection (Hessisches Ministerium für Umwelt, Klimaschutz, Landwirtschaft und Verbraucherschutz).

The intermediate Federal State authority responsible for wine GIs is the Regional Council of Darmstadt (Regierungspräsidium Darmstadt).

The intermediate Federal State authority for foodstuffs and spirits GIs is the Regional Council of Gießen (Regierungspräsidium Gießen).

ORGANISATION OF THE CONTROL SYSTEM

In Hesse, there are no approved CBs. Controls are conducted by the responsible state authorities.

PERFORMANCE OF CONTROLS

Verification of compliance with product specifications

Producers in Hesse are controlled on an annual basis.

Controls in the wine sector are carried out through the application procedure for an official approval number (AP-Nr.). Documentation is controlled on-site at producers' establishments. Controls are jointly conducted by the Department of Viticulture (Dezernat Weinbau) and the Department of Agriculture (Abteilung Landwirtschaft of Hessischen Umweltministeriums).

Surveillance of the use of the name in the marketplace

No relevant information was available on procedures.

The CAs for surveillance of use of the name in the marketplace are listed in documents available online¹⁰⁸.

ADMINISTRATIVE SANCTIONS

For wines, administrative sanctions include withdrawal and recall of the products from the market. Provided that the relevant prerequisites are met, the CAs may order that the public be informed about any detected non-compliance, as well as the destruction of the products.

¹⁰⁸ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

As regards foodstuffs, measures in accordance with the MarkenG and Food Law Regulations apply (please see the national report on Germany).

LOWER SAXONY (NIEDERSACHSEN)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The central CA is the Ministry of Food, Agriculture and Consumer Protection (Niedersächsisches Ministerium für Ernährung, Landwirtschaft und Verbraucherschutz).

The counties, cities and the Hanover region are considered as CAs for:

agricultural products and foodstuffs, pursuant to Article 134(1) of the MarkenG in connection with Article 1(1), No 20, of the **Act on General responsibility of municipalities and counties for the implementation of federal law** (*Allgemeine Zuständigkeitsverordnung für die Gemeinden und Landkreise zur Ausführung von Bundesrecht — AllgZustVO-Kom*);

wines, spirits and aromatised wines in accordance with Article 2(1), Nos 5 and 7 of the **Act on Regulation of responsibility of security** (*Verordnung über Zuständigkeiten auf verschiedenen Gebieten der Gefahrenabwehr — ZustVO-SO*).

The **Lower Saxony State Office for Consumer Protection and Food Safety** (Niedersächsische Landesamt für Verbraucherschutz und Lebensmittelsicherheit — LAVES) is responsible for the examination of samples taken pursuant to Article 10 of the **Act on Regulations and Responsibilities** (*Niedersächsisches Gesetz über Verordnungen und Zuständigkeiten — NVOZustG*).

ORGANISATION OF THE CONTROL SYSTEM

The counties, cities and the region of Hanover are responsible for implementing the relevant federal law.

The responsibility covers both controls in the production phase as well as controls of products already on the market.

As regards the examination of product samples, the municipal authorities are assisted by the LAVES.

There are no private CBs in Lower Saxony.

PERFORMANCE OF CONTROLS

Controls are carried out in accordance with the general administrative framework for monitoring as described in the Multi-annual National Control Plan (MANCP).

Lower Saxony is an active member of the *Länder* Working Group (LAG). In the course of recent meetings, uniform contributions were prepared for the MANCP and are currently co-ordinated on a nationwide basis.

Verification of compliance with product specifications

The central CA has provided unified forms to the CAs for implementing controls ¹⁰⁹.

In addition, before placing the GI products on the market, producers must ensure that they have been checked by the relevant CA in accordance with Articles 37 and 46 of Regulation (EU) No 1151/2012 and that they have been registered with the CA.

In accordance with Regulation (EU) No 1151/2012, the CAs should have checked all registered producers within 3 years following the entry into force of the Regulation (i.e. by the end of 2015). Further control cycles will take place on a 3-year basis, taking into account the results of the first inspection and the mitigated risks.

The CAs carry out the inspections on the basis of their own risk assessments. The results of the inspections are presented annually to the central authority in a summarised form.

Surveillance of the use of the name in the marketplace

The planning and implementation of the market controls is carried out within the framework of other food laws within the jurisdiction of the counties, cities and the region of Hanover. Any findings are communicated to the central authority as part of the reporting on other food-related monitoring.

The planning is based on a risk assessment and is specific to each GI. Common criteria are the following:

production volumes;
irregularities from previous years;
specific risk factors for each GI (e.g. for meat products, the number of animals that have been slaughtered by the provider of raw materials).

For wines, spirits and aromatised wines, the planning and implementation of the controls is carried out in connection with the control on foodstuffs by the local authorities. If necessary, the wine experts of the LAVES are consulted.

The CAs for surveillance of the use of the name in the marketplace are listed in documents available online ¹¹⁰.

¹¹⁰ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

RHINELAND-PALATINATE (*RHEINLAND-PFALZ*)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The central authority for foodstuff and wine GIs in Rhineland-Palatinate is the **Ministry of Economy, Transport, Agriculture and Viticulture**¹¹¹ (**Ministerium für Wirtschaft, Verkehr, Landwirtschaft und Weinbau — MWVLW**).

As regards spirits, the State central authority is the **Ministry of Environment, Energy, Nutrition and Forests of Rhineland-Palatinate**¹¹² (**Ministerium für Umwelt, Energie, Ernährung und Forsten des Landes Rheinland-Pfalz — MUEEF**).

ORGANISATION OF THE CONTROL SYSTEM

There are no private CBs in Rhineland-Palatinate.

PERFORMANCE OF CONTROLS

Verification of compliance with product specifications

Controls on GIs are part of the official controls on foodstuffs. Controls and sampling are conducted in accordance with Regulation (EC) No 882/2004 and the general administrative rules of the quality management system for foodstuff controls that are reflected in the Quality Management Handbook, administrative instructions and procedural instructions.

Producers in Rhineland-Palatinate that are subject to official controls are controlled through systematic sampling and risk-oriented procedures.

Surveillance of the use of the name in the marketplace

No relevant information was available on procedures. The CAs for surveillance of the use of the name in the marketplace are listed in documents available online¹¹³.

¹¹¹ <https://mwvlw.rlp.de/de/startseite/>.

¹¹² <https://mueef.rlp.de/de/startseite/>.

¹¹³ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

ADMINISTRATIVE SANCTIONS

Depending on the severity of the infringement, the responsible authorities on-site may apply the following measures within the official controls for foodstuffs:

administrative offence procedures may be carried out in accordance with the **Act on Administrative Offences (*Gesetz über Ordnungswidrigkeiten — OWiG*)**¹¹⁴; which may include a hearing, instructions, opposition and court proceedings;
warning, potentially with a fine¹¹⁵;
official notification and transfer to the public prosecutor in cases of suspicion of criminal behaviour¹¹⁶;
closure of production site, prohibition of further production¹¹⁷.

¹¹⁴ https://www.gesetze-im-internet.de/owig_1968/OWiG.pdf.

¹¹⁵ Article 56 of the OWiG.

¹¹⁶ Articles 58 and 59 of the Act on Foodstuffs, commodities and feedstuffs (*Lebensmittel-, Bedarfsgegenstände- und Futtermittelgesetzbuch LFGB*).

¹¹⁷ Article 39 of the LFGB.

SAXONY (SACHSEN)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The **Ministry of the Environment and Agriculture (Staatsministerium für Umwelt und Landwirtschaft — SMUL)** is the central CA and supervisory authority responsible for controls on GIs in all sectors.

The **Land Office for Environment, Agriculture and Geology (Landesamt für Umwelt, Landwirtschaft und Geologie — LfULG)** is the CA that is the highest regional authority in accordance with Regulation (EC) No 882/2004 for foodstuffs.

Organisation of control system

Two CBs have been delegated to control foodstuff GIs:

Lacon GmbH

LKS –Landwirtschaftliche Kommunikations- und Servicegesellschaft mbH¹¹⁸.

These two private CBs are approved by the LfULG in Saxony for carrying out GI producer inspections in accordance with Regulation (EU) No 1151/2012.

The LfULG supervises the inspection bodies and monitors their work.

There are no CBs for wine and spirit GIs.

PERFORMANCE OF CONTROLS

The LfULG, as the CA, establishes the control priorities annually, drawing up the guidelines for official controls and the work of the CB.

Verification of compliance with product specifications

The main activities carried out within the control activities in order to verify compliance with product specifications are:

- inspection of facilities, including their surroundings, premises and offices;
- transport and storage facilities;
- cleanliness conditions;
- inspection of raw materials, ingredients and other materials that are or must be related to the product quality as well as to processing and storage of the latter;
- examination of records, procedures and other written documents;
- checking the presentation of the GI products and/or the use of the relevant logo.

¹¹⁸ <http://www.lks-mbh.com/zertifizierung/>.

Surveillance of the use of the name in the marketplace

The LfULG carries out controls on marketing facilities to comply with Regulation (EU) No 1151/2012. For this purpose, sample tests are carried out on a risk-analysis basis in selected marketing facilities, without prior warning.

Selection of the products to be tested is determined according to a risk and relevance analysis and includes GI-protected products from Germany, other EU Member States as well as third countries, as long as the products are of relevance for the Saxony market. In cases of notification of third parties regarding a possible breach of Regulation (EU) No 1151/2012, the LfULG directly examines the facts and takes action if necessary.

The CAs in charge of market controls are listed in documents available online ¹¹⁹.

ADMINISTRATIVE SANCTIONS

In cases of minor infringements, an appropriate period will be set to remedy the non-compliance, and this will then be controlled by means of a follow-up check, to see whether it has been remedied.

In cases of major infringements, the marketing of GI products is prohibited until the non-compliance has been remedied. After verification that the non-compliance has been remedied, the marketing of the GI product is allowed.

Where criminal prosecution of an infringement appears necessary, the LfULG informs the competent Saxony police authorities, who will decide on further measures for the case.

¹¹⁹ http://ec.europa.eu/agriculture/quality/schemes/compliance-authorities_en.pdf; <http://www.gesunde.sachsen.de/6867.html>.

SAXONY-ANHALT (SACHSEN-ANHALT)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The **Ministry of Environment, Agriculture and Energy of Saxony-Anhalt (Ministerium für Umwelt, Landwirtschaft und Energie — MULE)** is the supreme supervisory authority for the protection of agri-food GIs. The task is located in Division 6 (Agriculture, Genetic, Engineering, Education and Veterinary Division) and in Unit 61 (General and Legal Affairs the Department, Agricultural Marketing).

The Law on the Change of Responsibilities in Agriculture, Forestry and the Environment of 18 December 2012 has given to the **Federal Office of Administration of Saxony-Anhalt (Landesverwaltungsamt Sachsen-Anhalt — LVwA)** the task of supervising the implementation of Regulation (EU) No 1151/2012 on foodstuff GIs.

It is therefore the responsibility of this office to monitor compliance with product specifications by producers, as well as to provide technical supervision of verifications conducted on GI products by the counties.

As regards wine and spirit GIs, the State CA is the **Ministry of Labour and Social Affairs of Saxony-Anhalt (Ministerium für Arbeit und Soziales Sachsen-Anhalt — MS)**.

ORGANISATION OF CONTROL SYSTEM

Controls on foodstuff GIs have been delegated to three CBs:

Lacon GmbH;
LKS — Landwirtschaftliche Kommunikations- und Servicegesellschaft mbH;
ABCERT AG.

There are no CBs for wines and spirits.

PERFORMANCE OF CONTROLS

Verification of compliance with product specifications

Verification of compliance with product specifications (at producer level) is carried out by private CBs in Saxony-Anhalt.

Authorisation of the CBs is regulated by the Control Authority Approval Regulation, that is to say, the 'Regulatory Authority for the Registration of Private Inspection Bodies for the Protection of Geographical Indications and Designations of Origin for Agricultural Products and Foods and Guaranteed Traditional Specialties in Saxony-Anhalt' Act, dated 10 June 2014.

Supervision is carried out by the Federal Office of Administration as the responsible control authority.

Verification is carried out on a continuous basis and is documented in the form of an annual report.

Surveillance of the use of the name in the marketplace

Market controls are risk oriented at all stages of marketing and are partly coordinated with controls on food safety. They are set throughout the year by the counties and cities, and are documented at the end of the year in the form of a report to the Federal Office of Administration.

The main focus of the controls on the market from 2017 to 2021 will be GI products from Germany as well as from other EU countries.

The CAs in charge of market controls are listed in documents available online¹²⁰.

¹²⁰ http://ec.europa.eu/agriculture/quality/schemes/compliance-authorities_en.pdf ; <http://www.gesunde.sachsen.de/6867.html>.

SCHLESWIG-HOLSTEIN

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The State CA responsible for controlling GIs of all sectors is the **State Laboratory Schleswig-Holstein (Landeslabor Schleswig-Holstein — LSH)**¹²¹.

LSH's activity is supervised by the **Ministry of Justice, European Affairs, Consumer Protection and Equality of Schleswig-Holstein (Ministerium für Justiz, Europa, Verbraucherschutz und Gleichstellung des Landes Schleswig-Holstein — (MJEVG)**

ORGANISATION OF THE CONTROL SYSTEM

There are currently no delegated CBs.

PERFORMANCE OF CONTROLS

There are annual controls and follow-up verifications based on need, in cases of complaints.

The controls are carried out systematically and on a yearly basis.

For GIs with up to ten producers, a control for each GI product is carried out each year until all producers have been controlled at least once within a ten-year control plan. Exceptions are foreseen in the case of inspections based on complaints. For products with more than ten producers, two to three controls per year for each GI product are carried out until all producers have been controlled at least once within a ten-year control plan.

Controls are carried out without prior warning.

Verification of compliance with product specifications

The LSH conducts verifications of compliance with product specifications at the producers' sites.

All establishments in Schleswig-Holstein producing products protected by a GI are controlled at least once a year. For on-site controls, compliance with the specifications is ensured by means of documentary verification and, where appropriate, physical checks. If necessary, a process control is also carried out. If deficiencies are detected, follow-up controls will be carried out.

The control reports include:

verification of compliance with the product specifications: this part differs for each product and reproduces the contents of the related product specifications;
control of the EU label (the same for all products).

¹²¹ Regional ordinance for the transfer of authorisations and the determination of competent bodies according to the MarkenG and the LSpG of 10 February 2010.

Infringements are recorded and communicated to the producer, which must provide written acknowledgment. A copy of the control report will be handed over upon request. A sensory test is carried out if this is necessary according to product specifications. Analytical tests are not performed.

Division 4 (Consumer Protection) of the MJEVG is responsible for controls in the wine sector. However, the MJEVG does not carry out controls, as there are currently no wines, spirits or aromatised wines registered as GIs in Schleswig-Holstein.

Surveillance of the use of the name in the marketplace

The CAs for surveillance of the use of the name in the marketplace are listed in documents available online¹²².

Each year, all companies that market a GI product produced in Schleswig-Holstein are controlled. Appropriate follow-up controls are carried out in cases of complaints.

Controls on GIs from third countries are currently being carried out within the framework of the inspection of wine imports.

¹²² https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

THURINGIA (THÜRINGEN)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FEDERAL STATE COMPETENT AUTHORITY

The State Central Authority for foodstuff GIs is the **Thuringian Ministry of Infrastructure and Agriculture**¹²³ (**Thüringer Ministerium für Infrastruktur und Landwirtschaft — TMIL**)¹²⁴, while for wines and spirits the State Central Authority is the **Thuringian Ministry of Labour, Social Affairs, Health, Women and Family** (**Thüringer Ministerium für Arbeit, Soziales, Gesundheit, Frauen und Familie — TMASGFF**).

The CA responsible for carrying out controls on GIs of all sectors is the **Thuringian State Institute for Agriculture** (**Thüringer Landesanstalt für Landwirtschaft — TLL**).

To perform its tasks, the TLL receives administrative assistance through food monitoring of the counties and the cities.

ORGANISATION OF THE CONTROL SYSTEM

There are currently no approved CBs.

PERFORMANCE OF CONTROLS

Each producer is controlled once or twice a year, depending on production volumes.

Up to now, the market controls have been based on the controls on food monitoring without prioritisation.

Thuringia-based companies that use a registered GI are registered in the TLL Market Monitoring and Legal Department. The registration process is subject to regular controls.

Verification of compliance with product specifications

Food Business Operators (FBOs) wishing to produce products protected as a GI must first conclude a public inspection contract with the competent control authority, TLL. A first control is then conducted to check whether the requirements of the product specifications are met. If this is the case, the product may be classified as a GI and bear the relevant certification. All potential producers are registered by the TLL, and they are aware that the registered name may only be used if the producer complies with product specifications and the control system.

A private laboratory at the TLL is used to analyse the products in order to check whether they comply with requirements related to the content of certain ingredients.

¹²³ <https://www.thueringen.de/th9/tmil/>.

¹²⁴ Article 134(1) of the MarkenG.

Surveillance of the use of the name in the marketplace

The CAs for surveillance of the use of the name in the marketplace are listed in documents available online¹²⁵.

ADMINISTRATIVE SANCTIONS

In cases of infringements of the product specification requirements, or labelling requirements in accordance with the public-law control contract, the authorities may request that the non-compliance be remedied within a certain time limit. If the non-compliance is not remedied, the CA will withdraw the right to market the product under the registered GI.

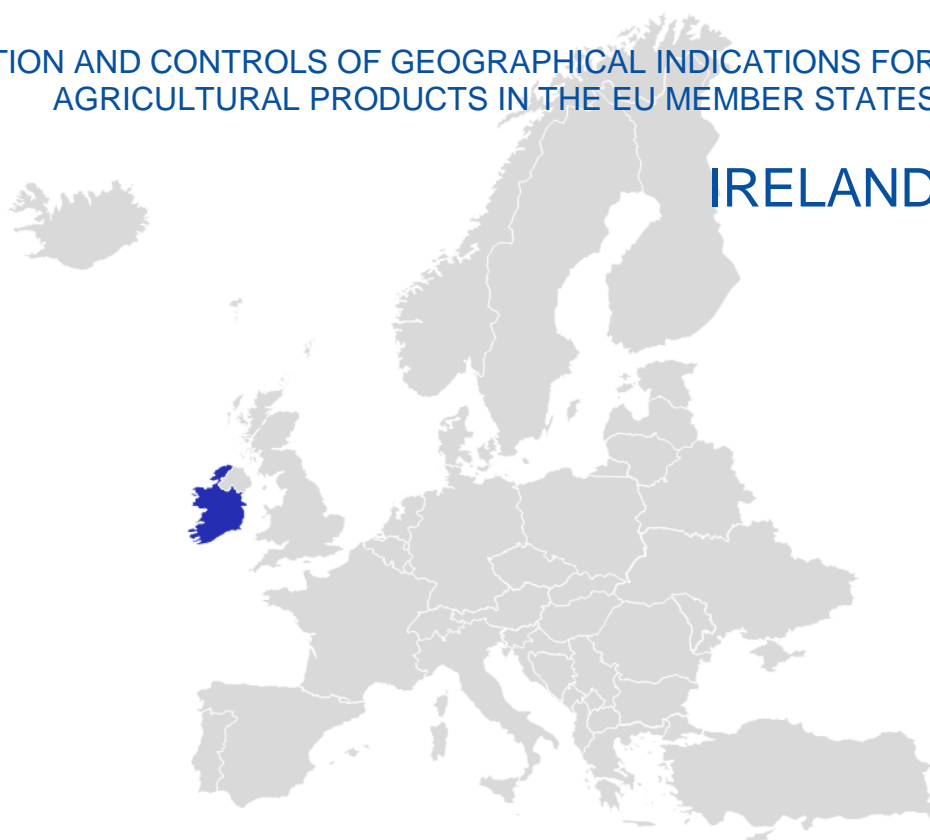
If infringements are found in the context of market inspections concerning producers from other Federal States, the relevant communication thereof is passed to the competent State authorities. In Thuringia, the CA will also keep up with the latest information from other Federal States concerning Thuringia producers.

Since coordination with other EU Member States is the responsibility of the Confederation, corresponding findings of infringements affecting producers of other EU Member States will be communicated by the *Länder* to the Confederation.

¹²⁵ https://ec.europa.eu/agriculture/sites/agriculture/files/quality/schemes/compliance-authorities_en.pdf;
<https://ec.europa.eu/agriculture/sites/agriculture/files/wine/lists/21.pdf>.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
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IRELAND



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AI	Agricultural Inspectorate
BIP	Border Inspection Post
DAFM	Department of Agriculture, Food and the Marine
FSAI	Food Safety Authority of Ireland
FSLs	Food Safety Laboratory Service
HMRC	Her Majesty's Revenue and Customs
HSE	Health Service Executive
INAB	Irish National Accreditation Board
OFMLs	Official Food Microbiology Laboratories
PALs	Public Analyst Laboratories
SFPA	Sea-Fisheries Protection Authority

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

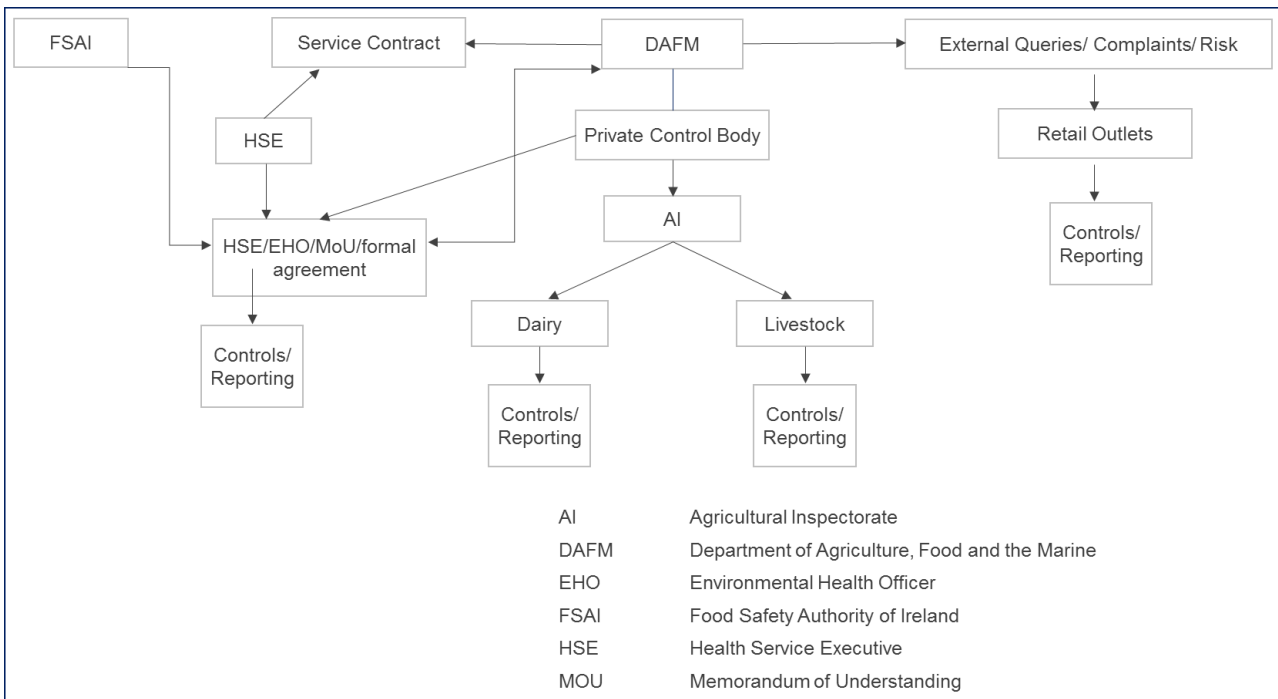
1.1 CENTRAL AUTHORITIES

In Ireland, the system for control on food quality is composed of a national central authority responsible for ensuring protection of GIs, implementation of quality policy for foodstuffs and compliance with regulation.

1.2 GENERAL STRUCTURE OF THE SYSTEM

As regards agricultural products and foodstuffs, the **Department of Agriculture, Food and the Marine (DAFM)**, through the Food Industry Development Division and in association with the **Agricultural Inspectorate (AI)**, is the CA responsible for the negotiation, incorporation into national law and enforcement of legislation for quality labelling.

The organisation chart below shows the structure of the system of controls on agricultural products and foodstuffs in Ireland¹²⁶.



¹²⁶ Source: DG (SANTÉ) 2016/8957, p. 61.

As regards the competences of the different entities:

DAFM is responsible for providing guidelines and for giving advice on any matter concerning the implementation of relevant product specifications related to compliance duties and regulation;

Food Safety Authority of Ireland (FSAI) is a statutory independent science-based body responsible for determining measures to address cases of non-compliance;

Health Service Executive (HSE), providing public health and protection in the area of food safety and hygiene. The HSE is connected to the FSAI through a Service Contract¹²⁷ as the executor of actions and measures drafted by the FSAI;

Revenue Commissioners, which is the Irish Government agency responsible for customs, excise, taxation and related matters, is responsible for verification of compliance with the product specifications for wines and foodstuffs.

As regards spirits produced in Northern Ireland, **Her Majesty's Revenue and Customs (HMRC)**, the United Kingdom tax, payments and customs authority, is responsible for verifying the requirements set out in the product specifications under the Spirit Drinks Verification Scheme.

Official controls, related to each single GI, are allocated across CAs as follows.

Spirit drinks

The Revenue Commissioners and FSAI/HSE undertake verification visits for 'Irish Poitín' and 'Irish Whiskey'.

The DAFM Dairy Inspectorate performs controls on 'Irish Cream'.

Foodstuff and wine products

The HSE carries out controls on the PGI Waterford Blaa, the PDO Oriel Sea Minerals and the PDO Oriel Sea Salt.

The DAFM Dairy Inspectorate performs controls on the PDO Imokilly Regato.

The DAFM Integrated Controls Division carries out controls on the PGI Connemara Hill Lamb.

The DAFM is the CA for controls on the PGI Clare Island Salmon and PGI Timoleague Brown Pudding¹²⁸.

Although there is no wine registered as a GI, Ireland has legislation on the labelling, presentation and marketing of quality schemes for wines, implementing the relevant EU regulations on GIs.

Legal status and powers of staff of Competent Authorities

Under Statutory Instrument No 316/2015¹²⁹ (European Communities (Spirits Drinks) Regulations 2015), all staff executing controls on GI spirit drinks can act as authorised officers.

The European Communities (Spirits Drinks) Regulations 2015 identify the 'authorised officers' in charge, inter alia, of control tasks. Officers can be appointed either by the Minister for Agriculture, Food and the Marine, the HSE, or by Revenue Commissioners.

In general, according to the new control system on spirits, authorised officers have the powers¹³⁰ to, inter

¹²⁷ Further information is available at <https://www.fsai.ie>.

¹²⁸ Source: EU DOOR Database (<http://ec.europa.eu/agriculture/quality/door/list.html?locale=en>).

¹²⁹ <https://www.agriculture.gov.ie/media/migration/legislation/statutoryinstruments2015/SI3162015310715.pdf> (as amended by Statutory Instrument No 468/2015). This is the regulation on the three protected spirit drinks.

¹³⁰ The legal framework of the verification scope is provided by the Regulation on spirits, Article 11.

alia:

enter and inspect at all reasonable times any premises for the purpose of checking compliance;
require the name and address of the owner, operator or person in possession or control of equipment, machinery, a vehicle, a vessel or anything otherwise related to the product;
require details of the place of departure, journey or destination of spirit drinks, derived and ancillary products or anything otherwise related to the product;
inspect equipment, machinery, a vehicle, a vessel or anything otherwise used in connection with spirit drinks;
require the operator to produce such records as the officer may reasonably require;
inspect and take copies of any record or document;
take, without making a payment, samples of spirit drinks, ancillary or other product, to carry out tests, analyses, examinations or inspections.

As regards foodstuffs, authorised officers are appointed by the Minister for Agriculture, Food and Marine or by the Chief Executive of the HSE, in accordance with Statutory Instrument No 296/2015, European Union (Quality Schemes for Agricultural Products and Foodstuffs) Regulations 2015 ('Regulation on food').

As regards wines, authorised officers are appointed in accordance with Article 15 of Statutory Instrument No 507/2010, European Communities (Labelling, Presentation and Marketing of Wines) Regulations 2010 ('Regulation on wines').

The powers of authorised officers are overall similar to those established for controls on spirits¹³¹.

Capacity of laboratories

Official laboratories are in charge of executing any sort of analysis and are managed either by government departments, the HSE or even by private entities.

In particular, the **Food Safety Laboratory Service (FSLs)** of the HSE manages a network of laboratories including:

three regional Public Analyst Laboratories (PALs), responsible for the physical/chemical analysis of food and food-related samples;

six official Food Microbiology Laboratories (OFMLs), responsible for the microbiological testing of foodstuffs (it is to note that the Dublin PAL is considered to be a seventh OFML, as it performs microbiological testing). Laboratories are accredited in accordance with ISO 17025.

Each of the nine laboratories has local management structures in place. The State Laboratory provides capacity as required.

1.3 CONTROL BODIES

No CBs have been delegated for official controls in Ireland.

1.4 ACCREDITATION BODY

The **Irish National Accreditation Board (INAB)** is the national body responsible for the accreditation of

¹³¹ The legal framework of the verification scope is provided by the Regulation on food, Article 16.

laboratories, certification bodies and inspection bodies. It provides accreditation in accordance with the relevant ISO 17000 series of standards and guides.

INAB functions include:

accreditation of Testing and Calibration Laboratories in accordance with ISO 17025 and ISO 15189;
accreditation of CBs in accordance with ISO 17065;
accreditation of Inspection Bodies in accordance with ISO 17020.

In January 2010, the European Commission was notified by the Department of Enterprise, Trade and Employment (now the Department of Jobs, Enterprise and Innovation — DJEI) that the INAB is the sole accreditation body for Ireland in line with Regulation (EC) No 765/2008.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

As highlighted by DG SANTE¹³², Section 48(9) of the FSAI Act 1998, as amended by the British Irish Agreement Act 1999, states that: 'The Authority shall take such measures as it considers appropriate to determine whether an official agency is adequately carrying out its functions under a service contract.' All CAs must submit detailed reports concerning the executed checks to the FSAI. Annual meetings between the FSAI and each CA (to be scheduled in line with the service contract agreement between the entities) may concern the review of the work executed by CAs.

At regional level, the DAFM implements a set of verifications and means of supervision that can vary by each sector concerned. Typical supervising activities consist of: 1) regular checks on scheduled deadlines; 2) annual appraisals run by inspectors/officers; 3) regional coordination meetings; 4) other checks aimed to verify completion of the assignments.

At a central level, the DAFM visits each **Border Inspection Post (BIP)** twice a year, in order to assess the application of import requirements. In the area of official controls on food, all CAs are also subject to external audits by the FSAI, which provides an additional level of assurance regarding the quality of official controls.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Such measures refer to the general rules regarding conflicts of interests. In this regard, every year governmental officers must fill in and sign a form stating compliance with the general rules.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

In addition to other authorised officers, officers of the Ireland's National Police Service (An Garda Síochána) can be entitled to perform controls¹³³.

¹³² DG (SANTE) 2016-8834 – MR 'Final report of an audit carried out in Ireland from 28 November to 2 December 2016 to evaluate the system put in place to implement Article 4(6) of Regulation (EC) No 882/2004 (National Audit System)'.

¹³³ Article 10 of the Regulations on spirits; Article 15 of the Regulation on food; Article 2 of the Regulation on wines.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

When considering foodstuffs, the inspections plan is reported in the Irish **Multi-Annual National Control Plan (MANCP)**¹³⁴. GI food producers are required to be available for inspection, generally on an annual basis. Annual inspections are scheduled using a combination of risk analysis and random checks. The same inspections are also scheduled for the wine sector. Likewise, all spirit drinks GI producers and bottlers are required to undergo an annual inspection.

2.1.2 *Verification of compliance with product specifications*

Spirits

Pursuant to the new control system established in 2016, inspection history and past non-compliance are evaluated. The product is checked according to the relevant product specifications and horizontal regulations, including controls on labelling.

Requirements for Irish spirit drinks covered by a GI are set out in the product specifications prepared by the DAFM and registered with the European Commission, as submitted by the Department, following consultation with UK counterparts as GI protection is implemented on an all-island basis.

When focusing on 'Irish Whiskey' and on 'Irish Poteen', the verification of compliance with product specifications is undertaken by the Revenue Commissioners. Inspectors verify that the production premises comply with the requirements set out in the product specifications, by performing on-site visits and checking all production processes. To this end, inspectors use specific checklists that are also available online¹³⁵. Following the first round of inspections, the list of 'Irish Whiskey' and 'Irish Poteen' premises verified in 2016 was published on the DAFM website¹³⁶.

Furthermore, the DAFM — as CA for the definition, description, presentation, labelling and the protection of GIs for spirit drinks — invited brand owners to apply to have their brands approved, and now intends to establish and publish a list of verified 'Irish Whiskey' and 'Irish Poteen' brands¹³⁷.

The verification programme for 'Irish Cream' is undertaken by the DAFM itself through specific checklists¹³⁸.

Irish production plants that plan to start the production of 'Irish Cream' must undergo DAFM verification, including an inspection visit by DAFM officials to the production plant, before starting production.

¹³⁴ Food GI inspections are reported under Section 48(8) of the MANCP.

¹³⁵ <http://www.revenue.ie/en/companies-and-charities/documents/excise/whiskey-verification-checks.pdf>; <http://www.revenue.ie/en/companies-and-charities/documents/excise/poteen-verification-checks.pdf>.

¹³⁶ <https://www.agriculture.gov.ie/media/migration/foodindustrydevelopmenttrademarkets/geographicalindicationsprotectednames/drinks/IrishWhiskeyVerifications250417.xlsx>.

¹³⁷ <https://www.agriculture.gov.ie/gi/geographicalindications-protectedspiritnames/>.

¹³⁸ <https://www.agriculture.gov.ie/media/migration/foodindustrydevelopmenttrademarkets/geographicalindicationsprotectednames/ChecklistIrishCreamFinal091215.pdf>.

Inspections of bottling and labelling in Ireland should include representative samples of labels in hard copy and/or in electronic form for all brands. Copies of these labels must be forwarded to the FSAI by the DAFM.

Foodstuff products

GI products are controlled in accordance with the relevant product specification and horizontal regulations, including labelling.

Agricultural inspectors carry out inspections at dairies, slaughterhouses, meat plants and other production/processing establishments and carry out controls in order to ensure that the production process complies with the product specifications for Imokilly Regato (PDO) and Connemara Hill Lamb (PGI) as registered at EU level.

The DAFM is also in charge of controls in relation to Clare Island Salmon (PGI) and Timoleague Brown Pudding (PGI).

The HSE is responsible for official controls in specific production/processing establishments and carries out controls to ensure that the production process complies with the product specifications for Waterford Blaa (PGI) as registered at EU level.

Moreover, the HSE is also responsible for official controls in relation to Oriel Sea Minerals (PDO) and Oriel Sea Salt (PDO).

A past records database is in place and available in the Food Industry Development Division of DAFM. Procedures include post-check reporting.

Wine

As regards wine, there is no information available on controls, as no wine GIs have currently been registered in Ireland.

2.2 CONTROLS ON THE MARKET

Wine labelling marketplace surveys are carried out.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Spirits

There are three administrative officials (part-time) at the DAFM involved in controls. In addition, specialised staff can be assigned if required. Training is available and provided as required, including participation of staff in **EU Better Training for Safer Food (BTSF)** programmes.

Foodstuffs

Four administrative staff of DAFM are allocated to controls (part-time). Additional specialised staff can be assigned as deemed necessary. Training is available as required, including participation of staff in BTSF training programmes.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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Results of the inspection and control activities are not published. However, records are available when requested by CAs.

The MANCP is published on both the DAFM and FSAI websites. The FSAI website also provides access to Service Contracts, relevant food legislation, monitoring activities and strategy and enforcement actions, including names and addresses of **Food Business Operators (FBOs)** against whom action has been taken. The **Sea-Fisheries Protection Authority (SFPA)** and the HSE websites also include information relating to their activities in the food safety area.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Ireland also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between **Member States**. The national contact points for the FFN system are the FSAI and the Deputy Chief Veterinary Officer of the DAFM.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

Foodstuffs and spirits

The legal framework for administrative sanctions is provided by the respective regulations¹³⁹ and the established principles are common.

In cases of infringement of regulations¹⁴⁰ on GIs (or in cases of risk for public health), the officer can issue a 'compliance notice' to the operator, stating the action the operator must take. The notice also contains information on the right to appeal.

More details on administrative sanctions are given in the Guide.

6.2 CRIMINAL PROSECUTION

Irish regulations on spirits, food and wine, provide for several criminal offences related to GIs and non-compliance with the relevant control procedures.

Please see the Guide for details of criminal prosecution.

6.3 FOLLOW-UP OF CASES

As regards the food sector, the DAFM, HSE and FSAI carry out monitoring and follow-up inspections. Results of controls are reported through the MANCP to FSAI.

All CAs are authorised under the FSAI Act and use enforcement provisions in their service contracts.

Measures that may be taken in the case of non-compliance include: improvement notices, improvement orders, closure orders, prohibition orders, seizure, removal or detention of products.

Follow-up (as required) is also ensured with Member States, for cases of non-compliance involving other Member States (including monitoring of repeated non-compliance).

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

¹³⁹ Articles 18 to 22 of the Regulation on food; Articles 13 to 15 of the Regulation on spirits.

¹⁴⁰ Regulation on spirits; Regulation on food.

CIVIL ACTION

Irish legislation prohibits the misuse of GIs but it does not provide for any specific civil action. Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, which sets out protection against certain misuses of GIs, has been held by the English courts to be directly effective, which is useful for Irish rights holders as English law is a persuasive (but not binding) authority in Ireland.

In any event, GIs can find protection through the common law tort of 'passing off', which is the Irish equivalent of 'unfair competition'.

Moreover, according to the Consumer Protection Act 2007, proceedings can be initiated against a trader using misleading practices.

Further civil remedies against counterfeiting/infringement are also applicable in cases of GI infringements and they include: injunctions, account of profits, damages, orders for delivery up, disposal, seizure by customs/police.

Please see the Guide for more information on civil action.

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

GREECE



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

ACIST	Anti-Counterfeiting Intelligence Support Tool
AGROCERT	Organisation for Certification and Inspection of Agricultural Products (Τον οργανισμό πιστοποίησης και επίβλεψης γεωργικών προϊόντων)
CCA	Central Competent Authority
DQSOPGI	Directorate of Quality Systems, Organic Production and Geographical Indications
DREV(s)	Directorate(s) of Rural Economy and Veterinary Service of Regional Units
EDB	Enforcement Database
EFET	Hellenic Food Authority (Ο ΕΦΕΤ)
ELGO-DEMETER (formerly AGROCERT)	Hellenic Agricultural Organisation DEMETER (Ελληνικός Γεωργικός Οργανισμός (ΕΛΓΟ) ΔΗΜΗΤΡΑ)
ESYD	Hellenic Accreditation System (Εθνικό Σύστημα Διαπίστευσης Ε.ΣΥ.Δ.)
MRDF	Ministry of Rural Development and Food (Υπουργείο Αγροτικής Ανάπτυξης και Τροφίμων)
RCPQC(s)	Regional Centre(s) of Plant Protection and Quality Control

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The **Directorate of Quality Systems, Organic Production and Geographical Indications (DQSOPGI)** of the **Ministry of Rural Development and Food (Υπουργείο Αγροτικής Ανάπτυξης και Τροφίμων – MRDF)** is the **Central Competent Authority (CCA)** is responsible for monitoring the implementation of EU and national legislation concerning foodstuff GIs and for proposing measures to the Minister in order to ascertain the correct implementation of EU law¹⁴¹.

The CCA for wine and spirit drinks is the **Department of Wines and Spirits** within the **Directorate for Processing, Standardisation and Quality Control of Food and Plant Production of the MRDF**¹⁴².

1.2 GENERAL STRUCTURE OF THE SYSTEM

Foodstuffs

Controls on foodstuffs have been delegated by MRDF to the **Hellenic Agricultural Organisation ELGO/DEMETER (Ελληνικός Γεωργικός Οργανισμός ΕΛΓΟ/ΔΗΜΗΤΡΑ)**, the former Organisation for Certification and Inspection of Agricultural Products (AGROCERT), in collaboration with the **Directorate for Rural Economy and Veterinary Service of the Regional Unities — DREV(s)**¹⁴³.

ELGO-DEMETER is an administratively and financially independent body, which means it is a private law legal entity operating for the public benefit under the supervision of the MRDF¹⁴⁴ and financed by it. ELGO-DEMETER is responsible for carrying out official controls to verify compliance with the legal requirements related to foodstuff GIs. Its general competences are:

- certification of agricultural products;
- evaluation and approval of private bodies accredited by the National Accreditation System;
- supervision of the control system;
- preparation and publication of optional sectorial standards and specifications for quality assurance of agricultural products.

In particular, ELGO-DEMETER's tasks include:

- receiving and evaluating the applications of businesses that produce, package and transport products that are already registered as GIs;
- conducting controls in the abovementioned businesses in order to verify compliance with the requirements set by national and EU legislation;

¹⁴¹ Joint Ministerial Decree No 261611 of 7 March 2007 (ΦΕΚ 406/Β/22.03.2007).

¹⁴² Article 3 of Joint Ministerial Decree No 5833/155045 of 12 December 2013 as amended by JMD No 5066/117288 of 27 October 2015 is the relevant legislation relating to GI wines.

¹⁴³ The legal framework is Joint Ministerial Decree No 261611 of 7 March 2007 (ΦΕΚ 406/Β/22.03.2007) on complementary measures for the protection of GIs implementing Regulation (EC) No 510/2006, as amended by Joint Ministerial Decree No 290398 of 11 April 2008 (ΦΕΚ 694/Β/21.04.2008) and by Joint Ministerial Decree No 318764 of 7 August 2008 (ΦΕΚ 1683/Β).

¹⁴⁴ Law No 2637/98.

- certifying businesses and approving the use of registered indications together with the EU logo and the certification logo of ELGO-DEMETER;
- controlling and certifying that products and foodstuffs available on the market and bearing GIs comply with the requirements set by national and EU legislation;
- maintaining a registry of all approved businesses that are eligible to use the foodstuff GIs;
- referring irregularities and infringements ascertained during its controls to the Committee of First Instance of Irregularities and Infringements of the MRDF.

The DREVs participate with their employees in controls performed by ELGO-DEMETER ¹⁴⁵.

ELGO-DEMETER also performs the following tasks:

in the evaluation of applicants for registration in the Register of Approved Operators, it verifies that businesses comply with the specifications of products for which certification is sought;
it is in charge of surveillance of businesses that are in the Registry in order to ensure continuing compliance with the technical specifications;
within verifications, it is in charge of accompanying documentary control (accompanying documents, invoices, etc.);
it performs sampling, if necessary.

Wines

As regards wines, the Department of Wines and Spirits of the MRDF coordinates, informs and supervises the official controls delegated to the DREVs ¹⁴⁶ and to the **Regional Centres for Plant Protection and Quality Control(s) (RCPPQCs)** ¹⁴⁷.

The Department of Wines and Spirits is mainly responsible for compiling and updating the Register of Certified Operators for producing GI wine products at national level. Prosecuting complaints related to GI wine sector products also comes within its competence.

Spirits

As regards spirits, the CA is the **Directorate for Alcohol and Foods within the Ministry of Finance**, which verifies the compliance of products with the relevant product specifications.

Capacity of laboratories

Only accredited laboratories perform analysis of samples. The requirements that must be met by accredited laboratories are set by Article 6 of Joint Ministerial Decree No 245090/2006.

Greek or foreign laboratories may be accredited.

According to most of the product specifications, operators must carry out physical/chemical analysis before GI products are placed on the market. Analyses are therefore ordered by ELGO-DEMETER for verification purposes, as well as based on complaints or denunciations.

The catalogue of accredited laboratories has been uploaded to the website of the **Hellenic**

¹⁴⁵ EU Commission DG (SANTE) Country Profile 2015-7657 Final Version date October 2016.

¹⁴⁶ DREV(s) tasks have been specified by the JMD no. 5833/155045/12.12.2013, as amended by JMD No 5066/117288 of 27 October 2015 EU. See Commission DG (SANTE) Audit No 2016-6243 PDO, PGI for wine sector products, November 2016.

¹⁴⁷ EU Commission DG (SANTE) Audit No 2016-6243 PDO, PGI for wine sector products, November 2016.

Accreditation System (Εθνικό Σύστημα Διαπίστευσης Ε.ΣΥ.Δ. – ESYD)¹⁴⁸.

1.3 CONTROL BODIES

Currently, there are no delegated CBs.

1.4 ACCREDITATION BODY

The ESYD has been appointed as the National Accreditation Body of Greece in accordance with the requirements of Article 4 of Regulation (EC) No 765/2008, which states that each Member State must appoint a single national accreditation body¹⁴⁹.

For granting accreditation certificates, an on-site assessment is carried out by a team of assessors and experts, whose members have in-depth knowledge and experience of the relevant technical subject and of the assessment of quality management systems.

The ESYD employs external assessors and experts. The assessors are selected and trained in accordance with strictly defined criteria and procedures and they must comply with specific regulations concerning their independence, integrity and confidentiality.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The CCA monitors the implementation of EU and national legislation on GIs concerning agricultural products and foodstuffs and cooperates with ELGO-DEMETER and the DREVs.

The Department of Wines and Spirits supervises the DREVs and the RCPQCs regarding official controls at all stages of production, bottling, labelling and distribution of wine sector products.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

No specific measures are envisaged in the legislation on GIs.

Possible conflicts of interests are therefore resolved on the basis of the public sector disciplinary law. Thus, employees involved in control tasks are not allowed to participate in matters that are possibly connected with close relatives' interests or if the employees have an obvious interest in the outcome of the audited case.

¹⁴⁸ www.esyd.gr.

¹⁴⁹ <http://www.esyd.gr/portal/p/esyd/el/index.jsp>.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

The operators submit an application to ELGO-DEMETER to join the public Register of Approved Operators of foodstuff GIs, which deals with:

production;
packaging and/or repackaging (packaging units);
trading in private-labelled products.

Applications and all supporting documents are assessed at ELGO-DEMETER's headquarters and if they are complete and correct, a control is scheduled at the operator's premises. The evaluation control includes:

monitoring of the production process in order to verify its compliance with product specifications;
checking the traceability system implemented by the operator;
labelling issues.

Production processes, traceability and labelling are the three main pillars of controls and certification.

If the assessment report of the evaluation control includes any non-compliance, the operator is obliged to take corrective action in a specific time period. If the corrective action is accepted by ELGO-DEMETER, the operator will be included in the Register of Approved Operators. The Register is public and can be found on the CA's website¹⁵⁰. If the corrective action is not taken or not accepted, certification is refused and the operator is informed accordingly.

The application process is described in the 'ELGO-DEMETER Certification Regulation on GIs agricultural products and foodstuffs' which includes all the documentary control procedures. This regulation is available to the public on the website of the authority.

As regards the wine sector GIs, the DREVs provide wine GI certification on the basis of the results of testing, analysis and administrative controls/spot checks¹⁵¹.

2.1.1 Planning and prioritisation criteria and frequency

Foodstuffs

ELGO-DEMETER carries out:

administrative controls on all registered operators annually;
'evaluation controls', which are conducted on every operator that submits an application, in order to join the ELGO-DEMETER Public Register;

¹⁵⁰ www.elgo.gr.

¹⁵¹ EU Commission DG(SANTE) Country Profile 2015-7657 Final Version date October 2016.

‘surveillance controls’ to enable a more structured and systematic approach to the planning of official controls. In particular, ELGO-DEMETER has developed an electronic risk assessment tool for foodstuff GIs, taking into consideration the following criteria:

- certification expiration date;
- irregularities or infringements requiring verification;
- complaints;
- findings reported by administrative controls or market controls;
- operator’s capacity.

Wines

As far as primary producers for wine sector products are concerned, only administrative cross-checks are carried out on the basis of the information provided in the compulsory declarations for wine sector (production and harvest declarations) against the information contained in the vineyard registers.

The relevant legislation does not provide any measures for on-site inspections at vineyards carried out by CAs in this phase. The annual verification is part of the certification process, which includes administrative cross-checking of the compulsory declarations (production and harvest declarations) with the vineyard register. In the case of PDO wines, the certification process requires analytical and organoleptic tests as well as the verification of compliance with the product specifications. Regarding PGI wines, analytical tests on a sample basis are carried out¹⁵².

Spirit drinks

The Division of Spirits Drinks of the Directorate of Alcohol and Foods performs regular controls, at least once a year, and extraordinary controls and inspections at its discretion.

2.1.2 Verification of compliance with product specifications

Foodstuffs

At the level of primary producers, on-site inspections are undertaken by the relevant CA. The controls are performed randomly and on the spot, in the area of GI products of plant origin. However, administrative cross-checks are carried out on harvest declarations and information from other official registers.

Concerning verification of compliance, ELGO-DEMETER carries out on-site visits, at the operators’ premises, to verify compliance with the relevant GI product specifications, prior to placing the product on the market, as well as for surveillance controls. The abovementioned controls include:

comprehensive preparation at the office prior to the on-site visits, including reviewing inspection reports from previous inspections;
an initial meeting where the members of the control team are presented and the control schedule is reviewed;
verification of compliance, by checking on-site production processes, traceability, labelling and input/output quantities.

Operators are obliged to submit production information to ELGO-DEMETER. In this way, the CA has an overview of the sector. If non-compliance is detected, the operator is obliged to implement corrective actions in a fixed time period in order to be authorised to use the relevant GI. If irregularities and

¹⁵² Article 90 of Regulation (EU) No 1306/2013; Articles 25 and 26 of Regulation (EC) No 607/2009.

infringements are detected, they are duly noted in detail in the Control Report.

Wines

The CCA is responsible for transmitting complaints received on GI wines to the DREVs, and ensuring their follow-up. The DREVs can also receive complaints directly.

There are 61 DREVs, whose inspectors undertake official controls in order to ensure compliance with the product specifications of GIs in the wine sector.

The annual verification set forth in Article 25(1) of Regulation (EC) No 607/2009 is within the competence of the DREVs. The national legislation requires that in relation to PGI wines, at least 20 % of applications for certifications must be sampled and analysed, as well as at least 20 % of the total production quantity of the PGI wine in the relevant regional unit. The eight RCPPQCs are in charge of the coordination of the DREVs in their respective jurisdiction, but according to the audit carried out from 15 to 25 November 2016 by DG SANTE, such tasks had yet not started.

In relation to sampling, either RCPPQC staff in cooperation with the DREVs, or only the DREVs, undertake the sampling for organoleptic and analytical testing of GI wines. The accredited laboratories of the RCPPQC are used for analytical tests. Regarding organoleptic tests, these are carried out by the National Interprofessional Organisation of Vine and Wine Committee that is established within each defined production area of PDO wines.

The DREVs also provide operators with quality control tapes for PDO wines (i.e. paper strips that must be placed on bottles with PDO wine before being placed on the market) and special code numbers for PGI wines.

Spirits

As regards spirit GIs, the Division on Spirits Drinks within the Directorate of Alcohol and Foods of the Ministry of Finance (CA for spirits) is in charge of controls relating to product quality and safety.

In particular, the Division undertakes controls at distilleries and other production establishments in order to verify compliance with the specifications in the technical file of the GIs¹⁵³.

2.2 CONTROLS ON THE MARKET

As regards market surveillance, following the recommendations made by DG SANTE (Health and Food Audits and Analysis Office) in November 2016, ELGO-DEMETER also carries out market controls concerning products from other Member States or third countries. Moreover, it carries out targeted market controls, following complaints received either from consumers, the CCA or other Member States or non-EU countries.

The inspectors undertake official controls in retail and wholesale establishments throughout the country, as well as special controls based on complaints, in cases of previous irregularities, changes in the production procedure, etc.

¹⁵³ More information on the individual product specifications for Greek GI spirits can be found at http://www.gcsf.gr/media/alkooli/GIs_spirit_drinks_sep_2013_en.doc.

The criteria taken into account for scheduling market controls are the following:

size of business;
population distribution;
previous cases of non-compliance;
importance of the product concerned (for the national economy, exports, etc.);
suspicions and/or complaints;
follow-up of cases of non-compliance;
information received by a Greek competent authority or another Member State;
any other cases of reported irregularities or violations of applicable law.

As regards wines, market controls at retail and wholesale level are required to be carried out by the DREVs. However, as of November 2016, no market controls were being planned.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As shown in the table below, there are 14 full-time equivalent staff of ELGO- DEMETER delegated to controlling GIs.

Number of employees	Time spent on Controls	Department	Time corresponding to full-time job
6	100 %	DCS	6
6	50 %	DCS	3
5	20 %	DCS	1
1	80 %	DCS — DMMC	0.8
16	20%	DCS — DMMC	3.2
Total	-	-	14

DCS: Directorate of Certification and Standardisation
DMMC: Directorate of Milk and Meat Controls

As shown in the tables below, the majority of the inspectors hold a Master or Doctorate degrees in relevant scientific and technological domains.

No of employees in DCS	Education	Speciality
13	Bachelor Degree and/or Master's Degree and/or PhD	6 Veterinarians 2 Agronomists 3 Chemists 2 Chemical engineers
4	Technological Education	2 Food technologists 1 Animal production technologists 1 Plant production technologists
No of employees in DMMC	Education	Speciality
16	Bachelor Degree and/or Master's Degree and/or PhD	8 Veterinarians 7 Agronomists 1 Chemists
1	Technological Education	1 Agricultural Technologists
No of employees in other ELGO-DEMETER units	Education	Speciality
69	Bachelor Degree and/or Master's Degree and/or PhD	4 Scientists 45 Agronomists 5 Veterinarians 2 Foresters 9 Chemists 1 Chemical Engineers 2 Environmentalists 1 Ichthyologist
31	Technological Education	17 Agricultural Technologists 6 Food Technologists 2 Forestry Technologists 6 Animal production technologists

A large number of ELGO-DEMETER's employees dealing with official controls of GIs attended BTSF training seminars, organised by the EU. Moreover, ELGO-DEMETER has trained 165 employees, of whom 117 were trained as potential inspectors of GIs.

The table below shows the number of employees attending training programmes from 2011 to 2016.

Training programme	Number of employees	Date
Better Training For Safer Food — EU GI schemes	18	2011-2014
Milk, cheese, meat controls. Certification and controls of GI agricultural products and foodstuffs in animal production	165	21.01.16-9.03.16
Certification and controls of GI agricultural products and foodstuffs in plant production	115	16.06.16-28.06.16

The training objectives were:

- to obtain specialised knowledge needed to undertake official controls on foodstuff GIs;
- to develop skills and competencies required for the controls;
- to develop a harmonised approach to controls;
- to develop common attitudes/behaviour and practices and/or change established attitudes.

As shown in the tables below, employees of ELGO-DEMETER participate in training programmes organised by other authorities and refer to both general education subjects and to horizontal legislation issues in the food sector.

Training programme on auditing	No of employees
ISO 9001:2000 — Quality management systems. Auditors	6

Training programme on general education subjects	No of employees
Registering and control of PDO/PGI agricultural products and foodstuffs.	8
Hygiene and food safety	3
Data sheets analysis	2
Other seminars	7

Training programme organised by EFET	No of employees
Official controls on labelling, presentation and advertising of food	2
Official controls on fisheries	2
Official controls on food of animal origin (meat and meat products)	5
Risk analysis	4
Official controls on milk products	4
Official controls on materials in contact with food	1
Official controls in the field of bakery-pastry	1

In each DREV there is at least one inspector and a deputy inspector, who have been designated for controls on GIs, although it is difficult to estimate the full-time equivalent due to their extensive tasks and the limited range of their competence in controls. The majority of the inspectors from the DREVs hold a Master's Degree in Agronomy or Veterinary Science and most of them have participated in training programmes organised by the Hellenic Food Authority (O ΕΦΕΤ – EFET).

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The MRDF's website offers online consultation tools regarding GIs that are accessible to the public, such as the list of the Greek GI products, the related specifications divided into categories¹⁵⁴ and the registers of companies approved for the usage of GI indications¹⁵⁵.

¹⁵⁴ <http://www.minagric.gr/index.php/en/farmer-menu-2/pdo-pgi-tsgproducts-menu/listpdoproducts-menu>

¹⁵⁵ <http://www.elgo.gr/index.php/quality-assurance-of-agricultural-products/certified-business-registers?lang=el>

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Cooperation lies with the CCA. The CCA has the competence to cooperate and inform the authorities of other EU Member States and of third countries, especially in cases where irregularities or infringements concerning GI products from other countries are detected¹⁵⁶.

Greece participates in the databases of the European Union in order to fight counterfeiting, that is, the **Enforcement Database (EDB)** and the **Anti-Counterfeiting Intelligence Support Tool (ACIST)**. These tools may be used in connection with the protection of GIs.

Moreover, the Greek authorities provide information on seizures of articles suspected of infringing Intellectual Property Rights (IPRs), both at the border and in the internal market.

Greece also uses the **European Food Fraud Network (FFN)** IT system, the AAC system as well as the **Rapid Alert System for Food and Feed system (RASFF)**¹⁵⁷, which facilitate exchanges of information between Member States. The national contact point for the FFN system is the EFET.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

General administrative measures (along with penal provisions) for non-compliance related, inter alia, to GIs are established by Law No 4235/2014.

In addition, there are enforcement measures for agricultural products and foodstuffs under Joint Ministerial Decree No 261611/2007:

- withdrawal of certification (permanent or temporary);
- refusal to grant certification;
- withdrawal from the market, in cooperation with other authorities;
- fines imposed by the Committee for the Examination of Infringements of MRDF.

These enforcement measures are imposed following infringements found during controls or as a result of complaints reported to the relevant CA.

The table below shows the number and type of irregularities and infringements following evaluation and surveillance controls over the years 2014-2015.

¹⁵⁶ JMD 261611/2007.

¹⁵⁷ Source of Information, Greece country profile, organisation of official controls, 2016 (European Commission).

FINDINGS/SANCTIONS

Year	Irregularities	Infringements	Referral to the first instance committee of the ministry for agricultural development	Other sanctions (non-renewal/ revocation)
2014	75	23	18	5
2015	103	16	12	4

The table below shows the number and type of infringements in market controls.

RESULTS OF MARKET CONTROLS

Year	Products with Infringements	Referral to the First Instance Committee of the Ministry for Agricultural Development
2014	45	45
2015	33	33

Please see the Guide for more details on administrative sanctions.

6.2 CRIMINAL PROSECUTION

Greek law does not provide specific penal sanctions for infringement of GIs. However, GIs can be protected indirectly by Law No 4235/2014. In particular, this law provides for two categories of food fraud, subject to administrative or criminal penalties, based on the gravity of the offence¹⁵⁸.

More details on criminal prosecution are provided for in the Guide.

6.3 FOLLOW-UP OF CASES

ELGO-DEMETER receives cases reported by civilians and other authorities and acts as follows by:

- performing controls and/or informing registered operators of the irregularities that have been found so that they may proceed to take corrective action accordingly;
- informing businesses that are not in its Registry of the irregularities that have been found so they may proceed to take corrective action, inviting such businesses to apply for registration in the ELGO registry;
- conducting on-the-spot controls in the marketplace;
- referring to the Committee for the Examination of Infringements of the Ministry.

If irregularities or infringements are detected, the operator is obliged to implement corrective action by a specific deadline in order to ensure compliance.

¹⁵⁸ Articles 23 and 27 of Law No 4235/2014.

Some figures about investigation of complaints in 2014 are given in the table below.

Number of complaints received by ELGO-DEMETER	22
Points of sale that were controlled in order to investigate complaints	28
Number of products controlled	59
Number of products referred	12

Some figures about investigation of alleged contraventions of GIs in 2015 are given in the table below.

Number of complaints received by ELGO-DEMETER	27
Categories reported (eg: feta, pistachio of Aegina, Cretan paximadi)	16
Market controls in order to investigate complaints	19
Number of products controlled	29
Number of businesses referred to the Committee for the examination of infringements of the Ministry	8

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

The Greek law on civil enforcement of IPRs¹⁵⁹ provides that the legitimate user of a registered GI may file a civil complaint against infringements and request injunctions in order to preserve evidence and measures against violations¹⁶⁰.

Civil protection is also granted through unfair competition law provisions, which may be invoked against a competitor who uses a GI illegitimately¹⁶¹.

Please see the Guide for more details on civil action.

¹⁵⁹ Law No 3966/2011. Among other functions, in Article 53 this law harmonises national law with Directive 2004/48/EC on the enforcement of intellectual property rights.

¹⁶⁰ Article 17(g) of Law No 1733/1987, as amended by Article 53 of Law No 3966/2011.

¹⁶¹ Greek unfair competition law No 146/1914.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

SPAIN



FOREWORD

Due to the administrative structure of Spain, information on the Spanish national systems is reported in two different chapters. The present chapter is dedicated to general principles of the organisation and to legal procedures nationally applicable. Data on control procedures assigned to the local level (*Comunidades Autónomas*) is given in the following chapter.

ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

ACCAs	Autonomous Community Competent Authorities (<i>Autoridades Competentes de la Comunidad Autónoma</i>)
AECOSAN	Spanish Agency for Consumers, Food Safety and Nutrition (Agencia Española de Consumo, Seguridad Alimentaria y Nutrición)
AGE	General Administration of the State (Administración General del Estado)
AICA	Food Control and Information Agency (Agencia de Información y Control Alimentarios)
CCAA	Autonomous Communities (Comunidades Autónomas)
CCC	Committee of Consumer Cooperation (Comité de Cooperación al Consumidor)
CAN	National Food Centre (Centro Nacional de Alimentación)
CNP	National Police Corps (Cuerpo Nacional de Policía)
CR	Regulatory Council (Consejo Regulador)
DGIA	Directorate-General of Food Industry (Dirección General de Industria Alimentaria)
ENAC	National Entity of Accreditation (Entidad Nacional de Acreditación)
EURLMB	European Reference Laboratory of the European Union of Marine Biotoxins (Laboratorio de Referencia de la Unión Europea de Biotoxinas Marinas)
FEGA	Spanish Agricultural Guarantee Fund (Fondo Español de Garantía Agraria)
FVO	Food and Veterinary Office

MAPAMA	Ministry of Agriculture and Fisheries, Food and Environment (Ministerio de Agricultura y Pesca, Alimentación y Medio Ambiente)
MSSSI	Ministry of Health, Social Services and Equality (Ministerio de Sanidad, Servicios Sociales e Igualdad)
PNCOCA	Official National Control Plan for the Food Chain (Plan Nacional de Control Oficial de la Cadena Alimentaria 2016-2020)
SEPRONA	Service for the Protection of Nature (Servicio de Protección de la Naturaleza)
SGCDAE	General Department of Organic Farming and Differentiated Quality (Subdirección General de Calidad Diferenciada y Agricultura Ecológica)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITY

Controls before placing the product on the market

According to the Spanish Constitution, competences on control and protection of GIs have been transferred to the **Autonomous Communities (Comunidades Autónomas — CCAA)**. The autonomous cities of Ceuta and Melilla do not have any GIs.

As a result of this, there are 20 'central authorities' in Spain, namely one for each of the 17 CCAA, 2 for the autonomous cities of Ceuta and Melilla and 1 at national level for 'supra-autonomous' GIs, that is to say, those involving territories of more than one Community.

The study presents information relating to CCAA that have provided data, whereas for Ceuta and Melilla, currently without any registered GIs, only the contact details of the respective competent authorities are given in the Guide.



As regards preparation of legislation and coordination of the control activities of the CCAA, the **Ministry of Agriculture and Fisheries, Food and Environment (Ministerio de Agricultura y Pesca, Alimentación y Medio Ambiente — MAPAMA)**, through the **General Department of Organic Farming and Differentiated Quality (Subdirección General de Calidad Diferenciada y Agricultura Ecológica — SGCDAE)**, is the central authority at national level. In its coordination role, it also acts by means of national coordination committees. Furthermore, the MAPAMA represents Spain internationally.

Pursuant to Spanish Law No 6/2015 of 12 May, on Protected Designations of Origin and Geographical Indications of Supraautonomic Territory (supra-autonomous GIs), the MAPAMA is the national central authority for official controls on all product sectors (agricultural products, wines, aromatised wines and spirit drinks).

Surveillance of the use of the name in the marketplace

The central authority at national level for controls on the market is the **Spanish Agency for Consumers, Food Safety and Nutrition (Agencia Española de Consumo, Seguridad Alimentaria y Nutrición — AECOSAN)** under the Ministry of Health. Surveillance is then implemented by the **Autonomous Community Competent Authorities (Autoridades Competentes de la Comunidad Autónoma — ACCAs)**.

1.2 GENERAL STRUCTURE OF THE SYSTEM

Controls before placing the product on the market

The Spanish control system before the market is defined in the **Official National Control Plan for the Food Chain (Plan Nacional de Control Oficial de la Cadena Alimentaria — PNCOCA)**; the current plan covers 2016-2020¹⁶². Official controls related to GIs (*Programa de control oficial de la calidad diferenciada vinculada a un origen geográfico y especialidades tradicionales garantizadas, antes de la comercialización*) are described in a particular section of the PNCOCA¹⁶³.

In line with Article 40 of Regulation (EU) No 1151/2012, annual reports on the implementation of the PNCOCA have been submitted to the European Commission since 2011, including a specific section on GIs.

The responsibility for the official control of the food chain at central government level lies with the MAPAMA, and the **Ministry of Health, Social Services and Equality (Ministerio de Sanidad, Servicios Sociales e Igualdad — MSSSI)**, whose role primarily consists in coordination. With the exception of border controls, responsibility for the planning and execution of official controls lies with the CCAA, which act through their own designated CAs.

The MAPAMA, through the SGCDAAE of the **Directorate-General for Food Industry (Dirección General de Industria Alimentaria — DGIA)**, also has the role of CA for official controls of supra-autonomous GIs, that is to say, GIs that cover more than one Autonomous Community. The PNCOCA contains a section that is common to all CAs, describing the national objectives, the entities involved in their execution and the relevant common legal basis.

In particular, the organisation of the control system is therefore:

decentralised: responsibility for implementation of controls is of the CCAA;
coordinated through a central body called Mesa de Coordinación de la Calidad Alimentaria.

The Mesa de Coordinación de la Calidad Alimentaria¹⁶⁴ is a coordination board established by Royal

¹⁶² *Plan nacional de control de la cadena alimentaria*: http://www.mapama.gob.es/es/ministerio/planes-estrategias/plan-nacional-de-control-de-la-cadena-alimentaria/pncoca_2016-2020_espana_v2-2017_tcm7-456389.pdf.

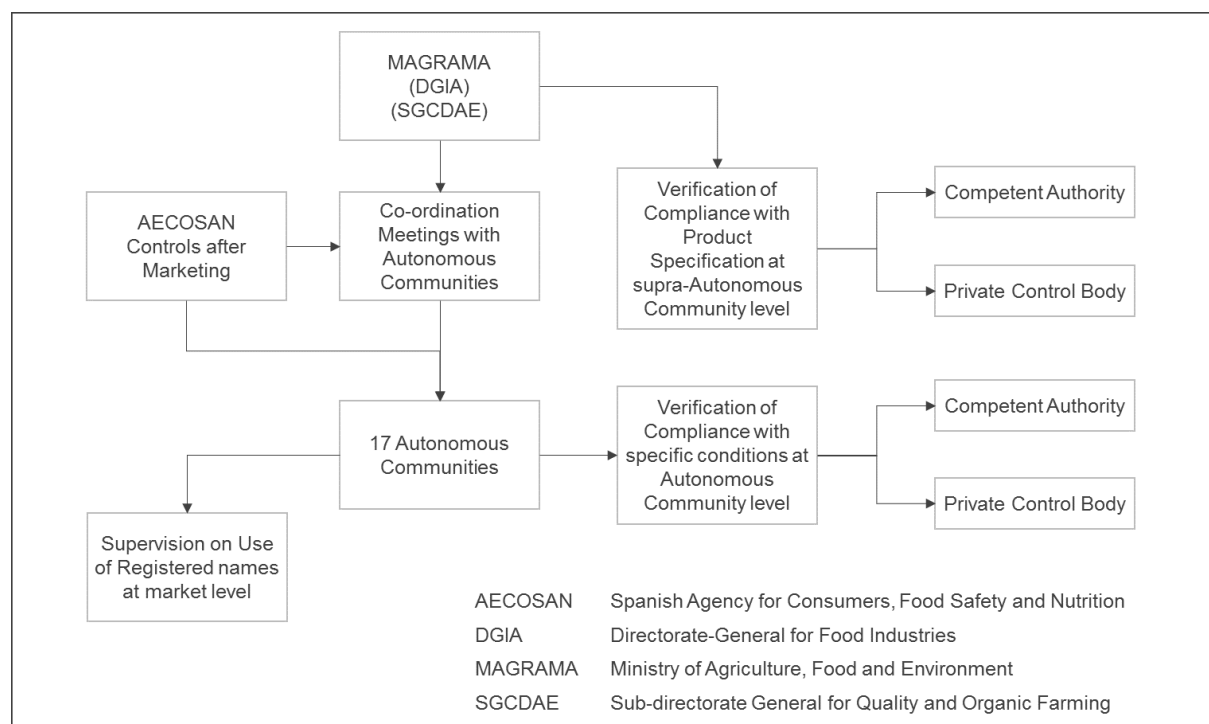
¹⁶³ Part 1. Official control on primary production and food quality, II.10, National official control programme for differentiated quality before market.

¹⁶⁴ <http://www.mapama.gob.es/es/alimentacion/temas/calidad-agroalimentaria/calidad-comercial/mesa-coordinacion-calidad-alimentaria/>.

Decree No 1335/2011. It incorporates the different central authorities (of the CCAA and the MAPAMA) as well as other experts invited as observers (such as AECOSAN, etc.), and meets at least once per semester. The main task of this board is to seek agreement on the control plans to be carried out by the CCAA and to coordinate the activities of the PNCOCA. In this respect, the main activities are to adopt agreements for interpreting the applicable legislation, to organise seminars, training activities, specific control campaigns, and the development of documented procedures, to draft the annual report on control activities as well as the annual control programme, and to discuss ongoing legislative developments at EU, national or international level.

The agreements, which are formally registered, are binding on the CCAA. The central body meets regularly and enables the exchange of comprehensive information about all issues regarding GIs. Information on the production and value of all GI products is collected annually by the CCAA and made publicly available.

The organisational chart below shows the Spanish control structure for GIs¹⁶⁵ related to all sectors (foodstuffs, wines and spirit drinks).



The MAPAMA is not only the central authority in charge of coordinating the planning and implementation of official controls on GIs produced within individual CCAA, but is also responsible for preparing the framework legislation and for evaluating new applications for registration of GIs produced in more than one Autonomous Community. In addition, the MAPAMA is the National Contact Point for the European Commission, submitting all the applications to register new GIs

As regards controls on supra-autonomous GIs under Law No 6/2015, the CA within the MAPAMA in charge of controls on compliance with product specifications before placing the product on the market is the **Food Control and Information Agency (Agencia de Información y Control Alimentarios — AICA)**. The MAPAMA may also delegate official controls to CBs.

¹⁶⁵ http://ec.europa.eu/food/audits-analysis/country_profiles/details.cfm?co_id=ES, p. 61.

At Autonomous Community level, the agricultural departments of the local governments are generally the central authorities responsible for official controls before placing the product on the market as regards GIs produced exclusively within the community (ACCAAs). These controls may be carried out directly by the ACCAAs or by delegated CBs.

Surveillance of the use of the name in the marketplace

Surveillance of the use of the name in the marketplace is coordinated by AECOSAN and is implemented by the CCAA.

Regional campaigns are carried out in collaboration with the **Committee of Consumer Cooperation** (Comité de Cooperación al Consumidor — CCC) and national campaigns decided by the CCAA in accordance with the PNCOCA, currently for 2016-2020.

The CCC selects the actions that will be included in the national control and inspection campaigns in the three sectors of activities (food, non-food and services).

Following the conclusions of the European Commission's audit of 2015 (see below), the CCC adopted the list of market control authorities in the year 2015. This list has been reviewed by the Autonomous Communities. More details on market surveillance are given in the following chapter focusing on the Autonomous Communities.

Legal status and powers of staff of CAs

The rights and obligations and the code of conduct are included in the statute of public employees¹⁶⁶.

As regards the obligations of public employees, they must carry out the tasks assigned in observance of the general interest and of the Spanish Constitution. Public employees must act in accordance with the following principles: objectivity, integrity, neutrality, responsibility, impartiality, confidentiality, dedication to public service, transparency, exemplariness, austerity, accessibility, efficiency, honesty, promotion of culture and environment, and respect for equality between women and men.

The number of staff dedicated to official controls (centrally and per CCAA level) is detailed in the PNCOCA, Part 1, Section II.10.5.1, and is also included in the annual reports (more details on this are provided in section 4).

Capacity of laboratories

The national and CCAA laboratories are listed in the PNCOCA, which describes the procedure for being designated as a national and/or CCAA laboratory for official controls.

In this respect, laboratories must have the necessary experience, equipment and infrastructure with sufficient staff having the appropriate qualification and training to carry out the analyses of the samples collected in the context of the official controls.

The list of official control laboratories specifically designated by the Directorate-General for Public Health, Quality and Innovation for this purpose is available online¹⁶⁷.

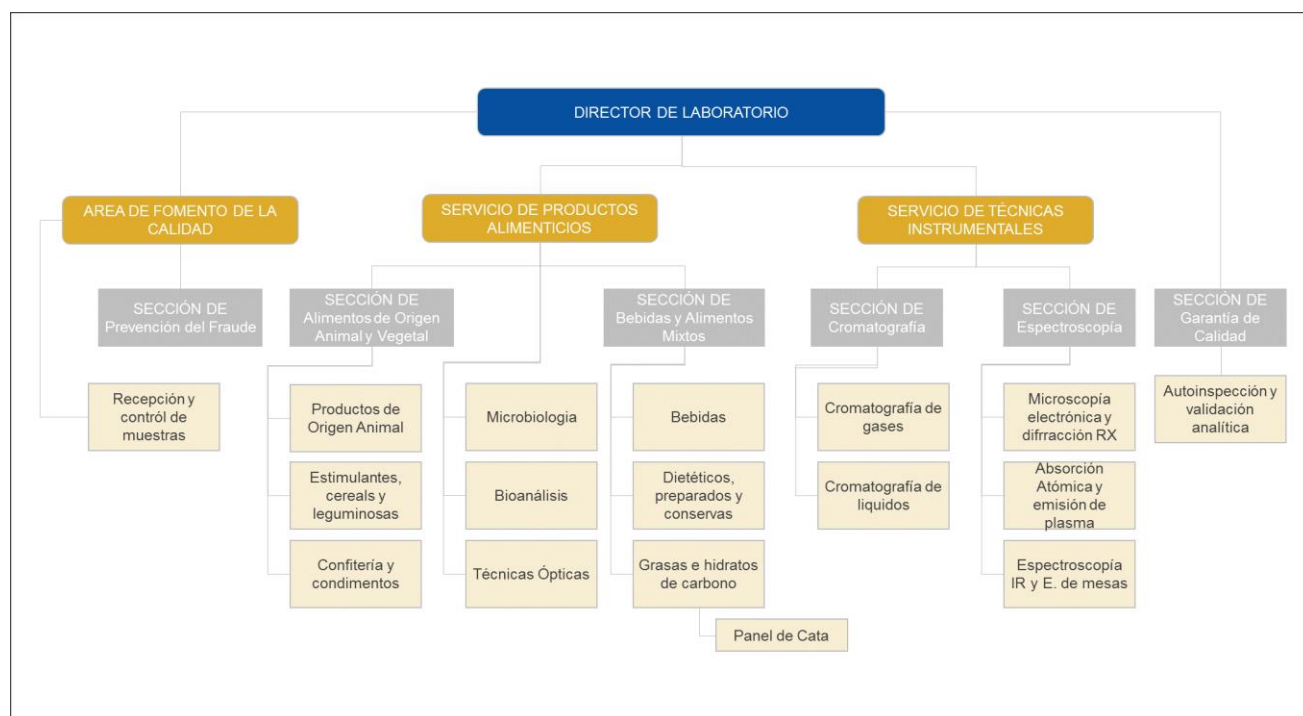
Laboratories are accredited by the **National Entity of Accreditation (Entidad Nacional de**

¹⁶⁶ Law No 7/2007 on Basic Statute of Public Employees.

¹⁶⁷ http://www.msssi.gob.es/profesionales/saludPublica/sanidadExterior/lab_desig_cont_rol_oficial.htm.

Acreditación — ENAC)¹⁶⁸.

The figure below describes the areas of service of laboratories and the relevant sections:



1.3 CONTROL BODIES

In Spain, official controls to verify compliance with the product specifications and to carry out certification tasks may be delegated to CBs accredited in accordance with ISO 17065:2012.

This is in line with the requirements of Article 39(2) of Regulation (EU) No 1151/2012. Accreditation is issued by ENAC for each CB of GIs related to all sectors (foodstuffs, wines and spirit drinks).

As already mentioned, the MAPAMA has delegated official controls to CBs in order to perform controls on compliance with product specifications and regularly supervises them.

Correspondingly, in some CCAA, official controls and certification tasks have been delegated to either CBs or to the GI **Regulatory Council (Consejo Regulador — CR)**, which acts as a control body.

The nature, structure and functioning of the CRs are established through a series of legislative acts at national and Autonomous Community level. In particular, the CRs consist of two distinct parts:

- a management board, in which all interested parties involved in the production of the specific GI participate, which deals with all the responsibilities of a **Producer Group (PG)** (initial registration and subsequent amendments of the product specifications, promotion of the registered name, ad hoc surveillance at market level, legal actions against operators infringing GI rules);
- an independent control and certification division, in charge of planning and implementing official controls.

Some CRs may be delegated with public tasks other than the verification of compliance with the product

¹⁶⁸ <http://www.enac.es/>.

specifications. In this case, CR inspectors are also given legal powers to carry out official controls at market level.

The ACCAs have documented procedures for the approval of CBs and CRs, describing the criteria to be met, the most relevant being the requirements related to accreditation. This is in line with Regulation (EC) No 882/2004.

According to the applicable civil laws, the following rights are given to the controlling body of a GI:

- to sue for infringement;
- to bring a dilution action;
- to bring an unfair competition action;
- to claim damages;
- to oppose or invalidate conflicting marks.

1.4 ACCREDITATION BODY

ENAC is the agency appointed by the government to operate in Spain as the only national accreditation body.

Its structure and operating principles ensure that all actions are based on principles of impartiality, independence and transparency, and its governing bodies are made up of all stakeholders involved in the process, that is to say, the accredited parties, the industry making use of its services, and governments.

Accreditation of CBs is carried out by ENAC in accordance with ISO/IEC 17065:2012 — Requirements for bodies certifying products.

1.5 SUPERVISION OF CAs AND CBs

Supervision of the delegated CBs/CRs by the CAs is planned at national level to verify the effectiveness of delegated controls. All the registered names must be subject to supervision during the lifespan of the **Multi-Annual National Control Plan (MANCP)**.

The procedure for supervision included in the MANCP sets out the basic principles to follow. The means of verification may include, inter alia, the review by CAs of control reports issued by the CBs/CRs on the inspections carried out, visits on the spot to verify the activity of the inspectors from the CBs/CRs.

Central authorities are responsible for supervising the control system.

The official control system is assessed in terms of effectiveness and efficiency by using three different approaches, both at national and CCAA level¹⁶⁹. These approaches — further detailed in the specific national plan for GIs — are:

- supervision of official controls;
- evaluation of objectives and indicators;
- audits on official controls.

The supervision techniques depend on several factors that determine the specific risks, such as the volume of production or the type of product. The supervision includes the examination of evidence

¹⁶⁹ PNCOCA Part 1. Section 4, *Calidad de los controles oficiales*.

collected by the control entity (delegated or not), and includes an accompanied visit to an operator. The PNCOCA also states that supervision should cover annually the square root of the number of products covered by quality schemes for which the control entity is competent.

In order to verify the effectiveness of performed controls, the plan also establishes a number of operational objectives that are measured for all CAs through common indicators.

At national coordination level, the operational objective is to elaborate the irregularities detected in the functioning of CBs/CRs and taking the relevant measures in such respect.

At CA level, the operational objectives are:

1. to evaluate the degree of compliance with product specifications by operators;
2. to optimise the verification of compliance and the efficacy of corrective measures imposed in cases of non-compliance;
3. to improve the efficacy of the procedure of application of administrative sanctions following notification of infringements.

As regards audits on the control system, the CA is subject to internal/external audits as established in Regulation (EC) No 882/2004. The *Guide for the verification of effectiveness of MAPAMA's Official control system*, Part C, is a common guide that establishes the entity performing the audits and the body performing the independent examination (in the case of the MAPAMA, these entities are, respectively, the **Spanish Agricultural Guarantee Fund — Fondo Español de Garantía Agraria (FEGA)** — and the **General Inspection Services** of the MAPAMA).

In addition, in 2015 the Spanish system was part of the audit plan conducted by the European Commission services, through the former **Food and Veterinary Office (FVO)**.

The actions taken following the identification of non-compliance in the controls carried out by CBs/CRs can include the provision of training sessions or the updating of documented procedures. The FVO audit team checked several supervision reports issued by the ACCAs and noted that they were comprehensive and detailed with recommendations and specific deadlines for the CBs/CRs to remedy the non-compliance. At the time of the audit, the CBs and CRs concerned had implemented corrective actions to address all the recommendations contained in the report issued by the ACCA.

As far as market surveillance is concerned, when a national campaign for inspection and market control is carried out, data related to the previous year are collected to evaluate the results of the control actions carried out. The results are published on the AECOSAN website¹⁷⁰.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Personnel conducting official controls belong to the public administration and are therefore bound by Law No 7/2007, the Basic Statute of Public Employees.

In particular, officials should abstain in matters where they have a personal interest, as well as any private activity or interest that may pose a risk of conflict of interest with their public office. Furthermore, they should not: contract economic obligations or intervene in financial transactions, patrimonial obligations or legal businesses with persons or entities when there might be a conflict of interest with the obligations of the public office; accept any treatment of favour or situation that implies privilege or unjustified advantage by individuals or private entities; influence the streamlining or resolution of administrative procedures or procedures without justified motivation and, in no case, when this is a

¹⁷⁰ <http://www.aecosan.msssi.gob.es>.

privilege for the benefit of the holders of public office or their immediate family and social environment or when it implies a detriment to the interests of third parties.

With regard to confidentiality, Law No 7/2007 establishes that personnel carrying out control activities must not disclose classified materials or other documents whose dissemination is legally prohibited, and must maintain the proper discretion on matters they become aware of by reason of their office, without making use of the information obtained for their own benefit or that of third parties, or to the detriment of the public interest.

Failure to comply with these duties will be punished in accordance with the provisions established through the disciplinary system of the public administrations and on an additional basis pursuant to the Law of Civil Servants.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

Other authorities entrusted with tasks related to controls on food quality are the Guardia Civil (also acting through the Service for the Protection of Nature — Servicio de Protección de la Naturaleza, SEPRONA), and the National Police Corps (Cuerpo Nacional de Policía — CNP). The MAPAMA has agreements with them for training and guidance in relation to products covered by quality schemes.

In the event of an official complaint, such as in fraud cases, the judicial police have the competence to investigate the matter.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

As previously mentioned, the PNCOCA is the document that describes the official control system throughout the food chain in Spain, including on quality schemes, from primary production to points of sale to the end consumer. The plan is complete and comprehensive and describes the official control actions of the different Spanish public administrations in their respective areas of responsibility.

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 Planning and prioritisation criteria and frequency

The relevant national legislation for official controls on product specifications is implemented through a series of legal instruments at national and Autonomous Community level, which can be found on the MAPAMA website¹⁷¹.

The MANCP that Member States must establish in accordance with Regulation (EC) No 882/2004, known in Spain as the PNCOCA, is updated on an annual basis. In the current version covering 2016-2020, official controls related to GIs are described in a dedicated section¹⁷². Likewise, the annual reports

¹⁷¹ <http://www.mapama.gob.es/es/ministerio/>.

¹⁷² Programa de Control Oficial de la Calidad Diferenciada vinculada a un origen geográfico y especialidades tradicionales garantizadas, antes de la comercialización.

on the implementation of the PNCOCA — also required by Regulation (EC) No 882/2004 — have been submitted to the European Commission since 2011, including a specific section on GIs. This is in accordance with Article 40 of Regulation (EU) No 1151/2012.

The PNCOCA encompasses MAPAMA Guidelines that are applicable to all central authorities in the CCAA. They include requirements on coverage (minimum coverage being equal to the square root of the number of products covered by quality schemes, and full coverage in the 2016-2020 period), standard tables and templates for harmonised reporting of non-compliance, consequences and corrective measures (Annexes II and III of the Guidelines).

No general risk criteria have been established. Each CA performs its own risk assessment in order to prioritise the verification of controls, as these depend on the specific product.

The annual report is carried out in a consensual manner between the MAPAMA, the Spanish Agency for Food Security and Nutrition and the Directorate-General for Public Health and Quality and Innovation of the MSSSI and it is made available to the public. It includes the results of the controls carried out by the CCAA and all competent national authorities in the field of their competencies in a global and integrated way.

In addition to the general guidance included in the PNCOCA, each CA defines its own internal procedural aspects. Changes to procedures are reported in the annual report.

Official controls are preceded by a warning that includes a visit plan, and results of controls are reported in a harmonised manner using common templates¹⁷³.

2.1.2 Verification of compliance with product specifications

As reported above, the MAPAMA is the CA responsible for verifying compliance with the product specifications before placing the product on the market for GIs produced in more than one Autonomous Community¹⁷⁴; controls may be carried out by delegated CBs or by the AICA.

In particular, in accordance with Law No 6/2015 on supra-autonomous GIs¹⁷⁵:

operators in all the production and processing phases must ensure 'auto-control' on compliance¹⁷⁶;

official control¹⁷⁷ mainly consists of inspection of premises, sample taking and analysis, document examination, verification of planning and execution of auto-controls and document registry;

control tasks can be delegated by the MAPAMA to CBs¹⁷⁸, accredited in accordance with ISO/IEC 17065:2012 and under the supervision of the MAPAMA, which may impose administrative sanctions in the case of incorrect functioning; they have the power to report irregularities detected;

internal control systems can be established by the CR of the specific GI¹⁷⁹;

specific obligations of operators, CRs and CBs are established¹⁸⁰.

¹⁷³ Section B – Part II.12, *Programa de control oficial de la calidad diferenciada 2015*, where the results of all official controls are reported for all the CAs.

¹⁷⁴ Law No 24/2003 on vineyards and wine; Law No 6/2015 on supra-autonomous protected denominations of origin and protected indications of origin, which came into force on 2 June 2015.

¹⁷⁵ Chapter V of Law No 6/2015.

¹⁷⁶ Article 21 of Law No 6/2015.

¹⁷⁷ Article 22 of Law No 6/2015.

¹⁷⁸ Article 23 of Law No 6/2015.

¹⁷⁹ Article 24 of Law No 6/2015.

As regards the 12 supra-autonomous GIs (8 agricultural and 4 wines), in two cases the certification tasks have been delegated to the CBs. In the other cases, controls are performed by the AICA.

The PNCOCA establishes general guidance for the CAs and for all GIs, together with minimum requirements that must be met to perform official controls:

control points (installations, exploitations, etc., based on registers) (Section 6.2. of the Plan);

level of inspection and frequency. For example, operators commercialising products are checked at least on a yearly basis, and selection can be systematic, via random selection or by risk analysis (Section 6.3.);

methods and techniques used for verification of compliance with product specifications (*pliego de condiciones* (Section 6.4)). In this regard, control can be documental, through identification and physical control. More in detail, the control techniques on compliance are: surveillance, verification, audit, inspection, random testing and analysis for each of the control points in all steps of the process (production, transformation, packaging and labelling). The minimum controls that should be carried out are the following:

- assessment of the internal control system implemented by operators;
- controls on installations, exploitations and fields;
- reception and control of origin and of the characteristics of raw materials, ingredients and other auxiliaries as specified in the specifications;
- controls on production, elaboration and transformation processes;
- traceability control;
- analytical and organoleptic control of the product (sampling and analysis);
- controls on movements of products in the limited zone;
- controls on packaging and labelling;
- controls on inventories and balances.

As regards GIs covering the territory of one single Autonomous Community, as previously mentioned, official controls fall entirely within the competence of the CCAA. This control is performed in different ways and envisages further requirements to the minimum general requirements as described above. Each Autonomous Community can either carry out its control directly through its staff or delegate this task to public CBs or private entities. In particular, the scope of control and procedures are established by local legislation and/or by the act containing the 'product regulation' of the single GI.

Detailed information about controls carried out by the CCAA is given in the following chapter dedicated to the Autonomous Communities.

2.2 CONTROLS ON THE MARKET

As regards surveillance of the use of GIs on the market, AECOSAN is the central authority responsible for coordinating official controls, which are carried out by the ACCAs. Coordination takes place through a committee in which AECOSAN and the ACCAs participate and which meets regularly¹⁸¹.

AECOSAN schedules controls based on different factors, such as increasing complaints in a particular subsector. Although national campaigns are planned and approved by this committee, no GI products had been included on a regular basis at the time of this survey. However, in principle, GIs can be

¹⁸⁰ Article 25 of Law No 6/2015.

¹⁸¹ http://www.aecosan.msssi.gob.es/AECOSAN/docs/documentos/seguridad_alimentaria/pncoca/10_CALIDAD_DIFERENCIADA.pdf.

included in the control programmes carried out in retail shops in the framework of verifications carried out in compliance with the requirements set out in Regulation (EU) No 1169/2011 on food information provided to the consumer.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Official data on resources is available up to 2015.

The MAPAMA's last annual report, relating to 2015, provided data on resources available for official controls on agricultural products, wines, aromatised wines and spirit drinks, but it has not been possible for the authors of this survey to break down the data on staff employed specifically for GIs.

According to the general data, there were 418 members of MAPAMA staff working on coordinating the official controls with the units under the Sanitary Agreements and Differentiated Quality (Acuerdos Sanitarios y Calidad diferenciada).

With regard to the AECOSAN, 345 people are entrusted with official control duties. Amongst them, 150 people work in central services and the remaining 195 are part of the laboratory personnel, spread across the National Food Centre (Centro Nacional de Alimentación — CNA) and the Reference Laboratory of the European Union of Marine Biotoxins (Laboratorio de Referencia de la Unión Europea de Biotoxinas Marinas — EURLMB), located in Vigo¹⁸².

The table below shows resources for ACCA's public laboratories in 2015¹⁸³.

STAFF RESOURCES IN ACCA LABORATORIES

SERVICES/ PERSONNEL	GRADUATES		TECHNICAL STAFF	ASSISTANT LABORATORY	ADMINISTRATIVE PERSONNEL	TOTAL
	MANAGEMENT	LABORATORY TECHNICIANS				
Public laboratories	59	352	147	348	113	1 019

¹⁸² Official data from 2015 available at http://www.mapama.gob.es/es/ministerio/planes-estrategias/plan-nacional-de-control-de-la-cadena-alimentaria/informe_anual_2015_tcm7-427438.pdf.

¹⁸³ DG SANTE country profile, last update January 2016.

As regards the CCAAs, information on resources assigned to controls on GIs is provided in the PNCOCA, where a table is provided for each Autonomous Community, differentiating between resources of the CA and resources of delegated bodies¹⁸⁴. Figures are given for:

staff assigned to management of controls;
inspectors;
other technical control staff;
administrative staff; others.

Similarly, the training structure for each of the CCAA is provided in the PNCOCA and described in the annual report, which includes the number of training courses delivered, objectives and the number of participants per CA or CB¹⁸⁵. Training is usually organised centrally at the MAPAMA for all the CAs.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Controls before placing the product on the market

Under Spanish Law No 19/2013 on transparency and the confidentiality provisions in Law No 7/2007, information that is considered of interest to the general public is published on the official websites of the central authorities.

The PNCOCA and the annual reports contain significant information on the controls carried out and they are published on the MAPAMA's website¹⁸⁶.

In addition, it is possible to consult on the same website:

a searchable data base for all GIs, including a description of the goods, the management bodies and the product specifications¹⁸⁷;
open information on coordination between authorities¹⁸⁸;
the applicable legislation¹⁸⁹.

A monthly information bulletin with all legislative changes is also available online¹⁹⁰.

Surveillance of the use of the name in the marketplace

When the institutional coordination and cooperation bodies decide and approve the actions

¹⁸⁴ http://www.mapama.gob.es/es/ministerio/planes-estrategias/plan-nacional-de-control-de-la-cadena-alimentaria/pncoca_2016-2020_espana_v2-2017_tcm7-456389.pdf (Subsection I, section II.10, "10_Calidad Diferenciada", section 5.1 "Recursos materiales, humanos y economicos").

¹⁸⁵ http://www.mapama.gob.es/es/ministerio/planes-estrategias/plan-nacional-de-control-de-la-cadena-alimentaria/pncoca_2016-2020_espana_v2-2017_tcm7-456389.pdf (Subsection I, section II.10, "10_Calidad Diferenciada", section 5.5 "Formacion del personal").

¹⁸⁶ http://www.mapama.gob.es/es/ministerio/planes-estrategias/plan-nacional-de-control-de-la-cadena-alimentaria/pncoca_2016-2020_espana_v2-2017_tcm7-456389.pdf.

¹⁸⁷ <http://www.mapama.gob.es/es/alimentacion/temas/calidad-agroalimentaria/calidad-diferenciada/dop/>.

¹⁸⁸ <http://www.mapama.gob.es/es/alimentacion/temas/calidad-agroalimentaria/calidad-comercial/mesa-coordinacion-calidad-alimentaria/#>.

¹⁸⁹ <http://www.mapama.gob.es/es/alimentacion/temas/calidad-agroalimentaria/calidad-diferenciada/dop/htm/reglamentacion.aspx>.

¹⁹⁰ <http://www.mapama.gob.es/es/alimentacion/legislacion/boletin-informativo-mensual/default.aspx>.

corresponding to the national campaigns for inspection and market control, they are published on the AECOSAN website.

Moreover, once the overall results of these campaigns are known, they are published on the same website.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The central authorities retain overall responsibility for ensuring efficient and effective coordination between the CAs involved, as required by Regulation (EC) No 882/2004.

Forms of alert and consultation are in place, to ensure exchange of information and relevant actions to enforce GIs.

In particular, actions are taken based on information exchanged through the AAC (Administrative Assistance and Cooperation system), the EU system for cooperation amongst national authorities for the enforcement of food laws. In the Spanish experience, the AAC system plays an important role in exchanging information between Member States and for the resolution of cross-border issues, including those related to GIs¹⁹¹.

As regards controls on the market, when receiving information from another Member State, the AECOSAN contacts the market control authority of the Autonomous Community to verify the information and, where appropriate, adopts the applicable corrective measures.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

General principles of the administrative sanctions system are given in the PNCOCA and include provisions referring to non-compliance with the product specifications, irregularities and infringements.

In the case of supra-autonomous GIs, regulated by Law No 6/2015, the MAPAMA has competence to impose sanctions¹⁹². However, when the CA detects risks related to the health of people, animals, or plants, the environment, or non-compliance with consumer legislation, it communicates the identified risk to the authorities with competence over the specific matter.

¹⁹¹ Information on the Administrative Assistance and Cooperation System (AAC) at: https://ec.europa.eu/food/safety/official_controls/legislation/aac_en.

¹⁹² Article 26 of Law No 6/2015.

The sanctioning authority is the **General Administration of the State (Administración General del Estado — AGE)**¹⁹³, which has competence to impose sanctions provided that: the parties have their headquarters in different CCAA, the commercialisation of the infringing product affects more than one autonomous community, based on the traceability of the product. The corresponding Autonomous Community will be in charge in the remaining cases.

Each piece of CCAA legislation classifies and specifies the types of infringements and the relevant sanctions. Details on the different types of administrative sanctions are provided in the Guide.

6.2 CRIMINAL PROSECUTION

In addition to administrative sanctions, certain GI infringements may lead to criminal prosecution. The criminal actions are set out in the Criminal Code, and include, amongst other things, infringements against public health, consumer rights, intellectual property, fraud, etc.

In relation to intellectual property rights, Chapter XI of the Criminal Code details the criminal actions in relation to intellectual and industrial property, market and consumers.

Criminal prosecution in Spain is governed by Royal Decree of 14 September 1882, *Ley de enjuiciamiento criminal*¹⁹⁴.

6.3 FOLLOW-UP OF CASES

The type of follow-up depends on the nature of the non-compliance. If corrective actions are required, they are usually assessed in a follow-up audit.

The legal basis for enforcement measures to be taken in cases of non-compliance was established in Law No 24/2003 and is further developed in Law No 6/2015. The ACCA may enact additional legislation for specific enforcement measures relating to GIs to be applied in their territory.

Cases of non-compliance are classified as irregularities or infringements, depending on their severity and recurrence. In the case of irregularities, the certification of the non-compliant operator is suspended and the affected batches cannot be marketed until corrective action has been taken by the operator to rectify the non-compliance. When the non-compliance is more severe, the certification of the non-compliant operator is withdrawn and the operator will not be allowed to market any product under the registered GI for a certain period of time.

The enforcement measures may vary, depending on the body in charge of the official controls. When the CAs carry out controls, monetary sanctions may be applied in accordance with the relevant applicable legislation. The CBs and regulatory councils cannot impose sanctions.

The findings on non-compliance are reported through the annual report. Repetition of non-compliance may lead to revocation of the certificate.

When the non-compliance relates to GIs from another Member State, the case is forwarded to the CAs of that Member State, in addition to the application of the relevant sanctions.

¹⁹³ The AGE is a public organisation. It is the Government's instrument to develop and implement its public policies. The Government directs the AGE, which is organised through different types of bodies and institutions that are part of the State Public Sector (e.g. the Ministries, bodies of the AGE located in the CCAA). Public website: https://administracion.gob.es/pag_Home/espanaAdmon/comoSeOrganizaEstado/Administracion_Gral_Estado.html.

¹⁹⁴ <http://www.boe.es/buscar/pdf/1882/BOE-A-1882-6036-consolidado.pdf>.

As regards controls on the market, corrective actions of an administrative nature are undertaken, as established in national laws and in rules established by the CCAA.

6.4 EX OFFICIO PROTECTION

Administrative and judicial protection of GIs is also ensured in Spain *ex officio*, in line with EU requirements. Specific measures and initiatives are taken in this field. The following are some examples:

all trade marks registered in Spain and at the EUIPO are subject to review;

a 'digital society' collaboration is in place to combat online fraud. Special groups have been created to meet with online platforms providers, such as Amazon, to provide guidance and to find solutions to online fraud problems;

different campaigns are organised by enforcement authorities, such as those carried out in collaboration with the SEPRONA of the Guardia Civil, targeting different issues, included quality of foods;

participation is ensured in international enforcement operations, such as the joint Operation Opson under the coordination of EUROPOL and INTERPOL against counterfeited and substandard food products.

In addition, within the *ex officio* protection, actions are taken by the CAs to ensure protection in the Spanish market of EU GIs held by producers of other Member States, and to follow up on violations detected or communicated.

Information is also provided to the authorities of the CCAA in the Working Group on Market Control, which is accountable to the CCC.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

7.1 TOOLS FOR USERS AGAINST SUSPECTED/DETECTED INFRINGEMENTS

As a general tool for denouncing irregularities in the food chain, a guide has been made available by MAPAMA, through the AICA, to report formal complaints. The guide explains the situations in which a claim can be made and who is entitled to make a formal complaint. The different steps that will be taken following a complaint are presented, along with the administrative sanction system.



Users or consumers can also present complaints in the local Oficina del Consumidor. These are local offices where consumers can obtain general information or make a formal complaint against suspected/detected infringements of their rights (this includes infringements of GI legislation).

7.2 CIVIL ACTION

The controlling body that certifies or otherwise controls the GI is eligible to initiate legal action to enforce rights in a GI. Moreover, users of a GI are entitled to initiate legal action under trade mark laws.

Civil actions for trade mark infringement are comprehensively covered in the Trade Mark Act¹⁹⁵ and the rights holder may seek different kind of remedies, as specified in the Guide annexed to this survey.

Furthermore, the infringement of a GI is deemed an act of unfair competition and is actionable, if a subject takes unfair advantage of someone else's reputation. Under Spanish law, misappropriation of the advantages related to the industrial, commercial, or professional reputation acquired by another party in the marketplace for one's own benefit, or the benefit of a third party, is considered to be unfair practice. In particular, it is unfair practice to use the distinctive signs of others or false designations of origin accompanied by an indication as to the true origin of the product or by expressions such as 'sort', 'system', 'type', 'kind' or the like¹⁹⁶.

Consumer protection is addressed under the consolidated text of the General Consumer and User Protection Act¹⁹⁷. This Act defines infringements of consumer and user rights and empowers the competent administrative bodies to levy fines against the responsible parties. Moreover, consumer associations, the National Institute of Consumer Affairs and other regional (autonomous) and community entities, as well as the Public Prosecutor's Office may institute proceedings before the civil courts, to seek cessation and prohibition of conduct infringing the regulations protecting consumer and user rights.

¹⁹⁵ Law No 17/2001 on trade marks.

¹⁹⁶ Article 12, Law No 3/1991 on unfair competition.

¹⁹⁷ Royal Decree-Law No 1/2007 of 16 November 2007.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

SPAIN — AUTONOMOUS COMMUNITIES (*COMUNIDADES AUTÓNOMAS*)



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

CAPDER	Council of Agriculture, Fisheries and Rural Development (Consejería de Agricultura, Pesca y Desarrollo Rural)
CMAALyOT	Council of Environment, Local Administration and Territorial Planning (Consejería de Medio Ambiente, Administración Local y Ordenación del Territorio)
CMR	Rural Council (Consellería do Medio Rural)
CNTA	National Centre for Technology and Food Security (Centro Nacional de Tecnología y Seguridad Alimentaria)
CR	Regulatory Council (Consejo Regulador)
DGICA	General Direction of Industries and Agri-Food Chain (Dirección General de Industrias y Cadena Agroalimentaria)
ENAC	National Entity of Accreditation (Entidad Nacional de Acreditación)
FEGA	Spanish Agricultural Guarantee Fund (Fondo Español de Garantía Agraria)
ICCA	Canary Islands Institute of Agri-Food Quality (Instituto Canario de Calidad Agroalimentaria)
IGC	Galician Institute of Consumer Affairs (Instituto Gallego de Consumo)
INGACAL	Galician Institute of Food Quality (Instituto Galego da Calidade Alimentaria)
ITACYL	Technological Agricultural Institute of Castile and Leon (Instituto Tecnológico Agrario de Castilla y León)
MECOCADI	Coordinating Board of Differentiated quality (Mesa de Coordinación de la Calidad Diferenciada)
ODECA	Office for Agri-Food Quality (Oficina de Calidad Alimentaria)
OEPM	Spanish Patent and Trade Mark Office (Oficina Española de Patentes y Marcas)
OIC	Independent Control Organisations (Organismos Independientes de Control)
PNCOCA	National Plan of Food Chain Control (<i>Plan Nacional de Control Oficial de la Cadena Alimentaria</i>)

ANDALUSIA (ANDALUCÍA)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA in Andalusia for controls before placing the product on the market is the **Council of Agriculture, Fisheries and Rural Development (Consejería de Agricultura, Pesca y Desarrollo Rural — CAPDER) — Directorate-General for Industries and Agri-Food Chain (Dirección General de Industrias y Cadena Agroalimentaria — DGICA)**¹⁹⁸, which is responsible for controlling the quality of Andalusian foods and agricultural products and, in particular, of GIs. This includes the management and coordination of the supervising activities and inspections, the approval of inspection plans and the authorisation of specific control actions¹⁹⁹.

Controls after the products are placed on the market are entrusted to the **Council of Health, Directorate-General for Consumption (Consejería de Salud — Dirección General de Consumo)**²⁰⁰, which is in charge of control and inspection activities related to consumer goods (including planning, instructing and coordinating the related control activities)²⁰¹. The control is carried out for all GIs (i.e. foodstuffs, wines and spirits) by the market inspection services of the different delegations of the Council of Health, and is limited to:

- a) verifying that products bearing a GI are actually protected by that designation; the control is carried out by checking the list of certified operators for that particular GI;
- b) verifying that products not certified as a GI do not use denominations that could mislead the consumer about their origin²⁰².

ORGANISATION OF THE CONTROL SYSTEM

The organisation of the control system in Andalusia is established under the following regional regulatory framework:

for wines: Law No 10/2007 of 26 November on the protection of origin and quality of wines of Andalusia;
for foodstuffs, wines, aromatised wines and spirits: Law No 2/2011 of 25 March on agri-food and fisheries' quality in Andalusia.

CONTROL BODIES

Controls are delegated to the CBs²⁰³. In this regard, Andalusia has set up a register of inspection and certifying bodies for agri-food and fishery products.

¹⁹⁸ Decree No 215/2015 of 14 July, establishing the organic structure of the Consejería de Agricultura, Pesca y Desarrollo Rural — Agriculture, Fisheries and Rural Development.

¹⁹⁹ <http://www.juntadeandalucia.es/organismos/agriculturapescayderollorural/consejeria/sobre-consejeria/cartas-servicio/paginas/dgica.html>.

²⁰⁰ http://www.juntadeandalucia.es/salud/sites/csalud/portal/index.jsp?idioma=es&perfil=ciud&opcion=listadoTematico&tema=/temas_es/C_12_CONSUMO/&desplegar=/temas_es/C_12_CONSUMO/&menu=S.

²⁰¹ Decree No 208/2015, of 14 July.

²⁰² Articles 13 and 24 of Regulation (EU) No 1151/2012 of 21 November 2012.

²⁰³ The CBs are regulated by Decree No 268/2003 of 30 September.

CBs are accredited in accordance with ISO 17065:2012. The delegation is by a resolution issued by the DGICA, in compliance with Regulation (EC) No 882/2004. The resolution establishes the obligations of the CBs regarding documentation and information to be provided to the CAPDER.

SUPERVISION OF CONTROL BODIES

The Office in charge of supervision is the DGICA.

Measures in the event of irregularities are set out in the mentioned specific piece of regional legislation and can consist of economic sanctions, suspension of rights and withdrawal of authorisation.

PERFORMANCE OF CONTROLS

Planning and prioritisation

Controls are performed annually by the CA and the CBs. The scope of verification and the operators to be controlled are determined randomly and according to risk analysis criteria.

Verification of compliance with product specifications

Compliance with product specifications is carried out by both the CA and by the CBs. In line with the official national programmes²⁰⁴, the CAPDER has established the following documented procedures, inter alia:

system of official control of differentiated quality of foodstuffs, fisheries, wines and spirit drinks;
specific procedures for the inspection of the independent CBs to which control activities have been delegated;
specific procedures for the supervision of the CBs.

Surveillance of the use of the name in the marketplace

Every year, the CA for control on the market organises a control campaign regarding the labelling of foods and agricultural products. Additional specific actions are carried out subsequent to claims or complaints, or following communications received from other public administrations.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

Administrative sanctions are provided for by Laws No 10/2007 and No 2/2011.

As regards controls of compliance with product specifications and supervision of the CBs, the CAPDER is in charge of imposing administrative sanctions.

Where precautionary measures are envisaged, such measures can be issued by the CA *ex officio* or following a communication from a CB notifying an infringement. Operators can file an appeal against the CA's resolutions.

²⁰⁴ Programa nacional de control oficial de la calidad diferenciada vinculada a un origen geográfico y especialidades tradicionales garantizadas antes de su comercialización.

Please see the Guide for more details on the administrative sanctions.

REMEDIES FOR USERS

Users and consumers can submit a complaint through the citizens' portal CLARA platform²⁰⁵.

²⁰⁵ <https://www.juntadeandalucia.es/ciudadania/>.

ARAGON (ARAGÓN)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA in Aragon for the control of differentiated quality is the **Department of Rural Development and Sustainability (Departamento de Desarrollo Rural y Sostenibilidad)**, in accordance with Decree No 317/2015 of the President of Aragon, which approved the organisational structure of the Department²⁰⁶.

Competences of the Department include the development of the quality and the promotion of agricultural products and foodstuffs in the Community, with special reference to GIs. In particular, such task is assigned to the **Directorate-General for Food and Agri-Food Development (Dirección General de Alimentación y Fomento Agroalimentario)**, which provides for, inter alia, the organisation, planning, coordination and supervision of agri-food quality, both during production and on the market, especially with reference to quality schemes.

Within the said Directorate-General, the **Service for Agri-Food Safety** is in charge of monitoring compliance with the rules for quality products before they are placed on the market; while the **Service for Agri-Food Quality Promotion** has competence, inter alia, for monitoring the protected names in the commercialisation phase.

ORGANISATION OF THE CONTROL SYSTEM

The management and controls of quality names for agri-food in Aragon are regulated by Law No 9/2006 of the Community of Aragon covering in particular:

GIs for agricultural products and foodstuffs;

different categories of protected names for wines, including *vinos de la tierra* and quality wines produced in specific regions²⁰⁷.

In general, each quality denomination is administered by a 'management body', which, in the case of GIs for foodstuffs and wines, is the **Regulatory Council (Consejo Regulador — CR)**.

Under Law No 9/2006, GIs are regulated by:

technical specifications (*pliego de condiciones*), containing the minimum requirements in compliance with EU and national legislation for GIs;

a regulation organising, including, inter alia, the control or certification system.

The scope of protection covers all phases of production and commercialisation, as well as presentation, advertising, labelling and commercial documentation; any false or misleading use of the name is

²⁰⁶ Decree No 317/2015 of 15 December, of the Government of Aragon, establishing the organic structure of the Department of Rural Development and Sustainability; Law No 9/2006 of 30 November, on food quality in Aragon.

²⁰⁷ The regulation of the *vinos de la tierra* produced in Aragon was included in various norms of the Government of Aragon, later by Regulation (EC) No 491/2009, of 25 May 2009, the *vinos de la tierra* became designated as GIs.

prohibited regarding provenance, origin, nature and essential characteristics of the product in packaging, advertising or commercial documents.

Controls regarding verification of compliance with product specifications before placing the product on the market are carried out by delegated CBs.

To date, there are no GIs for spirits or aromatised wine products in Aragon.

CONTROL BODIES

In Aragon the CRs can act as CBs.

More in detail, a CR is a public corporation with autonomous legal status and finances. Its functioning is regulated by private law, although an exception is made for actions implying public powers, for which administrative law applies. Its tasks include:

surveillance of the name and reporting of any illegal use before the competent administrative and judicial authorities;

implementation of the system of controls established by EU regulations and its internal regulations;

controls on the use of labels;

proposals for minimum control requirements that each associated producer must submit during each phase of production and commercialisation of the protected product.

In general, a CR can denounce any suspected non-compliance with quality regulations in the agri-food sector.

The general legal principles of delegation of controls allow for authorisation to be granted to²⁰⁸:

1. an independent CB accredited in accordance with ISO/IEC 17065:2012 and authorised by the Directorate-General for Food and Agri-Food Development;
2. a control structure integrated into the CR of the specific GI, which fulfils independence requirements, whose staff are approved, and which is accredited in accordance with ISO/IEC 17065:2012;
3. an independent CB selected by the GI's CR and accredited in accordance with ISO/IEC 17065:2012;
4. the GI's CR itself, authorised by the Directorate-General for Food and Agri-Food Development and accredited in accordance with ISO/IEC 17065:2012.

Supervision of Control Bodies

The supervision of the CBs is carried out by the Service for Agri-Food Safety, which has to verify that the CBs perform the functions that have been delegated to them efficiently and in compliance with the national criteria established in the PNCOCA.

²⁰⁸ Law No 9/2006 of Aragon (current review 4 February 2016).

At least one audit of the entity responsible for the control of each GI must be carried out within the time frame of the current PNCOCA.

Irregularities observed during the supervision activity are classified according to their severity, as follows:

minor irregularities that do not reach the level of non-conformity or require the adoption of corrective actions by the entity, but which represent an opportunity for improvement;

failure to comply with official control requirements, which requires the implementation of corrective actions by the CB. In detail:

- non-compliance: breach of control requirements, which requires the adoption of corrective actions by the CB and which does not acquire the status of serious or critical;
- serious non-compliance: failure to comply with inspection requirements, consisting of non-adoption of a temporary suspension or withdrawal of certificate, or, vice versa, when suspension or withdrawal is imposed without the presence of the necessary conditions;
- critical non-compliance: non-compliance that compromises the reliability of the CB, determining the withdrawal of the delegation of controls.

Moreover, the Department of Rural Development and Sustainability carries out administrative supervision of CRs²⁰⁹, providing for control over the legality of their acts. In this regard, each CR must submit its statute, composition, annual budget, inventory of real estate properties, intangible assets and goods over a certain value to the Department.

PERFORMANCE OF CONTROLS

Planning and prioritisation

Official controls within the scope of quality schemes are planned in accordance with the annual programme of each CB. This planning is adapted to the characteristics of the technical specifications for the individual product, prioritising the controls according to different factors such as the seasonality of certain productions/products.

In any event, CBs must carry out at least an annual check on all operators commercialising GI products. This frequency may, however, be increased in response to complaints, alerts, or any other circumstances demonstrating that a single annual control is not sufficient.

Verification of compliance with product specifications

Verification of compliance with technical specifications is defined within each product regulation and is carried out by the competent CB. Controls are implemented through documented procedures, based on documentary, identity and physical inspections.

Controls include sampling, and are implemented at each of the control points identified, at all stages of production, processing, packaging and labelling of the products.

As regards oils, the performance of organoleptic tests is carried out by the Tasting Panel of Virgin Olive Oil from Aragon (Panel de catadores de aceite de oliva virgen de Aragón)²¹⁰, which performs the sensory analysis of the virgin olive oils produced in Aragon. The companies interested in knowing the

²⁰⁹ Law No 9/2006.

²¹⁰ http://www.aragon.es/DepartamentosOrganismosPublicos/Departamentos/DesarrolloRuralSostenibilidad/AreasTematicas/SeguridadAgroalimentaria/Laboratorio_Agroalimentario/ci.05_Panel_de_Cata_detalleDepartamento?channelSelected=0.

organoleptic quality of their oils have the possibility of sending samples to the panel for tasting. The Tasting Panel is an independent body, accredited by the **National Entity of Accreditation (Entidad Nacional de Acreditación — ENAC)** and recognised by the MAPAMA and the International Olive Council.

Surveillance of the use of the name in the marketplace

In order to supervise the correct use of registered names in relation to quality schemes, the Agri-Food Security Service has drafted the corresponding 'Plan of Control of the Differentiated Quality of Commercialised food' (*Programa de control de la calidad comercial alimentaria*). The control actions are carried out in companies or food establishments whose activity is carried out after product certification, such as wholesale and retail establishments, as well as catering and food services.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

As regards administrative sanctions, the Aragon Food Quality Law ²¹¹ attributes powers to different bodies, sets out the types of infringements and the system of penalties.

Please see the Guide for more details on the administrative sanctions.

REMEDIES FOR USERS

Consumers can file complaints via mail or email ²¹². Moreover, on the website of the Department of Rural Development and Sustainability, the contact details of the Service for Agri-Food Safety and the different control agencies are available.

²¹¹ Law No 9/2006 of 30 November.

²¹² cdiferenciada@aragon.es.

ASTURIAS (*PRINCIPADO DE ASTURIAS*)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for GIs in Asturias is the **Council of Rural Development and Natural resources (Consejería de Desarrollo Rural y Recursos Naturales)**²¹³. In particular, Decree No 69/2015 establishing the organisation and functions of the Council assigns this task to the **Directorate-General for Rural and Agri-Food Development (Dirección General de Desarrollo Rural y Agroalimentación)**.

ORGANISATION OF THE CONTROL SYSTEM

In the administrative organisation of the Council, the Directorate-General for Rural and Agri-Food Development has general competence over direction, coordination and development of production, transformation and commercialisation of foods and agricultural products. This includes being the competent authority for official controls on GIs, before and after the products are placed on the market.

In particular, as regards the quality of products, the **Service for Agri-Food Development (Servicio de Desarrollo Agroalimentario)** is in charge of:

- administration of applications for GIs;
- official controls on quality schemes;
- controls on quality and against frauds.

Asturias does not have specific legislation covering GIs.

The general task of control is therefore assigned to the CR of each product, whose role as CB and scope of control are established in the regulation and technical specifications for each protected product.

CONTROL BODIES

The regulation of each individual GI identifies the CB entrusted with the administration of the protected name and with controls of compliance with the relevant technical specifications. Furthermore, the product regulation and the technical specifications define rights and obligations for the use of the GI.

Functions of the CR include both controls on production and quality and the management of sanction proceedings in cases of infringements. The CR is also competent to approve the commercial label to be used by each registered operator, whose content and features are defined by the technical specifications.

The CRs are considered decentralised bodies integrated in the central authorities. The standards applied are established in the technical specifications. For example, in the case of the PDO Sidra de Asturias, the UNE EN 45011:1998 standard applies, while the CR of Cabrales is certified in accordance with the ISO/IEC 17065:2012 standard.

²¹³ Decree No 69/2015 of 28 July of the Asturian Government, establishing the basic organisational structure of the Council of Rural Development and Natural Resources of Asturias. There is no specific legislation on GIs to date.

SUPERVISION OF CONTROL BODIES

The Directorate-General for Rural Development and Agri-Food carries out supervision to verify that objectives identified in the control programmes have been reached, either by the CB (if controls have been delegated) or by the control structures of the CA (if controls have not been delegated).

In addition, it undertakes impartial audits of compliance with the provisions of Regulation (EC) No 882/2004.

In compliance with the *Guide for the verification of effectiveness of the MAPAMA official control system*, which provides common guidelines for the execution of audits, the entity performing the audit for Asturias is the public company TRAGSA/SERPA, while the independent examination is assigned to the audit services of the Spanish Agricultural Guarantee Fund (Fondo Español de Garantía Agraria — FEAGA), the national administrative body in charge of the Common Agriculture Policy of the EU.

PERFORMANCE OF CONTROLS

Planning and prioritisation

The MAPAMA guidelines included in the PNCOCA are applicable to all the Central Authorities of the Autonomous Communities. The minimum coverage is equal to the square root of the number of GIs, and standard tables and templates are also included for harmonised reporting of non-compliance, consequences and corrective measures (Annex II and III of the Guidelines).

The annual planning for the Autonomous Community is derived from the PNCOCA.

The verification of compliance with technical specifications is carried out annually. Likewise, the surveillance of the use of names in the marketplace is planned annually on the basis of a risk analysis, whose criteria are the results of controls of the previous years and the commercialised volumes.

Verification of compliance with product specifications

For each GI there is a specific control plan including, inter alia, the following elements: records, control procedures, what must be checked and how, sampling, control reports, follow-up of infringements.

The technical specifications of the single protected product define the scope of control to be carried out by the CB or CR. As an example of the scope of controls, the product specifications for the PDO Sidra de Asturias set out by Order APA/224/2003²¹⁴, require the following periodical checks:

on the land: on-site inspection (to verify the variety of apples used, harvest, selection, hygienic conditions of apples, warehousing, transport, etc.); documentary checks;

in wine cellars: on-site inspection (hygienic conditions of products, raw materials received, transformation process, etc.); documentary checks (registries, archive of analysis test reports, traceability, etc.); analytical checks (including physical-chemical and organoleptic characteristics, isotopes analysis).

²¹⁴ http://sidradeasturias.es/archivos/enlaces_1266846536.pdf.

Surveillance of the use of the name in the marketplace

Every year a control plan on the use of GIs in the marketplace is prepared based on visits to various establishments, to check whether there are products covered by GIs.

Guidelines are available for the inspectors to support performance of controls in the marketplace and the use of the GI, which includes the labelling requirements and appearance/presentation, for both Spanish products and products from other EU Member State or third countries.

Any infringement is to be communicated to the establishments and, as the case may be, to the entities responsible and to the CAs.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

At the time of this survey, a law on Agri-Food Quality for Asturias had been proposed, including the categorisation of breaches, sanctions, precautionary measures and accessory sanctions (seizures, closures, withdrawals of authorisation).

Operators have all the guarantees offered by the administrative procedures in force in Spain. Pending the approval of the law, the system of administrative sanctions is established in the product specifications, laying down a categorisation of infringements for the individual product.

REMEDIES FOR USERS

Any complaints can be submitted by users and consumers through the website of the CA.

BALEARIC ISLANDS (*ISLAS BALEARES*)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

INVENTORY OF CONTROL AUTHORITIES

Autonomous Community Competent Authority

The central CA of the Balearic Islands is the **Council of Environment, Agriculture and Fishery (Consejería de Medio Ambiente, Agricultura y Pesca)**²¹⁵.

Decree No 24/2015 of the Presidency of the Balearic Islands, establishing the governmental structure and the competences of the offices, assigns to the **Directorate-General for Agriculture and Livestock (Direcció General d'Agricultura i Ramaderia)** the competence, inter alia, over the GI system²¹⁶.

The CA is in charge of both controls at the production phase and surveillance of the use of the name in the marketplace.

ORGANISATION OF THE CONTROL SYSTEM

Controls and certification of protected agricultural products and foodstuffs in the Balearic Islands can be carried out by:

the CR of the individual product, provided that within its organisation, control functions are clearly separated from those of administration;

or by another independent CB authorised by the Community CA.

Decree No 49/2004 regulates the legal regime and the functions of the CRs.

The Directorate-General for Agriculture and Livestock of the Government of the Balearic Islands is in charge of:

the administrative supervision of the CRs of GIs of the island of Mallorca;

the certification of *vinos de la tierra* (except those of Menorca) and spirits (except Mahón Gin);

control and inspection of any of the protected products.

As regards Menorca, the Department of Environment and Biosphere Reserve of the Consell de Menorca is in charge of:

administrative supervision of the CR of the PDO Mahón-Menorca; and
certification of the *vino de la tierra* Isla de Menorca and the Gin of Mahón.

²¹⁵ Decree No 24/2015 of 7 August of the President of the Balearic Islands, which establishes the competences and basic organisational structure of the departments of the Administration of the Autonomous Community of the Balearic Islands; Decree No 49/2004 of 28 May, on the legal and economic regime of the regulatory boards and other management and quality control bodies; Law No 1/1999 of 17 March, on the statute of producers and agri-food industry of the Balearic Islands.

²¹⁶ <http://www.caib.es/govern/organigrama/area.do?coduo=12&lang=ca>.

All the CBs, except those not accredited in accordance with the ISO 17065:2012 standard, have the power to perform control over the CRs and to certify and control registered business operators.

CONTROL BODIES

The CR can act as a CB. CRs are constituted as professional associations in charge of management and control of GIs; they are regulated by private law and subject to administrative law when exercising public functions²¹⁷.

Management and control functions must be separated within the internal organisation of the CR.

The CR is established upon request of the group of producers when applying to the Community CA for the acknowledgement of the GI. Each GI product regulation specifies the appointed CR in charge of management and controls.

As regards controls on quality schemes the CR is responsible, inter alia, for the following²¹⁸:

surveillance of compliance with the product regulation, with the power to denounce any illegal use before competent administrative and judicial authorities;

definition of minimum control requirements that each associated producer must fulfil during each phase of production and commercialisation of the protected product;

definition of minimum control requirements for the initial certification of the protected product and its subsequent fulfilment;

controls on raw materials, packaging and labelling.

The CR is generally obliged to denounce any suspected non-compliance with quality regulations in the agri-food sector.

SUPERVISION OF CONTROL BODIES

The supervision of CBs is ensured through external audits conducted on the quality systems for the implementation of the standards required. The audit is carried out periodically on each CB by the ENAC.

PERFORMANCE OF CONTROLS

Planning and prioritisation

According to the control plan for GIs of the Balearic Islands and in compliance with the national guidelines, annual controls address:

- the square root of the GI processors registered with an accredited CB;
- 100 % of the registered GI processors without an accredited CB;
- 100 % of the operators of Vinos de la Tierra and of spirits with a GI;
- 100 % of the registered GI processors controlled by an accredited CB and by its own CR.

²¹⁷ Decree No 49/2004.

²¹⁸ Article 6 of Decree No 49/2004.

The annual planning can be modified on the basis of:

- the history of previous controls;
- information in databases and incidents in market surveys;
- communications received by the control authorities;
- products not controlled in previous programmes;
- appearance of new products.

Verification of compliance with product specifications

The Agri-Food, Wines and Spirit Drinks Quality Service of the Directorate-General for Agriculture and Livestock has an integrated quality system including procedures and documents that aim to properly implement the verification and control processes properly.

CBs verify that operators have the capacity to produce the products covered by a GI, under the conditions established in the technical specifications and, in particular, that a system of records is in place in order to guarantee the identification and traceability of the process of preparation and packaging.

The inspectors also check that operators:

- provide the CA with an annual declaration of production, commercialisation and stocks, in a standard format;
- perform the analytical checks of compliance with the established requirements.

Controls also include random sampling in order to verify compliance with physical-chemical parameters specified in the technical specifications.

In addition, products such as wines, cheeses, *sobrasadas* (spicy pork sausages) and oils are subject to organoleptic tests carried out by tasting panels.

The control plan includes scheduled and unscheduled inspections of GI producers.

Surveillance of the use of the name in the marketplace

As regards market surveillance, an annual plan is established at the beginning of each year, including information on the total number of products to be controlled, the type of products and establishments where the controls must be carried out.

As for general planning, values can be adjusted on the basis of:

- the history of previous controls;
- information in databases and incidents in market surveys;
- communications received by the control authorities;
- products not controlled in previous programmes;
- appearance of new products.

The control programmes include scheduled and unscheduled controls.

In addition, a control plan on marks and indications is in place in the Balearic Islands, to control the use of names and GIs of the Balearic Islands. These controls include the monitoring of the Bulletins of the Spanish Patent and Trade Mark Office (Oficina Española de Patentes y Marcas — OEPM) or the

European Union Intellectual Property Office (EUIPO).

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

A specific sanction system is in place. It is included in Law No 1/1999 of 17 March on the Statute of agri-food producers and industries, regulating inspection and sanctions.

The sanction system applies to all administrative infringements related to agri-food production and commercialisation committed in the territory of the Balearic Islands, regardless of the domicile of the producer, processor or importer.

Please see the Guide for more details on administrative sanctions.

CANARY ISLANDS (*ISLAS CANARIAS*)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA of the Canary Islands is the **Canary Islands Institute of Agri-Food Quality (Instituto Canario de Calidad Agroalimentaria — ICCA)**²¹⁹. Law No 1/2005 of the Autonomous Community of the Canary Islands established the ICCA as an independent administrative body with competence over quality of foods and agricultural products and the related control and certification.

The ICCA is under the **Council of Agriculture, Breeding, Fisheries and Waters of the Canary Islands (Consejería de Agricultura, Ganadería, Pesca y Aguas)**, which is in charge of its supervision²²⁰.

ORGANISATION OF THE CONTROL SYSTEM

Amongst its duties, the ICCA is the CA for the application of laws and regulations on quality schemes, controls on all GIs and certification of protected names. Nevertheless, control activities for compliance with technical specifications for both wine and non-wine sectors can be delegated to CBs.

Currently, the ICCA has competence over controls in all cases, except for the PGI Plátano de Canarias, for which two CBs have been delegated, namely SOHISCERT, S.A. and AGROCOLOR, both accredited by ENAC in accordance with ISO/IEC 17065:2012.

CONTROL BODIES

Delegated CBs acting as certifying bodies must comply with ISO/IEC 17065:2012²²¹. Delegation to CBs can be issued *ex officio* or upon request either from the group of producers applying for the GI or from the GI administrative body.

General obligations for CBs and certifying bodies are established by law and include, inter alia:

- keeping an updated report on all operators;
- informing the CA periodically about performance of their activities with reference to all operators;
- informing the CA in a timely manner of any behaviour or circumstances that can lead to non-compliance;
- keeping documentation on operators, controls and certifications available for consultation by the CA for at least 3 years.

SUPERVISION OF CONTROL BODIES

The Council of Agriculture, Breeding, Fisheries and Waters is in charge of supervision of the ICCA.

In cases of delegation of controls to CBs, the latter are supervised by the ICCA.

²¹⁹ <http://www.gobcan.es/agricultura/icca/calidad/index.html>.

²²⁰ Law No 1/2005, of 22 April, establishing the Canary Institute of Agri-Food Quality. Decree No 39/2016, of 25 April, regulating the procedure for delegation of control and certification tasks to bodies certifying GI products.

²²¹ A temporary use of accreditation in accordance with EN 45011 (until its expiry) was admitted by Decree No 39/2016.

PERFORMANCE OF CONTROLS

Planning and prioritisation

The frequency of controls depends on the protected product, the number of operators and the volumes of product commercialised.

Annual checks are carried out for GIs with fewer than 40 producers, whereas controls are carried out on samples of registered operators for GIs with 40 or more producers. Sampling is based on the following criteria:

at least 50 % of producers are selected randomly;
the other controls are targeted on the basis of a risk analysis considering different criteria applied to the specific GI product.

Verification of compliance with product specifications

The type of controls is defined in the product specifications and in the product regulation of each GI product.

Inspections are carried out to verify one or more requirements specified in the corresponding product specifications and include sampling for chemical and organoleptic analysis. The analysis of samples is carried out by the official agri-food laboratories or by the official panels of sensory analysis.

A database with inspected operators and cases of detected non-compliance is updated on a yearly basis.

Operators are generally not notified prior to inspection. After verifications, producers must apply to the CA to receive quality seals, which are issued upon authorisation of the ICCA.

Surveillance of the use of the name in the marketplace

Controls in the marketplace are carried out by the ICCA and they address both the products and all the relevant production-related documentation.

The labelling and presentation of the products are verified during inspections and the outcomes are part of the inspection report. Monitoring of the traceability of operators is also included in controls, in order to verify that the products originate in the protected area.

A verification report is drafted and signed by attendees, and a copy of the report is delivered to the inspected establishment.

As regards follow-up of detected irregularities, in cases of non-compliance with the technical specifications, commercialisation of non-compliant batches or products can be prevented until the detected non-conformity is rectified.

Example of the scope of control of compliance in the Canary Islands

As an example of the scope of protection of a GI, the product regulation of the PDO wine El Hierro (Order of 17 February 2011) establishes that the registered name cannot be used in the designation, presentation and publicity of wines that do not comply with the requirements established in the

regulation, even when accompanied by expressions such as 'type', 'style', 'imitation' or the like.

Controls are entrusted to the ICCA and cover the production, processing and all requirements for crediting the GI. All operators, premises and products registered in the Registry of the protected name are subject to controls, and verification extends 'from production to the behaviour of the product on the market'.

In addition, the following are checked:

whether the wine originates from the established grapes;
compliance with processing method;
performance of physical and chemical and organoleptic analysis;
all other obligations set forth by the product regulation.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

The qualification and quantification of sanctions, as well as precautionary measures, are established in National Law No 28/2015, of 30 July, on protection of agri-food quality.

Law No 1/2005 of the Community, establishing the ICCA, and Decree No 213/2008, approving its Regulation, empower the President of the ICCA to impose sanctions for serious infringements.

CANTABRIA

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA in Cantabria for the protection of quality schemes is the **Office for Agri-Food Quality (Oficina de Calidad Alimentaria — ODECA)**²²², a body created by the local Government under the **Council for Rural Environment, Fishery and Food (Consejería de Medio Rural, Pesca y Alimentación), Directorate-General for Fishery and Food.**

ORGANISATION OF THE CONTROL SYSTEM

The functions of ODECA as the CA for official controls before placing the products on the market are established by Law No 3/2000.

The CA for the surveillance of the use of name in the marketplace used to be the Directorate-General for Consumer Affairs (Dirección General de Consumo), but this function has been taken up by the ODECA. Although the corresponding legislation has not yet been formalised, the ODECA has been carrying out official controls on the market since 2016.

In performing their control tasks, ODECA staff have the legal status of 'law enforcement officers' (*agentes de la autoridad*), with power to seize irregular products.

The ODECA is subject to evaluation and control by the Council for Rural Environment, Fishery and Food, based on periodic internal audits carried out approximately every 4 years.

CONTROL BODIES

In Cantabria there are no delegated CBs.

PERFORMANCE OF CONTROLS

Planning and prioritisation

The planning approach varies according to the product to be controlled. As a general indication, for the three cheeses protected with GIs, as the number of operators is low, all of them are visited twice a year, and 20 % of the suppliers of raw materials are visited. All raw material producers are therefore visited once during the 4 years of the PNCOCA.

For meat products, the approach is similar. Slaughterhouses are visited two or three times a year, and the suppliers of raw materials are visited once during the duration of the PNCOCA.

The planning is based on a risk assessment and is specific to each GI. In general, the criteria used are:

production volumes;

²²² Cantabrian Law No 3/2000 of 24 July.

irregularities detected during previous years;
specific risk factors for each GI (e.g. for meat products, the number of animals that have been slaughtered by the supplier of raw materials).

Verification of compliance with product specifications

Control procedures on compliance with the technical specifications generally follow the provisions of the product specifications.

Prior warning is generally issued one day before the visit. As per their documented procedures, inspectors must verify the specific file of the operator (including evaluation of the history of past non-compliance), which is then checked during the inspection. Follow-up depends on the nature of the non-compliance and is usually verified during the following visit.

All the information related to official controls is stored in databases that include all operators; the controls carried out; main findings and detected non-compliance; the name of the inspector performing the controls, etc. The ODECA is currently undergoing a change to its IT architecture, and all databases of the ODECA are being placed under common servers of the Cantabrian Government.

All control procedures are documented and cover all phases of production and commercialisation of the products (including labelling, analytical testing, etc.).

Surveillance of the use of the name in the marketplace

The procedures for surveillance of the market are documented for each GI and include all phases of the commercialisation of the product. No prior warning is given for market controls.

There is specific planning for controls to be carried out and the inspection includes two products produced in Cantabria, two Spanish products and two from other EU countries or from third countries. The products are usually chosen randomly, although other factors, such as claims received, are taken into consideration.

A risk analysis is also used to select the establishments that will be visited. The territory of Cantabria has been divided in different areas depending on the number of inhabitants; the number of controls to be carried out is determined accordingly. The establishments to be visited are also chosen based on risk criteria, such as their volume of business.

For the selected products, specific 'technical files' are prepared and pictures of the product in the market are taken, checking the presence of the logo and labelling requirements (analysis of the products is currently not carried out during market controls).

When irregularities are detected, a communication is sent to the relevant establishment and to the CA, requesting to take suitable action to solve the irregularity and to submit evidence that the irregularity has been corrected.

Communications are also received from other Spanish CAs in the market, where irregularities affecting Cantabrian products have been detected during market controls.

With regard to databases of the controls performed, similar records to those related to controls prior to the market are stored.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

A specific sanction system is in place. The administrative sanction regime is established by Law No 3/2000, which establishes procedures, the applicable sanctions and categorises infringements.

Please see the Guide for more details on administrative sanctions.

REMEDIES FOR USERS

Claims or information on detected or suspected violations can be submitted via an electronic form available on the ODECA website²²³.

²²³ <http://www.alimentosdecantabria.com/contacto>.

CASTILE-LA MANCHA (CASTILLA-LA MANCHA)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for official controls in Castile-La Mancha is the **Council of Environment, Agriculture and Fisheries (Consejería de Medio Ambiente, Agricultura y Pesca)**²²⁴.

Decree No 212/2015 of the Presidency of Castile-La Mancha, establishing the organic structure of the Council, assigns to the **Directorate-General for the Agri-Food Industry and Cooperatives (Dirección general de industria agroalimentarias y cooperativas)** the competence, inter alia, for GIs. In particular, with reference to quality of foods and agricultural products, the Directorate is the CA for official controls before placing the products on the market, and it is in charge of the acknowledgement of, and supervision of groups of producers, interprofessional associations and administrative bodies of quality names.

The surveillance of product quality on the market is within the competence of the **Council of Health of Castile-La Mancha (Consejería de Salud), Directorate-General for Public Health and Consumption (Dirección general de salud pública y consumo)**.

ORGANISATION OF THE CONTROL SYSTEM

Law No 7/2007 of 15 March regulates the general organisation for protection of GIs in foodstuffs, wines and spirit drinks in Castile-La Mancha²²⁵.

The scope of protection is harmonised with EU principles, covering all phases of a product's commercialisation, such as the presentation of products, labelling, advertising and the necessary commercial documentation. It also includes the prohibition of using any false or misleading names referring to provenance, nature and essential characteristics of the product.

GIs are administered by management bodies authorised by the CA as private legal non-profit-making bodies appointed for each protected quality name. Their competences include the promotion and defence of quality names during all phases of production, conditioning, warehousing, circulation and commercialisation; furthermore, they participate in the definition of the product's technical specifications.

Controls on compliance are carried out by CBs, which can be private or public impartial entities and whose task is to verify processes of production, as well as the physical-chemical, organoleptic and specific characteristics of a product in compliance with its technical specifications. A specific regulation is in place on the authorisation of control and certification bodies for all sectors²²⁶, which includes the creation of the Registry of CBs.

²²⁴ Decree No 212/2015, of 20/10/2015, of the Presidency of Castile-La Mancha, which establishes the basic structure and competences of the Council of Environment, Agriculture and Fisheries; Decree No 83/2015 of 14/07/2015, of the Presidency of Castile-La Mancha, which establishes the basic structure and competences of the Council of Health; Law No 7/2007 of 15 March, on quality of foods and agricultural products of Castile-La Mancha; Order of the *Consejería de Agricultura* of 19/01/2010 on general control system on wines bearing PDO and certification of the denomination

²²⁵ The certification and control system of wines protected by denominations of origin is also regulated by Order of 19/01/2010 of the Council of Environment, Agriculture and Fisheries.

²²⁶ Decree No 9/2007 of 6 February 2007, on authorisation of CBs and establishment of registries.

Law No 7/2007 establishes obligations of operators, which include:

communicating to the CA all cases of fraud or irregularity or illegal acts or misleading practices affecting their products;
collaborating with inspection bodies;
ensuring an internal system of quality control including a control plan;
ensuring traceability of products based on documentation and registries, in order to allow at any time to individuate the identity and location of suppliers and receivers of any batch of product or material.

As regards operators of wine GIs, traceability obligations include the duty to carry out a physical-chemical and organoleptic analysis of all batches of wine²²⁷.

CONTROL BODIES

Controls on compliance are carried out by CBs that are enrolled in the relevant registry. Decree No 9/2007 regulates the prerequisites for authorisation of CBs, including compliance with standards, application and documentation, authorisation procedures and other aspects on renewal, revocation, suspension, etc.

In relation to the standards, CBs must be accredited in accordance with ISO/IEC 17065:2012.

Accreditation is the basic requirement for authorisation, which is issued through a resolution of the CA for each CB.

SUPERVISION OF CONTROL BODIES

All CBs are subject to supervision based on criteria established in the PNCOCA and the applicable procedural manuals. In cases of irregularities, corrective measures are established and their non-compliance may cause the authorisation to be revoked.

Supervision is the competence of the Directorate-General for Agri-Food Industry and Cooperatives. In this regard, Decree No 9/2007 established certain obligations for CBs, such as keeping databases of all operators with a minimum set of information; annual communication of lists of operators, reports on internal controls and control plan; quarterly communication with the CA of irregularities detected and the relevant measures taken.

PERFORMANCE OF CONTROLS

Planning and prioritisation

All operators must be visited at least once a year. For GI wines, a catalogue of non-cocompliance and a sampling system is established for all CBs operating in Castile-La Mancha.

On a yearly basis, the central authority plans the establishments and sectors to be controlled based on a risk assessment, which includes, inter alia, the following aspects:

available resources;
number of controls performed in previous years, both planned or unplanned;
relevance and economic importance of the sector;

²²⁷ Order of 19 January 2010, of the Council of Environment, Agriculture and Fisheries.

specific problems in the sector, products, raw materials or processes;
suspected frauds;
past results of official controls and non-compliance detected;
additional control campaigns at local, national or community level;
recommendations from coordinated EU programmes.

In addition to the plan specified above, specific controls are carried out on an ad hoc basis following claims, complaints or legal complaints.

Verification of compliance with product specifications

Under Decree No 9/2007, each CB, prior to its authorisation, must present the plan of how to carry out the control of a particular GI, including the submission of the verification checklists of compliance with the product specifications. The documentation is then evaluated by the CA and by ENAC.

In addition, the Council of Environment, Agriculture and Fisheries issues specific orders on how to carry out the control of certain products, such as GI wines of Castile-La Mancha.

The CB has the obligation to send periodic reports on the operators subject to its control to the CA, listing all operators, infractions, non-compliance detected, etc. When serious non-compliance is detected, the CB can withdraw the GI certificate from the operator, preventing it from marketing the products. In these cases, a follow-up report on the operator must be sent to the CAs.

In accordance with the applicable regional laws, the following aspects, inter alia, are checked during controls:

nature, identity, essential qualities, composition, origin, provenance of the products;
correct use of the GI;
identity and activity of the operator.

Inspectors can apply the following precautionary measures, especially when names are used inadequately and in cases of fraud, adulteration or any prohibited practice:

detention of products or materials;
previous checks before sale;
suspension of transport of products or materials;
withdrawal from the marketplace;
temporary suspension of a production site or activity, or of the product's commercialisation.

These measures must be indicated in the inspection report along with the relevant motivations.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

The general system of administrative sanctions is established by Law No 7/2007, listing the different categories of infringements depending on their seriousness, and establishing the corresponding sanctions and sanctioning procedure.

Please see the Guide for more details on administrative sanctions.

REMEDIES FOR USERS

The Council of Environment, Agriculture and Fisheries has a network of offices throughout the territory with the appropriate channels for submitting claims to the CA. Claims can be also filed through the online platform of the Board of Communities of Castile-La Mancha.

CASTILE AND LEON (CASTILLA Y LEÓN)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for GIs in Castile and Leon is the **Council of Agriculture and Breeding of Castile and Leon (Consejería de Agricultura y Ganadería)**, acting through the **Technological Agricultural Institute (Instituto Tecnológico Agrario de Castilla y León — ITACYL)**²²⁸. The ITACYL is a public entity acting under private law, established by an Autonomous Community law in 2002, with autonomous administration and budget. Its mandate is to support the development of agriculture in Castile and Leon, including tasks related to the certification of quality products.

ORGANISATION OF THE CONTROL SYSTEM

Law No 1/2014 appointed ITACYL as the CA for official controls of compliance with technical specifications at production level and for surveillance in the marketplace. Official controls can be delegated to one or more CBs that are authorised in compliance with requirements established by Regulation (EC) No 882/2004.

In compliance with the criteria established by EU regulations on quality schemes, the scope of protection covers production, elaboration, and all phases of commercialisation of the product, including presentation, labelling, advertising and commercial documentation. It prohibits any direct and indirect use of a GI for products not falling in the protected scheme, in so far as said products are comparable with the protected ones, or the said use brings undue profit in terms of reputation, any usurpation or illegal use of the name, imitation or evocation (even if associated with the real provenance of the product or accompanied by expressions like 'kind' 'type' or the like) and any other type of fake indication or misleading use for the consumer.

CONTROL BODIES

CBs must be registered in the Registry of Inspection Bodies for agricultural products of Castile and Leon, managed by ITACYL, and must be certified in accordance with ISO/IEC 17065:2012. Accreditation is generally issued by ENAC, or where the ENAC does not issue the accreditation, by ITACYL after verification of compliance with the ISO standard.

For registration, amongst the documents required, the CB must submit the accreditation certificate, the product regulation and documents laying down a specific procedure for certification.

Each GI is administered by a management body, as in other Autonomous Communities. Upon acknowledgement of the Council for Agriculture and Breeding of Castile and Leon, and provided that a certain quota of producers and market share of the interested product is represented, a management body can be recognised as a 'consejo regulador' (CR). Under Law No 1/2014, CRs can be entrusted with competence over certification and controls, and they can propose minimum requirements for controls on producers.

²²⁸ Law No 1/2014, 19 March, Agraria de Castilla y León; Law No 7/2002, 3 May, establishing the Technological Agricultural Institute ; Order 1142/2003, 2 September, regulating the Registry of Inspection bodies for foods and agricultural products in Castile and Leon.

When carrying out their tasks, in accordance with legal provisions, inspectors act as 'law enforcement officers'. They have the powers to access plants and premises, and to inspect any necessary documents. When necessary, they can request the support of other authorities and police forces.

The staff assigned to control tasks must ensure independency and impartiality and is bound by professional secrecy.

SUPERVISION OF CONTROL BODIES

CBs are subject to the control by ITACYL at registration and for the maintenance of their authorisation. In such regard, ITACYL can carry out inspections and tests to verify the compliance with the applicable regulations.

As regards CRs, they are subject to technical, economic and administrative audits, to be carried out by the CA or by private entities designated by the CA at a maximum frequency of 3 years. Furthermore, in cases of breaches of their duties, where irregularities do not constitute administrative infringements, the Council for Agriculture and Breeding of Castile and Leon can warn the CR and suspend it from its functions for a maximum period of six months.

PERFORMANCE OF CONTROLS

Planning and prioritisation

Planning of controls follows generally the national criteria established with the MAPAMA's guidelines included in the PNCOCA. Accordingly, the minimum coverage is equal to the square root of the number of rights, with full coverage of the 2016-2020 period.

Furthermore, specific plans are established for the single product by the CB appointed for verification of compliance.

Verification of compliance with product specifications

Verification of compliance is carried out in respect of the requirements included in the product's technical specifications and in the regulation approving the denomination of origin. Under Law No 1/2014, operators are obliged to allow the inspectors to carry out control visits and to keep documents in such a way as to permit verifications. In particular, they must:

- provide all requested information;
- provide all documents as evidence of transactions;
- duly permit the taking of samples or any other testing operations on products and materials.

Example of rules for verification of compliance on a GI of Castilla y Leon

As an example of the control procedure, although the regulation approving the wine PDO Arribes²²⁹ establishes the CR as the management entity of the name, it assigns the control activities to a CB that must be inscribed in the CR. Tasks of the CB include:

as regards registration of the operator: inspections and reporting, both before registration and subsequently for its maintenance;

as regards product certification: checks on production, provenance, processing and final products.

Obligations of the CB include:

planning of regular controls, without prejudice to controls due to suspected irregularities;
regularly reporting to ITACYL on verifications carried out, including the number and kind of controls and irregularities detected.

Verifications include documentary checks in vineyards about registration of 'lots', as well as checks on practice of cultivation and checks in wineries about registration of data, machinery and hygiene requirements, entry and exit accountancy, labelling and traceability.

When it comes to the technical specifications, compliance is checked with reference to:

elaboration, storage, bottling and ageing of the wine;
types of the wine (Blanco, Tinto, Rosado and the respective characteristics);
analytical characteristics, including alcohol proof and acidity;
organoleptic characteristics; according to the regulation, this is done by a 'tasting panel' of at least five members, supervised by one expert;
packaging, bottling and labelling;
ageing method.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

The general system of administrative sanctions for GI infringements is established by Law No 1/2014. Sanctions are generally classified as minor, serious and very serious. Depending on the type of infringement, a corresponding fine is established.

Please see the Guide for more details on administrative sanctions.

²²⁹ Orden ARM/1612/2008.

CATALONIA (CATALUÑA)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for GIs in Catalonia is the **Department of Agriculture, Breeding, Fishery and Food (Departamento de Agricultura, Ganadería, Pesca y Alimentación)**²³⁰.

Surveillance of the market is assigned to the **Department of Enterprise and Knowledge — Catalan Agency of Consumption (Departamento de Empresa y Conocimiento — Agencia Catalana de Consumo)**.

Furthermore, the Catalan Food Safety Agency (Agencia Catalana de Seguridad Alimentaria) established by Law of Catalonia No 20/2002 of 5 July, is in charge, inter alia, of guaranteeing the set of actions of control and evaluation, management and communication of the alimentary risks. Its competences include sanctioning in cases of infringements of GIs.

ORGANISATION OF THE CONTROL SYSTEM

The scope of protection of GIs in Catalonia is detailed in Article 6(2) of Law No 14/2003 and is compliant with the EU regulations. In principle, controls on quality schemes can be carried out by:

the GI's CR, provided that its control functions are clearly separate from the administration of the registered name;

independent CBs, which must be registered at the Department of Agriculture, Breeding, Fishery and Food in the register of entities for the control and certification of foods and agricultural products of Catalonia.

Both CRs and CBs must comply with the ISO/IEC 17065:2012 standards and are accredited by the ENAC²³¹.

All GIs in Catalonia are controlled by the respective CR, with the exception of the spirit drink GI, Ratafia Catalana, which is controlled by the central CA.

Controls on wines of Catalonia are also assigned to the Catalan Institute of Wine (Instituto Catalán de la Viña y del Vino) acting as CA.

CONTROL BODIES

As stated above, the CRs act as control entities for their respective registered name. Under Decree No 285/2006, CRs are public corporations with autonomous legal status, whose main task is the

²³⁰ Law No 14/2003 of 13 June, on agri-food quality in Catalonia; Decree No 285/2006 of 4 July, of the Department of Agriculture, Breeding, Fishery and Food of Catalonia, implementing Law No 14/2003.

²³¹ The purpose of the accreditation is to register entities engaged in the control and/or certification of products covered by a protected designation of origin, a protected GI or by a quality mark, and products derived from organic farming, of the integrated production, of the products with specific characteristics and of the specifications of the voluntary labelling of the beef, as well as other distinctions of quality or of form of production that the standard establishes.

administration of GIs. As regards control tasks, they are in charge of:

product certification and performance of official controls on compliance;
authorisation and checks on labelling;
establishing minimum requirements for control and traceability, with which the registered operators must comply, for all phases of production, elaboration and commercialisation, for both the initial certification and renewal of the certificate.

CRs must comply with communication obligations, including:

reporting to the CA and to the holder of the GI product, at least yearly, on the activities performed relating to each operator;
informing the CA annually about Catalan producers that have been certified;
informing the CA about precautionary measures taken.

SUPERVISION OF CONTROL BODIES

The CRs are subject to annual technical, economic, administrative and financial audits that are carried out by the Department of Agriculture, Breeding, Fishery and Food.

The national criteria and principles apply to supervision as established in the PNCOCA.

PERFORMANCE OF CONTROLS

Planning and prioritisation

As per the national rule established in the MAPAMA Guidelines, which is included in the PNCOCA, the minimum coverage is equal to the square root of the number of rights, and full coverage in the whole planned period (2016-2020).

Verification of compliance with product specifications

For the performance of its tasks of control and product certification, the CR must rely on a quality and procedural manual that complies with the UNE-EN 45011 standard.

Minimum requirements for the control of compliance before the market are established by the CR, and the scope and procedure of controls are defined in the relevant product regulation and technical specifications²³².

In general, the inspection activities — covering both control of compliance before the product is placed on the market and surveillance of the use of name in the marketplace — are defined by Law No 14/2003, and they include, inter alia:

verification of finished products, raw materials, ingredients, additives, etc.;
control of the conditions under which the production and processing affecting the quality and conformity of the products are carried out;

²³² As an example, the *pliego de condiciones* (technical specifications) for the PGI Patatas de Prades is available at: http://agricultura.gencat.cat/web/.content/al_alimentacio/al02_qualitat_alimentaria/al02_05_igp/documents/fixers_binaris/pliego_condiciones_ue_igp_patates_prades.pdf.

control on the designation, denomination, presentation and inscriptions of any nature of products, packaging, transport documents, invoices, commercial documents, advertising, records, accounting and documentation of traceability;
planning programmes that define the character, frequency and criteria of the control actions that must be carried out in a certain period;
identification of the risks of fraud, adulteration or falsification, and unauthorised, prohibited, anti-regulation or clandestine practices;
localisation of non-compliant products and materials and preventing their access to marketing channels;
assessment of the internal control systems used by operators and their traceability systems.

Surveillance of the use of the name in the marketplace

As stated, the scope of official controls on products protected by GIs in Catalonia covers all phases of the production and commercial chain. Under Article 45 of Law No 14/2003, the CA is responsible for the surveillance of food quality in production and commercialisation, during all phases, without prejudice to general legal provisions on regulation of the markets and consumer protection.

In this respect, inspections can be extended to marketing and cover both retailers and wholesalers.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

There is a system in place in Catalonia for administrative sanctions against infringers of GIs. Infringements are categorised as low, serious and very serious and infringing behaviour detailed by the law.

The sanctioning proceedings are initiated by the Catalan Food Safety Agency, which may apply different pecuniary penalties according to the seriousness of the infringement.

Please see the Guide for more details on the administrative sanctions.

VALENCIA (COMUNIDAD VALENCIANA)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA is the **Directorate-General for Rural Development and Common Agricultural Policy (Dirección General de Desarrollo Rural y Política Agraria Común)** of the **Council of Agriculture, Natural Environment, Climate Change and Rural Development (Conselleria de Agricultura, Medio Ambiente, Cambio Climático y Desarrollo Rural)**²³³.

Surveillance of the market is assigned to the **Directorate-General for Consumption (Dirección General de Consumo)** of the **Council of Economy, Sustainability, Production Sectors, Trade and Work (Consejería de Economía Sostenible, Sectores Productivos, Comercio y Trabajo)**.

ORGANISATION OF THE CONTROL SYSTEM

In principle, according to the community legal system, control tasks can be assigned to independent CBs or to the CR of the single registered name.

Decree No 222/2007 of 9 November regulates the CRs as management bodies of the local GIs, which can be assigned with control tasks. The CRs are defined as legal entities subject to private law, except in those cases where they carry out public functions, and they are supervised by the CA.

Verifications of GI compliance in the Valencian Community are mainly carried out by the respective CR, thus acting as the CB for the registered name.

CONTROL BODIES

Decree No 222/2007 specifies that each CR must establish the certification and control system in its own regulation. These regulations are reviewed and approved by the CA.

As stated above, in principle, certification and control of GIs can be performed by:

1. a public body that will act in accordance with the principles established in the regulatory framework for official controls on foods and agricultural products;
2. a CB integrated in the CR, which must comply with the following conditions:
 - a. control and management must be adequately separated;
 - b. control activities must be carried out with hierarchical/administrative independence from the management of the CRs and under the supervision and guidance of the CA;
 - c. inspectors must be independent and remain in the position for at least 6 years. They are appointed as independent experts by the CA following a proposal from the CR;

²³³ Decree No 7/2015 of 29 June, of the President of the Generalitat on the organisation of the Generalitat and its *Consejerías*; Decree No 158/2015 of 18 September establishing the functions and the organisation of the *Conselleria de Agricultura, Medio Ambiente, Cambio Climático y Desarrollo Rural*.

3. an independent CB.

When the CR opts for options 2) or 3) above, the certifying and CBs must comply with the requirements for certifying entities in accordance with ISO/IEC 17065:2012 and must be accredited by the ENAC.

SUPERVISION OF CONTROL BODIES

The CA supervises the control activities carried out by the CRs or by the independent accredited bodies. During the PNCOCA period, the bodies controlling all GIs are supervised at least once. If irregularities are observed, these will be followed up during the following year.

PERFORMANCE OF CONTROLS

Planning and prioritisation

As mentioned above, all GIs are controlled at least once during the PNCOCA period. However, the frequency of controls increases in those cases where previous controls detected irregularities or non-compliance, also taking into consideration the impact of irregularities/non-compliance. In addition, GIs that have higher volumes and will therefore reach a higher number of consumers will be subject to more controls than the minimum required.

Verification of compliance with product specifications

The procedures to check compliance with product specifications are determined in the regulation of each GI and the corresponding quality manual, which are both revised and audited by the ENAC.

These regulations establish the specific parameters that need to be checked and analysed in the different phases of production.

Surveillance of the use of the name in the marketplace

Market controls typically include the following actions:

ad hoc controls following claims, formal claims, or communications from other CAs;

inspection campaigns, that is to say, programmed controls on those products for which there are specific reasons (number of claims, volumes of sales or consumers, etc.).

The following factors are considered to calculate the generic risk category affecting a retail establishment:

- type of food and expected use;
- type of process applied to the food product (for example the possibility of slicing and/or packaging at the retail establishment);
- consumption volumes;
- existence of claims or formal claims;
- historical records of non-compliance or irregularities.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

A regulatory system for administrative sanctions is in place in Valencia. If serious irregularities are detected, the following measures might be taken:

a warning issued, establishing the period within which the irregularity must be rectified, with the possibility of the authorisation being suspended if the non-compliance is not remedied;
revocation of the administrative authorisation to use the GI;
impossibility of applying for public subsidies or funding.

Please see the Guide for more details on the administrative sanctions.

REMEDIES FOR USERS

Claims can be forwarded to the competent departments of the Valencian Government. As regards irregularities related to labelling of GIs, they can be reported to the Council of Agriculture, Natural Environment, Climate Change and Rural Development, whereas false or misleading publicity can also be reported to the authorities in charge of consumer protection.

Consultations and claims can be submitted via a dedicated mailbox on the website of the Valencian Government²³⁴.

²³⁴ <http://www.agroambient.gva.es/>

EXTREMADURA

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for GIs in Extremadura is **the Council of Environment and Rural, Agriculture Policy and Territory (Consejería de Medio Ambiente y Rural, Políticas Agrarias y Territorio), Directorate-General for Agriculture and Livestock (Dirección General de Agricultura y Ganadería)**²³⁵.

Surveillance in the marketplace is assigned to the **Council of Health and Social Policies (Consejería de Sanidad y Políticas Sociales), Extremadura Consumers Institute (Instituto de Consumo de Extremadura)**.

ORGANISATION OF THE CONTROL SYSTEM

Official controls can be delegated to a CR accredited by the ENAC through a resolution of the CA or to other private CBs, that is to say, an external body accredited by ENAC.

Lastly, official controls may be performed directly by the CA.

As regards market surveillance, a specific control programme is prepared within the Directorate-General for Agriculture and Livestock and submitted to AECOSAN.

CONTROL BODIES

CRs are defined as public corporations with autonomous legal status and financing, and must be accredited as a certifying entity in accordance with the standards established by Law No 4/2014.

The following tasks are assigned to CRs regarding controls on GIs:

- surveillance of the name and reporting of any illegal use before competent administrative and judicial authorities;
- definition of minimum control requirements that operators must ensure;
- proposing the product's GI regulation;
- definition of the requirements of labelling and authorising the commercial use of labels on protected products;
- acting as certifying bodies.

SUPERVISION OF CONTROL BODIES

The supervision of CBs is done by the Service of Agricultural and Food Quality (Servicio de Calidad Agro-Alimentaria) of the Directorate-General for Agriculture and Livestock. In principle, this Service is also competent for supervising the CA, when the latter is designated for official controls.

²³⁵ Decree No 263/2015 of 7 August, of the Government of Extremadura, establishing the organic structure of the Council of Environment and Rural, Agriculture Policy and Territory; Law No 4/2010 of 28 April, on denominations of origin and agri-food quality GIs of Extremadura; Law No 6/2015 of 24 March, on agriculture of Extremadura.

As established by the current PNCOCA, during 2016-2020, all entities to which official controls have been delegated must be controlled. For example, in 2016, three CBs were supervised. In cases of provisional delegation of control awaiting accreditation, supervision is undertaken annually.

The Service carries out supervision by accompanying the CR/CB inspectors when undertaking the official controls.

In cases of serious non-compliance, as established in the PNCOCA, the accreditation, as well as the delegation of the control tasks, can be suspended or revoked.

PERFORMANCE OF CONTROLS

Planning and prioritisation

All operators are covered by the official control plan.

In terms of selection of GIs to verify, unless there has been a specific issue or a claim, the established order in the previous plan is followed. In the case of information about a possible infringement, the planning is adapted accordingly to include the affected GI. As regards the operators to be visited, unless there is a specific reason or risk, selection is random.

Verification of compliance with product specifications

There are no prior warnings to operators for controls of compliance with product specifications.

Control procedures are documented, and usually updated on a yearly basis.

In terms of monitoring non-compliance committed by operators, the CBs have to inform the CA. Irregularities must be included in the report that is sent to the MAPAMA, following the guidelines of the PNCOCA. The results of controls are recorded in Excel tables and official templates provided by the PNCOCA.

Surveillance of the use of the name in the marketplace

At present, there are no historical records in relation to market controls, as the CA started to carry out market inspections in late 2016. The controls were carried out in the three largest cities of Extremadura at large supermarkets and smaller retailers. Experts reported that controls mostly focused on the labelling of products and covered GIs from Extremadura, from other parts of Spain, and from other EU Member States.

At the time of this survey, the reporting mechanism for the results of market controls has not been fully formalised, although MAPAMA has been informed of any non-compliance.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

There is a system in place establishing administrative sanctions for illegal use of GIs. Law No 6/2015, Title IX, details the applicable sanctions as well as the precautionary measures. Infringements are classified depending on their seriousness.

Please see the Guide for more details on the administrative sanctions.

GALICIA

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for controls before the market in Galicia is the Galician Government (Xunta de Galicia)²³⁶ through the **Council of Rural Affairs (Consellería do Medio Rural — CMR)**²³⁷.

The **Galician Institute for Consumers (Instituto Galego de Consumo — IGC)**, with technical support from the Galician Government, is the CA for market surveillance.

ORGANISATION OF THE CONTROL SYSTEM

Law No 2/2005 provides for three options of ensuring controls on compliance:

- a) by means of delegation to independent inspection bodies accredited in accordance with ISO/IEC 17065:2012;
- b) through an inspection body integrated in the CR of the individual GI;
- c) through the Galician Institute of Food Quality (**Instituto Galego da Calidade Alimentaria — INGACAL**), established within the CMR as the designated authority.

For those GIs for which there is no delegation of tasks, controls are carried out by the CMR.

As far as agri-food GIs are concerned, in order to improve coordination between the different units of the Galician Government involved in food controls, Decree No 139/2014 of 23 October was approved, establishing and regulating the Food Chain Control Coordination Bureau, of which the IGC and the CMR form part.

CONTROL BODIES

Currently, Galician GIs are inspected by three CRs and one independent CB.

SUPERVISION OF CONTROL BODIES

The CRs are subject to technical, economic, financial or management audits that are carried out by the INGACAL or by private entities specifically designated by the competent Council.

There is a minimum of one annual inspection, but other verifications may be performed following a complaint or on an inspector's own initiative.

The CMR performs audits on the delegated CB by periodically monitoring its activity.

²³⁶ <http://mediorural.xunta.gal/>.

²³⁷ Law No 2/2005 of 18 February, on the promotion and protection of Galician food quality; Decree No 4/2007 of 18 January, regulating the geographical designations of quality of the food sector and its regulatory councils; Decree No 259/2006 of 28 December, approving the Regulation of the Galician Institute of Food Quality, INGACAL.

PERFORMANCE OF CONTROLS

Planning and prioritisation

Both INGACAL and the delegated CB keep registries of operators. Once the intention to register a GI has been communicated, an audit or inspection is carried out to verify its ability to meet the product specifications. Once the GI has been registered, the periodic control planning that has been established is entered into the register as well.

Frequency of controls on operators varies for each single GI: generally, 25 % of operators are inspected each year, whereas control of all operators is ensured in a 4-year period.

Surveillance of the use of the name in the marketplace

Ordinary retail control is carried out by the IGC, acting also on the basis of its competence in defence of consumers, pursuing conducts that may lead to misleading advertising in the labelling, presentation and advertising of products.

The CMR, in the framework of the commercial quality control programme, also carries out checks on the retail market and on wholesale warehouses.

CRs have a general role in monitoring the market and the use of the names. With this aim, they are also entitled to conduct product controls on the market. Their inspectors, authorised by the CMR, have the status of 'law enforcement officers' (*agente de la autoridad*)²³⁸ and their findings serve as a basis to initiate sanctioning procedures.

The actions of the IGC can be started *ex officio* or upon complaint. The CMR and IGC have recently approved a joint programme for market control.

²³⁸ Article 54(1) of Law No 2/2005; Order of 26 January 2006.

RIOJA (LA RIOJA)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA for administration and control on quality schemes in Rioja is the **Council of Agriculture Breeding and Environment (Consejería de agricultura, ganadería y medio ambiente), Directorate-General for Rural Development (Dirección General de Desarrollo Rural)**²³⁹.

Surveillance of the market is assigned to the same authority.

ORGANISATION OF THE CONTROL SYSTEM

Law No 5/2005 established the general framework for organising the protection, administration and controls on all quality schemes, including those regulated at EU level.

As regards GIs, controls and certification can be assigned to external bodies or to the CA. In principle, any CB must be registered in the register of control and certification entities for the agri-food sector and must comply with ISO/IEC 17065:2012. However, the CA has not currently delegated any control tasks, maintaining its competence over verification of compliance with product technical specifications.

As regards the CRs, these are exclusively administrative bodies, in charge of keeping records and of promotional activities, as well as internal controls other than quality controls.

PERFORMANCE OF CONTROLS

Planning and prioritisation

In line with the national criteria, the planning is carried out annually, using a documented procedure (i.e. an annual control plan), in which the number and frequency of checks to be performed is determined based both on risk and random criteria, depending on the specific GI (number of operators, marketing volume, previous years of operation, etc.).

All operators must be monitored at least once within the four-year period. The annual control plan also establishes additional controls based on detected irregularities.

Verification of compliance with product specifications

Controls are carried out through on-site inspections, audits, documentary checks and sampling if appropriate. Databases for each GI are kept with data from controls. Visits can be both announced and unannounced. Control procedures are documented and certified in accordance with ISO:9001.

Following the inspections, reporting takes place when non-compliance is detected.

²³⁹ Law No 5/2005 of 1 June, on the system of protection of agri-food quality in the Autonomous Community of La Rioja; Decree No 24/2008 of 28 March, regulating the structure and functioning of administrative bodies of agri-food quality schemes in La Rioja.

Official samples are taken and analysed in accredited official laboratories. For each sample, three units are taken for initial, counter and lead analyses. The copy for counter analysis is left with the operator and the other two are removed from the inspection site.

The three sample containers have unbreakable seals and are accompanied by a certificate that identifies the sample and its seal. Sampling procedures and measures are documented.

Organoleptic analysis is carried out by official accredited tasting panels.

Surveillance of the use of the name in the marketplace

Inspections in the marketplace are never announced and they are based on documented procedures. An annual summary report and individual reports in cases of infraction are drafted. Checks on GIs from other countries are also carried out and any infractions are communicated to the MAPAMA.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

The administrative sanction system is provided by Law No 5/2005 on quality systems of Rioja, and by Royal Decree 1945/83, for both breaches of specifications and for improper use of a GI.

Infringements are classified as minor, serious and very serious.

Please see the Guide for more details on administrative sanctions.

REMEDIES FOR USERS

The contact point in Rioja for claims or complaints is the Council of Agriculture, Breeding and Environment, Directorate-General for Rural Development, Citizen/Consumer care service²⁴⁰.

²⁴⁰ <http://www.larioja.org/oficina-electronica/es?web=000&proc=12327>.

MADRID (COMUNIDAD DE MADRID)

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA in Madrid for agri-food quality is the **Council of Environment, Local Administration and Territorial Planning**²⁴¹ (**Consejería de Medio Ambiente, Administración Local y Ordenación del Territorio — CMAALyOT**).

Under Decree No 194/2015, establishing the organic structure of the CMAALyOT, the **Directorate-General for Agriculture and Livestock (Dirección General de Agricultura y Ganadería)** has competence over the planning, coordination and controls on official programmes for agri-food and ecological quality.

Surveillance of the use of the name in the marketplace is within the competence of the **Council of Health (Consejería de Sanidad), Directorate-General for Public Health (Dirección General de Salud Pública)**²⁴². In particular, the Directorate-General is in charge, inter alia, of surveillance and control on quality of food and on advertising of products and services related to food, as well as of protection of consumers in the food sector.

ORGANISATION OF THE CONTROL SYSTEM

Controls of compliance with product specifications before placing the product on the market may be carried out by the CMAALyOT as the CA, by the product's CR, and by independent control bodies, which must be compliant with ISO/IEC 17065:2012.

CONTROL BODIES

Procedures are established for authorisation as Independent Control Organisations (Organismos Independientes de Control — OIC). These procedures are made available on the institutional website of the Autonomous Community²⁴³. Control tasks are delegated by a specific resolution issued by the Directorate-General for Agriculture and Livestock. The OIC must be accredited by ENAC and as stated, ISO/IEC 17065:2012 must be complied with. Based on this, the procedures include respecting compliance standards, dealing with irregularities, suspension or revocation cases, etc.

OIC staff are requested to sign a declaration of responsibility, against potential situations of conflicts of interest in the performance of their duties.

SUPERVISION OF CONTROL BODIES

The Directorate-General for Agriculture and Livestock is in charge of the annual supervision on CBs through its specialised technicians and/or experts. The national rules of PNCOCA apply.

²⁴¹ Decree No 194/2015, of 4 August of the Governing Council, establishing the organisational structure of the Ministry of the Environment, Local Administration and Territorial Planning.

²⁴² Decree No 195/2015, of 4 August of the Governing Council, establishing the organisational structure of the Ministry of Health.

²⁴³ www.madrid.org.

The results of the control actions are included in Reports of the control plans, taking into account incidents, irregularities, sanctions, etc. Based on these results, the effectiveness of the control system established in the Autonomous Community is verified. This information is prepared by the CMAALyOT and sent to MAPAMA, for the consolidation of the country information.

In addition, on a yearly basis, the CA, through its own technicians and/or experts, carries out documentary and on-site inspections (follow-up and/or repetition) in order to verify the effectiveness of the established control system.

In cases of non-compliance, a plan of corrective measures is drafted or, if need be, the delegation of tasks is revoked.

PERFORMANCE OF CONTROLS

Planning and prioritisation

The plans are established and reviewed annually.

In general, the checks are carried out in a systematic way, by random sampling or based on risk analysis, or by a combination of those factors. Risk analysis is carried out taking into account, inter alia, incidents, information collected in databases, irregularities already detected, volume of production and significant changes thereof.

Taking into account the specific characteristics of the GIs of the Community of Madrid, different percentages of control on the operators are established. As an indication, for the PGI Carne de la Sierra de Guadarrama, every operator is visited every year; as regards the PDO Vinos de Madrid, inspections are carried out on wine-growing plots, and controls affect 100 % of the lots considered eligible. Moreover, 100 % of the operators of the GI Chinchón are controlled.

Verification of compliance with product specifications

In general, operators must notify the CR of their intention to market a product protected by a GI for inclusion in a register, which is the basic element for undergoing the necessary controls. Operators cannot market GI products until they have been registered, and have passed an inspection of compliance with the product specifications in order to obtain the corresponding certificate of conformity.

The inspection procedures are reflected in records, standardised forms and checklists.

Analytical tests of GI products are carried out through accredited and/or authorised laboratories. Traceability of products is also part of the control.

Surveillance of the use of the name in the marketplace

Surveillance is based on specific documented procedures, and coordinated with the national CA (AECOSAN).

In addition, communications between the competent regional control authorities are maintained prior to placing products on the market in order to coordinate actions and improve control effectiveness.

As regards the PDO Vinos de Madrid, labels are part of market controls. Prior to commercialisation, operators must submit these labels to the competent CR for supervision.

AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

A system for administrative sanctions is in place and it is included in the legal framework for protection of food quality and consumers of the Autonomous Community of Madrid²⁴⁴.

²⁴⁴ Royal Decree No 1945/1983 of 22 June, regulating infractions and sanctions in defence of Consumer and agri-food production, Law No 28/2015 of 30 July, for the protection of food quality and Law No 11/1998 of 9 July on consumer protection of the Autonomous Community of Madrid.

NAVARRRE

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

AUTONOMOUS COMMUNITY COMPETENT AUTHORITY

The central CA in Navarre for controls on GIs before placing the product on the market is the **Directorate-General for Rural Development, Agriculture and Breeding (Dirección General de Desarrollo Rural, Agricultura y Ganadería)**, within the **Department for Rural Development, Environment and Local Administration (Departamento de Desarrollo Rural, Medio Ambiente y Administración Local)**²⁴⁵.

The Directorate is currently designated as the CA in the PNCOCA 2016-2020. However, at the time of this survey a specific law is under preparation where the CA for GIs is formally established.

The CA for the surveillance of the use of the name in the marketplace is the **Department of Economic Development (Departamento de Desarrollo Económico)**, through its **Consumer and Arbitration Service (Servicio de Consumo y Arbitraje)**. Foral Decree 170/2015 of 3 September includes surveillance and inspection of the market in the field of consumer protection amongst the tasks of the Service.

ORGANISATION OF THE CONTROL SYSTEM

Official control has been delegated by the CA to INTIA S.A., a public body that has been accredited by the ENAC as a certifying entity in accordance with ISO/IEC 17065:2012.

INTIA performs official controls regarding compliance with technical specifications for the GIs for which it acts as a CB.

Coordination with national authorities (for controls prior to the market) is ensured through the MECOCADI and the PNCOCA.

CONTROL BODIES

Delegation of control tasks is based on an authorisation issued by the CA, following the relevant request submitted by the entity, accreditation by ENAC, and an assessment based on the CA's relevant procedures.

There are currently two authorised CBs:

INTIA SA;
Consejo regulador Ternera de Navarra.

²⁴⁵ Foral Decree No 78/2016 of 21 September establishing the organic structure of the Department for Rural Development, Environment and Local Administration. Article 8 of the Decree establishes that the mentioned Directorate-General has competence over the quality denominations (*denominaciones de calidad*).

SUPERVISION ON CONTROL BODIES

Supervision is the duty of the CA. Each year, the CA receives the planning of official controls that the CB will carry out, and information on the results of those controls (i.e. cases of non-compliance, as well as cases in which the certification is withdrawn).

There is an ongoing flow of information between the CB and the CA, analysing cases of non-compliance and, in general, the control activity performed by the CB. In addition, as per PNCOCA, the CA performs audits on these bodies and visits *in situ* to supervise their control activity.

There is no prior warning to the operators that the CAs choose to visit *in situ* to supervise the CB. When performing these visits, all procedures are documented to ensure that the CB verifies the compliance with product specifications correctly, for example, by using specific checklists for each GI and by examining the documented procedures of the CB.

The CA also undergoes an internal audit on compliance with Regulation (EC) No 882/2004 at least once during the time span of the PNCOCA. These audits have been outsourced to the National Centre for Food Safety and Technology (Centro Nacional de Tecnología y Seguridad Alimentaria — CNTA²⁴⁶). The audits performed by CNTA are also independently examined by the company GESCON CONSULTING.

PERFORMANCE OF CONTROLS

Planning and prioritisation

Controls must cover all GIs at least once during the time span of the PNCOCA, in accordance with the criteria established at national level.

To decide on the GI to control, consideration is given to the date of the last verification, as well as the state of the reported cases of non-compliance or observations. All information is recorded in Excel files, where the history of all audits performed is provided, indicating the relevant inspectors, findings, corrective measures, follow-ups, etc. for each control.

Based on this information, a five-year plan is drafted. The plan is then revised annually, based on the information available. The CA informs the CB on the updated plan each year.

The selection of the specific operators within a GI is also documented. A risk-based approach is applied, with all the information available on the sector at stake (including specific technical problems). Guidance elaborated nationally within the MECOCADI (such as the rule of visiting the square root of operators) is followed.

Verification of compliance with product specifications

Once a serious non-compliance with product specifications has been detected by the CB, it is communicated within 72 hours to the CA via email.

In addition, the CA makes a periodic follow-up on all cases of non-compliance that have been recorded by INTIA during technical meetings, which take place monthly or every other month. Inspectors, anti-fraud specialists and technical specialists take part in the meetings.

Whether and how sanctions are to be imposed is decided during follow-up. The information is also used for supervising the CB.

²⁴⁶ <http://www.cnta.es/>.

Surveillance of the use of the name in the marketplace

Controls in the market are performed by the Consumer Service of the Department of Economic Development, which is also coordinated at national level through AECOSAN. They are usually within specific campaigns, including inspections at retail level.

In addition, as CRs have also registered their GIs as trade marks, they usually perform surveillance of the market on the use of the trade mark.

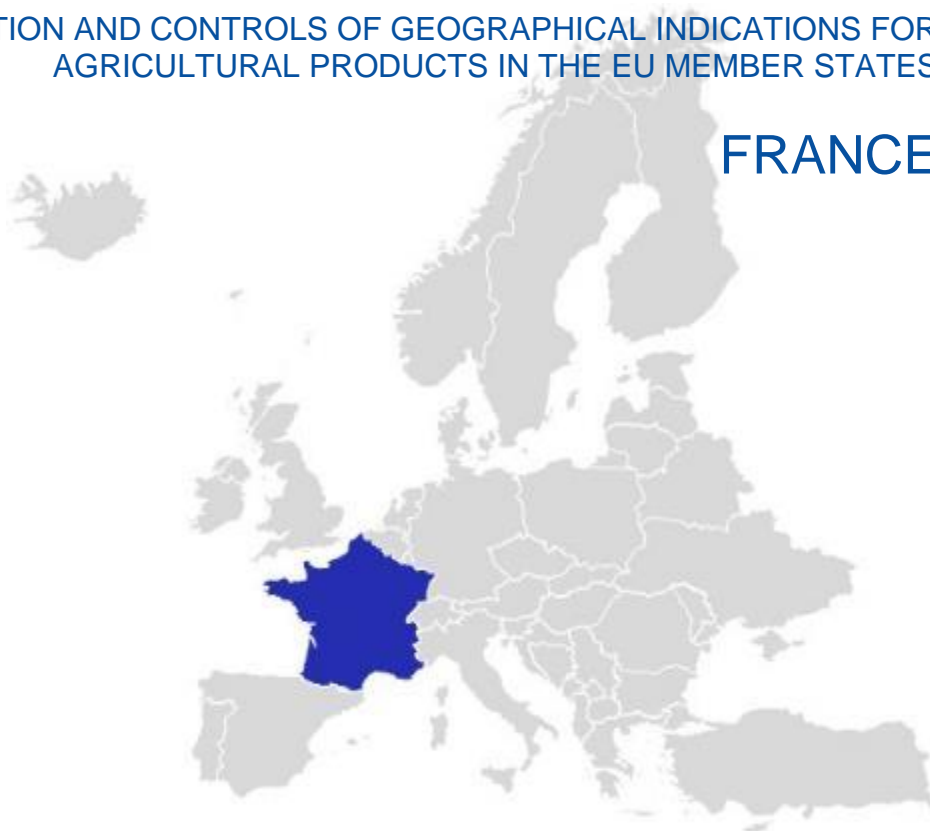
AUTONOMOUS COMMUNITY SYSTEM FOR ADMINISTRATIVE SANCTIONS

As mentioned above, Navarre does not yet have specific legislation on GIs, although a law is under discussion whereby the Community plans to typify the different infringements and establish the subsequent sanctions.

For administrative sanctions, the categories currently envisaged by national legislation for the supra-autonomous GIs (Law No 6/2015, as specified in the Navarre budget legislation) apply. In addition, other relevant national legislation applicable is National Law No 24/2003 for wine and the Royal Decree No 1945/1983 on infringement and sanctions in the field of consumer protection and agri-food production.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

FRANCE



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

CAC	Council of Approvals and Controls (Conseil des agréments et contrôles)
COFRAC	French Accreditation Committee (Comité français d'accréditation)
DAE	Electronic Administrative Document (Document administratif électronique)
DDCSPP	Departmental Directorates for Social Cohesion and Protection of Populations (Directions départementales de la cohésion sociale et de la protection des populations)
DDPP	Departmental Directorates for the Protection of the Population (Directions départementales de la protection des populations)
DGAL	Directorate-General for Food (Direction générale de l'alimentation)
DGCCRF	Directorate-General for Competition Policy, Consumer Affairs and Fraud Control (Direction générale de la concurrence, de la consommation et de la répression des fraudes)
DGDDI	Directorate-General for Customs and Indirect Taxes (Direction générale des douanes et des droits indirects)
DGPE	Directorate-General for Economic and Environmental Performance of Companies (Direction générale de la performance économie et environnementale des entreprises)
DIECCTE	Directorates for Enterprises, Competition, Consumer affairs, Labour and Employment (Directions des entreprises, de la concurrence, de la consommation, du travail et de l'emploi)
DIRECCTE	Regional Directorates for enterprises, competition, consumer affairs, labour and employment (Directions régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi)
ENCCRF	National School for Competition, Consumer Affairs and Fraud Repression (École nationale de la concurrence, de la consommation et de la répression des fraudes)
EURLs	European Reference Laboratories
INAO	National Institute of Origin and Quality (Institut national de l'origine et de la qualité)
NRLs	National reference laboratories
PNCOPA	Multi-Annual National Control Plan (Plan national de contrôles officiels pluriannuel)
PNE	National Survey Programme (Programme national d'enquêtes)
SCL	Common laboratory service (Service commun des laboratoires)
SNE	National Investigation Service (Service national des enquêtes)
TRACES	Trade Control and Expert System

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

In France, there are two central authorities responsible for the controls on GIs: the **National Institute of Origin and Quality (Institut national de l'origine et de la qualité — INAO)** and the **Directorate-General for Competition Policy, Consumer Affairs and Fraud Control (Direction Générale de la concurrence, de la consommation et de la répression des fraudes — DGCCRF)**.

In particular, the INAO is in charge of conducting the national examination of GIs under the supervision of the Ministry of Agriculture, and it is the central authority for controls before placing the product on the market through approved CBs. Moreover, the INAO is involved in the protection of European quality labels abroad.

The DGCCRF is the Directorate-General for the Ministry of Economy and Finance and it is the Central Authority responsible for the surveillance of the use of the name in the marketplace. Moreover, the DGCCRF also participates in the national examination phase of GIs and is the CA for labelling.

The figure below illustrates the competences of the different authorities.

Sector	Political Coordination	Coordination of Controls	Execution of Controls	Laboratories	Evaluation of risks (scientific opinion)
12 quality logos (<i>signes de qualité</i>)	McA ²⁴⁷ INAO DGCCRF	INAO DGCCRF	CBs delegated by INAO DGCCRF	Labs authorised by INAO SCL	INAO McA DGCCRF

1.2 GENERAL STRUCTURE OF THE SYSTEM

The INAO is organised into one head office located in Montreuil-sous-Bois and eight territorial units.

As already outlined, the INAO is responsible for checking products featuring the European quality logo before these products are put on the market. These controls are delegated to approved CBs accredited by the **French Accreditation Committee (Comité français d'accréditation — COFRAC)**.

The DGCCRF has a central administration and is organised into:

13 Regional Directorates for enterprises, competition, consumer affairs, labour and employment (Directions régionale des entreprises, de la concurrence, de la consommation, du travail et de l'emploi — DIRECCTE);

5 Directorates for enterprises, competition, consumer affairs, labour and employment (Directions des entreprises, de la concurrence, de la consommation, du travail et de l'emploi — DIECCTE) in the Overseas Departments;

²⁴⁷ McA indicates the Ministry holding the agriculture portfolio.

96 inter-ministerial **Departmental Directorates for the Protection of Populations** (*Directions Départementales de la Protection des Populations — DDPP*);

5 **Departmental Directorates for social cohesion and protection of populations** (*Directions départementales de la cohésion sociale et de la protection des populations — DDCSPP*) in the Overseas Departments.

Under European legislation (Regulation (EC) No 882/2004), each Member State must create a **Multi-Annual National Control Plan (MANCP)** outlining controls for compliance with feed and food law, animal health and welfare rules and plant health requirements. The French MANCP (*Plan national de contrôles officiels pluriannuel — PNCOPA*) covers two major priorities: food, animal and plant safety and product quality and fair trading, including a specific section concerning GIs.

The document describes how the French control system is organised and operates, making adaptations in accordance with a continuous improvement process and strategic priorities for 2016-2020. The French MANCP is available to the public and is aimed at citizens and food chain professionals. It is also shared with inspection services and the European Commission.

According to the PNCOPA 2016-2020²⁴⁸, the DGCCRF is responsible for consumer protection and for monitoring the safety and reliability of products.

Each year, more than 130 000 quality and fair-trading controls are carried out across the entire food chain, including verification of imports and exports. These controls aim to ensure compliance with regulations on product quality and fair trading. In particular, they seek to:

detect and prevent fraud, regardless of whether the fraud has an impact on product safety;
ensure compliance with rules on EU quality logos covered by Regulation (EC) No 882/2004.

Controls are carried out by 180 FTE officers:

at administrative department level by DDPP and DDCSPP;
at regional level by DIRECCTE.

Additionally, officers from the **National Investigation Service** (*Service national des enquêtes — SNE*, a national investigation service created by the DGCCRF) and the DGCCRF intervene across the country to fight organised crime, including fraud.

Lastly, 16 CBs conduct around 100 000 compliance checks on product specifications for European quality logos under the responsibility of the INAO. These controls aim to verify compliance with the product specifications for French products having or promoting a European quality logo (e.g. GIs, organic products) before placing the product on the market. The INAO has around 250 officers, of whom 40 FTE handle European quality logo controls for all logos (foodstuffs and wine GIs and organic products).

The Service contrôles unit ensures the coordination between national level and territorial units, especially in relation to control plan projects, control supervision and follow-up of CBs.

Legal status and powers of staff of Competent Authorities

Under Article L642-16 of the French Rural and Maritime Fishing Code, INAO agents involved in control operations are sworn officers. Regulations for agents are provided in *Décret n° 2010-1246 du 20 octobre 2010 fixant les conditions d'intégration dans différents corps de fonctionnaires du ministère chargé de*

²⁴⁸ It is possible to download PNCOPA 2016-2020 at the following link:
https://www.economie.gouv.fr/files/files/directions_services/dgccrf/securite/produits_alimentaires/pncopa-2016-2020.pdf.

*l'agriculture de certains personnels de [...] l'Institut national de l'origine et de la qualité [...]*²⁴⁹.

The agents of the DGCCRF are competent for controls in the national market on GIs of all origins, products likely to misappropriate GI qualities and products developed with GIs. These controls are carried out at all stages (import, distribution, wholesale, internet, restaurants), taking care not to interfere with the INAO controls.

Moreover, the Rural and Maritime Fishing Code, the Consumer Code and the Code of Public Health provide for rules on authorisations of agents.

In general, the agents are entitled to:

- carry out inspections;
- investigate and report on any breaches and offences;
- report the occurrence or suspicion of any regulated animal disease or organism harmful to plants.

In order to take samples, agents involved in the inspections have the right to enter any establishment between 8 am and 8 pm, or at any time these places are open to the public or are conducting business.

Under the authority of the prefects (or the Minister of Defence for the Service de santé des armées — SSA), agents can also take administrative measures to prevent a risk to public health, such as asking to bring a product into compliance, ordering the product withdrawal or the suspension or cessation of business activity.

Capacity of laboratories

In the French system, official laboratories support the action of CAs.

Each CA must designate official laboratories to carry out the official analyses for which it is responsible. These laboratories must conform to the required standards of confidentiality, impartiality and independence. They will be accredited in accordance with ISO/IEC 17025 by the **COFRAC** for the work entrusted to them as official laboratories.

The DGCCRF uses a network of 11 state laboratories²⁵⁰ spread over the whole territory, which are members of the **Common laboratory service (Service commun des laboratoires — SCL)**, a joint national competence service of the DGCCRF and the **Directorate-General for Customs and Indirect Taxes (Direction générale des douanes et des droits indirects – DGDDI)**. Their jurisdiction is set by order of the Ministry of the Economy. In addition, the SCL may use accredited laboratories included in a list published by decree. Finally, in an emergency, or where it requires specialist input, it may use a laboratory that can provide such analysis under its supervision.

The INAO authorises laboratories²⁵¹ to conduct analysis on behalf of the regulators. The authorisation details the field of activity related to GI control.

National Reference Laboratories (NRLs), which are associated with the **European Reference Laboratories (EURLs)**, help manage the official laboratories and improve analysis implementation. Their responsibilities include:

development, optimisation and validation of analytical methods;

²⁴⁹ <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022935390>.

²⁵⁰ Information on laboratories of DGDDI and DGCCRF can be found at the following link:

https://www.economie.gouv.fr/files/directions_services/dgccrf/dgccrf/laboratoires/brochure.pdf.

²⁵¹ List of analytical laboratories authorised by INAO.

technical oversight of the network of official laboratories, including the coordination of comparison testing and training;
carrying out certain analyses, namely for confirmation when necessary.

These laboratories also participate in scientific and technical monitoring in their field and lend their scientific or technical expertise to the CAs.

Each CA designates NRLs from amongst the existing network of official laboratories to handle the activities for which they are responsible.

1.3 CONTROL BODIES

The INAO delegates official controls to approved CBs. The criteria and procedure for obtaining approval are established by the INAO ²⁵².

The French system provides for two different types of CBs ²⁵³:

CBs operating as a product certification body accredited in accordance with ISO 17065:

- for agricultural products and foodstuffs: AGROCERT, AVICERT, BUREAU VERITAS CERTIFICATION FRANCE, CERTIPAQ, CERTIS, CERTISUD, QUALISUD;
- for wines and spirits: BUREAU VERITAS CERTIFICATION FRANCE, CERTIPAQ, CERTISUD, LRO SUD DE FRANCE, QUALISUD, SIQOCERT;

CBs operating as an inspection body accredited in accordance with ISO 17020:

- for wines and spirits with GIs: AGROCERT, AIDAC, ASSVAS, AVPI, CERTIPAQ, CERTISUD, CIVT, INOVALYS, LDA 83, LRO SUD DE FRANCE, OIVC, OIVR, QUALIBORDEAUX, QUALISUD, VINOMED.

Each **Producer Group (PG)** chooses the CB in charge of its product specification inspections.

These controls are performed based on a control plan drawn up by the INAO-approved CB responsible for the relevant GI product. Each control plan details the conditions for verification of compliance with product specifications, which is carried out at all stages of production and on the product itself according to a determined frequency.

Information on the designated CB is available in the product specifications or on the INAO's website ²⁵⁴.

1.4 ACCREDITATION BODY

In the French control system, the accreditation body is the COFRAC, which is a private body nominated by the French government.

The COFRAC issues accreditation for the specific category of products, then the INAO approves the CB and delegates the official control on certain GI products to the latter.

²⁵² Directive n° INAO-DIR-CAC-5: Procédures et modalités d'agrément des organismes de contrôle.

²⁵³ A list of approved CBs can be found at: <http://www.inao.gouv.fr/Espace-professionnel-et-outils/Contrôles-des-signes-d-identification-de-l'origine-et-de-la-qualité-SIQO/Les-organismes-de-contrôle>.

²⁵⁴ <http://www.inao.gouv.fr/Espace-professionnel-et-outils/Contrôles-des-signes-d-identification-de-l'origine-et-de-la-qualité-SIQO/Les-organismes-de-contrôle>.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

CBs must send an annual report to the INAO and the data on inspections are sent to the INAO every three months for verification.

CBs are assessed every 12 to 18 months by the INAO. Moreover, COFRAC regularly evaluates and checks that they also comply with the applicable standards.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Conflicts of interests on the part of agents are regulated by the Civil Servants' Rights and Obligations Act²⁵⁵ or by specific provisions of agents' contracts.

With regard to the staff of CBs, their neutrality and impartiality are absolute prerequisites for ISO 17020 type A and ISO 17065 standards. CBs have established procedures to manage conflicts of interest and are periodically assessed by the COFRAC in this respect.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

According to the PNCOPA 2016-2020, the DGDDI collaborates with the central authorities in carrying out official controls.

To facilitate and secure the export of wines, Cognac or Armagnac departing from a French port destined directly to mainland China, customs authorities launched a free application called 'AUBETTE' in January 2015.

In the light of frauds (misappropriation of GIs or trade mark infringements), to which French wines and spirits are subject in China, an agreement signed between French customs and the Chinese authorities allows them to access certain information contained in the **Electronic Administrative Document (Document administratif électronique — DAE)**²⁵⁶, via the AUBETTE teleservice, to ensure the authenticity of the products concerned. It allows Chinese health authorities to consult online:

the information contained in the DAEs concerning the traceability of operations and the authenticity of products (excluding commercial data which remain confidential);

data relating to transport from the port information system and from the container numbers, when products leave the Union from a French port;

elements contained in certificates of origin issued by inter-branch organisations.

AUBETTE has provided access to new logistical information and inter-professional certificates of origin since autumn 2016.

As regards coordination measures, the INAO and DGCCRF signed a cooperation protocol, which includes a *fiche de liaison*, where the INAO informs the DGCCRF of cases where serious non-compliance has been identified, and vice versa.

²⁵⁵ Article 25 of the Civil Servants' Rights and Obligations Act of 13 July 1983 (Statute No 83-634).

²⁵⁶ <http://www.douane.gouv.fr/articles/a10961-importation-et-exportation-des-vins-en-dehors-de-l-union-europeenne>

Moreover, COFRAC signed an agreement with the INAO and is also informed of cases of serious detected non-compliance.

In relation to official controls, a cooperation protocol was also signed by the different competent directorates of the Ministry of Agriculture (**Directorate-General for economic and environmental performance of companies — Direction générale de la performance économie et environnementale des entreprises — DGPE** and **Directorate-General for food — Direction générale de l'alimentation — DGAL**), DGCCRF and the INAO, which ensures coordination between the control services in agricultural products and foodstuffs.

Moreover, DGPE, DGCCRF, DGDDI, FranceAgriMer and INAO signed another cooperation protocol for the wine sector.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

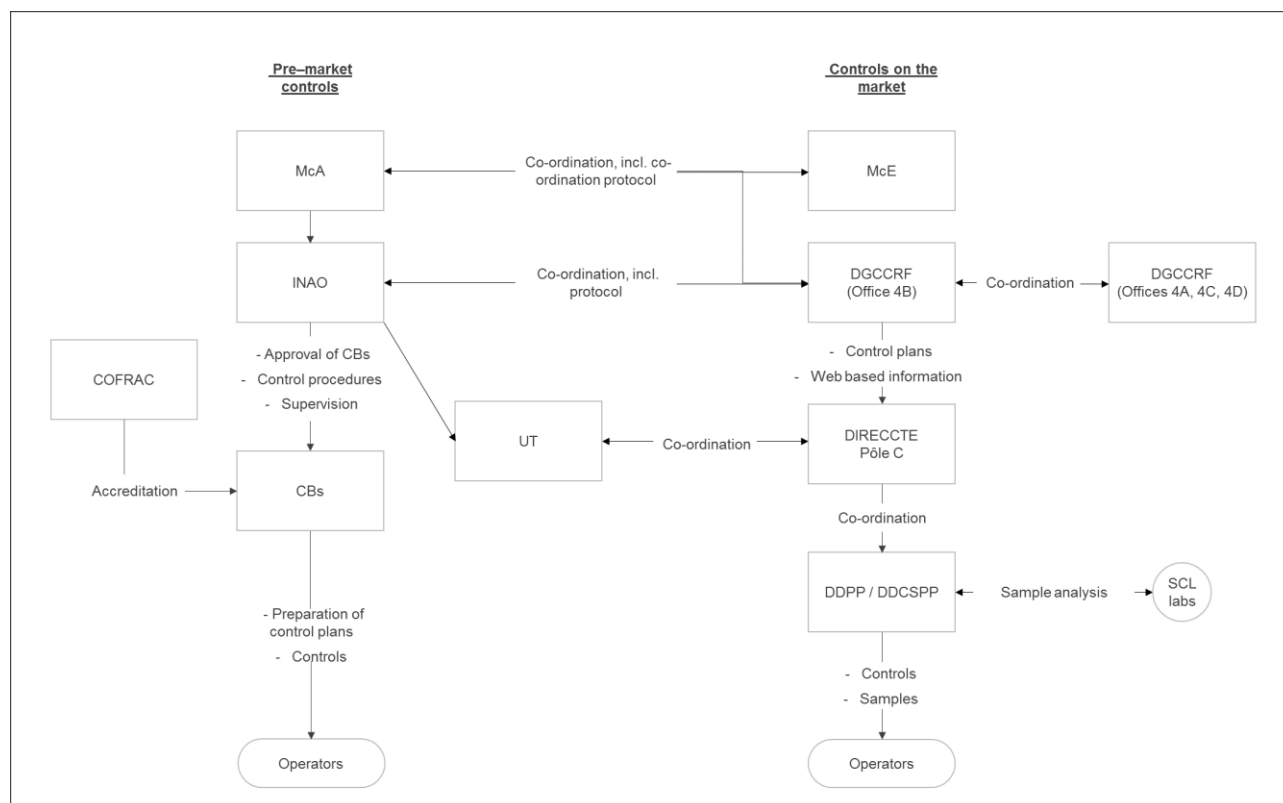
As previously outlined, the INAO is the central authority in charge of controls during the production phase and before placing the product on the market. In this respect, operator controls are conducted by inspectors from CBs accredited by the COFRAC and approved by the INAO. The INAO has put written procedures into place regarding controls for the benefit of operators and CBs. Controls are carried out on the basis of a control plan elaborated for each GI by the relevant CB and approved by the INAO, which describes the detailed procedures of verification and the frequency thereof.

These controls may be physical or documentary checks and both on- or off-site. Analytical controls are also conducted by INAO-approved laboratories. When necessary, and in line with provisions in the product specifications, blind organoleptic examinations of the relevant products may be carried out by trained experts.

In 2014, for the 121 PGIs, control plans for 95 % of agri-food PGI specifications were completed at over 90 %. In all, nearly 68 % of plans were realised at 100 % or more. For the 96 PDOs, 93.8 % of agri-food PDO specifications were verified at over 90 %²⁵⁷.

²⁵⁷ Data specified in the PNCOPA 2016-2020: <http://agriculture.gouv.fr/securite-sanitaire-le-plan-national-de-contrôles-officiels-pluriannuel-2016-2020>.

The figure below shows the performance of the control structure²⁵⁸.



2.1.1 Planning and prioritisation criteria and frequency

In line with Regulation (EC) No 882/2004, PNCOPA specifies that all controls are planned based on a risk analysis, regardless of whether those risks pertain to consumer health and interests, animal health and welfare, plant health, or feed.

In general, the CAs outline their priorities and create a plan for controls based especially on:

- scientific knowledge of hazards and consumer exposure;
- scientific and economic knowledge of fraud risk;
- scientific knowledge and the impact of various diseases on animal and plant health;
- economic context (e.g. shortages of essential commodities) and/or technological advances and behavioural shifts (e.g. online shopping);
- information received through cooperation with other national and foreign CAs and the European Commission (e.g. the horsemeat scandal or fraudulent use of an origin quality logo);
- high-risk operators identified during previous controls and high-risk sectors;
- regulation of non-compliance, especially the frequency and seriousness of offences.

With regard to product quality and fair trading, the various authorities also include in their control plans reports received from the French *Vigie-fraudes* network and the **European Food Fraud Network (FFN)** as well as information from the **Administrative Assistance and Cooperation system (AAC)**.

²⁵⁸ Source: Country Profile — Organisation of official controls, Ref. Ares (2015)3677631, p. 109. Within the figure, McA indicates the Ministry holding the agriculture portfolio; McE indicates the Ministry holding the economic portfolio; UT indicates Territorial Unit of INAO.

Products on which a quality logo is displayed with an origin recognised at European level must comply with specific rules set out in the product specifications. Official checks apply to all products registered in France, as well as all products marketed in French territory, regardless of their origin (France, Europe or third countries).

CBs plan and prioritise official controls based on the relevant control plan approved by the INAO for every product specification, which also includes the organisation and planning of sampling²⁵⁹.

The approved control plans also include indications for the frequency of inspections. The frequency may take into account official checks made based on the volume of product produced, and will include the possibility of increasing the frequency of inspections based on the results from previous years and information provided by groups of producers carrying out their own internal checks. The inspection frequency can be set at a national level based on the category of the operator, taking into account the level of risk of non-compliance for each category.

Criteria that should be taken into account are set out in the guidelines of the **Council of Approvals and Controls (Conseil des agréments et contrôles — CAC)**²⁶⁰. Amongst other criteria this includes, for example:

- the date of authorisation of the operator (with close attention given to newly authorised operators);
- the history of the operator;
- results of internal control and self-monitoring;
- the type of production;
- the economic situation of the sector;
- the information contained in the *fiche de liaison* provided by other authorities involved in the sector.

The DGCCRF has also put in place a national expert's network and an intranet in order to harmonise the labelling practices and the modalities of control.

2.1.2 Verification of compliance with product specifications

Verification of compliance with product specifications is carried out at all stages of the production cycle and on the product itself. The inspections can be made on a physical product or on documentation and are carried out either at the production site itself or off-site. The purpose of checks is to ensure that the conditions for product development are in line with those in the product specifications.

Analytical tests are also carried out by laboratories authorised by the INAO. Where appropriate, and taking into account the provisions in the product specifications, organoleptic tests are carried out on the products concerned by trained panels and under conditions of anonymity for the products.

Each organisation that represents the collective of operators that submitted the proposal for specifications chooses its supervisory body. The latter submits a draft control plan or inspection plan to the INAO for approval. The plan must be approved before implementation of the specifications by the operators.

The plan must include, in particular, the procedures for authorising operators (recognition of the ability of an operator to meet the requirements of a specification), the exhaustive list of points to be checked, frequencies and methods of control and the penalties to which the operator is liable in the event of non-compliance with the specifications. All these aspects are adapted to the type of product and its specificities.

²⁵⁹ DG (SANTE) 2015-7413 – MR.

²⁶⁰ <http://www.inao.gouv.fr/eng/Official-texts/Orientations-du-Conseil-des-Agrements-et-Contrôles>.

The control plan also includes:

self-tests carried out by the operator on its own activities, corresponding to a 'classical' quality approach;

internal controls, carried out by the organisations of producers, to support operators in their production process, using a pedagogical approach.

The organoleptic examination to which GI products are subjected, in accordance with the frequencies defined in the control provisions, are carried out by an organoleptic examination panel. The committee is composed of competent professionals and experts under the responsibility of the CB under conditions ensuring an independent and impartial examination of the products. The purpose of this check is to ensure that the products in question correspond to the expected product, as defined in the relevant specifications.

Analyses (search for components, measurement of the rate of presence of ingredients or of certain parameters characteristic of the product, etc.) may also be provided for by the control or inspection plan. The control costs are borne by the controlled operators.

Moreover, according to data in the DG Health and Consumers report²⁶¹, the INAO requires all new operators to notify the relevant PG of their intention to produce GI products. The PG carries out a documentary check and informs the relevant CB.

2.2 CONTROLS ON THE MARKET

As mentioned above, the DGCCRF is the CA in charge of controls for French and foreign GIs on the national market, in relation to products that might take unfair advantage of GIs quality certification standards.

More precisely, the DGCCRF controls the accuracy of information on commercialised products of all origins (French or international) with GI claims (including products using GI ingredients). For all inspections combined (national, regional and local), around one thousand operators are controlled every year at all industry stages (production, processing, distribution, restaurants, online sales, imports), while efforts are made not to interfere with INAO controls.

Planning and prioritisation of controls are made through the **National Survey Programme (Programme national d'enquêtes — PNE)**²⁶². According to the DGCCRF, risk analysis is carried out at two levels: national and regional. For all types of inspection (national, regional and local), one thousand operators are inspected each year at all stages of production, processing and distribution, at catering establishments, on the internet, on importation etc., making sure that these controls do not interfere with the checks being made by the INAO.

An annual national control plan analyses operators not controlled by the INAO, operators that have had their certification withdrawn by their CB, fraud detected and high-risk sectors identified during previous inspections. Risk analysis also takes into account the results of previous controls, knowledge of the regional economic landscape and issues reported by the INAO and foreign CAs.

The market controls also verify compliance with certification, labelling, product composition and traceability, national transitional protections and transitional periods. Inspectors also investigate any misuse or imitation of the GI brand reputation, any unauthorised use or misappropriation of the GI logos

²⁶¹ DG (SANTE) 2015-7413 – MR, p. 7.

²⁶² https://www.economie.gouv.fr/files/files/directions_services/dgccrf/dgccrf/pne/2016/pne2016.pdf.

and any misleading representation and fraud.

Finally, the DGCCRF ensures that original rules in European regulations are properly put into place (e.g., regulation on information to consumers and regulations on the common organisation of markets).

The checks are carried out at the stage of distribution and wholesale and continue, in the event of an anomaly, at the first placing on the national market. During the controls, it is possible to take samples and the inspectors may also take into consideration previous data, complaints and reports received, notably from the INAO, the European Commission and foreign supervisory authorities.

The search for anomalies is also based on the examination of photographs taken of the labelling of selected products. Investigators can check on a case-by-case basis by consulting databases (e.g. EU DOOR), checking the relevant product specifications are respected, the traceability of products and by searching for cases of usurpation or fraud.

Surveillance of the use of the name in the marketplace is mainly carried out at departmental level by the DDPP or the DDCSPP. The DIRECCTE play a coordinating role.

If a non-compliance is detected on the label at market level, a follow-up of the non-compliance is ensured (visit, warning letter, etc.) to the relevant operator responsible for placing the product on the market. When labels are correct, no traceability check is carried out²⁶³.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The staff involved in controls have initial training in a scientific, technical, legal, economic or administrative field. According to the PNCOPA 2016-2020, the INAO has five members of staff working full-time at national level, and 25 at regional level (*délégations territoriales*).

The INAO provides an ongoing and permanent training programme for its staff. In particular, INAO staff receive specialist training covering the distinct characteristics of the products and sampling procedures, along with the scope of all the checks carried out. This training is part of a three-year scheme, divided into annual programmes that focus on priority activities. They are subject to the guidance of the joint works council.

The INAO has instituted an internal control expert's network, which consists in four annual meetings and written solicitations.

As specified in the PNCOPA 2016-2020, the DGCCRF has 123 members of staff working full-time at national level, 31 at regional level (in DIRECCTE) and 374 at Department level.

The **National School on Competition, Consumer Affairs and Fraud Repression (École Nationale de la Concurrence, de la Consommation et de la Répression des Fraudes — ENCCRF)** is in charge of the training of DGCCRF staff at national level.

Moreover, ongoing training is also a priority for the DGCCRF, which has put a system in place that allows agents to access the course catalogue, published annually, by registering online. This catalogue covers

²⁶³ Source: DG (SANTÉ) 2015-7413 — MR, p. 9.

priorities set at both departmental and interdepartmental levels, as well as specific issues according to the DGCCRF.

Its aim is to maintain and develop the skills of agents and to train inspectors, including those responsible for inspections as part of the PNE.

In addition, according to the PNCOPA 2016-2020, officials from the CAs participate in the **Better Training for Safer Food (BTSF)** training programme proposed by the European Commission.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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On the INAO website, there is a database for searching for products²⁶⁴ and all directives related to procedures and controls are published²⁶⁵.

All information not specifically covered by a directive is reported in the *Recueil des orientations du Conseil des Agréments et Contrôles*²⁶⁶.

Furthermore, it is important to underline that the annual activities report of the INAO is also published on the INAO website²⁶⁷.

As already mentioned above, the INAO and DGCCRF signed a cooperation protocol, which includes a *fiche de liaison*, where the INAO informs the DGCCRF about cases where serious non-compliance is identified and vice versa. Moreover, COFRAC signed an agreement with the INAO and is also informed of cases detected of serious non-compliance.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

In general, points of contact for the CAs for mutual assistance between Member States are the INAO²⁶⁸ and DGCCRF²⁶⁹.

Moreover, according to the PNCOPA 2016-2020, in cases where non-compliance relating to foodstuffs on the market does not present a health hazard, Member States will exchange information and will work together through the various networks.

²⁶⁴ <http://www.inao.gouv.fr/eng/Official-texts/Search-a-product>.

²⁶⁵ <http://www.inao.gouv.fr/eng/Official-texts/Directives-INAO>.

²⁶⁶ <http://www.inao.gouv.fr/eng/Official-texts/Orientations-du-Conseil-des-Agrements-et-Contrôles>.

²⁶⁷ <http://www.inao.gouv.fr/eng/Publications/Rapports-d-activite>.

²⁶⁸ Contact: contrôles@inao.gouv.fr.

²⁶⁹ Contact: D@dgccrf.finances.gouv.fr.

In particular, it is possible to exchange information between monitoring authorities in other Member States and data on cases of non-compliance regarding foodstuffs through the assistance and the AAC system.

In France, the DGAL and the DGCCRF are the two points of contact for this system. Under this system, the European Commission set up the FFN. The DGCCRF and the DGAL are also the points of contact for France for any fraud in the system.

This network, which specialises in combating fraudulent practices in the food industry, was set up by the European Commission in 2013 in the aftermath of the horsemeat scandal.

Moreover, the **Trade Control and Expert System (TRACES)** is a tool for monitoring animal movements during import and trade between Member States, as well as for a large number of products, mainly of animal origin. It enables Member States to keep informed of rejected consignment imports.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

Controls may detect non-compliance with regulations. Inspection services apply sanctions based on the severity and extent of the findings.

Please see the Guide for more details on the administrative sanctions.

6.2 CRIMINAL PROSECUTION

French law provides for criminal sanctions in relation to GI control in the Rural and Maritime Fishing Code²⁷⁰, the Consumer Code and the Code of Public Health.

These acts empower officers involved in the controls to communicate an infringement report to the public prosecutor, who decides whether to take legal action.

Penalties include fines of up to EUR 750 000 and 7 years imprisonment, depending on the charges. The amount of these fines may be increased proportionately, based on any profit derived from a criminal activity, up to 10 % of the average annual turnover, calculated based on the last three annual sales reports known on the relevant date.

In the worst cases of illicit behaviour, the author of the infringement could be banned from carrying out any further business or commercial activity.

6.3 FOLLOW-UP OF CASES

CBs must notify the INAO within seven days of any detected cases of serious non-compliance. The INAO

²⁷⁰ L641-11, L643-2 and R641-11.

checks during the supervision that CBs comply with this deadline. The DGCCRF is informed in cases of detected cases of serious non-compliance, so that it can verify, if necessary, that the measures taken have been correctly implemented.

Moreover, as already mentioned, if the DGCCRF detected non-compliance with the label at market level, a follow-up of the non-compliance would be ensured (visit, warning letter, etc.) to the relevant operator responsible for placing the product on the market.

6.4 EX OFFICIO PROTECTION

According to EU regulations, the protection of GIs is also ensured by public authorities even without a request (*ex officio* protection).

The INAO has competence for the protection of GIs both in France and abroad in application of Article L642-5 of the Rural and Maritime Fishing Code. Moreover, the INAO may take any action against uses that infringe a GI under the Intellectual Property Code²⁷¹.

As the authority in charge of labelling and 'fair trading', the DGCCRF ensures the controls on the national market. These controls concern all products marketed in the national territory, independently of their geographical origin.

In particular, the DGCCRF controls compliance with European and national rules on labelling, compliance with product specifications (making sure not to interfere with the controls already performed by the INAO before the products are put on the market), traceability of the products and searching for usurpation and fraud.

The DGCCRF also deals with irregularities received from the INAO and the foreign control authorities and it is also empowered for matters of trade mark counterfeiting.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

7.1 TOOLS FOR USERS AGAINST SUSPECTED/DETECTED INFRINGEMENTS

Users can address claims to the INAO²⁷² or to the specific CBs (complaint procedures are mandatory under ISO 17020 and ISO 17065).

7.2 CIVIL ACTION

Civil actions related to GIs are defined in the Intellectual Property Code²⁷³, in particular in Articles L722-1 to L722-8.

Any infringement of a G, in breach of the protection granted to it by European Union law or national

²⁷¹ Article L722-2 of the Intellectual Property Code.

²⁷² Contact: contact@inao.gouv.fr.

²⁷³ Webpage : [Code de la propriété intellectuelle](#).

legislation involves the responsibility of the infringer²⁷⁴.

The civil action for infringement is exercised by any person authorised to use the GI concerned or anybody to whom the legislation gives the mission to defend GIs²⁷⁵.

The seat and jurisdiction of the courts of first instance having exclusive jurisdiction to hear actions relating to GIs is determined in accordance with Table VI annexed to Article D. 211-6-1 of the Code of Judicial Organisation²⁷⁶.

Please see the Guide for more details on civil action.

²⁷⁴ Article L722-1 of the Intellectual Property Code.

²⁷⁵ Article L722-2 of the Intellectual Property Code.

²⁷⁶ Webpage: [Code de l'organisation judiciaire](#).

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

CROATIA



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

HAA	Croatian Accreditation Agency (Hrvatska akreditacijska agencija)
HCPHS	Croatian Centre for Agriculture, Food and Rural Affairs (Hrvatski centar za poljoprivredu, hranu i selo)
IIA	Institute of Internal Auditors
MP	Ministry of Agriculture (Ministarstvo Poljoprivrede)
UKHFP	Directorate for Food Phytosanitary Policy (Uprava za kvalitetu hrane i fitosanitarnu politiku)
UPPI	Directorate for Agriculture and Food Industry (Uprava poljoprivrede i prehrambene industrije)
UVSH	Directorate for Veterinary and Food Safety (Uprava za veterinarstvo i sigurnost hrane)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

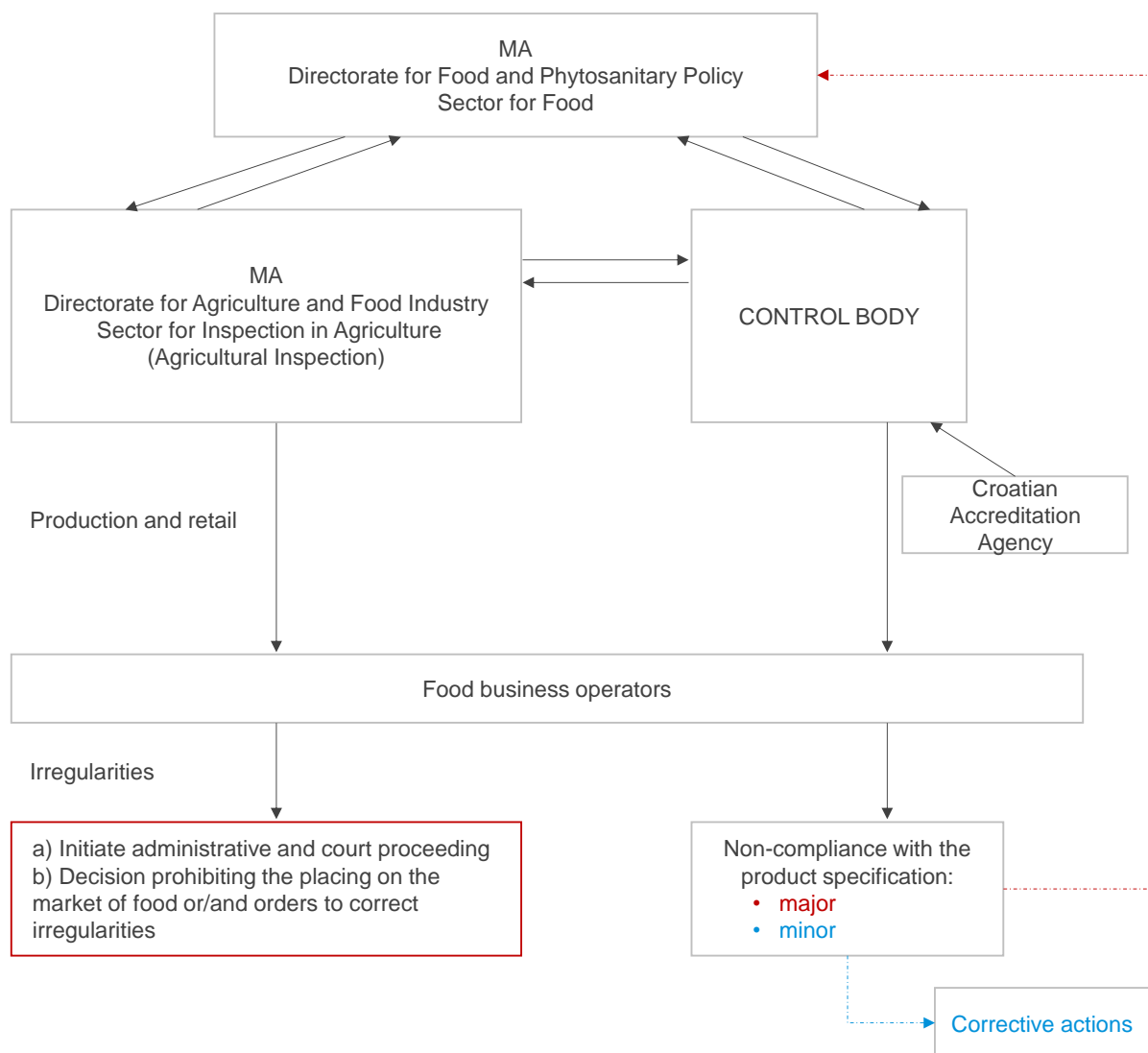
1.1 CENTRAL AUTHORITIES

In the Republic of Croatia, the **Ministry of Agriculture (Ministarstvo Poljoprivrede — MP)** is the national central authority for the organisation of official controls related to GI foodstuffs, wines, aromatised wine and spirits.

More in detail, official controls in all sectors are carried out by the **Directorate for Agriculture and Food Industry (Uprava poljoprivrede i prehrambene industrije — UPPI)** within the MP, through its Sector of Inspection in Agriculture (Sektor inspekcija u poljoprivredi), hereinafter also referred to as 'Agricultural Inspection', as the CA.

1.2 GENERAL STRUCTURE OF THE SYSTEM

The general structure in relation to controls on agricultural products and foodstuffs is depicted below²⁷⁷.



²⁷⁷ Source DG (SANTE)/2016-8958; in this figure the abbreviation 'MA' indicates the Ministry of Agriculture.

In addition to official controls carried out by the CA, the general system for the protection of GIs in Croatia includes the following.

For the foodstuff sector, within the MP, the Sector for Food (Sektor za hranu), Service for Food Quality Indications (Sektor za hranu), Department for Food Quality Indications (Odjel za oznake kvalitete hrane) of the **Directorate for Food and Phytosanitary Policy (Uprava kvalitetu hrane i fitosanitarne politike — UKHFP)** are in charge of, inter alia:

- keeping records of the products protected by GIs at national and EU level;
- organising the system of official controls;
- carrying out the administrative procedure of approving CBs;
- carrying out administrative controls of the work of CBs and coordinating their activity;
- approving the control plans prepared by authorised CBs;
- keeping records of certificates of compliance with the product specifications issued by CBs;
- keeping records of the semi-annual work reports by CBs.

As regards wines, aromatised wine products and spirit drinks, the UPPI, through its Sector for Market Organisation of Agriculture and Food Industry (Sektor za uređenje tržišta poljoprivrede i prehrambene industrije), Service for Food and Processing Industry (Služba za prehrambeno-prerađivačku industriju), Department of Oenology and Spirit Drinks (Odjel za vinarstvo i alkoholna pica), is in charge of, inter alia:

- preparing and updating the list of GIs for wines;
- preparing legislation related to sampling methods and laboratory analysis for controlling the quality of wines and spirit drinks;
- carrying out the administrative procedure of approving CBs;
- approving examination and reference laboratories to perform official controls on wine quality;
- keeping records of the users of the registered GIs.

The Agricultural Inspection, as the CA in charge of official controls, is structured into two levels:

at the central level, there are two departments in charge of controls:

- the Food Quality Control Department (Odjel nadzora kakvoće hrane);
- the Wine Control Department (Odjel nadzora vinarstva).

at the regional level, controls are executed through five Departments-Regional Units, with inspectors for food and wine quality and inspector for wine controls.

As regards foodstuffs, the Agricultural Inspection carries out controls at all stages of production, from processing to distribution and import, as well as on products stored at customs or at the destination, regardless of their origin. The task of verification of compliance with product specifications is delegated to approved CBs (see below).

For wines and aromatised wines, the Agricultural Inspection carries out controls at all stages of production, from processing to distribution. However, according to the national legal provisions, verification of compliance with the product specifications is delegated to the **Croatian Centre for Agriculture, Food and Rural Affairs (Hrvatski centar za poljoprivredu, hranu i selo — HCPHS)** (see below).

For spirits, the Agricultural Inspection, by means of inspectors for wine control, carries out controls during all stages of production, although without issuing a certificate of compliance, as this is not set out by the national legislation.

Legal status and powers of staff of Competent Authorities

As regards foodstuffs and spirits, officers involved in official controls have rights and obligations to, inter alia:

- carry out official controls in accordance with Regulation (EC) No 882/2004;
- identify measures to be taken in cases of non-compliance;
- temporarily detain the products under seal until obtaining the results of analysis and until final disposal in cases of suspected harm to safety and health;
- implement annual, multi-annual and special plans according to frequency of controls and in line with established goals;
- keep records of official controls and samplings;
- request and inspect identity documents of persons subject to inspection, as well as of other persons present at the place of the inspection;
- request and control official documentation and other documentation that can be useful for controls and make copies thereof;
- take samples and materials for laboratory analysis;
- control official registries and databases for the purposes of undertaking the controls;
- collect data and information from the responsible persons, witnesses and other persons;
- control the work of CBs implementing Regulation (EU) No 1151/2012;
- inform other CAs in cases of infringement of other legislation under the jurisdiction of another authority to file criminal complaints with the CA.

Similarly, agriculture inspectors involved in inspections in the wines and aromatised wines sector have rights and obligations to, inter alia:

- enter and inspect businesses and production areas, facilities, land properties, equipment, goods, crops, plantations, business records and documentation of the user of the sign;
- request and inspect identity documents of persons subject to inspection, as well as of other persons present at the place of the inspection;
- take samples and materials for laboratory analysis;
- collect data and information from the responsible persons, witnesses and other persons;
- control official registries and databases for the purposes of undertaking the controls.

Capacity of laboratories

As regards foodstuffs and spirits, the MP authorises official and reference laboratories for food (and animal feed). The basic requirement for obtaining the authorisation is the accreditation of the laboratory in accordance with ISO/IEC 17025:2007.

In Croatia, there are currently 40 laboratories authorised for food and 2 laboratories authorised to conduct physical-chemical analyses of spirit drinks.

The complete list of official and reference laboratories for foodstuffs and spirits is available on the website of the **Veterinary and Food Safety Directorate (Uprava za veterinarstvo i sigurnost hrane — UVSH)** of the MP²⁷⁸.

Exceptionally, if the parameters cannot be analysed by any of the existing reference or official laboratories, samples are sent to a suitable laboratory without prejudice to the rights of the party to obtain a sample for a second opinion.

As regards wines and aromatised wines, approved laboratories are also accredited in accordance with

²⁷⁸ <http://www.veterinarstvo.hr/default.aspx?id=1269>.

ISO/IEC 17025:2007.

In Croatia there are currently five accredited laboratories for physical-chemical analysis in the wine sector:

Hrvatski centar za poljoprivredu, hranu i selo (Croatian Centre for Agriculture, Food and Rural Affairs — HCPHS) — Ispitni laboratorij, Zagreb, Jandrićeva 42;
Institut za jadranske kulture i melioraciju krša — Enološki laboratorij, Split, Put Duilova 11;
Veterinarska stanica d.o.o. PJ „Bioinstitut“, Čakovec, R. Steinera 7;
Institut za poljoprivredu i turizam — Vinarski laboratorij, Poreč, Karla Huguesa 8;
E.C. Inspekt d.o.o., Fizikalno-kemijski laboratorij, Zagreb, Josipa Pupačića 2.

1.3 CONTROL BODIES

CBs in the agri-food sector are authorised by the UKHFP (through its Sector for Food, Service for Food Quality Indications).

Applications must be submitted to the MP and there are specific requirements for obtaining the authorisation such as, inter alia:

a valid certificate of accreditation in accordance with ISO/IEC 17065:2013 issued by the **Croatian Accreditation Agency (Hrvatska akreditacijska agencija — HAA)** together with information related to solvency and tax compliance;
a list of employees and external partners that will carry out controls.

There are currently two approved CBs for foodstuffs²⁷⁹, namely:

Biotechicon poduzetnički centar d.o.o.;
Bureau Veritas Croatia d.o.o.

These CBs perform the following tasks:

preparation of the control plans (or modification of control plans) on the basis of product specifications for GIs;
performing compliance controls;
issuing certificates of compliance;
keeping records on issued and revoked (limited or withdrawn) certificates of compliance;
keeping the list of users of registered GIs and the list of all subjects participating in the production, processing and distribution chain, data on quantities of the products that are compliant with the product specifications;
informing the CA (i.e. the Agricultural Inspectorate) in cases of serious non-compliance;
submitting to the CA semi-annual reports using standard form;
submitting to the MP upon request the data needed to prepare the Report of official controls conducted in accordance with the multi-annual national official control plan.

As regards wines and aromatised wines, the UPPI is in charge of authorising the CBs, through the Directorate for Agriculture and Food Industry, Department for Viniculture and Spirit Drinks.

The accreditation process is similar to the one described for foodstuffs, as applications must be submitted to the MP and legal persons must also submit a valid certificate of accreditation in accordance

²⁷⁹ For more information on these two CBs see <http://www.mps.hr/default.aspx?id=8167>.

with ISO/IEC 17065:2013 issued by the HAA. The MP issues a certificate for the same period as to the validity of the accreditation.

Currently, there is one CB authorised to carry out controls for wines²⁸⁰:

Croatian Centre for Agriculture, Food and Rural Affairs (Hrvatski centar za poljoprivredu, hranu i selo — HCPHS).

The HCPHS has the following tasks:

annual verification of compliance consisting of physical and chemical analysis and organoleptic (sensory) marks, carried out within the standard procedure of issuing the trading permit;
administrative verification of conformity with the product specifications prior to issuing a decision on placing the wine on the market;
based on the control plan, controls on any production phase including packaging.

As reported by the local CAs, the HCPHS is accredited for verifying compliance with the product specifications in accordance with the national legislation, which is, however, not in line with Regulation (EC) No 882/2004 and Article 90 of Regulation (EU) No 1306/2013. The Centre is accredited in accordance with ISO/IEC 17025:2007 for laboratory analysis.

As regards spirits, there are currently no authorised CBs.

1.4 ACCREDITATION BODY

In the Croatian control system, the accreditation body is the HAA, which is in charge of issuing accreditations in accordance with ISO/IEC 17065:2013.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

Information has been collected in particular on the supervision system in place for the foodstuff sector, where the quality control of the approved CBs is ensured by accreditation in accordance with ISO 17065:2013 by the HAA.

In particular, the supervision of the CBs is carried out in three independent ways:

control by the Agricultural Inspection;
administrative supervision by the Expert Committee of the Service for Food Quality indications of the UKHFP;
audit by the Autonomous Service for Internal Audits of the Ministry of Agriculture.

Further details on each type of control are given below.

Control by the Agricultural Inspection

Agricultural inspectors indirectly control the work of the approved CB by controlling relevant documentation while carrying out the controls in the production chain.

If irregularities are detected, they contact the CB and decide to carry out supervision. For irregularities

²⁸⁰ This accreditation is not in line with the EU legal requirements.

detected in the work of approved CBs, fines are applied.

In detail, a fine ranging from HRK 20 000 to 70 000 (i.e. EUR 2 500 to 9 000) is applied if:

the CB does not draft a control plan relating to a specific GI and deliver it for approval to the MP within 60 days;
the CB does not issue a certificate to the user of the sign immediately after the control or does not send the certificate to the MP within seven days of the day of issuance;
the CB does not inform the MP without delay that the producer does not comply with the product specifications, or that serious irregularities have been discovered;
the CB issues a certificate of compliance for products that are not produced in accordance with the approved control plan and product specifications.

Administrative supervision by Service for Food Quality Indications

The Service inspects the work of approved CBs once a year or, if necessary, even more frequently.

To date, there is an ongoing procedure within the MP regarding the drafting of a manual for administrative supervision, which will include planning, supervision procedures and measures in cases of irregularities.

Audit by the Autonomous Service for Internal Audit of the Ministry of Agriculture

This is an independent Service that carries out the internal audit and reporting.

Supervision of the CBs is carried out by authorised inspectors from the Department for Veterinary and Food Safety Audits of the Autonomous Service for Internal Audit.

The manual for internal auditors establishes the methodology for conducting internal audits, in line with international standards set by the international **Institute of Internal Auditors (IIA)**, adapted to the practice of Croatian public administrations.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Approved CBs must be independent and impartial in exercising their functions or the authorisation to operate can be revoked by the MP.

In addition, certified testing laboratories must be impartial and their staff must not be dependent on any business, financial or other entity that may influence their technical opinion.

The MP may revoke the certification issued to legal entities involved in controls even before the expiry of the certificate, if it is proven that the entity in question acted against provisions of the law.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

In Croatia, there are no other authorities in charge of official controls on GIs.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Agricultural Inspectors have an obligation to produce a record of every official control or inspection performed, indicating the subject of the inspection. All records and decisions, as well as complaints submitted to the courts, are stored in the 'e-Inspector' computer application. Each year, a tabular annual report is produced where all irregularities and measures are listed.

2.1 CONTROLS DURING THE PRODUCTION PHASE

As reported, the tasks related to the verification of compliance with product specifications are delegated to:

approved CBs for agricultural products and foodstuffs;
the HCPHS for wines and aromatised wines;
the Agricultural Inspectors (namely, inspectors for viniculture control) for spirits.

2.1.1 *Planning and prioritisation criteria and frequency*

Official controls are carried out in accordance with the **Multi-Annual National Control Plan (MANCP)** and CBs perform controls in line with the approved control plan for each product registered as a GI.

Taking into account the intense activity related to the protection of new names after the access of Croatia to the EU, priority is given to newly registered names and to irregularities discovered in previous controls.

Official controls are carried out on the basis of a prepared annual plan. Furthermore, during the year, if irregularities are reported (especially in the catering industry), inspectors carry out random controls.

Inspections are based on a risk assessment that considers, inter alia: results of previous controls, type and number of detected irregularities, origin of the products (domestic or foreign), etc.

2.1.2 *Verification of compliance with product specifications*

Controls include inspections, documentary checks and sampling depending both on the specific production phase under control and on the type of control envisaged in the control plan.

Samples are sent to the authorised accredited laboratory for laboratory controls.

If minor irregularities are detected during the controls, corrective measures from the relevant control plan are taken. However, in cases of serious irregularities, the product is banned from being commercialised and the irregularity must be communicated to the MP (Agricultural Inspectorate).

Where the control of compliance with product specifications is successful, the CB issues a certificate of compliance to the producer and a copy of this certificate is sent to the MP within seven days.

Moreover, CBs submit semi-annual reports to the CA related to verification procedures that have been

implemented. These data are also included in the report of the official controls.

As regards foodstuffs, operators and users must:

submit an application for verification of compliance with the product specifications to the approved CB (any producer of the product whose name is protected as GI under transitional national protection or registered at EU level or any user of the GI, any actor in the production, processing or distribution chain listed in the product specifications);

submit the data about the production and/or placing the products on the market to the CA using a standard form, report any promotional and other activities undertaken in relation to agricultural or food products whose name is protected under transitional national protection or registered at EU level, before 31 March for the previous year.

In relation to wines, users and operators have to submit an application for the verification of compliance to the approved CB (issuing the decision on placing on the market) with the product specifications.

As regards spirits, once the sign has been registered, there are no periodical official controls for the verification of compliance with product specifications. However, the Agricultural Inspectorate carries out controls, even though the certificate of compliance has not been issued.

2.2 CONTROLS ON THE MARKET

Official controls on GIs for agricultural products and foodstuffs at retail level are carried out by the Agricultural Inspection.

A manual for the procedure of inspection is provided to the inspectors. If during control at retail level, products bearing a GI registered in other Member States or in third countries are found, inspectors check the protected name in the relevant database (DOOR database), and verify the documentation in order to trace them.

Official controls at retail level on GIs for spirit drinks and wines and aromatised wine products are carried out by the relevant inspectors of the Agricultural Inspection.

Systematic controls are carried out on GI products regardless of their origin (Croatian, imported from third countries or from other EU Member States).

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The staff involved in the controls include:

MP, UPPI, Sector for Inspections in Agriculture: head of sector;
Service of Surveillance on Agriculture and Support, at central level: head of service;
Food Quality Control Department: head of department and three inspectors (total number six at central level);
Service for Surveillance on Agriculture and Support, at central level: head of service
Wine Control Department (for spirit drinks, wines and aromatised wine products): head of department (total number three employees at central level).

As regards the Inspection Service at Regional Units, 24 inspectors for food quality and 11 inspectors for wine and spirit drinks are involved.

Educational training of inspectors is ensured through workshops, including participation in **Better Training for Safer Food (BTSF)** workshops.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As regards the verification of compliance during the production phase of GIs, the MP keeps records on issued certifications of compliance; however, data are only available upon a justified request.

Information related to inspections carried out on the market are stored in the 'e-Inspector' application, which is available to the heads of the Department Regional Units and to the management at central level (i.e. to the Head of the Inspection Services at the Regional Units and to the Head of the Sector).

Tabular reports on related inspections are also prepared.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

In cases where irregularities related to products from other Member States are identified, a liaison office in the Member State concerned will be contacted by the liaison office in Croatia (i.e. the UVSH of the MP).

Croatia also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States. The national contact point for the FFN system is the UVSH of the MP.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

In cases of detected irregularities, inspectors can apply the following administrative measures:

limitation or ban or temporarily ban of the product from the market and/or order of withdrawal from the market of products marked with protected or registered GIs, for which the certificate of compliance has not been issued;

limitation or ban or temporarily ban of the product from the market and/or order of withdrawal from the market of products marked with protected or registered GIs which are not produced according to the product specifications.

Please see the Guide for more details on the applicable administrative sanctions.

6.2 CRIMINAL PROSECUTION

Infringements of GIs may result in misdemeanours or criminal offences.

According to the Law on Agriculture²⁸¹, in cases of identified irregularities, inspectors can undertake misdemeanour measures.

Furthermore, criminal sanctions are provided for under the Criminal Code²⁸².

Due to the *non bis in idem* principle, it is not possible to pursue misdemeanour as well as criminal

²⁸¹ Law No 710503/1152 of 11 March 2015.

²⁸² Law No 71-05-03 / 1-11-2 of 26 October 2011.

proceedings for the same offence.

Agricultural inspectors, while carrying out inspections, may also temporarily seize, until the final decision on misdemeanour or criminal conviction, all documentation that may be used as evidence in misdemeanour procedures or court cases. A person that is subject to the control has the duty to enable the inspector seizing the required documentation.

More details on criminal prosecution are provided in the Guide.

6.3 FOLLOW-UP OF CASES

All identified cases of non-compliance are registered in the 'e-Inspector' database and are reported in the national annual reports.

Information from previous cases is used for risk analysis purposes.

6.4 EX OFFICIO PROTECTION

Protection against infringements of GIs in the Croatian market is ensured also *ex officio*. This means that all irregularities may be prosecuted administratively and/or judicially, and that all users can receive protection (including users of GIs registered in other EU Member States), without the obligation of said users to submit a claim to the competent administrative or judicial authority.

To this regard, the General Administrative Act (basic national legal act of the public administration), *inter alia*, provides for a mandatory procedure of the Inspectorate regardless of the request of the party concerned (rights holder).

If agricultural inspectors, while performing the planned, targeted or requested controls at the retail level, detect any other irregularity related to a GI (i.e. products marked with a protected sign without being entitled to do so), they must register such irregularity and act according to the law. Furthermore, agricultural inspectors may, at any time, control products at the retail level to determine whether the products are unlawfully marked with protected signs.

7. REMEDIES FOR USERS

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7.1 TOOLS FOR USERS AGAINST SUSPECTED/DETECTED INFRINGEMENTS

It is possible to submit inquiries and complaints²⁸³ to the MP. All complaints related to food quality and protection of signs are forwarded to the Sector for Inspections in Agriculture. Head of the Sector selects the coordinator at central level, who forwards the complaints to the competent Department of the Regional Unit based on the territorial principle.

²⁸³ E-mail contact: upiti.gradjana@mps.hr.

7.2 CIVIL ACTION

The Act on Geographical Indications and Designations of Origin of Products and Services²⁸⁴ prohibits any unauthorised use of a GI, as well as any other practice liable to mislead the public about the geographical origin of a product or a service²⁸⁵. A legal action against the infringement may be instituted by the person who registered the GI, authorised users of the GI, associations in the field of industry and trade, and by the State Attorney, in order to ask the competent Court to prohibit the illicit act.

It is also possible to claim compensation for damages and to ask for precautionary measures to be taken to prohibit the infringing actions and temporarily seize the products allegedly infringing GIs, to seize and destroy the materials and equipment predominantly used to produce the infringing goods, and to preserve relevant evidence regarding the alleged infringement.

Please see the Guide for more details on civil action.

²⁸⁴ NN 49/2011, in force from 7 May 2011.

²⁸⁵ Article 16 of NN 49/2011, in force from 7 May 2011.

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ITALY



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

ACCREDIA	Italian National Accreditation Body (Ente Italiano di Accreditamento)
AGCM	Antitrust Authority (Autorità Garante della Concorrenza e del Mercato)
AICIG	Italian Association of GI Consortia (Associazione Italiana Consorzi Indicazioni Geografiche)
CCP	Code of Criminal Procedure (Codice di Procedura Penale)
CP	Control Plan
DGAHVM	Directorate-General for Animal Health and Veterinary Medicine (Direzione Generale della sanità animale e del farmaco veterinario)
DGFHFSN	Directorate-General for Food Hygiene, Food Safety and Nutrition (Direzione Generale per l'Igiene e la Sicurezza degli Alimenti e della Nutrizione)
ICQRF	Central Inspectorate for Quality Safeguarding and Anti-fraud of Foodstuffs and Agricultural Products (Ispettorato Centrale della tutela della Qualità e della Repressione Frodi dei prodotti agroalimentari)
ISS	National Health Institute (Istituto Superiore di Sanità)
MiPAAF	Ministry of Agricultural, Food and Forestry Policies (Ministero delle Politiche Agricole, Alimentari e Forestali)
MoU	Memorandum of Understanding
NAC	Anti-Fraud Unit (Nuclei Antifrodi Carabinieri)
OLAF	European Anti-Fraud Office
PIUE	Directorate-General for International and EU Policies
PREF	Directorate-General for Prevention and Enforcement of Agri-Food Fraud (Direzione Generale della prevenzione e del contrasto alle frodi agro-alimentari)
SIAN	National Agricultural Information System (Sistema Informativo Agricolo Nazionale)
TTB	Alcohol and Tobacco Tax and Trade Bureau
VeRO	Verified Rights Owner
VICO	Directorate-General for the Accreditation of Control Bodies, Certification and Consumer Protection (Direzione Generale per il riconoscimento degli organismi di controllo e certificazione e tutela del consumatore)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITY

The **National Central Authority (NCA)** is the **Central Inspectorate for Quality Safeguarding and Anti-fraud of foodstuffs and agricultural products (Ispettorato Centrale della Tutela della Qualità e della Repressione Frodi dei prodotti agroalimentari — ICQRF)** — Department of Central Inspectorate for Quality Safeguarding and Anti-Fraud of Foodstuffs and Agricultural Products — a central department within the **Ministry of Agricultural, Food and Forestry Policies (Ministero delle Politiche Agricole, Alimentari e Forestali — MiPAAF)**.

The NCA has a central office in Rome, ten decentralised inspection offices and nineteen local units, as well as six laboratories. From an organisational point of view, the ICQRF is divided into two main offices:

The **Directorate-General for the Accreditation of Control Bodies, Certification and Consumer Protection (Direzione Generale per il riconoscimento degli organismi di controllo e certificazione e tutela del consumatore — VICO)**;

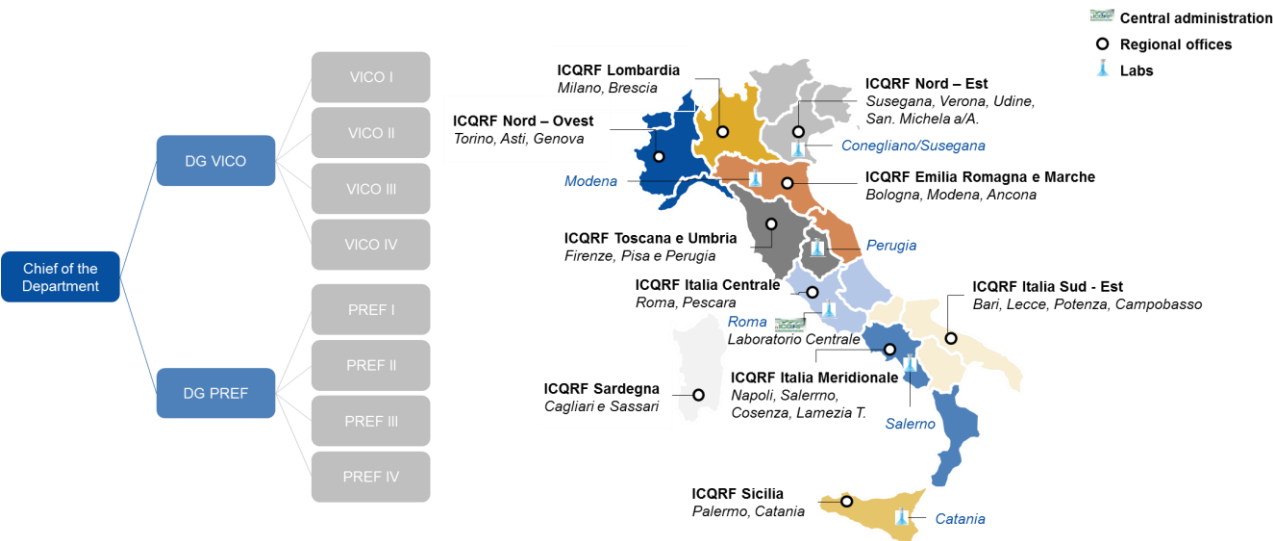
The **Directorate-General for Prevention and Enforcement of Agri-Food Fraud (Direzione Generale della prevenzione e del contrasto alle frodi agro-alimentari — PREF)**.

The VICO is responsible for recognition/approval and withdrawal/suspension of **Control Bodies (CBs)** for the inspection of GIs and TSG²⁸⁶ products, as well as for the approval of control plans²⁸⁷ and the associated costs of inspections by CBs and public control authorities. However, the PREF is responsible for planning and coordination, as well as for monitoring and assessment of the inspections carried out by the ICQRF's decentralised offices and laboratories. It is also responsible for the supervision of CBs (in cooperation with the regional authorities and the autonomous provinces of Trento and Bolzano). As of 31 December 2016, the headcount of personnel at the ICQRF was 747.

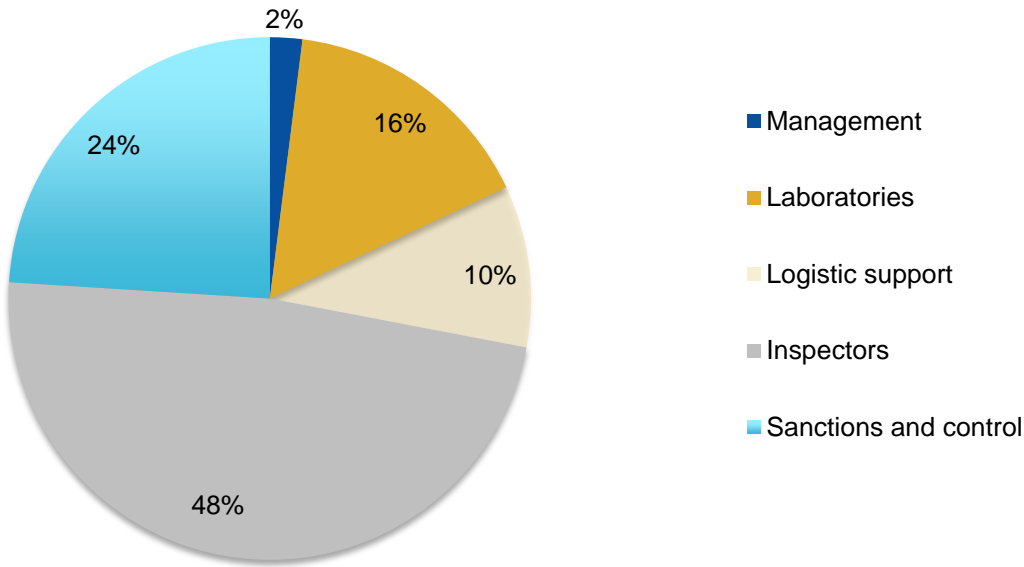
²⁸⁶ As regards the purpose of this study, TSG are not addressed in this report.

²⁸⁷ The Control Plan (CP), as more specifically described in the subsequent paragraphs, is a technical document drafted by the CBs where the practical aspects concerning the control procedures of each GI are described.

The figure below shows the ICQRF organisational framework at central and peripheral level.



The figure below shows the distribution of staff within the ICQRF (percentages).



1.1.1 General organisation

Field controls for both GI and conventional products are implemented through the network of ICQRF regional offices and laboratories. These play a relevant role within the ICQRF control organisation, providing evidence of inspection/sampling activities carried out by ICQRF inspectors through chemical analyses.

Public and private CBs are delegated by the central authority to carry out controls on GIs, in order to check whether operators that wish to certify their products as a GI follow the requirements set forth in the

relevant product specifications. The provisions of Regulation (EC) No 882/2004 of the European Parliament and the Council of 29 April 2004 on official controls on compliance with feed and food law, animal health and welfare rules and of the related implementing regulations have been integrated and complemented by national legislation²⁸⁸ on the organisation of controls and on duties and requirements for **competent authorities (CAs)** and CBs²⁸⁹. However, Regulation (EC) No 882/2004 has been replaced by Regulation (EU) 2017/625 of the European Parliament and the of the Council of 15 March 2017. The Regulation was published in the *Official Journal of the European Union* on 7 April 2017 and entered into force on 27 April 2017. However, the new rules will gradually become applicable, with the main application date being 14 December 2019.

²⁸⁸ Law of 7 August 1986, No 462; Legislative Decree of 19 November 2004, No 297; Ministerial Decree of 1 December 2005 in application of Legislative Decree No 297/04; Legislative Decree No 61/2010; Article 14 of L.D.M. of 14 October 2013.; Law of 27 December 2006 No 296

²⁸⁹ Regulation (EC) No 882/2004 on official controls has been replaced by Regulation (EU) 2017/625. The Regulation was published in the *Official Journal of the European Union* on 7 April 2017 and entered into force on 27 April 2017. However, the new rules will gradually become applicable with the main application date being 14 December 2019.

In particular, the organisation of the national control system implemented in Italy to protect GIs is organised at different levels, as shown in the following chart:



1.1.2 *Legal status and powers of staff of competent authorities and control bodies (and other control authorities)*

ICQRF officers have the legal status of inspectors²⁹⁰ and can carry out inspection activities concerning the whole agri-food sector (including the phytosanitary, seed and fertiliser sectors). Furthermore, ICQRF inspectors have the status of police officers within these specific areas of competence²⁹¹.

Moreover, pursuant to Article 8 of Legislative Decree No 297/2004 (for foodstuff GIs) and Article 17(5) of Legislative Decree No 61/2010 (for wine GIs), producer associations of a given GI may have full-time inspectors acting as judicial police agents. These inspectors may carry out any type of verification, inspection or control after the products bearing a GI certification²⁹² have been put on the market, carrying out the 'surveillance' duties of the producers' Protection Consortia²⁹³.

A comprehensive list of the surveillance inspectors of each Protection Consortium is published on the MIPAAF website²⁹⁴.

1.1.3 *Capacity of laboratories*

All ICQRF laboratories work in compliance with ISO/IEC 17025:2005, 'General requirements for the competence of testing and calibration laboratories'. This means that all the analyses performed by ICQRF laboratories are accredited by the **Italian National Accreditation Body (Ente Italiano di Accreditamento — ACCREDIA)**, which is recognised at European level, in accordance with the criteria defined in Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, which is compliant with ISO/IEC 17011:2004, 'Conformity assessment — General requirements for accreditation bodies accrediting conformity assessment bodies'.

Over the past few years, ISO/IEC 17025:2005 accreditation has been widened regarding the number of accredited analyses. Nowadays, ICQRF laboratories perform on average 331 accredited chemical analyses in all agri-food sectors for which the ICQRF is institutionally competent. Additionally, ICQRF laboratories that are competent for the oil sector (which include olive oil GIs) have 'tasting panels, which are in charge of evaluating the organoleptic characteristics of extra virgin olive oil, employing a specific methodology defined at EU level.

All ICQRF laboratories participate in proficiency tests, and/or inter-laboratory test circuits (ring tests) organised by accredited entities in compliance with ISO/IEC 17043:2010, 'Conformity assessment — General requirements for proficiency testing'. These tests are implemented to evaluate the analytic performance of ICQRF laboratories.

²⁹⁰ Italian Law No 462/1986.

²⁹¹ Article 55 and Article 57(3) of the Italian Criminal Code and Article 1(4-*quater*) of Italian Law No 71/2005.

²⁹² The procedure adopted to verify the compliance of the designated products with the product specification, before placing the product on the market, is carried out by one or more of the control bodies within the meaning of Article 2(5) of Regulation (EC) No 882/2004 operating as a 'product certification body' (Article 37(1)(b) of Regulation (EU) No 1151/2012).

²⁹³ For more details on protection consortia see section 1.5.2.

²⁹⁴ <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/6000>.

The harmonisation of the quality system of ICQRF laboratories is guaranteed by a competent ICQRF office (PREF IV), which manages and supports the adoption of well-defined management procedures, as well as the management of corrective measures (in the event of non-compliance) provided by ACCREDIA during its periodical audit activity. ICQRF laboratories have always been involved in in-depth research activities, focused on the implementation of new chemical analysis techniques able to detect food fraud more effectively, for both conventional and GI products. In 2015, ICQRF laboratories developed the following research activities:

1. development of a new HPLC analytical methodology using mass spectrometry to evaluate the presence of sucralose sweetener in dry wines;
2. identification of a suitable method of analysis to detect Cu-Chlorophyllins (E 141(ii)) in table olives;
3. development of a new HPLC method, able to detect the presence of potential water-soluble vitamins (thiamine, nicotinic acid, nicotinamide, riboflavin, pyridoxine, folic acid, pantothenic acid) in animal feed;
4. detecting the presence of corn silage, which must not be fed to cows producing milk to be used for making Parmigiano Reggiano PDO cheese.

1.2 GENERAL STRUCTURE OF THE SYSTEM

1.2.1 Control activities: general overview

The control and inspection activities guarantee the integrity of the Italian GI sector to consumers and producers. These activities are performed by a pool of agents/control authorities.

The ICQRF has the task of authorising the — private or public — certification and CBs that certify quality products (i.e. GIs, including wines, organic products and spirits, voluntary certifications of quality). The ICQRF also approves the control plans for each GI and the costs of controls paid for by producers.

To harmonise the controls on operators and the activities of CBs, the ICQRF plays an intensive coordination role. In 2016 alone, the ICQRF sent about 70 notes concerning the application of GI control plans, giving guidance, inter alia, on the correct implementation of control plans concerning olive oil GIs, the use of inspection staff and management of non-compliance.

The network of ICQRF laboratories plays a strategic role in food fraud detection, especially in the field of GIs. As regards the organisational structure, the ICQRF has the capacity to implement its inspection activity throughout all the production phases. Following the principles of food traceability, established in Regulation (EC) No 178/2002, ICQRF officers may also implement inspection activities at retailer and supermarket levels.

Traceability plays an important role in the inspection process. When a risk of non-compliance with the established requirements is identified through the inspection activity, the overall responsibilities and actions to be taken are reported in the following table. As already outlined, the network of ICQRF laboratories plays a strategic role in food fraud detection, especially in the field of GI products. Indeed, with an average of nearly 10 000 samples analysed per year, laboratories contribute decisively to the success of the fight against food fraud.

The table below shows the traceability system in action (roles, responsibilities and actions).

	Overall responsibilities	Actions taken when a risk is identified
Food and feed businesses	<ol style="list-style-type: none"> 1. Identify and document information on products 'one step forward and one step back' in the food chain 	<ol style="list-style-type: none"> 1. Immediately withdraw the affected products from the market and, if necessary, recall them from consumers 2. Destroy any batch, lot or consignment of feed that does not satisfy food safety requirements 3. Inform the CAs of the risk and of the action it has taken
Member State Authority	<ol style="list-style-type: none"> 1. Monitor production, processing and distribution of food and feed products to ensure that operators have traceability systems in place 2. Fix and enforce appropriate penalties for operators that do not meet EU requirements on traceability 	<ol style="list-style-type: none"> 1. Ensure that operators are meeting their obligations 2. Take appropriate measures to secure food safety 3. Trace the risk backwards and forwards along the food chain 4. Notify the Rapid Alert System for Food and Feed (RASFF) for incidents ranging from 0 to 120. Risk assessment is carried out on a case-by-case basis in consultation with the sectorial offices of the Directorate-General for Food Hygiene, Food Safety and Nutrition (Direzione Generale per l'Igiene e la Sicurezza degli Alimenti e della Nutrizione — DGFHFSN) and the Directorate-General for Animal Health and Veterinary Medicine (Direzione Generale della sanità animale e del farmaco veterinario — DGAHVM) and/or the National Health Institute (Istituto Superiore di Sanità — ISS)
The EU	<ol style="list-style-type: none"> 1. Establish sector-specific legislation on traceability as appropriate. 2. DG SANTE supervises on respect of food and feed safety standards by operators — including the implementation of traceability systems 	<ol style="list-style-type: none"> 1. The European Commission alerts members of the RASFF of the risk 2. Requests information from operators to enable traceability and coordinates action by national authorities 3. May impose import/export restrictions

1.2.2 Operational activities: focus on foodstuff GI sector

When focusing on controls in the field of foodstuff GI products, the ICQRF carried out relevant controls from 2014 to 2016.

The table below shows that GI product protection is one of the core institutional activities of the ICQRF. It contains the main parameters of the ICQRF inspection activity in the field of GI agri-food products from 2014 to 2016 in detail.

Inspection activity	2014	2015	2016	Triennial mean
Inspections (No)	2 845	2 679	3 199	2 664
Inspected Operators (No)	2 402	2 003	2 524	2 310
Irregular Operators (%)	12.3	15.4	20.7	16.1
Products checked (No)	3 431	3 204	4 225	3 620
Irregular products (%)	9.7	13.5	22.9	15.4
Samples analysed (No)	738	859	763	787
Irregular Samples (%)	1.1	1.6	2.4	1.7

Operational results	2014	2015	2016	Triennial mean
Seizures (No)	17	18	22	19
Seizures value (EUR)	199 360	361 308	415 386	325 351
Crime reports (No)	35	16	37	29
Administrative sanctions (No)	649	708	670	676

1.2.3 Operational activities: focus on GI wine sector

The average of about 6 000 controls (in the last 3 years) affecting the wine GI sector shows that the ICQRF also plays an important role in the commercial success of Italian wine, the most exported agri-food product. The risk analysis model employed by the ICQRF for control planning resulted in an average of over 20 % cases of irregularities detected from 2014 to 2016.

The table below contains the main parameters of ICQRF inspection activity in the field of wine GIs from 2014 to 2016.

Inspection activity	2014	2015	2016	Triennial mean
Inspections (No)	6 046	5 955	6 453	
Inspected Operators (No)	4 861	4 272	5 597	
Irregular Operators (%)	19.9	27.2	35.0	
Products checked (No)	8 980	8 764	10 273	
Irregular products (%)	13.9	20.9	23.6	
Samples analysed (No)	1 220	859	1 155	
Irregular Samples (%)	12.0	7.1	8.5	

Operational results	2014	2015	2016	Triennial mean
Seizures (No)	156	141	113	137
Seizures value (EUR)	3 409 723	17 932 401	5 048 793	8 796 972
Crime reports (No)	59	29	49	46
Administrative sanctions (No)	975	675	880	843

1.3 CONTROL BODIES

CBs must be specifically authorised by the MiPAAF. Each GI is controlled by a single CB, chosen by the Producers Group (PG) from the list of authorised CBs and subsequently approved by the MiPAAF. The authorisation is valid for 3 years, after which renewal is required. When the renewal occurs, the PGs or, where available, the GI protection consortium, may request that the authorised CB be replaced, for justified reasons.

All CBs must submit a control plan to the central ICQRF for approval. CBs can start carrying out controls when their control plans are approved. The approval of a CB and its control plan for a specific product are both valid for 3 years.

When the MiPAAF approves a new CB to take over from another CB, a condition applies stating that all relevant documents should be transferred to the new CB.

The CBs that are currently responsible for the controls on agri-food GIs are:

48 CBs authorised for foodstuffs (20 private and 28 public);
30 CBs authorised for wines (8 private and 22 public);
6 CBs authorised for spirits (3 private and 3 public).

The control activities of CBs are carried out on the basis of a control plan, which is the official document that includes the elements to be verified for each of the operators in the supply chain, the frequency of the controls and the way those controls are performed (inspection or analysis). Control plans also indicate the consequences of any non-compliance with the established legal requirements.

Public CBs are local public entities authorised by the ICQRF to carry out controls on GIs (e.g. chambers of commerce or regional agencies or institutes). The ICQRF verifies that public CBs ensure impartiality, quality and consistency of controls and that controls are carried out complying with the criteria established by Regulation (EC) No 882/2004.

All private CBs must be accredited by ACCREDIA, an Italian accreditation body designated by the Government and supervised by the Ministry of Economic Development, which ensures impartiality and competence of these bodies through inspection audits and periodic support audits during the controls, in order to assess the work of inspectors. The CB is accredited in accordance with the technical requirements established in ISO/IEC 17065:2012.

The authorisation process is an administrative procedure, more focused on checking any potential conflicts of interest related to CBs (e.g. a conflict of interest may consist of a CB inspector who simultaneously works as a consultant for a company reporting to the same CB). The accreditation also focuses on checking whether the internal organisation and management follow the criteria established in ISO/IEC 17065:2012.

Finally, it must be noted that due to an agreement between ACCREDIA and the ICQRF, the accreditation procedures for CBs performing inspection and certification for foodstuffs, wines and spirits have been harmonised and streamlined.

As regards public CBs, no accreditation further to the authorisation by the MiPAAF is required.

The full list of approved CBs for foodstuffs, wines and spirits can be found on the MiPAAF website²⁹⁵, which is constantly updated.

1.4 OTHER BODIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

1.4.1 Police forces: *Carabinieri, Polizia and Guardia di Finanza*

The Command of Carabinieri for Agricultural and Food Policies (Comando Carabinieri Politiche Agricole e Alimentari) is a 'specialised department' of the Carabinieri corps, encompassing an Operational Coordination Unit and an Anti-Fraud Unit (Nuclei Antifrodi Carabinieri — NAC) based in Parma, Rome and Salerno. It operates throughout the country and, if necessary, also abroad, in compliance with the current legal provisions and MiPAAF directives. For international coordination activities, a liaison officer with the European Anti-Fraud Office (OLAF) is based in Brussels.

The Command depends functionally on the Ministry and exercises specific controls on the regular application of EU regulations, collaborating with the ICQRF in the prevention and repression of fraud in the agri-food industry²⁹⁶.

Its units may carry out access and administrative inspections as a 'judicial police service' under Article 12

²⁹⁵ <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/6727>.

²⁹⁶ Article 16 of Legislative Decree No 297, laying down penalties to implement Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs and, more specifically, Article 6 of D.P.C.M. No 105 of 27 February 2013, on the organisation of the MiPAAF.

of Legislative Decree No 271 of 28 July 1989 implementing the Criminal Procedural Code. 'Judicial Police Service' is characterised by its role as a highly specialised investigative body, responsible for taking action against the most structured and complex illegal phenomena in the agri-food sector, with focus on organised and transnational crime. Their activity is essentially based on 'extraordinary controls' and 'compound investigation activities' that complement and enhance the control activities carried out by other ministerial bodies, with which the Carabinieri Command maintains steady collaborative and info-operative relationships.

When focusing on the Guardia di Finanza (the Italian Economic and Tax Police corps), its activities in the field of the protection of the goods and services in the market are aimed at contrasting the various illicit phenomena that threaten industrial property, 'Made in Italy' products, and consumer safety.

The operational strategy of the said police forces is organised along three lines:

1. oversight of customs areas, complementing the activities of Customs;
2. economic control of the territory and monitoring the movement of goods on the road and in points of sale;
3. investigations into illicit supply chains or the production of illegal goods, aiming to identify criminal organisations; in this field, extensive inspection duties have been delegated by recent laws²⁹⁷.

The corps is supported in operations by the following specialised units:

the Intellectual Property Protection Special Unit, which performs central risk analysis functions through cross-database checks, fraud-proofing, operational methodologies and disseminating the best investigative experiences;

the Special Technology Fraud Unit, which supports the Territorial Components in monitoring the internet and in contrasting economic and financial cybercrime;

the Special Broadcasting and Publishing Unit, which performs activities in the field of intellectual property infringements, implemented through the use of broadcasting media or remote communication;

the Central Criminal Investigative Investigation Service, for issues linked to organised crime.

1.4.2 *Consortia for protection of GIs*

As regards consortia and/or PG associations, these are voluntary bodies defined by Article 2602 of the Italian Civil Code.

With regard to agricultural products and foodstuff GIs, as established by Article 14 of Law No 526/1999, the consortia recognised by the MiPAAF are assigned functions of protection, promotion, enhancement, consumer information and general care of GIs.

With different Decrees²⁹⁸, the Ministry identified the criteria for how the producers must be represented in the consortia for the protection of agri-food GIs. These provisions establish, inter alia, that an association must demonstrate the participation of subjects representing at least two thirds of the production verified by the CB and considered fit to be certified in order to obtain ministerial recognition.

The protection consortia are essentially entrusted with important institutional tasks. They take part in the representation and protection of all subjects involved in the production of the represented GI, even for companies not members of the consortium.

²⁹⁷ Law No 99 of 23 July 2009.

²⁹⁸ Ministerial Decree of 12 April 2000 and subsequent amendments for foodstuff GIs and Ministerial Decree of 16 December 2010 for wine GIs.

According to the applicable legislation²⁹⁹, the costs of the consortium's activities are borne by those who adhere to it and by all producers and users, even non-members, identified by criteria defined by a special ministerial regulation.

In particular, pursuant to EU regulations³⁰⁰, a consortium is entitled to:

1. contribute to ensure that the quality, reputation and authenticity of its products are guaranteed on the market by monitoring the use of the name in trade;
2. take action to ensure adequate legal protection of the protected designation of origin or protected GI and of the intellectual property rights with which they are directly connected;
3. develop information and promotional activities aiming to communicate the value-added attributes of the product to consumers;
4. develop activities related to ensuring compliance of a product with its specifications;
5. take action to improve the performance of the scheme, including developing economic expertise, carrying out economic analyses, disseminating economic information on the scheme and providing advice to producers;
6. take measures to enhance the value of products and, where necessary, take steps to prevent or counter any measures that are, or risk being, detrimental to the image of those products.

Consortia may present proposals for amendments to the registered GI product specifications and for defining programmes to increase the quality of products to the MiPAAF.

Above all, consortia are in charge of the surveillance activity of agri-food GIs on the market (e.g. labelling controls) and may employ inspectors with the qualification of public agents.

As far as wine GIs are concerned, the MiPAAF recognises consortia³⁰¹ based on the aforementioned requirements, in terms of representativeness and certified production. Those groups of producers are assigned with functions of protection, promotion, enhancement, consumer information and general care of GIs.

Moreover, as mentioned above, Member States may, on request, recognise organisations that pursue a specific aim including, inter alia, the objectives listed above in compliance with Regulation (EU) No 1308/2013 of 17 December 2013³⁰².

As of today, the MiPAAF has recognised 257 producers' groups, more precisely 110 for wines and 147 for other PDO and PGI products.

However, it should be emphasised that producer-based controls are not part of official controls carried out by protection consortia and hence these bodies are not accredited to ISO 17065.

1.4.3 The role of the Italian Customs Agency in the protection of GIs

The Italian Customs Agency is involved not only in inspection activities concerning all goods that are imported and exported to and from Italy and the European Union, but also in the control activities to verify the authenticity of products bearing designation of origin or quality labels³⁰³.

By Ministerial Decree No 5195 of 13 May 2010, the MiPAAF empowered the Italian Customs Agency to

²⁹⁹ Article 14 of Law No 526/99 and DM No 410 of 12 September 2000.

³⁰⁰ Regulations (EU) No 1151/2012 and No 1308/2013.

³⁰¹ Law No 238/2016 of 12 December 2016.

³⁰² Article 157.

³⁰³ Regulation (EU) No 608/2013.

carry out inspection activities regarding spirit drinks³⁰⁴, in order to verify the compliance of producers' associations and/or single operators' products with the requirements of the applicable GI product specifications.

It has to be stressed that the ICQRF has the administrative power to authorise CBs delegated with control tasks in the spirit drinks sector. The Italian Customs Agency was hence authorised by the ICQRF to carry out such control activities and — being a public authority — no further accreditation as required for other private CBs, was necessary in this respect.

In its role as a CB, before the spirit drinks GIs are placed on the market, the Customs Agency verifies that³⁰⁵:

1. the specific indications concerning the origin and the source of the GI product's raw materials are in the accompanying documents of the raw materials;
2. the production was carried out in the geographical area indicated in the product specifications;
3. the activities following the distillation of GI spirit drinks are carried out in the geographical areas to which the GI refers, excluding bottling and closely related activities, unless otherwise stated in the product specifications.

1.4.4 Coordination measures between national authorities

In relation to coordination measures between national authorities, there is currently no specific institutional protocol signed between the ICQRF and other national authorities for carrying out specific inspection activities to protect Italian GIs. However, the ICQRF cooperates constantly with the other national authorities (Guardia di Finanza, Carabinieri, etc.) and especially with the Italian Customs Agency, mainly through the exchange of information and data.

Furthermore, the abovementioned national control authorities may cooperate under the direction of prosecutors' offices in criminal investigation activities, especially as far as anti-counterfeiting criminal investigations are concerned.

1.5 SUPERVISION OF CONTROL BODIES AND COMPETENT AUTHORITIES: THE ROLE OF THE ICQRF

1.5.1 General aspects

Once the CBs have been delegated for the task related to official controls on quality products, they will be supervised by the ICQRF (in cooperation with the regional authorities and the autonomous provinces of Trento and Bolzano) in order to verify the maintenance of the organisation, management and administrative requirements that are necessary for operating the control and certification schemes³⁰⁶. The ICQRF also evaluates the effectiveness of the control system implemented by the CBs.

CBs in the field of foodstuff GIs are subject to supervision by the regional ICQRF or the regional authorities³⁰⁷. As regards the wine sector, CBs are supervised by the regional ICQRF³⁰⁸.

Prioritisation of official controls is based on guidelines that are drawn up by the ICQRF based on input from the regional authorities. The supervision guidelines have been developed by the ICQRF through the

³⁰⁴ Regulations (EC) No 882/2004 and No 110/2008.

³⁰⁵ Article 7(1) of Ministerial Decree No 5195 of 13 May 2010.

³⁰⁶ Ministerial Decree of 16 February 2012.

³⁰⁷ Article 1, paragraph 1047, of Law No 296 of 27 December 2006.

³⁰⁸ Article 36 of Law No 238/2016.

accumulation of knowledge and hands-on experience acquired over the past 20 years. A National Surveillance Committee has been in force since 2012, and brings together the Ministry and representatives from the regional authorities and autonomous provinces for the planning, coordination and monitoring of the supervisory activities of CBs. The major cases of non-compliance detected from official controls are included in the supervision guidelines.

ICQRF supervision of CBs consists of office audits at the CBs' headquarters, reviews and/or witness audits at a representative number of **Food Business Operators (FBOs)** controlled by the CBs.

As previously referenced, CBs must be accredited by ACCREDIA as the certifying body to the ISO 17065:2012 standard. The accreditation is valid for 4 years and CBs are subject to annual surveillance by ACCREDIA.

Between 2008 and 2013, all CBs were subject to annual supervision, the majority of inspections being undertaken by ICQRF regional offices and the rest by the regional authorities. This also consisted of visiting the operators for which the CB was responsible (review/witness audit). Since 2014, a third of all CBs have been selected for more detailed supervision, which includes office and site inspections.

The table below shows the organisation of the different stages implemented by the ICQRF during supervision.

Field inspection activity based on risk analysis and input information

Office audit of the CB which takes place at the CB headquarters	The examination of a sample of firms' files, review audit and/or witness audits carried out on a representative sample of operators	Controls carried out at the place of the operators following notification of serious non-compliance by the CBs	Verification of the implementation of any corrective action resulting from previous audits over CB and the status of implementation
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This new approach ensures that all CBs are inspected thoroughly at least once every 3 years. In principle, a supervisory report is drafted after the inspection and a copy is given to the CB.

Furthermore, the CBs are required to submit an annual report to the regional ICQRF on the control activities carried out.

In 2016, the ICQRF carried out audits covering 56 CBs (43 % of the total of the regulated CBs) of agricultural food production of regulated quality (organic products and GIs). Amongst those, 39 audits were carried out of CBs certifying GIs (16 for wines), 10 organic products and 7 voluntary meat labelling.

1.5.2 Operational aspects

Supervision is intended to ensure that there are no deficiencies in technical requirements and operational insufficiencies of the CB in performing the delegated control tasks. In particular, through the supervision activity, the ICQRF verifies the following:

1. that CBs maintain the technical and organisational requirements defined at the time of authorisation;
2. that the performance of CBs is in compliance with mandatory rules and voluntary regulations established in the quality manual, in the control plan and in all other technical and legislative documents;
3. that the conduct of the CB does not discriminate subjects entered into the control system;
4. that there is uniformity (by the CB) in the evaluation of situations originating any non-compliance;

5. that the fees³⁰⁹ applied by CBs to producers that entered the control system are fair;
6. that the control system implemented by CBs is adequate for the purpose of the delegated tasks.

When irregularities, which involve the reliability of the official controls executed by the CB, are detected during inspections, sanctions may be applied by the regional ICQRF office. In addition, all relevant issues must be notified to ACCREDIA and to the central ICQRF.

In relation to the severity of the situations detected by the ICQRF and/or regions, there are two possible types of non-compliance:

1. minor non-compliance when a CB, for example, has not implemented some elements of the applicable provisions concerning the control activity, without affecting the compliance of the products and, more generally, compliance with the control activity;
2. serious non-compliance refers to those situations detected during the audit that could significantly affect the capacity of the CB to implement its control activity over a given operator. In these cases, the ICQRF may apply administrative sanctions to the CB and/or not renew its authorisation.

The results of the supervision activity implemented by the ICQRF from 2015 to 2016 in the field of foodstuff and wine GIs are summarised in the tables below.

Results of the supervision activity implemented by the ICQRF in the field of foodstuff GI products from 2014 to 2016

	Office audits (No) 2014	Review/ witness audits (No) 2014	Office audits (No) 2015	Review/ witness audits (No) 2015	Office audits (No) 2016	Review/ witness audits (No) 2016
ICQRF Nord Ovest	2	21	-	-	-	-
ICQRF Lombardia	2	6	1	-	1	7
ICQRF Nord Est	2	7	-	-	2	16
ICQRF E. Romagna e Marche	5	30	1	1	6	16
ICQRF Toscana e Umbria	2	5	-	10	2	7
ICQRF Italia centrale	3	-	1	7	5	16
ICQRF Italia meridionale	1	7	-	3	1	3
ICQRF Italia Sud-Est	2	6	3	11	3	29
ICQRF Sicilia	1	3	1	7	2	11

³⁰⁹ Food operators that wish to certify their products as GIs must bear the certification costs. This means they have to pay a given CB for its inspection activity.

	Office audits (No) 2014	Review/ witness audits (No) 2014	Office audits (No) 2015	Review/ witness audits (No) 2015	Office audits (No) 2016	Review/ witness audits (No) 2016
ICQRF Sardegna	1	8	1	6	1	8
Total	21	93	8	45	23	99

Results of the supervision activity implemented by the ICQRF in the wine sector GI products from 2014 to 2016.

	Office audits (No) 2014	Review/ witness audits (No) 2014	Office audits (No) 2015	Review/ witness audits (No) 2015	Office audits (No) 2016	Review/ witness audits (No) 2016
ICQRF Nord Ovest	1	4	3	4	5	19
ICQRF Lombardia	1	12	3	24	1	5
ICQRF Nord Est	1	12	6	57	2	1
ICQRF E. Romagna e Marche	-	-	5	126	-	-
ICQRF Toscana e Umbria	2	16	6	34	3	11
ICQRF Italia centrale	1	17	2	34	1	4
ICQRF Italia meridionale	2	41	2	5	1	-
ICQRF Italia Sud-Est	3	40	3	17	2	12
ICQRF Sicilia	1	24	-	-	1	16
ICQRF Sardegna	1	2	2	9	-	-
Total	13	168	32	310	16	68

1.5.3 Monitoring of regional offices and laboratories

PREF I conducts accurate monitoring of the regional offices and laboratory control activities through constant measurement of inspection outcomes. All the monitoring data are provided in the 'Monitoring report'.

Usually this kind of activity is undertaken on a monthly basis, with the following aims.

- 1) Measurement of the degree of achievement of objectives, based on the output of the control activity in terms of numbers of agri-food industries and agri-food commercial operators verified and number of samples collected and analysed, in order to verify the effectiveness of controls;

As regards measurement of the effectiveness of the offices and laboratories, if the output of the control activity throughout a defined period (monthly, quarterly, six-monthly, annually) significantly departs from the estimated values, the PREF I audit committee can officially interview the regional office or laboratory chief about the reasons for the results and then report the problems identified and negotiate any action plans. However, for the nature of the monitoring activity, the audit procedure only starts in cases of a non-significant correlation between the control activity output and planned indicators reported in the 'Annual control activity plan'.

Another important aspect related to the measurement of the effectiveness of the offices and laboratories is that if the audit committee wants to officially interview the regional office or laboratory chief to discuss the problems included in the 'Annual monitoring report', the eventual answers and solutions found can represent an important starting point for setting up a better 'Control activity plan' for the following year;

- 2) Measurement and evaluation of the efficiency of ICQRF regional offices and laboratories in administrative sanctions and crimes. PREF II staff evaluate this activity taking into consideration the following parameters: a) number of total administrative sanctions/number of agri-food industries or commercial operators controlled (%); b) number of total crimes detected/number of agri-food industries or commercial operators controlled (%).

As an example, PREF I adopts its internal evaluation methodology in order to have an objective measurement of efficiency. This assessment occurs during the last months of the year and it may indicate a significant low percentage of these parameters compared with the ICQRF's multi-annual trend values. Usually, before the beginning of planning for the following year, the ICQRF chief organises a final annual meeting with all the chiefs of the offices and laboratories, where performance of the individual regional offices/laboratories is discussed in depth, in order to improve the individual parameters and to draft the next 'Annual control activity plan'.

1.6 ACCESSIBILITY OF CONTACT INFORMATION

Citizens, consumer associations and business operators in the agri-food sector can find full information about ICQRF top management, central administration and regional offices on its website³¹⁰. Contact details are available for:

1. ICQRF³¹¹;
2. VICO³¹²;
3. PREF³¹³;
4. Regional Offices³¹⁴;
5. Laboratory for analysis³¹⁵.

³¹⁰ <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7553>.

³¹¹ www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7553.

³¹² www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7498.

³¹³ www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7504.

³¹⁴ www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7535.

³¹⁵ www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/7540.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 PLANNING AND PROCEDURAL ASPECTS

At the end of September each year, PREF I (the office of the central administration, in charge of planning the national control activity) edits the Annual Strategic Plan for Inspection Activities. This document is strategic since it provides a comprehensive overview of planned controlling activities for each ICQRF regional office and laboratory.

In particular, the Annual Strategic Plan contains:

1. general goals and targets, including outcome-related objectives, for the major functions and operations of the ICQRF;
2. a description of how the goals and objectives must be chosen by the regional offices and laboratories (e.g. on the basis of risk analysis, human resources employed on control activities, skills and technology, as well as the range of facilities available in the office or laboratory);
3. details about how to express the goals in an objective, quantifiable, and measurable form;
4. identification of the key factors (e.g. the economic trend of a specific regional agri-food sector) and external factors beyond the control of the ICQRF that could significantly affect the achievement of the general goals and objectives.

Each regional office and laboratory sets up its own Annual Control Activity Planning Document, describing the inspections planned throughout the year. Indeed, those planning documents define control activity goals addressed to each agri-food sector, with appropriate explanations for each single planned goal.

The Annual Control Activity Planning Document of the office/laboratory is usually drafted before the end of October and it is then sent by email to the PREF I office³¹⁶. PREF I examines whether the scheduled control activity parameters (basically the number of agri-food industries and agri-food commercial operators to be inspected, the number of samples to be collected, the number of samples to be analysed) provided by the regional offices and laboratories are consistent with the abovementioned Annual Strategic Plan for Inspection Activities.

The document from each office/laboratory must also indicate:

the human resources employed;
the range of facilities (e.g. number of cars, computers, and number of chemical instruments employed by the laboratories) available to carry out the control activity;
the number of agri-food industries and commercial activities (e.g. the number of food retailers and supermarkets) operating in the jurisdiction for which the regional office is competent;
strategic risks, such as the possibility of importing agricultural products (e.g. feeds, seeds, fertilisers) and foodstuffs not in compliance with national and European regulations and standards;
the likelihood that more food fraud is expected as the prices of commodities rise and the close correlation between the magnitude of food fraud and the commercial value of agri-food commodities;
agri-food market analysis with particular emphasis on commodities' price development related to production trends.

³¹⁶ PREF I is an office of the central administration, whose main task is the planning and monitoring of the regional offices and laboratories.

The analysis of all the Annual Control Activity Planning Documents is completed around the first half of November. When the activity plan document of an office/laboratory does not have any problems, the manager of the regional office or laboratory is informed by the PREF I director about the positive outcome.

However, if problematic aspects emerge (e.g. conflicts with the guidelines document, or control activity data parameters that are not correlated with some of the aspects indicated above), the manager of the regional office or laboratory is informed that an audit will be carried out by PREF I staff to discuss the main problems found in the document. At the conclusion of the PREF I audit committee meeting, various suggestions are normally made to the regional office or laboratory manager in order to meet the necessary requirements.

At the end of this process, usually around mid December, the planning documents of the decentralised inspection offices and laboratories are sent to the ICQRF's Head of Department for approval. In addition, the ICQRF organises and plans its inspection activity both with respect to conventional products and to GIs on the basis of a risk analysis model, which helps the PREF I office, as well as the regional offices, to plan the yearly inspection activities in a very effective way.

The ICQRF stated that the frequency of official controls undertaken at GI operators depends on risks identified at each production step in the product specifications. ICQRF regional offices perform controlling activities at each stage of the production chain (from raw material producers to market level), following the principles of product traceability. This means that if, for example, ICQRF officers find any irregularity during an inspection activity (e.g. concerning the way a GI is labelled), they can trace back all the production stages by executing deeper investigations in order to check further irregularities.

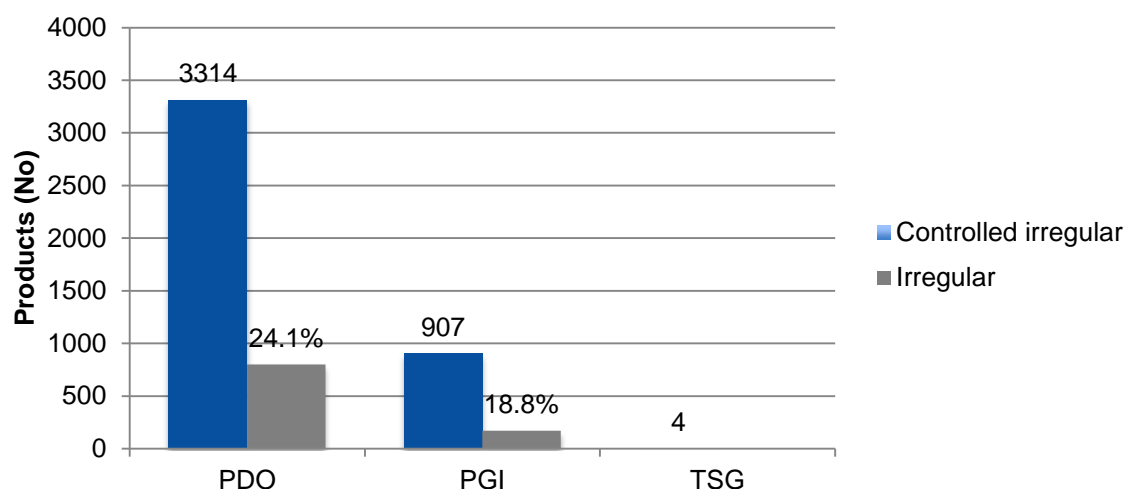
Below are the main results of the control activity carried out by the ICQRF throughout 2016, in the field of agri-food GIs and TSGs.

ICQRF — CONTROLS IN 2016 ON PDO, PGI AND TSG PRODUCTS

Inspection activity	
Controls (No)	3 199
Controlled Operators/Premises (No)	2 524
Irregular Operators/Premises (%)	20.7
Controlled products (No)	4 225
Irregular products (%)	22.9
Analysed samples (No)	763
Irregular samples (%)	2.4
Results	
Crime reports (No)	37
Administrative penalties (No)	670

Seizures (No)	22
Amount of seized products (tons)	101
Economic value of seizures (€)	415 386
Warnings (No)	297

ICQRF — PDO, PGI and TSG AGRI-FOOD PRODUCTS CONTROLLED AND IRREGULAR



During their activity, ICQRF inspectors follow a well-defined inspection procedure established in the 'Inspection Checklist', which establishes which products have to be monitored, the types of controls by operators, the treatment establishments to be checked, etc. Generally, the checklists report all the different operators belonging to the production chain of a given sector in a very detailed way.

The control plan for each GI sets forth the frequency of controls and the proportion of the products that are analysed by sampling.

Producers are informed about the control by the CB inspectors, since each operator has a quality officer whose presence is required during the control activities. If irregularities are detected, inspectors can carry out further inspection without prior warning.

2.2 CONTROLS DURING THE PRODUCTION PHASE

2.2.1 Sampling

Sampling and analysis play a relevant role regarding the quality and effectiveness of the inspection activity.

For this reason, in order to ensure high accuracy of sampling procedures, the ICQRF issues specific *Guidelines on Sampling*. These Guidelines include details of the steps to be taken to ensure that any sample procured is a 'fair sample' that objectively reflects the constituents of the bulk material being sampled. This is to ensure that the sample will constitute valid evidence in any eventual subsequent court proceedings.

In relation to the above, the basic principles addressed by ICQRF inspectors are the following:

the sample should represent the food as sold to the consumer and each part of a divided sample should be truly representative of the original;
once divided, all parts of the sample must individually be representative of the food and of each other;
the sampling process must not alter and/or compromise the quality of the sample in any way that might affect analysis;
storage and transportation of the sample must not alter it in any significant way — whether through contamination, loss, deterioration or other means.

To meet all legal requirements, authorised ICQRF officers take samples under the established criteria of Article 78 of Presidential Decree No 327/80 concerning hygiene standards in the production and sale of foodstuffs and beverages. The type of food involved may also affect the way in which the sample is taken.

2.2.2 Chemical and organoleptic analysis

Once the sample has been taken, it is sent to the ICQRF laboratory. All ICQRF laboratories, as already reported in point 1.1.3, are compliant with the technical procedures described in ISO/IEC 17025:2005, 'General requirements for the competence of testing and calibration laboratories'.

ICQRF laboratories, therefore, carry out chemical analyses that are accredited by ACCREDIA, the national accreditation body recognised at European level, in fulfilment of Regulation (EC) No 765/2008, and compliant with ISO/IEC 17011:2004, 'Conformity assessment — General requirements for accreditation bodies accrediting conformity assessment bodies'.

As regards the oil sector, within the competent laboratories, there are also 'tasting-panels'.

These committees are in charge of the assessment and official control of the organoleptic characteristics of virgin and extra virgin olive oil, using methodologies defined at European Commission level. The 'tasting panels' are authorised under Ministerial Decree No 1334 of 28 February 2012, which implements the provisions set out in EU legislation (in particular those established in Regulation (EEC) No 2568/91 on the characteristics of olive oil and olive-residue oil and the relevant methods of analysis).

2.3 CONTROLS ON THE MARKET

CBs are responsible for controlling GI products before they are placed on the market. Public authority and the protection consortia authorised by the MIPAAF are responsible for the surveillance of the use of the name in the marketplace. Some consortia use specialised personnel, the *agenti vigilatori* (supervisory agents), who carry out verifications at points of sale, markets, etc. to verify the correct use of GIs. Those inspectors are formally authorised by the MIPAAF and operate according to a control plan that is agreed between the consortium and the MIPAAF. The role of the consortia in market controls is of great importance because it allows the identification, not only in Italy but also abroad, of any misuse of designations. Any misuse is promptly reported to the public authority which has the obligation — according to the recently introduced *ex officio* procedure, that is to say, a procedure that is meant to be started by public authorities regardless of a request — to intervene immediately in order to stop such illicit use³¹⁷.

³¹⁷ The principle of protection also to be ensured *ex officio* was established by Article 13 of Regulation (EU) No 1152/2012 on quality schemes for agricultural products and foodstuffs (as regards wines by Article 90 of Regulation (EU) No 1306/2013 and for aromatised wines by Article 20(4) of Regulation (EU) No 251/2014), whereby Member States are called to take appropriate administrative and judicial steps to prevent or stop the unlawful use of protected designations of origin and protected GIs that are

As regards the control activity at market/retail level conducted by the public authorities, ICQRF inspectors check whether foods and agricultural products placed on the markets are compliant with requirements on commercial quality specified in relevant provisions and declared by the producer or operator placing them on the market.

In particular, ICQRF inspectors, when implementing this kind of activity, check:

that requirements for the commercial quality of agri-food products are specified with reference to its class of quality;
whether packaging of foods and agricultural products placed on the market ensure maintenance of quality characteristics that are relevant for the type of agri-food product in question, determining its identity;
whether agri-food products placed on the market are labelled;
that labelling of foods and agricultural products are in Italian, legible, clear and visible, and in the case of foods and agricultural products in individual packages, labels are also irremovable.

When agri-food products do not meet the requirements specified in the relevant EU and national legislation, the director of the regional office may decide on the following actions:

administrative sanctions;
crime reports;
ordering reclassification or assigning products to other specified treatments;
ordering withdrawal of products from the market;
ordering destruction of products at the expense of owner;
prohibiting storage of products in inappropriate conditions or transportation of products using inappropriate means of transport.

ICQRF inspectors also have the competence to control GI products produced in non-EU countries by means of the same inspection procedures as those applied for EU agri-food GI products.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The total number of staff employed in the ICQRF department amounts to 758 employees. Amongst these, there are 18 managers (office directors, plus two general directors and the chief of the department). The table below summarises employees' distribution (including management) across ICQRF central and regional offices and laboratories. Staff has undergone several reorganization processes, both in central and regional offices of ICQRF and laboratories.

HUMAN RESOURCES EMPLOYED IN THE ICQRF DEPARTMENT

Type of Office	Location	Officers employed (No)
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produced or marketed in that Member State. This norm is intended to provide effective protection to GI users beyond official control plans, including against infringements detected in a different Member State.

Central Administration	Roma		113
Regional offices (designation)	Regional offices	Branch offices (designation and location)	Officers employed (No)
ICQRF Nord ovest	Torino	Asti Genova	47
ICQRF Lombardia	Milano	Brescia	33
ICQRF Nord est	Susegana	Verona Udine S. Michele all'Adige	53
ICQRF E. Romagna e Marche	Bologna	Modena Ancona	56
ICQRF Toscana e Umbria	Firenze	Pisa Perugia	60
ICQRF Italia Centrale	Roma	Pescara	47
ICQRF Italia Meridionale	Napoli	Salerno Cosenza Lamezia Terme	65
ICQRF Italia Sud - Est	Bari	Lecce Potenza Campobasso	69
ICQRF Sicilia	Palermo	Catania	49
ICQRF Sardegna	Cagliari	Sassari	30
Laboratories (designation)	Location	Laboratories (designation and location)	Officers employed (No)
Laboratorio Catania	Catania	Conegliano	47
Laboratorio Modena	Modena		21
Laboratorio Perugia	Perugia		22
Laboratorio Salerno	Salerno		23
Total			735

The ICQRF is responsible for training its own staff. In 2016, the ICQRF involved 550 staff in training activities (equivalent to 75.44 % of its total headcount), with the total number of training activities reaching 4 081, so that each employee has been able to participate in more than one activity³¹⁸.

Training activities consist of seminars, e-learning courses, training courses, or meetings.

Moreover, ICQRF staff participate in the European Commission's **Better Training for Safer Food (BTSF)** programme.

³¹⁸ Source: ICQRF activity report 2016.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The annual results of the ICQRF's activity are published on the Italian MiPAAF website ³¹⁹.

On this website, the annual reports that provide a detailed description of the performance of the ICQRF controls since 2007 are available to citizens, consumers' associations, and business operators in the agri-food sector.

5. ADMINISTRATIVE SANCTIONS SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The ICQRF is the single Italian authority responsible for imposing fines and other administrative sanctions for the infringement of GIs, as regards PDO and PGI foodstuffs and for both PDO and PGI non-wines and wines ³²⁰.

Fines and other administrative sanctions are applied in a proportionate, effective and dissuasive way and also apply to products from other Member States and non-EU countries. Fines imposed depend on the severity of the infringement committed and are — in some cases — calculated in relation to the quantity of products affected by the irregularity.

When considering administrative offences, there are two categories of non-compliance: minor and severe. Descriptions of both categories are provided in the control plans approved by the central ICQRF.

The central ICQRF has prepared Guidelines to monitor non-compliance and ensure that all the inspectors working at the ten decentralised inspection offices and nineteen local units share the same approach. The respective corrective action is also described, as well as the circumstances for the withdrawal of certificates for PDOs or the right to use PGIs.

The regional and central ICQRFs are always informed about any major non-compliance, as the regional ICQRF has the legal authority to impose penalties.

In cases of severe non-compliance detected by an inspector, the following protocol applies: the operator has thirty days to appeal against severe non-compliance, and fifteen days against minor non-compliance. After that, the regional ICQRF can implement the subsequent sanction.

The operator that has committed the irregularity is prohibited from using the protected name of GI on the products until satisfactory remedies have been implemented.

Please see the Guide for the detailed administrative sanctions that apply in Italy.

³¹⁹ <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/394>.

³²⁰ Legislative Decree No 297/2004 and Law No 238/2016.

6. CRIMINAL PROSECUTION

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As already mentioned, the ICQRF is not only the enforcement department under the MiPAAF, but it can also act, if necessary, as criminal police under the coordination of a public prosecutor, against any criminal offences related to GIs, in accordance with Articles 55 and 56 of the **Italian Code of Criminal Procedure (CCP)**³²¹ and with Article 1(4-*quater*) of Law No 71/2005.

In this context, it should be noted that in Italy, according to the CCP, the office of the public prosecutor is responsible for prosecuting any criminal offences³²².

As far as crimes against GIs are concerned, please see the relevant chapter in the Guide.

7. FOLLOW-UP OF CASES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

All the control activities on GIs carried out by the ICQRF regional offices are reported on annually, resulting in a final report drafted by the central ICQRF. The reporting of the activities carried out, every three months and at the end of each year, allows the ICQRF to monitor the outcomes obtained and to correct any deviation from the activities programmed, as well as to react promptly to any new 'arising issue'.

This can be done by using a specific ICQRF data-processing system, within the MiPAAF information system called the **National Agricultural Information System (SIAN)**.

Any information related to the inspections carried out must be uploaded into this system, that is to say, the name and the address (and the VAT No) of the company inspected, the product(s) checked, the measures taken (i.e. sanctions, seizures, reports of formal notices issued, investigations carried out under the coordination of the Public Prosecutor's office, etc.).

Each inspection has to be performed following mainly the annual adopted programme, but also taking into consideration any allegations received, investigations into/suspicious of infringements detected, etc. In addition, the central ICQRF draws up specific guidelines for instructing inspectors working at the ICQRF regional offices on how to carry out checks, both market controls and non-compliance/supervision controls.

Furthermore, it coordinates the activities to be carried out by ICQRF regional offices, and ensures that any controls are performed effectively.

Finally, taking into account the wide responsibilities and in-depth knowledge of the field of foodstuff controls, both at national and at EU and non-EU level, the (central) ICQRF periodically (in some cases on a day-to-day basis) draws up, on request or *ex officio*, guidelines, legal opinions and other official

³²¹ Decree No 447 of the President of the Italian Republic of 22 September 1988.

³²² Article 50 CCP.

documents that are designed:

- to coordinate the activities carried out by producers' groups entrusted with performing market controls;
- to instruct and/or supervise the control activities implemented by CBs for the verification of compliance with the product specifications;
- to clarify/give legal advice on the legislation related to GIs (as well as on any other legislation on foodstuffs);
- to answer queries coming from EU and non-EU authorities concerning several technical aspects of the correct marketing of Italian GIs, also with the aim of safeguarding both the consumers in their own countries and to protect the reputations and markets of Italian quality products.

As from 2016, the ICQRF, together with the Ministry of Health, has been the Italian contact point in the '**Food Fraud Contact Points**' (FFCPs).

Aiming at strengthening administrative assistance and cooperation across borders, the network of FFCPs, in accordance with Regulation (EC) No 882/2004, has been established in order to encourage EU Member States to cooperate in ensuring the enforcement of food laws across borders.

This dedicated network of administrative assistance liaison bodies, which handles specific requests for cross-border cooperation in cases of food fraud, is referred to as FFCPs. They act, as all administrative assistance liaison bodies, within the legal framework established in Regulation (EC) No 882/2004. In doing so they can also deal with cases of food fraud related to GI products. The group of FFCPs is collectively referred to as the '**Food Fraud Network**' (FFN).

Through the dedicated IT tool Administrative **Assistance and Cooperation System (AAC)**, the FFCP and the FFN help to improve the capability of CAs to:

detect and prevent violations of food chain rules, also across borders and in potential cases of 'food fraud';
collect the information that is needed (in accordance with applicable national rules) to further refer a case for investigation/prosecution.

8. *EX OFFICIO* PROTECTION

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

8.1 THE ROLE OF THE ICQRF UNDER REGULATION (EU) No 1151/2012

Over the years, Italian GI products have also been protected beyond national borders. In this respect, the ICQRF is the national authority for the implementation of *ex officio* protection (i.e. a procedure that is meant to be started by public authorities without a request), a tool first introduced by Regulation (EU) No 1151/2012, in order to improve the European protection of a registered designation, to further official control plans.

The ICQRF has been officially assigned with this task by a Ministerial Decree of 14 October 2013 (Article 16) implementing Regulation (EU) No 1151/2012.

Among measures undertaken under the umbrella of *ex officio* protection in Italy, multiple Memoranda of

Understandings are signed by the Italian Ministry for Agriculture with the major global e-commerce players (eBay, Amazon and Alibaba). They are effective tools for the ICQRF to quickly halt any illegal use of Italian GI products in many EU countries and to remove from the web any offers for sale referring to the most emblematic products of the Italian gastronomic heritage. More details on this are given under point 8.4.

The ICQRF established a specific 'flat organisational structure', under the direct control of the head of the department, composed of officers working in different services of the inspectorate, each with specific expertise.

Objectives and priorities are set at a meeting at the end of each year and they are usually updated and revisited in progress, due to the extremely dynamic nature of the context.

Staff members participate in advanced specific training, via courses and seminars about foreign languages, foreign markets, international law, e-commerce, etc. They carry out constant market monitoring, to maintain real-time awareness of the risk profiles of the main Italian GIs and, at the same time, identify unlawful uses of GIs or brands evoking Italian GIs.

From 2014 to date, 313 *ex officio* procedures have been initiated to stop the unlawful use of the most popular Italian GIs in European Union territory³²³. The administrative procedure is usually generated by a report from a PG, from a consumer, or following in-house web market research.

As a result of these national control activities, in 2015, the ICQRF carried out 2 679 controls on agri-food GIs and 5 955 controls on wine GIs.

The PGs and the regional ICQRF agree on a plan for market controls every year. This plan is transmitted to the central administration of the ICQRF for the final 'green light'. The PGs have to report regularly on their activities to the competent regional ICQRF. If there are any deviations from the plan, they must be communicated to the regional ICQRF and approved by the central administration of the ICQRF. In 2016, 102 plans for market controls on agri-food GIs and 149 on wine GIs were approved by the central administration of the ICQRF.

8.2 EX OFFICIO COMMITMENT FOR WINES

At EU level, the ICQRF³²⁴ is the Italian liaison body (a sort of *ex officio* authority for quality wines) responsible for contacts with the liaison bodies of other Member States and with the European Commission. In particular, the liaison body receives and forwards requests for cooperation with a view to implementing the regulation and represents Italy vis-à-vis other Member States or the European Commission.

In this framework, the ICQRF plays the role of liaison authority for the protection of GI wines throughout the EU.

For this purpose, the ICQRF has entrusted one of its two Directorates-General, namely DG PREF — Unit PREF III.

From 2014 to date, 866 liaison authorities procedures have been initiated to stop the unlawful use of the most popular Italian PDO and PGI wines in European Union territory³²⁵.

³²³ Data up to date on 18 October 2017.

³²⁴ Italian Decree of 17 June 2014, implementing Regulation (EC) No 555/2008 on control of the wine sector.

³²⁵ Data up to date on 18 October 2017.

The administrative procedure is usually generated by a report from a PG, from a consumer, or following in-house web market research.

At national level, similar to foodstuffs, activities are carried out by regional ICQRF offices. The implementation of these controls is based on an annual plan, drawn up on a risk analysis, and performed by ICQRF inspectors using operational procedures and checklists.

The producer groups and the regional ICQRF agree on a plan for market controls every year. This plan is transmitted to the central administration of the ICQRF for the final green light. The PGs have to report regularly on their activities to the competent regional ICQRF. If there are any deviations from the plan, they must be communicated to the regional ICQRF and approved by the central administration of the ICQRF. In 2016, 151 plans for market controls on PDO and PGI wines were approved by the central administration of the ICQRF.

8.3 PROTECTION OF SPIRITS AND AROMATISED WINES

For GI spirit drinks and GI aromatised wines, the Italian *ex officio* authority is currently the **Directorate-General for International and EU Policies (PIUE, Unit VIII)** of the MiPAAF, while the ICQRF acts as the national enforcement authority.

8.4 E-COMMERCE CONTROLS

The growing popularity of e-commerce in the agri-business sector requires a renewed commitment from public authorities towards consumer protection, in particular with respect to the fight against counterfeiting, imitations, misuses and evocations of GIs.

Regarding controls on e-commerce, the very heart of the strategy relies on specific 'agreements' with the main global players, also called internet hosting providers — IHPs (on which online commerce is gradually concentrating), which recognise the inspectorate as a GI rights holder, together with the consortia, and allows them to take down irregular listings on the platforms.

In this context, in May 2014, the MiPAAF signed an important **Memorandum of Understanding (MoU)** for the protection of GIs on the internet with the **Italian Association of GI Consortia (AICIG)** and eBay. The MoU assigns a central role to the **'Verified Rights Owner Programme (VeRO)'** created by eBay, through which IPRs owners can easily report any infringement of their rights. Through the VeRO programme, the ICQRF, on its own initiative and/or at the request of a GI Group, has been empowered to send eBay a 'notice of GI infringements', whenever an unauthorised use of those is found on the eBay platform.

From 2014 to date, 628 fake GI listings were removed from the eBay platform³²⁶, such as a 'Chianti' wine kit, a cheese kit and 'Parmesan cheese' from Florida.

Moreover, to increase consumers' understanding of the unique characteristics of GI products, specific web pages, as well as historical and technical photo galleries of the Italian food heritage will soon be published on the eBay platform.

Similar cooperation began with Alibaba in 2015 and has led to the removal of 121 irregular listings that

³²⁶ Data is up to date on 30 September 2017.

were misusing and evoking Italian GI foodstuffs³²⁷, preventing conspicuous quantities of generic products being sold to the European B2B market as GIs. The cooperation was strengthened in September 2016, with the signing of an official MoU, which extended protection to the Alibaba Group's B2C platform as well, reducing further the irregular listings' removal time, and providing education and training initiatives aimed at sellers and consumers on the meaning and the importance of European GIs.

Finally, in 2016, another protection activity also began with Amazon, which led to the removal of 197³²⁸ irregular listings that were misusing and evoking Italian GIs.

These actions have been put in place according to the provisions laid down in Regulations (EU) No 1151/2012 and No 1308/2013, Directive 2000/31/EC, on electronic commerce, and Italian Legislative Decree No 70/2003, implementing Directive 2000/31/EC.

Similar new initiatives are currently being planned by the ICQRF with some important social networks, such as Facebook and Instagram, which are also up-and-coming e-commerce platforms.

E-commerce controls on GI foodstuffs are also carried out nationally by the regional ICQRF offices. In order to ensure uniformity of the *modus operandi*, the operational procedures for e-commerce controls are set out on paper in a yearly 'e-commerce circular', which is sent to the local units. For the same purpose, periodical training opportunities for the local offices are carried out by video conferences from the central ICQRF staff.

Nationally, in 2016, 450 e-commerce controls had been planned.

8.5 INTERAGENCY COOPERATION AT NATIONAL LEVEL

As interagency cooperation is a key element in achieving effective enforcement of international counterfeiting, the ICQRF has enduring operational coordination with the Italian Customs Agency, which allows the Inspectorate to have a clear view of the flow of foodstuffs passing through the borders. The analysis of the data provides important information, which is used to organise specific controls aimed to check the authenticity of the origin of the product declared on the customs documents, and the veracity of the information on documents and labelling.

In this context, and to ensure more effective protection for some of the most important GI products (e.g. Prosecco PDO wines, Parmigiano Reggiano PDO cheese, Grana Padano PDO cheese) the ICQRF and the Italian Customs Agency have been working closely. The Italian Customs national database for border protection of IPRs called FALSTAFF has also been used for this³²⁹.

The FALSTAFF database — which interfaces with the European Commission's central database against counterfeiting called COPIS, created within the scope of Regulation (EU) No 608/2013 — is integrated with the customs 'control circuit', the automated risk analysis systems of the Italian Customs Agency.

Making use of all the information provided by IP rights holders through FALSTAFF, the control circuit creates risk profiles, select risky shipments before the arrival of goods at the borders, and action is taken accordingly.

³²⁷ Data is upto date on 30 September 2017.

³²⁸ Data is upto date on 30 September 2017.

³²⁹ <https://www.agenziadoganemonopoli.gov.it/portale/dogane/operatore/aree-tematiche/lotta-alla-contraffazione/progetto-falstaff>.

9. COORDINATION WITH MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The ICQRF, in its role as an *ex officio* and liaison authority in the wine sector, ensures communication between other Member State authorities to stop the unlawful use of Italian GIs in EU territory and of other Member State GIs in Italian territory.

'Alerts' are issued to other Member State authorities using formal letters, while informal technical/legislative consultation with other Member State authorities or discussion of organisational aspects can take place via email or telephone.

Sometimes, for a 'minor' misuse of Italian GIs on the web, in order not to overload other Member State authorities with less important issues, the ICQRF sends an email warning directly to the website responsible.

The ICQRF strongly focuses on spreading knowledge built in the field with other EU and non-EU public authorities. In particular, by way of example, its direct involvement in the organisation of the European Forum on food counterfeiting, which took place in March 2015 in the context of the Expo; or the recent talks about tackling online counterfeiting at the EU-China seminar, 'Online IP Protection & e-Commerce', which took place in Beijing in June 2016; and at the launch of the OPSON VI operation in Madrid, in October 2016.

In this context, as from 2014³³⁰, the ICQRF has contacted 17 EU liaison authorities in the wine sector on PDO and PGI wines and 9 *ex officio* EU authorities³³¹.

9.1 PRACTICAL CASE: ENHANCED COOPERATION WITH THE GERMAN AUTHORITIES IN THE WINE SECTOR FOR THE PROTECTION OF PROSECCO PDO WINES

Due to the serious and persistent unlawful online marketing of fake Prosecco wines in Germany, and taking into account that German authorities claimed they could not deal with this problem due to a lack of human and financial resources, the ICQRF and the German Federal Ministry of Food and Agriculture have agreed on a simplified procedure for enhanced cooperation, in the framework of Regulation (EC) No 555/2008.

The procedure will enable Prosecco PGs (three PGs recognised for Prosecco wines) to serve German business operators a notice (an official warning) for the infringement of the provisions ruling PDO Prosecco wines.

According to this simplified procedure, if one of the Prosecco PGs finds an infringement on a German website related to Prosecco wines, it may contact the German operator involved directly, issuing a letter of 'formal notice' (the form of this letter has been approved by Italy and Germany) and giving the operator a period of 15 days to remedy the infringement.

If the German operator contacted does not comply within this period, the Prosecco PGs involved will

³³⁰ Data is up to date on 30 September 2017.

³³¹ For more information on a list of *ex officio* authorities (Regulation (EU) No 1152/2012), http://ec.europa.eu/agriculture/quality/schemes/compliance-authorities_en.pdf.

inform the ICQRF, which will successively request the intervention of the German authorities³³².

As from January 2017, 70 'formal notices' have been sent to the same number of German business operators under this procedure, with around 85% of feedback received.

9.2 THE ICQRF AND COOPERATION WITH NON-EU ENFORCEMENT AUTHORITIES

The ICQRF and the **Alcohol and Tobacco Tax and Trade Bureau (TTB)**³³³ signed a MoU regarding the exchange of information and cooperation in the wine sector³³⁴ on 12 April 2011, in the framework of the agreement between the USA and the EU on wines.

Since then, the ICQRF has notified 102 infringements³³⁵ of GI Italian wines being committed by several US websites/business operators.

³³² Article 85 of Regulation (EC) No 555/2008.

³³³ <https://www.ttb.gov/>

³³⁴ <https://www.ttb.gov/itd/pdf/mou-ttb-icqrf.pdf>

³³⁵ Data is up to date on 30 September 2017.

10. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

10.1 TOOLS FOR USERS AGAINST DETECTED/SUSPECTED INFRINGEMENTS

In addition to the controls carried out by GI enforcement authorities (e.g. ICQRF) or police forces, there is a possibility of protecting GI products by means of the **Antitrust Authority (Autorità Garante della Concorrenza e del Mercato — AGCM)**, which acts within the framework of the Italian Consumer Code³³⁶, especially in matters related to misleading advertising messages.

Since 1992, the AGCM has been granted the power to repress misleading advertising distributed by any means: TV, newspapers, leaflets, posters, telemarketing, etc. In 2007, following the transposition into national law of Directive 2005/29/EC on unfair commercial practices into the Italian legal system through the Consumer Code, the AGCM's competences in the consumer protection field were broadened to include unfair commercial practices by undertakings to the detriment of consumers³³⁷.

If an undertaking tries to distort the economic choices of a consumer by, for instance, omitting relevant information, circulating untruthful information or even using forms of undue influence, the Authority may act, also via interim measures, and impose fines that (since August 2012) could range up to EUR 5 million (the maximum was previously EUR 500 000).

In 2012, the AGCM's protection against unfair commercial practices was extended also to 'micro-firms' (i.e. entities, companies or associations with less than 10 employees and an annual turnover that does not exceed EUR 2 million).

10.2 CIVIL ACTION

As far as civil action is concerned, the Italian Industrial Property Code³³⁸ lays down certain provisions dealing with GIs. Indeed, Article 1 mentions GIs and designations of origins in the list of IP rights to which the Code applies.

The misuse or abuse of a GI may also result in an act of unfair competition according to the illicit conduct described in Article 2598 of the Italian Civil Code.

Since PGs are officially recognised by the MiPAAF as representatives of producers related to a GI/GIs for promoting and protecting the relevant GI, they are also entitled to initiate legal proceedings against anyone who unlawfully uses, or takes economic advantage by using the GI concerned, and may demand compensation for damage to the reputation of the relevant GI.

In Italy, jurisdiction over matters of industrial property rights lies with special competent courts called Specialised Sections on Enterprise (*Sezione Specializzata in materia di impresa*³³⁹), which also have competence for legal proceedings related to the protection of GIs. Upon request of the rights holders, the

³³⁶ Legislative Decree No 206 of 6 September 2005 enacting the Consumer Code. More information at <http://www.agcm.it/en/consumer-protection/consumer-protection-legislation/1724-legislative-decree-no-146-of-2-august-2007.html>

³³⁷ Legislative Decree No 206 of 6 September 2005 enacting the Consumer Code. More information at <http://www.agcm.it/en/consumer-protection/consumer-protection-legislation/1724-legislative-decree-no-146-of-2-august-2007.html>

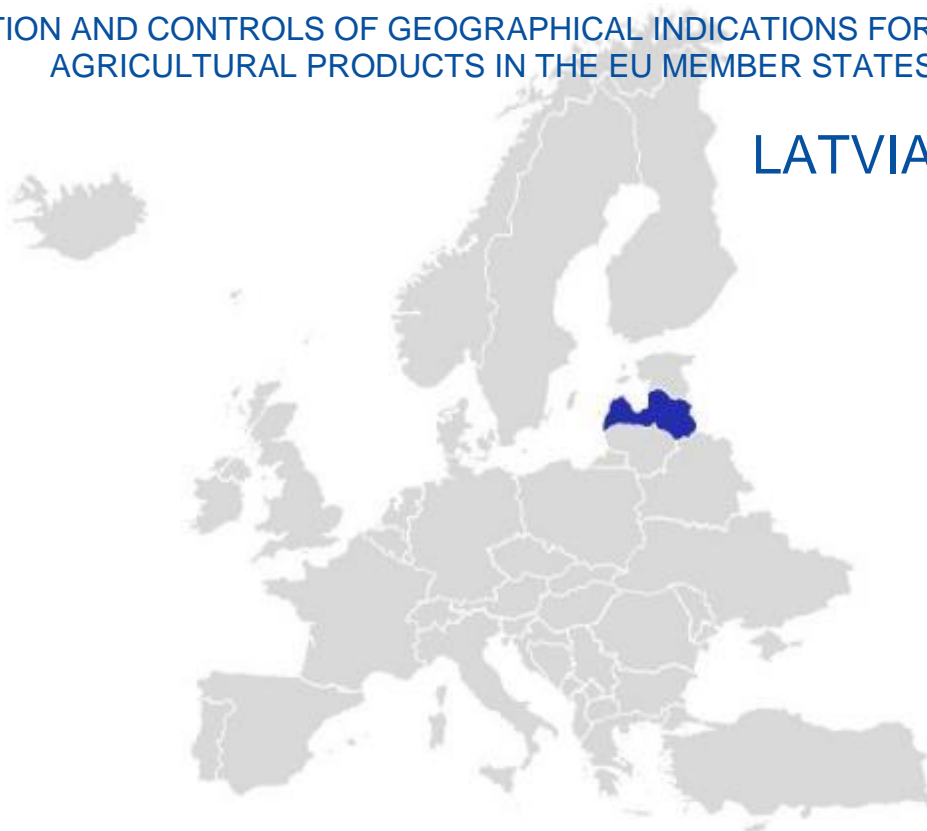
³³⁸ Articles 20, 21, 22 and 23 of the Consumer Code.

³³⁹ The Specialized Courts are in: Ancona, Bari, Bologna, Bolzano, Brescia, Cagliari, Campobasso, Catania, Catanzaro, Florence, Genoa, L'Aquila, Milan, Naples, Palermo, Perugia, Potenza, Rome, Turin, Trento, Trieste and Venice.

civil court may order all urgent measures to cease the illicit behaviour, in particular where any delay would be likely to cause irreparable harm to the applicant. The precautionary measures that can be requested are the description and/or seizure of contested goods, as well as injunctions to cease the alleged illicit conduct.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
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LATVIA



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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BIP	Border Inspection Post
BIOR	Institute of Food Safety, Animal Health and Environment (Pārtikas drošības, dzīvnieku veselības un vides zinātniskais institūts)
FSD	Food Surveillance Department
LATAK	Latvian National Accreditation Bureau (Latvijas nacionālais akreditācijas birojs)
NFQS	National Food Quality Scheme
PVD	Food and Veterinary Service (Pārtikas un veterinārais dienests)
RMD	Resources Management Department
TSU	Territorial Structural Unit
ZM	Ministry of Agriculture of the Republic of Latvia (Zemkopības ministrija)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The National Central Authority is the **Ministry of Agriculture of the Republic of Latvia (Zemkopības ministrija — ZM)**.

The Ministry's Veterinary and Food Department, Biotechnology and Quality Division carries out relevant tasks, such as having the overall responsibility for supervising the development and implementation of policy and for drafting legislation concerning, inter alia, GIs and food quality schemes.

The **Food and Veterinary Service (Pārtikas un veterinārais dienests — PVD)**, a state administrative institution supervised by the ZM, in accordance with Cabinet Regulation No 142 of 22 February 2005, on bye-laws of the Food and Veterinary Service, is the CA responsible for implementing measures of quality scheme control and supervision, including certification of food quality scheme products. The PVD is in charge of both controls before placing the product on the market and for surveillance of the use of the name in the marketplace.

1.2 GENERAL STRUCTURE OF THE SYSTEM

In addition to its competence on controls, the PVD, through its Division of Food Products Registration of the Food Surveillance Department is responsible for the evaluation of GI applications, the evaluation of amendments to product specifications, and evaluation of notifications regarding objections³⁴⁰.

The PVD comprises several offices involved in quality food controls, such as the central office, including the **Food Surveillance Department (FSD) Territorial Structural Units (TSUs)** and the **Border Inspection Posts (BIPs)**.

The eleven TSUs covering the territory of Latvia are managed by senior food or veterinary inspectors and controlled by the PVD central office. The inspectors are responsible for a wide range of control tasks linked to the various food control systems and are allocated to a territorial unit in proportion to the number of establishments in their region. The coordination and exchange of information between the PVD central office and TSUs take place by means of orders, procedures and instructions issued and approved by the PVD, as well as yearly and biannual reporting meetings, and meetings when necessary.

In order to understand the general structure of the system, it has to be mentioned that the Latvian term *pārtika* (food) encompasses any substance that can be used for human consumption. Therefore, in Latvian documents and sources of information, the term 'food' can be used as a reference to both foodstuffs and beverages including spirits.

As regards 'wines' and 'aromatised wines', in Latvia the production of wine in its traditional meaning (wine from grapes) is non-existent. Admittedly, there are some 'winemaking' activities but they are limited to winemaking from fruits, berries and vegetables.

³⁴⁰ Regulation (EC) No 882/2004; Article 36, Article 37(1)(b) and Article 39 of Regulation (EU) No 1151/2012.

Along with the EU GI scheme, there is a **National Food Quality Scheme (NFQS)** in Latvia. Products of NFQS cover a vast, well-recognisable assortment of products. It provides the possibility for producers to produce and for consumers to receive higher quality products that exceed the general standard of commercial products.

In general terms, pursuant to Cabinet Regulation No 461 of 12 August 2014, on requirements for food quality schemes, their implementation, operation, surveillance and control procedures, which refers to, inter alia, GI schemes.

All stages of food handling within a food quality scheme must be traceable and operators must comply with the requirements set out in the legislation on food quality schemes.

Product labelling must contain indications in relation to food quality schemes, in accordance with Regulation (EU) No 1151/2012 (Articles 12 and 23), and Regulation (EU) No 668/2014 (Article 13 and Annex X).

All operators are bound by the obligations in respect of product specifications concerning the production of both raw materials and final products.

Operators' compliance with GI schemes is verified by the PVD.

Furthermore, pursuant to Section 21(2)(8) of the Latvian Law on the Supervision of the Handling of Food, one of the functions of the PVD is to supervise and control the protection of GIs and names of the place of origin. That provision is not limited to GIs that are held by Latvian operators. Consequently, the competence of this authority can refer to any GI, irrespective of whether that GI concerns Latvia or another country.

Legal status and powers of staff of Competent Authorities

PVD's staff include, inter alia, veterinary, food or border inspectors. Inspectors are verified at central level and at TSU/BIP level.

Inspectors have the status of civil servants.

Capacity of laboratories

At present, no special laboratory is expressly designated for GI schemes.

In relation to the NFQS, laboratory research in relation to official surveillance and controls is undertaken by the **Institute of Food Safety, Animal Health and Environment (Pārtikas drošības, dzīvnieku veselības un vides zinātniskais institūts — BIOR)**³⁴¹. This laboratory is accredited in accordance with ISO 17025 by the **Latvian National Accreditation Bureau (Latvijas nacionālais akreditācijas birojs — LATAK)**. Therefore, if necessary and upon request, the BIOR laboratory carries out tests in relation to official surveillance and controls of GIs.

1.3 CONTROL BODIES

At present, there is no delegation of tasks to CBs.

³⁴¹ Cabinet Regulation No 461, Section 24.

1.4 ACCREDITATION BODY

The Latvian national accreditation body is the LATAK, which was founded on 30 August 1994 by the Ministry of the Economy of the Republic of Latvia.

The food safety control system of the FSD was accredited in accordance with ISO 17020 by the LATAK in 2007. This accreditation includes the TSUs.

The standard applied for the accreditation of CBs is ISO 17065:2012.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The responsibility for planning, coordinating and supervising controls on GIs lies within the following divisions of the FSD: the Division of Surveillance of Plant Origin Products, Beverages and Organic Farming; the Division of Food Distribution Surveillance; the Division of Production and Surveillance Foodstuffs of Animal Origin; and lastly the Division of Food Surveillance, Planning, Analysis and Enterprise.

The FSD coordinates controls, policy implementation, supervision, planning, together with the Border Control Department. Furthermore, implementation of controls, reporting, and entering results of controls performed on the central database is undertaken by the TSUs (food inspectors), and BIPs.

Risk assessment and scientific advice is provided by the BIOR laboratory.

The Division of Management Systems, Audit and Training of the **Resources Management Department (RMD)** performs the internal audit. The RMD is responsible for the implementation of a quality system within the PVD in accordance with ISO 9001 and ISO/IEC 17020, as well as for developing and maintaining the quality system's documentation and organising the management of internal audits within structural units of the PVD. In principle, food inspectors' activities are audited through the auditing of the TSUs every 5 years, in accordance with the audit schedule (in accordance with Regulation (EC) No 882/2004). However, GIs are not currently included in the scope of these audits (for the sake of completeness, note that in December 2016, an internal audit in relation to the NFQS surveillance system was carried out).

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

The Latvian Law on the Prevention of Conflicts of Interests in Activities of Public Officials, applicable to all civil servants, ensures that all PVD employees have to sign a specific declaration identifying any potential conflict of interests.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

At present, the PVD is the sole CA for GIs: there are no other entities explicitly entrusted with controls on quality schemes.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

The **Multi-Annual National Control Plan (MANCP)** 2014-2016 does not contain a separate section dedicated to planning controls on GIs. However, information concerning GIs is included in the scope of functions of the respective responsible units (e.g. the functions of FSD cover official controls and surveillance in relation to GIs).

Cabinet Regulation No 767 of 29 December 2015, on registration, protection and surveillance of protected geographical indications, protected designations of origin and traditional specialties guaranteed for agricultural products and foodstuffs, defines the registration, protection and surveillance procedures related to quality schemes for agricultural products and foodstuffs, including spirits.

According to Section 4, the PVD is responsible for the planning and reporting of control activities in relation to agricultural products and foodstuffs and spirits. In this respect, the PVD carries out regular (routine) controls at least once a year. In particular, controls are carried out during inspections in accordance with the frequency set forth in the PVD inspection plan. Where necessary, the control authority can perform thematic or extraordinary inspections.

Therefore, once a year, all the national operators that use GIs are controlled.

There is only one registered PDO (Latvijas lielie pelēkie zirņi) and one registered PGI (Carnikavas nēģi).

2.1.2 *Procedural aspects*

Initial controls on operators (i.e. the controls at the certification stage) involved in food quality schemes are performed by the FSD.

Annual controls on operators are performed by TSUs. Especially, official controls are carried out by food inspectors working in a TSU competent for the place of production. In connection with the performance of the official controls, and the reporting thereof, documented methodological guidelines are elaborated, which also include details on food marking/labelling (specifically concerning information for consumers).

Results of the controls are conveyed by the food inspectors in an inspection report ('protocol') in accordance with the quality system work instructions on documentation. Afterwards, within seven working days, the food inspector enters the data into the central database maintained by the PVD. One copy of the protocol is given to the operator, the other copy remains within the PVD.

The PVD can issue a temporary prohibition on using the names, symbols and indications established under Article 12 of Regulation (EU) No 1151/2012 in cases of non-compliance with a determined product specification. It grants a time limit (maximum one month) to remedy the deficiencies and carries out a repeat check afterwards. If, following the repeat check, the PVD establishes that the deficiencies have not been remedied, the PVD prohibits the operator from using the abovementioned names, symbols and indications.

According to Section 15 of Cabinet Regulation No 767, operators and suppliers of raw materials pay a fee for the checks (operators cover the expenses for a repeat check if there is non-compliance; raw materials suppliers cover the expenses of repeat checks if a routine control reveals non-compliance with the food quality scheme).

2.1.3 Verification of compliance with product specifications

According to Latvian law³⁴², within 10 working days of the starting date of the registration proceedings, the PVD agrees on the time of inspection with each operator that has applied to register a GI. The PVD, during the controls, verifies the operator's product compliance with the specification based on risk analysis, checking suppliers of raw materials.

The authority prepares and submits to the operator an assessment protocol on the results of the check and, where necessary, issues a deadline by which the deficiencies are to be remedied. If the product complies with the specifications, a certificate is granted by PVD within 10 working days. If not, that is to say, in the event of any deficiencies, the PVD carries out a repeat check and prepares a protocol within 10 working days, taking a decision on whether to grant the certificate or to refuse to issue it.

After issuing the certificate, any inspection/control is planned in advance. A determining factor for the planning is the evaluation of past non-compliance detected in previous inspections/controls. During a routine inspection/control, particular attention is paid to the existence of prior non-compliance and whether it has been remedied.

Some of the procedures in relation to the NFQS may be applied by analogy with respect to GIs. In particular, the initial certification before placing a product on the market is granted only after remedying any non-compliance. If any analysis results are missing, the PVD waits for testing reports and requests the operator to submit the omitted specifications, or approvals thereof. When performing inspections/controls, the whole production process is checked by comparing it against the registered description/specifications.

Based on risk analysis, the PVD may check the suppliers of raw materials/ingredients. Moreover, an evaluation of product marking is carried out by comparing the actual labelling against the one on the register.

In relation to taking samples, there are no specific legal provisions. However, the PVD can take samples to verify whether the product complies with the applicable legal provisions and product specifications. In this respect, the PVD has devised procedures (methodological guidelines) for taking samples, their identification, as well as storing, tracing, transporting, documenting and reporting results relating to the samples.

Organoleptic analysis can be carried out if the respective product specifications contain any characteristic flavours. Furthermore, the appearance of the product is assessed.

Several pieces of legislation provide legal powers for CAs to take action in cases of non-compliance.

³⁴² Cabinet Regulation No 767, Section 10.

Non-compliance is generally followed up with requests for corrective action within set deadlines. Further inspection visits may be carried out to verify whether the corrective action has been taken, particularly in serious cases. However, these further visits have currently been curtailed due to resource constraints and follow-up is more likely to be carried out based on documentary evidence and checks start on the relevant available databases.

All operators have the right to appeal the PVD decisions before the supervising institution.

2.2 CONTROLS ON THE MARKET

Routine controls of operators are performed by TSUs. At least once a year, TSUs verify that the commercialised GI products comply with the corresponding product specification and that the protected names are used correctly on the market.

In accordance with Cabinet Regulation No 461, operators submit a written report on the products sold during the previous year to the producers' group each year by 1 February. Subsequently, producers' groups submit (by electronic means) to the ZM a synthetic overview of the aforesaid individual reports each year by 30 March. A form is available for users.

As regards controls on GIs from third countries, the PVD food inspectors carry out controls in relation to these GIs in the course of routine inspections in retail establishments. This takes place in accordance with a risk-based inspection plan, while the frequency of the controls depends on the type of commercial activity, and the type of the finished product. In accordance with the definition of 'retail', as provided for in Regulation (EC) No 178/2002, restaurants and other public catering establishments have to be treated as retailing establishments.

Moreover, food inspectors perform regular food labelling compliance checks at food processing, retail and wholesale establishments. For the assessment, between one and three samples from not less than three foodstuff core groups are selected. When non-compliance is detected, food inspectors have to fill in a form and report to the PVD.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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The PVD's financial resources are determined by the State budget, whereas the budget to perform the control functions delegated by the State comes from State budget allocations and revenue from paid services and remuneration for surveillance and control measures.

Apart from other tasks, 174 food inspectors, both at central and territorial levels, are eligible to perform controls on GIs.

The background education of all inspectors (including state food inspectors and border control inspectors) is at least of a bachelor's degree level in an appropriate field (university degree in veterinary sciences, agronomy, microbiology, biology, chemistry and other sciences). A unified and centrally managed training system is established. For training management and coordination processes, a special post-training administrator is integrated into RMD.

All training processes are described in internal procedures and in methodological guidelines. The PVD provides different types of training, including induction training, internal continuing professional training (also through e-learning), international training, external training, as well as meetings/seminars organised by TSUs.

The competent professional structural units of PVD develop an annual training plan that consists of:

- training on overall issues (for all PVD staff);
- training for veterinary inspectors;
- training for food inspectors;
- training for border inspectors;
- training for official veterinarians at slaughterhouses;
- training for State authorised veterinarians;
- induction training;
- international training ('Better Training for Safer Food').

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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According to Cabinet Regulation No 461, Section 13, the CA maintains and publishes online, on its website, a list of the products of the respective quality scheme, including the following information: product name, operator's name and its supplier of raw materials, number of the European Union Regulation and the date when the product that is produced in Latvia was entered into the registry of GIs.

Contact information is published by the PVD on its website³⁴³ and by the ZM³⁴⁴. All lists are updated upon any change of legislative acts, contacts, or procedure.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Latvia participates in the European Commission's dedicated network of administrative assistance liaison bodies for cross-border cooperation in cases of 'food fraud'.

Latvia uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between **Member States**. The national contact point for the FFN system is the PVD.

³⁴³ www.pvd.gov.lv.

³⁴⁴ <http://www.zm.gov.lv/partikas-un-veterinarais-dienests/statiskas-lapas/partikas-kvalitates-shemu-registri?id=7732#jump>.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

There is no special legislation concerning administrative sanctions in relation to infringements of GIs. However, there is indirect legislation concerning counterfeiting goods, for the infringement of requirements of product labelling, etc. In particular, general norms are provided for in the Latvian Administrative Violations Code.

In compliance with EU principles on the matter, different categories of administrative infringements are established based on seriousness of the violation, and different levels of sanctions are available against infringers.

Guidance to inspectors has been given to inspectors about the imposition of sanctions, such as the PVD methodological guidelines, 'Order for application of administrative penalties by inspectors'³⁴⁵ and the methodological guidelines, 'Order on which way officials of the PVD may suspend or restrict activities of establishments'³⁴⁶.

Details on the administrative sanction system can be found in the Guide.

6.2 CRIMINAL PROSECUTION

With respect to criminal law, general provisions on IP rights apply. Currently, there is no case-law in Latvia about the application of these sanctions connected to infringements of GIs.

More details on criminal prosecution are provided in the Guide.

6.3 FOLLOW-UP OF CASES

To date, there has not been a single case that has entailed any follow-up (i.e. no sanctions have ever been applied for infringements in respect of GIs; no cases of non-compliance have ever been detected).

Administrative violations are registered in the Administrative Penalties' Register, which contains indications of the amount of the applied fine and the provision of the Administrative Violations Code. What the Register data does not contain is the nature of the incompliance found (and reported) by the food inspectors in respect of the applicable regulations, the sanctions applied or the time limits granted for remedying the non-compliance. Therefore, the Administrative Penalties' Register records are not directly taken into account by the PVD for conducting inspections/controls. As a matter of fact, other data (such as the nature of past non-compliance, sanctions applied and time limits) are considered in the planning of controls.

All information and documentation on prior PVD decisions is retained in the individual files of the operators.

³⁴⁵ No KR.10.P.058.

³⁴⁶ No KR.10.P.060.

The PVD shares information with the surveillance services of other countries, in so far as it does not contravene any legal provisions.

6.4 EX OFFICIO PROTECTION

There is no specific unit or agency entrusted with *ex officio* protection measures for GIs in Latvia. However, the Division of Information Analysis and Emergency Response of the PVD is a dedicated **Food Fraud Contact Point (FFCP)**.

The Division analyses information available in the system and uses it when necessary. The main functions and responsibilities include collecting and analysing data from various sources to identify any risk related to food fraud and coordinating the PVD's response to it. The Division is engaged in an ongoing process to determine strategy, risk-based approach and procedures. It may also visit and inspect companies.

According to the law, it can take samples and send them to the accredited laboratory, and, if necessary, take action to stop the operation of a food establishment or food distribution, as well as declare food unfit for distribution and remove it from the market if there is reasonable suspicion of danger to human health, life or the environment. In cases of infringements, it applies enforcement measures in accordance with regulatory enactments.

Taking into account the fact that PVD has not received, or obtained, any specific information from other surveillance institutions concerning fraudulent activities so far, no actual measures have been taken until now.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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CIVIL ACTION

In accordance with the Latvian Law on Trade Marks and Indications of Geographical Origin³⁴⁷, Section 41(4), using indications and designations that are contradictory to the laws and regulations governing the protection of GIs and designations of origin for agricultural products and foodstuffs is prohibited.

The abovementioned Law defines the enforcement of legal protection of GIs, establishing that the use of signs, in commercial activities, contrary to the protection of GIs will be deemed a manifestation of unfair competition, and will be subject to sanctions provided for in the laws and regulations regarding unfair competition, and other laws and regulations³⁴⁸.

Please see the relevant section of the Guide for more details on civil action.

³⁴⁷ *Vēstnesis* No 216, 1 July 1999, as amended in 2007.

³⁴⁸ Section 43.

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ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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NAB	National Accreditation Bureau (Nacionalinis akreditacijos biuras)
NMVRVI	National Food and Veterinary Risk Assessment Institute (Nacionalinis maisto ir veterinarijos rizikos vertinimo institutas)
QMS	Quality Management System
VMVT	State Food and Veterinary Service (Valstybinė maisto ir veterinarijos tarnyba)
ZUM	Ministry of Agriculture of the Republic of Lithuania (Lietuvos Respublikos žemės ūkio ministerija)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The national central authority of the Lithuanian GI control system is the **Ministry of Agriculture of the Republic of Lithuania (Lietuvos Respublikos žemės ūkio ministerija — ZUM)**. Within the Ministry, relevant tasks are carried out by the Quality Policy Division of the Department of Agricultural Production and Food Industry.

In particular, GIs fall under the ZUM activity area named 'Enforcement of quality policy of foods and agricultural products'.

1.2 GENERAL STRUCTURE OF THE SYSTEM

The national system for the protection and enforcement of GIs in Lithuania is coordinated and carried out by the ZUM through a designated control authority, namely the **State Food and Veterinary Service (Valstybinė maisto ir veterinarijos tarnyba — VMVT)**. Although other bodies can be authorised by the VMVT to carry out activities to complement and/or support controls, currently the VMVT is the only CA responsible for official controls related to food quality schemes.

In detail, the VMVT is a State administrative institution directly accountable to the Government of the Republic of Lithuania and the ZUM³⁴⁹.

The VMVT operates in accordance with its statutes, approved by Regulation No 744 of 28 June 2000, by the Government of the Republic of Lithuania. In accordance with its statutes, one of the functions of the VMVT is to control the compliance of products registered as GIs with the respective product specifications.

In particular, the VMVT is competent for both controls before placing the product on the market and surveillance of the use of the name in the marketplace, in relation to all sectors: agri-food, wines, spirits and aromatised wines.

The structure of the VMVT has been approved by Regulation No 1743 of 8 December 2010 by the Government of the Republic of Lithuania. According to this Regulation, the organisational structure of the VMVT is divided into two levels, the central VMVT division³⁵⁰ and 52 territorial VMVT divisions, also including 12 border inspection posts.

Official controls by the VMVT are organised at central level. The central VMVT department prepares

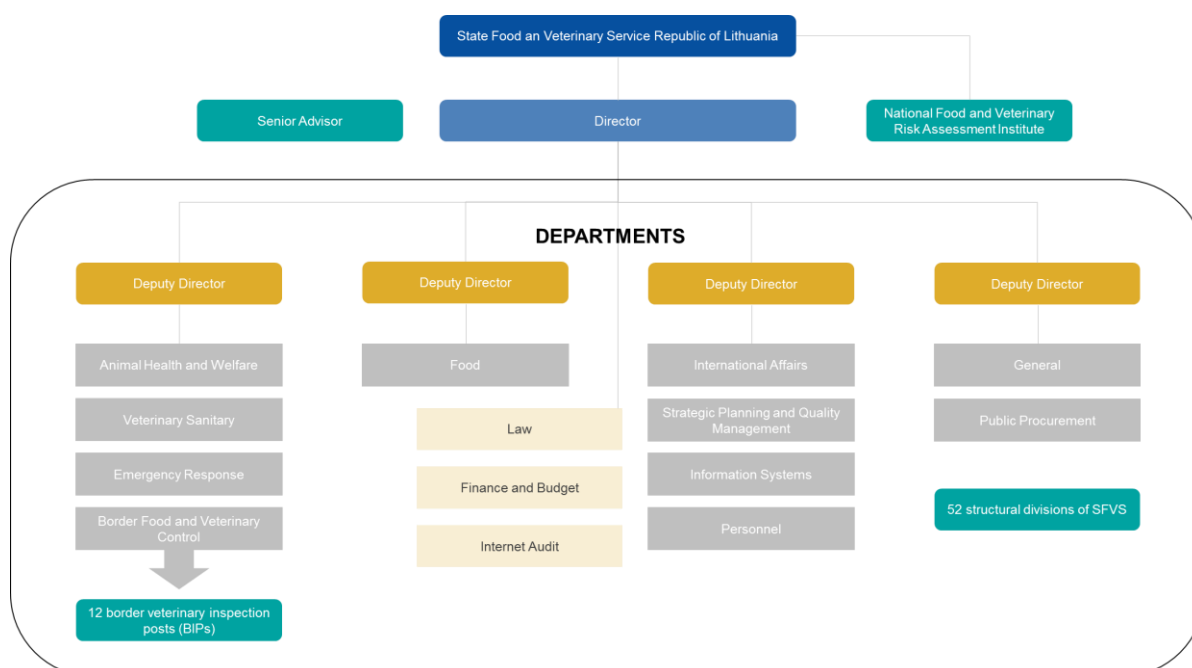
³⁴⁹ SFSV is directly accountable to the Government as from 1st of November 2017, due to coming into force of an amendment of the Lithuanian Food Law.

³⁵⁰ The VMVT headquarters consists of 14 departments: Law Department, Personnel Department, Information Systems Department (ISD), Strategic Planning and Quality Management Department (SPQMD), Internal Audit Department, General Affairs Department (GD), International Affairs Department, Animal Health and Welfare Department (AHWD), Emergency Response Department (ERD), Veterinary Sanitary Department (VSD), Food Department (FD), Border Food and Veterinary Control Department (12 subordinate border inspection posts), Public Procurement Department, and the Finance and Budget Department (FBD).

legal acts and coordinates official state controls, by analysing the inspection data and providing methodological support for inspectors of territorial VMVT offices. The organisation of the state controls in designated parts of Lithuania is under the responsibility of the head of the respective territorial VMVT office.

The coordination and exchange of information between the central VMVT department and the territorial VMVT divisions take place by means of orders, procedures and instructions issued and approved by the director of VMVT.

The organisational chart below details the VMVT's structure³⁵¹.



The described general structure of the control system also includes the **National Food and Veterinary Risk Assessment Institute (Nacionalinis maisto ir veterinarijos rizikos vertinimo institutas — NMVRVI)**, which is the national control laboratory under the VMVT. The NMVRVI is accredited under ISO/IEC 17025, by the **Lithuanian National Accreditation Bureau (Nacionalinis akreditacijos biuras — NAB)** under the Ministry of Economy, which is an internationally recognised accreditation body³⁵². The current accreditation certificate, No LA.01.139, was issued on 6 May 2015 and is valid until 5 May 2020.

Legal status and powers of staff of Competent Authorities

Inspectors of the VMVT performing state control functions have the legal status of civil servants. They must have knowledge of the applicable procedures, standards and legal acts, as well as other applicable documents.

As a consequence, VMVT inspectors are obliged to follow the code of ethics and other rules of behaviour of civil servants and employees and are bound by the respective provisions of the Law on Civil

³⁵¹ Country Profile DG (SANTE)/2016-8985 Final Version, date May 2017. In this scheme the abbreviation 'SFVS' indicates the 'State Food and Veterinary Service'.

³⁵² The NAB is a member with full rights of European Cooperation for Accreditation (EA).

Service³⁵³.

1.3 CONTROL BODIES

As already mentioned, the competent Central Authority designated the VMVT as a CA for official controls during the production phase and after the commercialisation of GI products.

Currently, there is no delegated CB in Lithuania.

1.4 ACCREDITATION BODY

The NAB is an internationally recognised accreditation body organised under the Ministry of Economy of Lithuania. It accredits testing, calibration and medical laboratories, certification bodies for products, quality and environmental management systems and persons and inspection bodies.

The NAB also assesses certification and inspection bodies and testing laboratories proposed by authorised institutions for authorisation to perform conformity assessment procedures according to the New Approach Directives. The standard applied by the NAB for the accreditation of certification bodies is ISO 17065:2012.

The CA VMVT is accredited by NAB in accordance with ISO/IEC 17020:2012. The scope of accreditation includes: 1. Food of animal and non-animal origin, 2. Veterinary border controls³⁵⁴. The current accreditation certificate No LA.06.056 was issued on 6 May 2015, and it is valid until 30 March 2019.

Under ISO/IEC 17020:2012, the VMVT meets the independence requirements applicable to 'Type A' control institutions and is sufficiently independent from interested parties. In particular, it does not perform any actions or functions that could raise doubts regarding the impartiality and integrity of the decisions taken during control procedures.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

According to the **Multi-Annual National Control Plan (MANCP)** for 2016-2018, the VMVT supervision system is based on an annual inspection performed by the technical headquarters of the VMVT and by internal **Quality Management System (QMS)** audits in relation to the activities carried out by the territorial VMVT offices. The internal audits apply equally to GIs.

According to the approved plan, during a period of 5 years, each territorial unit of the VMVT must be audited. The operation of the control activity carried out, the internal control system and risk management are checked during these inspections and audits.

In cases where irregularities or low standards are detected, recommendations are issued for the necessary amendments in order to ensure the effectiveness of controls and to meet requirements of legal acts, risk management, distribution of goals and to avoid mistakes in the future.

³⁵³ Powers of inspectors are regulated by Regulation No. 744 of 28 June 2000 of the Government of Lithuania, in Section III.

³⁵⁴ Control sectors of accreditation: 1. Production of alcoholic beverages; 2. Supply of drinking water; 3. Production of bread and cake, flour and cream confectionery; 4. Soft drinks and/or juice; 5. Other non-animal food production; 6. Meat and meat products; 7. Milk and dairy products; 8. Fishery products; 9. Egg production; 10. Food trade; 11. Catering; 12. Import of products of animal origin; 13. Export and transit traffic.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Pursuant to the Lithuanian Law on Combination of Public and Private Interests in the Public Service, which is applicable to all civil servants, VMVT inspectors must declare their private interests by signing a declaration identifying any potential conflict of interests that may arise during their functions.

In this respect, they are obliged to disqualify themselves from any proceedings and decision-making that might give rise to a conflict of interests. In cases of a breach of the rules on conflicts of interest, disciplinary sanctions can be imposed on inspectors by the supervising authority, including dismissal.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

No other Lithuanian authority or body has specific competences in relation to controls and coordination measures in relation to GIs. The VMVT is the sole control authority in this field.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

The control plan for GIs is included in the current MANCP under the name 'Control of food products included in the Register of protected designations of origin and protected geographical indications and in the Register of certificates with special qualities'.

The quality system programme related to controls on GIs is established by the quality system programme KT-2-2-19 'Control of Food Products, which are included in the Register of Protected Designations of Origin and Protected Geographical Indications and in the Register of Traditional Specialities Guaranteed', adopted by VMVT Director's order No B1-226 (29/03/2017)³⁵⁵.

The VMVT carries out planned (routine) and unplanned (random) controls³⁵⁶.

The planned control activities in relation to GIs are carried out in accordance with annual state control plans prepared and set by territorial units of the VMVT, which set out the line, economic sectors, specifics and scope of the inspections. Furthermore, planned control activities are carried out taking into account the risk profile of operators.

In this respect, food operators are assigned to a specific risk group based on the following risk factors:

the type of activity;

³⁵⁵ When performing controls, the VMVT follows the procedures set out in the 'Rules of inspection of economic operators' activities', adopted by VMVT Director's Order No B1-59 of 28 January 2015, as well as by other internal documents, quality system programmes and questionnaires. Questionnaires used for inspection of products as to compliance are available on the VMVT website: <http://vmvt.lt/maisto-sauga/kontrole/patikrinimu-klausimynai>.

³⁵⁶ Section 5 of VMVT Director's Order No B1-59.

the type of product concerned;
the extent of activity;
the state of internal controls;
past control results.

This assignment is performed strictly according to approved rules.

Unplanned (random) control activities related to GIs are carried out by territorial units of the VMVT following requests from other institutions, customers' complaints, or in order to check that previously detected infringements have been remedied, as well as monitoring the implementation of previous decisions.

2.1.2 *Verification of compliance with product specifications*

The conformity control of product specifications is established in the 'Rules governing the registration of agricultural and food products, PDOs, PGIs and TSG', adopted by the Order of the Minister of Agriculture No 3D-10 (07/01/2015).

The list of names and addresses of producers that are checked for compliance of their product with the relevant GI specifications is published online³⁵⁷. The annual control report containing information on producers and the scope of their production is submitted to the ZUM by 1 February of the following year.

Any non-compliance with product specifications and any actions taken in this respect are immediately reported to the ZUM. In these cases, the ZUM may issue an official warning, temporarily prohibit use of the GI or call the committee of experts to discuss the adoption of a recommendation to be submitted to the European Commission to cancel that particular GI.

During the control procedures, the inspectors decide whether samples should be taken, in order to check that the product complies with the product specifications.

When performing controls regarding compliance, all the necessary information on the subject is gathered and an appropriate questionnaire is selected. When samples are taken, they are transported to the laboratory according to approved rules set in the quality system programme KT-3-1 'Collecting of the state sample and delivering it to the laboratory' and the quality system's working instruction KT-3-1-D2 'Collection of legal acts on selection of samples', both adopted by VMVT Director's Order No B1-403 of 25 May 2016.

2.2 CONTROLS ON THE MARKET

The surveillance of the use of GI names (including GIs from third countries) in the marketplace is envisaged in the annual control plans of the VMVT. These controls are carried out through inspections, which according to the established control plan, include retail and wholesale establishments, and are carried out by territorial units of the VMVT. According to the 'Rules governing the registration of agricultural and food products, PDOs, PGIs and TSG', adopted by the Order of the Minister of Agriculture No 3D-10 (07/01/2015), the annual control report containing information on the market control of GI products is submitted to the ZUM by 1st of February of the following year.

³⁵⁷ <http://vetlt1.vet.lt/vepras/imonpb.asp>.

Businesses to be checked are selected randomly or on the basis of risk-based planning. The risk analysis takes into account the following factors:

- the type of activity;
- the type of product concerned;
- the extent of activity;
- the state of internal controls;
- past control results;
- if information is gathered on additional risks;
- if a consumer complaint has been received;
- if the operator asked for additional controls;
- any possible information within the Rapid Alert System for Food and Feed.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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The VMVT is funded by means of the State budget. However, in particular cases, it may also obtain additional funding through specific legal acts.

In line with the procedures under the VMVT quality system, an annual VMVT staff training programme is prepared at central level and approved by the VMVT Director.

The Strategic Planning and Quality Management Unit of the VMVT must perform an appraisal of staff's competences every 5 years. Appraisal is performed by the Commission of Appraisal of Staff Competences, which is approved by order of the Director of SFVS.

Moreover, VMVT inspectors attend the European Commission's '**Better Training for Safer Food**' (**BTSF**) programmes on a regular basis on topics covered by Regulation (EC) No 882/2004. The training material is available to all territorial VMVT officers.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Information on the control activities of the VMVT is available for the public on the official website of the ZUM³⁵⁸, as well as on the official website of the VMVT³⁵⁹.

Moreover, the VMVT publishes on its website several planning documents³⁶⁰, documents related to stakeholders under control³⁶¹, as well as its control and audit-related reports³⁶².

³⁵⁸ www.zum.lt.

³⁵⁹ www.vmt.lt.

³⁶⁰ <http://vmt.lt/veikla/planavimo-dokumentai>.

³⁶¹ <http://vmt.lt/maisto-sauga/kontrole/patikrinimu-klausimynai>.

³⁶² <http://vmt.lt/veikla/veiklos-ataskaitos>.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

In cases of complaints from foreign institutions regarding conformity with product specifications received, the ZUM informs the CA immediately after receiving the complaint³⁶³. The latter performs the control of the product and submits the results to the ZUM.

Subsequently, the ZUM calls a meeting of the expert committee, which evaluates if the complaint was justified and foresees the actions to be followed. The central authority informs the foreign institution about it.

Lithuania also uses the European **Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)** as well as the **Rapid Alert System for Food and Feed system (RASFF)** which facilitate an exchange of information between Member States. The national contact point for the Food Fraud Network system is the Veterinary Sanitary Department of the VMVT.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

On the basis of information on non-compliance received from the CA, the ZUM may issue an official warning. Furthermore, the VMVT can take the decision to temporarily prohibit the use of a GI. However, the ZUM can restrict the use of GI names only as regards Lithuanian products, while the VMVT can prohibit placing on the market of all products which do not meet the requirements.

In particular, VMVT inspectors may take decisions to temporarily ban the placing on the market and the advertising of the product, in addition to applying restrictive measures and sanctions provided for by the Lithuanian Administrative Violations Code, establishing liability for violation of requirements related to food products placed on the market.

Please see the Guide for more details on the administrative sanctions.

6.2 CRIMINAL PROSECUTION

Infringements of GIs are not expressly mentioned in the Lithuanian Criminal Code as a specific criminal offence. Indeed, the criminal law applicable in cases of infringements of intellectual property rights (IPRs) only expressly refers to the use of trade marks³⁶⁴, to industrial property rights, namely patents, designs,

³⁶³ Order of the Minister of Agriculture No 3D-10.

³⁶⁴ Article 204 of the Lithuanian Criminal Code.

legal persons' rights to their names³⁶⁵ and to copyright and neighbouring rights³⁶⁶.

In light of the above, 'food fraud' could be prosecutable as a fraud offence under Article 182 of the Lithuanian Criminal Code, which provides that persons that fraudulently obtained (to their own or to another's benefit) someone's property or property rights can be sentenced to community service, or restriction of liberty, or arrest, deprivation of liberty for up to 3 years. If the property is of a high value, the applicable punishment is deprivation of liberty for up to 8 years³⁶⁷.

'Food fraud' could also be prosecutable when connected with harm to human health. Article 276 of the Lithuanian Criminal Code provides that for a person that produces food products from obviously inappropriate substances, which are harmful to human health or life, or which contain harmful additives, with the aim of distributing them, or a person selling or distributing such products in any manner where the consumption of the products caused either death or serious harm to human health, the applicable punishment is deprivation of liberty for up to 8 years.

6.3 FOLLOW-UP OF CASES

In cases of non-compliance detected during regular or random control checks, the operator is obliged within 14 days to coordinate with the respective territorial VMVT a correction plan including measures to be taken for their elimination and deadlines for the implementation of such measures, which must not exceed 56 days (an extension of 28 days is possible if justified). Operators are obliged to inform the territorial VMVT about the implementation of the measures taken, no later than 7 days after their implementation.

The competent territorial VMVT office informs the central VMVT authority in writing and by email of the infringements and actions taken. The central VMVT authority sends the information to the ZUM.

If no infringements are detected during a 2-year period, the control procedure can be carried out once every 2 years.

It is also possible that, when non-compliance with product specifications of GIs from Lithuania or other Member States or third countries is detected, or if counterfeiting is suspected, the information will be stored in the AAC system. The RASFF system is used to record violations related to food safety.

As already mentioned, data and results from previous inspections, as well as complaints and information received from consumers, are taken into account when planning further regular control checks. All data related to controls performed are stored in the VMVT's 'FIS' and '(AFIS) VERP' information food control systems and are regularly updated by the VMVT.

The report on controls carried out on GIs is submitted to the ZUM every year.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN

³⁶⁵ Article 195 of the Lithuanian Criminal Code.

³⁶⁶ Articles 191 to 194 of the Lithuanian Criminal Code.

³⁶⁷ Notably, a proposal to the Parliament was submitted in 2016 by VMVT, in order to include criminal liability for food fraud in the Criminal Code, based on the fact that for this type of offence only administrative sanctions are currently envisaged. However, the Government gave a negative opinion on the proposal. In the comments on the legislative draft (9/11/2016), the Government stated that such a provision in the Criminal Code is superfluous, as this type of offence is already covered by provisions envisaged in Articles 182 (fraud) and 204 (when connected to IPR infringement) or 276 (when connected with harm to human health) of the Lithuanian Criminal Code.

THE EU MEMBER STATES

7.1 TOOLS FOR USERS AGAINST SUSPECTED/DETECTED INFRINGEMENTS

The contact point to address for claims/whistleblowing by users is the VMVT. All the necessary information about submitting complaints can be found on the official VMVT website³⁶⁸, where an electronic complaint form is available to users.

7.2 CIVIL ACTION

The Trade Mark Law of the Republic of Lithuania³⁶⁹ provides the definition of a GI and geographical origin and establishes that GIs may be invoked as one of the absolute or relative grounds for refusal and in a cancellation action. Any dispute arising from Trade Mark Law, including requests for cancellation of a trade mark, should be brought before the Vilnius County Court.

In addition, civil redress for consumers and for operators in cases of infringements related to GIs is provided for by different legal acts. Not only natural persons but also legal entities can apply for compensation for damages if their rights have been violated and if harm has occurred.

More details on civil actions are provided in the Guide.

³⁶⁸ <http://vmvt.lt/survey/defective-food-products?language=en>.

³⁶⁹ Law No VIII-1981 on Trade Marks of 10 October 2000, (as amended on 8 June 2006 by Law No X-651).

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

LUXEMBOURG



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

ASTA	Administration of Technical Services for Agriculture (Administration des services techniques de l'agriculture)
INAP	National Institute of Public Administration (Institut national d'administration publique)
IVV	Wine Institute (Institut viti-vinicole)
MAVPC	Ministry of Agriculture, Viticulture and Consumers' protection (Ministère de l'Agriculture, de la Viticulture et de la Protection des Consommateurs)
OLAS	Luxembourg Office of Accreditation and Surveillance (Office luxembourgeois d'accréditation et de surveillance)
ONAOP	National Office for Protected Denomination of Origins (Office national des appellations d'origine protégées)
OSQCA	Organisation for the Safety and Quality of the Food Chain (Organisme pour la sécurité et la qualité de la chaîne alimentaire)
SECUALIM	Food Safety Service (Sécurité alimentaire)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The **Administration of technical services for agriculture (Administration des services techniques de l'agriculture — ASTA)** and the **Wine Institute (Institut viti-vinicole — IVV)** within the **Ministry of Agriculture, Viticulture and Consumers' protection (Ministère de l'Agriculture, de la Viticulture et de la Protection des consommateurs — MAVPC)** are the national central authorities responsible for GI protection.

As a general consideration, please note that at the time of this survey a legislative proposal for the 'establishment of a system of control and sanctioning applicable to foodstuff products' is pending approval by the Luxembourg legislative organs.

1.2 GENERAL STRUCTURE OF THE SYSTEM

As regards foodstuffs, the CA for controls is the Service for animal production, within ASTA. The IVV is the CA for wines.

Controls are delegated by the CAs to CBs or governmental commissioners for each of the registered products.

Surveillance of the use of the name in the marketplace is managed by the competent national authorities.

Legal status and powers of staff of Competent Authorities

The staff involved in controls have the legal status of civil servants. Consequently, they must swear to perform their functions with integrity, accuracy and impartiality, in accordance with the General Statutes of State Officials.

As regards customs, most customs officials have the status of judicial police officers in all of the implementing laws and regulations concerning food safety.

Capacity of laboratories

As regards spirits, the general system for controls also includes the 'Laboratoire de contrôle et d'essais', within the MAVPC.

For the wine sector, two laboratories exist: 'Laboratoire de l'Institut viti-vinicole de Remich' and 'Laboratoire national de santé, Division du contrôle des denrées alimentaires'.

1.3 CONTROL BODIES

As already mentioned, controls are delegated to CBs or governmental commissioners for each of the registered products.

As regards Viande de porc and Salaisons fumées (PGI — national names of Luxembourg), the operators are controlled by an independent CB on a regular basis. In particular, PGI controls are delegated to the CB, Certipaq (France), for Viande de porc.

The name ‘Marque nationale de la viande de porc et des produits transformés’ has discontinued use of the PGI.

In relation to Miel — Marque nationale du Grand-Duché de Luxembourg and Beurre rose — Marque nationale du Grand-Duché de Luxembourg (PDO — national names of Luxembourg), controls are not delegated to a CB. The products are controlled on a regular basis by a control commission composed of representatives from the Ministry, professional chambers and a national body for consumer protection. However, according to data collected, the name Miel — Marque nationale du Grand-Duché de Luxembourg has recently ceased using the PDO.

The **National Office for protected denominations of origins (Office national des appellations d’origine protégées — ONAOP)** manages the accreditation for the PDO wine Moselle Luxembourgeoise and organises the tasting sessions and controls in order to ensure that the PDO is not misused.

1.4 ACCREDITATION BODY

In the control system of Luxembourg, the official accreditation body is the **Luxembourg Office of Accreditation and Surveillance (Office Luxembourgeois d’accréditation et de surveillance — OLAS)**³⁷⁰, under the Ministry of Economy, and it operates in accordance with the EN ISO/IEC 17000 series of standards.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

Coordination and management of national audit systems are performed by the **Organisation for the Safety and Quality of the Food Chain (Organisme pour la sécurité et la qualité de la chaîne alimentaire — OSQCA)**, a central body under the joint authority of the MAVPC and the Ministry of Health. The OSQCA acts as national contact point.

At the end of the year, a report including a list of planned and executed controls and a list of cases of non-compliance is prepared. This report is part of the **Multi-Annual National Control Plan (MANCP)** and allows a check to be made on whether the objectives set at the beginning of the year have been reached. If there is a significant gap, agents try to find the reasons and review the control system. If the control system results are not effective, it will be adapted to the requirements and additional human and economic resources may be requested.

The result of the report is taken into account for the following MANCP.

³⁷⁰ <https://portail-qualite.public.lu/fr/acteurs/ilnas/olas.html>.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

As already mentioned, staff involved in controls must swear to perform their functions with integrity, accuracy and impartiality in accordance with the General Statute of State Officials.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

A **Food Safety Service (Sécurité alimentaire — SECUALIM)** for food control and food safety within the Ministry of Health is responsible for checking the labelling of all types of foodstuff.

Although there is no specific mention of any GI-related control system, it has responsibility for checking labels for agri-food.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

In general, agents perform controls on the basis of:

a documentary check, which may be based on internet searches, promotional materials, the DOOR³⁷¹ database and regulations;

an on-site visit without prior warning, except for audits, to:

- dairies, slaughterhouses, breweries, producers with direct sales and specialised resellers for products made in Luxembourg;
- establishments selling these products when they are made in another Member State or in a third country;
- to the same places mentioned above but also for products not protected by GIs.

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

There is no national legislation for the control system of GIs.

Each year a control plan is established on the basis of a risk analysis, taking into account feedback from previous campaigns and the impact of products on the market.

Types and frequency of controls are determined by the sampling and control plan.

³⁷¹ DOOR (EU Database Of Origin & Registration) includes product names for foodstuffs registered as GIs as well as names for which registration has been applied.

2.1.2 Verification of compliance with product specifications

Control over products registered as GIs consists in checking:

the denomination used;
the correct use of the GI certification;
whether registration requirements are respected (product characteristics, raw materials, specific production stages, labelling);
product specifications.

Controls are reported in the inspection reports and *procès-verbaux*. Evaluation results of controlled products are regularly reviewed by the officers responsible.

Whenever a sample is required, it must be handled and labelled in order to guarantee its analytical and legal validity.

As regards Moselle Luxembourgeoise (PDO wine), all wines are controlled systematically through analytical and organoleptic analysis before certification. The analytical control is done by the laboratory of the IVV and a tasting panel conducts the organoleptic testing. After harvesting, all operators must declare their participation in the PDO Moselle Luxembourgeoise at the IVV.

A similar procedure applies to Beurre rose — Marque Nationale du Grand-Duché de Luxembourg.

2.2 CONTROLS ON THE MARKET

As already mentioned, the competent national authorities are in charge of the surveillance of the use of the name in the marketplace.

GIs for agricultural products and foodstuffs produced in Luxembourg and produced outside Luxembourg (Member States and third countries) are controlled.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The OSQCA is in charge of the lifelong training coordination of the agents involved in controls. This task is carried out in collaboration with the **National Institute of Public Administration (Institut National d'Administration Publique — INAP)** for national training and with the European Commission for European training in relation to the **Better Training for Safer Food (BTSF)** programme.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The system of official controls can be seen on the following website: <http://www.securite-alimentaire.public.lu/organisme/index.html>.

Furthermore, the **Multi-Annual National Control Plan (MANCP)** as well as its annual reports are available online.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The OSQCA is in charge of drawing up and updating the contingency plan (not available to the public) and liaises with other Member States in this matter.

In the case of an infringement by a non-national product, the national CA is informed and it is also responsible for the follow-up.

Moreover, Luxembourg uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States. The national contact point for the FFN system is the OSQCA³⁷².

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

Legal enforcement powers are limited in Luxembourg in relation to non-compliance on food and feed, animal health, animal welfare and plant health law³⁷³.

Police Judicial Officers³⁷⁴ have the power to seize or block products but not to destroy them. Only the General Prosecutor can order a product to be destroyed, but this power has never been exercised.

³⁷² http://www.securite-alimentaire.public.lu/organisme/rasff_alerte_rapide/fonctionnement_rasff/index.html.

³⁷³ See report of the EU Directorate-General for Health and Consumers, which provides an overview of control systems in the Member States. DG (SANCO)/2011/6083 — Final.

³⁷⁴ Article 34 of the Law of 31 May 1999, establishing the Grand Ducal Police.

The ASTA and SECUALIM reported that a ‘voluntary’ withdrawal and the destruction of non-compliant products by food and feed business operators is the normal practice.

According to the same DG Health and Food Safety (formerly DG Health and Consumers) report, in Luxembourg, there is practically no possibility of imposing administrative sanctions.

6.2 CRIMINAL PROSECUTION

In general, Article 498 of the Criminal Code punishes those who deceive buyers in relation to the nature or origin of products sold by selling or delivering a product similar in appearance to that which they have bought or which they thought they had purchased.

More details on criminal offences are provided in the Guide.

6.3 FOLLOW-UP OF CASES

As regards national products, the competent entity involved in controls sends a letter to the producer giving details of the irregularity and related corrective measures and deadlines.

The CA checks whether the producer has implemented the corrective actions within a time limit by gathering the necessary evidence.

As regards non-national products, the national CA is informed and is responsible for the follow-up.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

7.1 TOOLS FOR USERS AGAINST SUSPECTED/DETECTED INFRINGEMENTS

The OSQCA has made an online template available³⁷⁵ to consumers that can be electronically completed and submitted. The complaints are forwarded to, and dealt with, by the CA.

7.2 CIVIL ACTION

GIs can be protected under Article 22 et seq. of the Law of 22 May 2009 transposing Directive 2004/48/CE into national law. In particular, the rights holder can file a claim and apply to the court for preliminary measures, an injunction, seizure or a prohibition order.

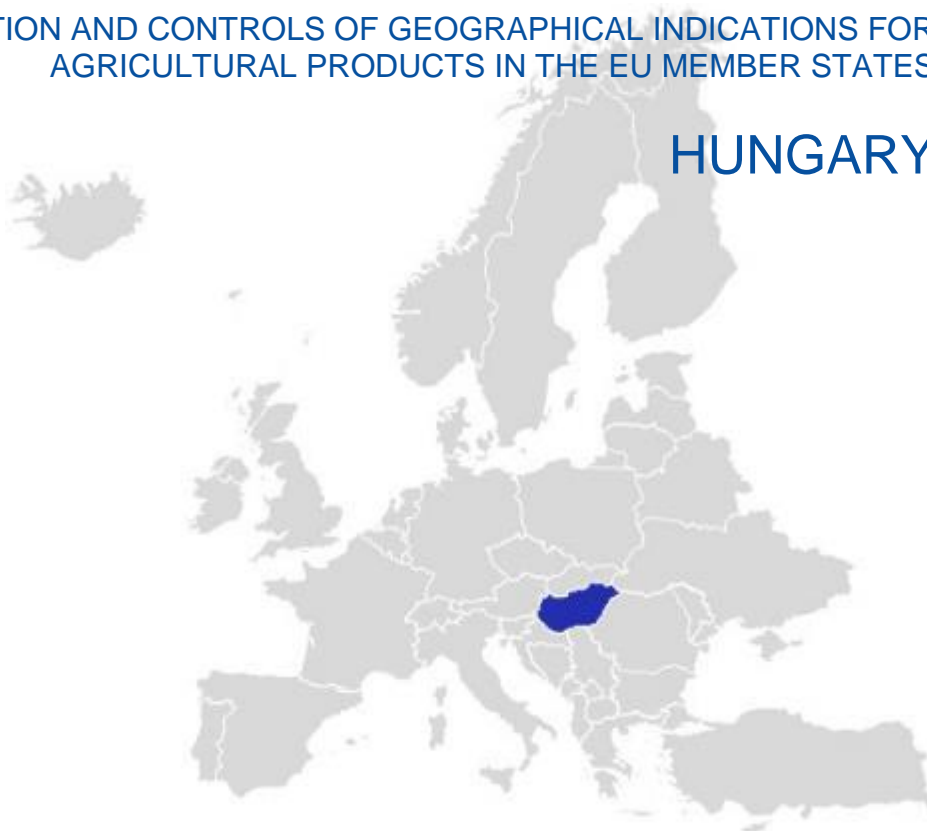
Moreover, GIs can be ‘indirectly’ protected within the framework of trade mark legislation and unfair competition law.

Please see the Guide for more information in this respect.

³⁷⁵ <http://www.securite-alimentaire.public.lu/consommateur/doleances/index.php>.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

HUNGARY



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

FM	Ministry of Agriculture (Földművelésügyi Minisztérium)
GVH	National Competition Authority (Gazdasági Versenyhivatal)
HCOP	Hungarian Council of Origin Protection
HIPO	Hungarian Intellectual Property Office (Szellemi Tulajdon Nemzeti Hivatala)
MINISTER	Minister of Agriculture (Földművelésügyi Miniszter)
NAH	National Accreditation Authority (Nemzeti Akkreditáló Hatóság)
NAV	National Tax and Customs Authority (Nemzeti Adó- és Vámhivatal)
NÉBIH	National Food Chain Safety Office (Nemzeti Élelmiszerlánc-biztonsági Hivatal)
NFH	Hungarian Authority for Consumer Protection (Nemzeti Fogyasztóvédelmi Hatóság)
NFM	Ministry of National Development (Nemzeti Fejlesztési Minisztérium)
NGM	Ministry of National Economy (Nemzetgazdasági Minisztérium)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The central authority in Hungary is the **National Food Chain Safety Office (Nemzeti Élelmiszerlánc-biztonsági Hivatal — NÉBIH)**, a budgetary institution established and supervised by the **Ministry of Agriculture (Földművelésügyi Minisztérium — FM)**³⁷⁶.

Controls on GIs are carried out within the general system for verification of compliance with the feed and food safety laws.

However, note that the information on the Hungarian system of controls on GI was collected by the end of 2016, and was therefore based on regulations, the organisation and procedures in place at that date. The Hungarian national system for implementation and enforcement of GIs was undergoing a deep reform at that time. In particular, Government Decree No 383/2016, which entered into force on 2 January 2017, deeply restructured the whole system, introducing changes to the existing organisation, appointing a new national central authority (the FM) and CAs for controls, as well as modifying the scope of responsibilities.

However, implementing legal acts were not yet adopted. These changes are not reflected in the present chapter.

1.2 GENERAL STRUCTURE OF THE SYSTEM

The general structure of the control system is articulated at both central and regional/local levels.

Central level

The strategic coordination of the control on GIs is carried out by the FM through the NÉBIH (jointly indicated here, where suitable, as National Central Authority, NCA). In this respect, four directorates are involved:

- the Food and Feed Safety Directorate, with competence in agricultural products and food;
- Directorate of Oenology and Alcoholic Beverages, with competence in wine and spirit drinks;
- the Plant Protection and Soil Conservation Directorate, with competence in fruits and vegetables;
- the Special Cases Directorate, with national competences regarding the special cases that might have strategic or national economy relevancy or involve international issues or pose a potential health risk to a huge number of consumers (e.g. falsification of wine, joint inspections with other authorities).

³⁷⁶ <http://portal.nebih.gov.hu/>.

Regional/local level

Control tasks are carried out by the county government offices and district government offices³⁷⁷ acting as CAs, under the guidance and supervision of the NÉBIH on the basis of the product category concerned. Control tasks are assigned as follows:

- agricultural products and foods: controls are carried out by the food chain safety and animal health units of the district government offices, and are coordinated and supervised by the NÉBIH. In addition, the NÉBIH Directorate for Plant Protection, Soil Conservation and Agri-environment has overall operational responsibility for official controls relating to GIs for growers and distributors of fruit and vegetables;
- wines and spirit drinks: controls are carried out by the food safety and animal health units of the county government offices, and are coordinated and supervised by the NÉBIH.

In relation to the controls on wines, spirits and aromatised wines, the NÉBIH has competence in the whole territory of the country. However, the controllers employed by the district government offices have competence within the territory of the county concerned.

The abovementioned units communicate closely and cooperate with each other during their daily controlling activities. The NCA's controllers and the regional controllers meet regularly to discuss the quarterly control plans. During these meetings, the controllers examine the steps for carrying out the quarterly controls and NÉBIH coordinates and harmonises control activities practices.

The CAs are competent for both verification of compliance with the product specifications and surveillance of the use of the name in the marketplace. Both types of control follow under the responsibility of the same units and controllers on the basis of the product category.

As regards wines, the control system also includes the Local Wine Community Council (*hegyközségi tanács*) and the Wine Judge (*hegybíró*).

These entities have the power to issue and enforce decisions in relation to the quality of wines and the use of GIs within the issuing process of the certificate of origin. They perform controls related to product specifications on the basis of the producer's application for each new product that is intended to be placed on the market.

If cases of non-compliance are detected, the Council may prohibit the use of a GI for a maximum of 5 years. Moreover, the Wine Judge may impose a fine if the producer does not meet communication obligations. The Wine Community Councils are supervised by the NÉBIH and communicate closely with the CAs, while Wine Judges are controlled by the regional government offices.

No control tasks have been delegated to CBs.

Legal status and powers of staff of Competent Authorities

The staff of the CAs entrusted with controls on GIs have civil servant status. As such, they have to carry out their duties in a professional manner, by acting diligently and impartially in accordance with the relevant legislation and on the basis of professional ethical principles and their principal officers' decisions.

Controllers have the legal powers to carry out control activities, including on-site controls and take any

³⁷⁷ Megyei kormányhivatal és járási kormányhivatalok.

necessary measures and actions on behalf of the CA. In this respect, the president of the NÉBIH issues a special ID for the controllers.

Capacity of laboratories

The NÉBIH has central and regional national reference laboratories and several accredited official laboratories.

All laboratories are accredited in accordance with ISO/IEC 17025:2005. The laboratories are designated by the national principal veterinarian (acting as the deputy state secretary responsible for food chain safety), on the basis of the relevant competence conferred by the **Minister of Agriculture (Földművelésügyi Miniszter — MINISTER)**. The laboratories act as independent entities³⁷⁸.

Wines and spirit drinks are officially only inspected in one official central laboratory: Borászati Hatósági Laboratórium, located in Budapest³⁷⁹. Product samples of wine and spirit drinks collected at regional and local levels are also sent and tested by this central laboratory.

Non-governmental laboratories may be involved in the controlling activities if capacity issues arise. However, even in this case, only laboratories authorised by the NCA can participate. Laboratories are accredited by the **National Accreditation Authority (Nemzeti Akkreditáló Hatóság — NAH)**.

1.3 CONTROL BODIES

There are no delegated CBs.

1.4 ACCREDITATION BODY

Laboratories have been accredited in accordance with the ISO 17025 standard by the **National Accreditation Authority ((Nemzeti Akkreditáló Hatóság — NAH)**.

The NAH is a central budgetary organisation under the control of the **Ministry of National Economy (Nemzetgazdasági Minisztérium — NGM)**, operating as a central office. The rules of organisation and operation of the NAH are laid down in Instruction No 27/2015 (XII.30) of the NGM).

With respect to the NAH and the organisations to be accredited, accreditation is based on the ISO/IEC 17000 standard series, the guides issued by the international and European accreditation organisations, and the profession specific requirements issued by the NAH. The NAH publishes the following information about accreditation on its website:

- legal references;
- accreditation requirements (standards, provisions and guides);
- accreditation and surveillance procedures;
- decree on fees;
- procedures for assessors' and experts' selection;
- procedures for submission of legal remedies;
- rules of referring to the accredited status;

³⁷⁸ Information on laboratories is available at the following website:

<http://portal.nebih.gov.hu/web/guest/kapcsolat/laboratoriumok/nebih-laboratoriumok>

³⁷⁹ H-1118 Budapest, Budaörsi út 141-145., Tel. 06-1/346-0967 [Ms Anginé Maronics Klára, anginek@nebih.gov.hu], 06-1/346-0937 [Ms Tatár Zsuzsanna, tatarzs@nebih.gov.hu].

- use of the accreditation symbol;
- application forms.

Inter alia, the NAH can perform the accreditation of the following organisations or natural persons in the National Accreditation Scheme:

- testing laboratories;
- sampling organisations;
- calibration laboratories;
- product certification bodies;
- management systems certification bodies;
- persons' certification bodies;
- inspection bodies with the exception of authorities.

The accredited status is valid for 5 years under the condition that the organisation continues to be in compliance with the accreditation requirements in the surveillance procedures.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

The NCA is responsible for the supervision of the country and local government offices.

The audits are carried out on the basis of an annual plan, a document laying down the CAs objectives and specific provisions on the number, time and place of the audits.

The annual plan is detailed on the basis of the following factors: relevant legislation, tasks reallocated during the previous year, demands of the principal officers, suggestions from the regional principal officers and scientific risk analysis.

The audits include the review of documentation about the checks carried out by the CA.

In cases of non-compliance or if the regional/local authority is not working satisfactorily, recommendations are given in a written form.

The NCA organises meetings four times every year for the controllers in order to make sure that their practice is as harmonised as possible.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

The general rules on civil servants' conflicts of interests, as regulated by Hungarian law³⁸⁰, apply to CAs entrusted with controls on GIs.

Conflict of interest provisions forbid civil servants from holding executive positions in private companies, but not from being employed by them. Since 2001, civil servants and senior functionaries have had to submit declarations of interests, income and assets.

In cases of conflicts of interest, the affected person must inform his or her employer in writing and the conflict must be remedied within 30 days. If this is not possible, the employment will be terminated.

³⁸⁰ Articles 54 to 87 of Act 2011/CXCIX.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

Other public authorities with competence in controls on agricultural food and GIs are the **Hungarian Authority for Consumer Protection (Nemzeti Fogyasztóvédelmi Hatóság — NFH)** and customs.

The NFH ceased to exist as from 1 January 2017, on the basis of Government Decree No 378/2016. The **Ministry of National Development (Nemzeti Fejlesztési Minisztérium — NFM)** took over the central tasks and the regional consumer protection tasks have been allocated to the district government offices.

Controls can be carried out by both authorities in cases of food and consumer protection. In these cases the responsible authority is the one initiating the procedure. On the contrary:

- if the non-compliance refers to misleading information provided to consumers, the NFM has competence to carry out controls;
- if the infringement constitutes a crime or a petty offence related to GIs, controls follow under the responsibility of the customs authority, which is the CA in charge of criminal investigations. The NCA works closely with the customs authority.

Additionally, if the infringement constitutes unfair competition practice, a procedure before the **National Competition Authority (Gazdasági Versenyhivatal — GVH)** may be initiated. In these cases, the controllers of the GVH are entitled to perform the control activities.

If necessary (e.g. when the warehouse is closed), police forces may be involved in performing controls.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Both verification of compliance with the product specifications and surveillance of the use of the name in the marketplace are based on annual control plans set up on the basis of risk analysis. Ad hoc controls are carried out in cases of complaints pursuant to Article 20 of Government Decree No 178/2009.

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 Planning and prioritisation criteria and frequency

The planning and prioritisation are made through a 'matrix' procedure, meaning that the information flow and approval goes back and forth among the different levels. The plans are prepared by the county government offices and are approved by the President of the NÉBIH. Control activities are planned quarterly, but ad hoc inspections and control of priority cases are carried out within the possible shortest period of time in cases of necessity (complaints, including RASFF cases — see below —, results of laboratory tests or seasonal controls regarding foodstuffs). The plans break down the controls for every county and for every month.

More detailed plans are prepared at local level, which also need to be approved at regional level. Quarterly and annual reports are prepared about the controls.

Plans are based on risk analysis. The risk analysis is prepared by the competent directorate of the NCA. The directorate assesses the risk on the basis of scientific methods (the scientific risk analysis is carried out by the Food Chain Safety Risk Analysis Directorate), identifies the potential risks and determines their characteristics, frequency and level by taking into consideration the consumption of the public. Priorities in planning controls are set up on the basis of the results of the RAFSS system, results of previous year's controls, general political aspects and economic risks and risk considerations of individual consumers.

The plans of GI controls are included in the **Multi-Annual National Control Plan (MANCP)** in accordance with Regulation (EC) No 882/2004, in a separate section.

As far as control plans are concerned, two types (methods) of control activities are covered: controls on products and controls on production sites and/or establishments. The establishment/site control plans use risk-based and selective planning, while the product control plans use ad hoc planning — based on individual consumers' or users' complaints. These two types of controls are also separately analysed and reported. For the inspection of wine producers, the most significant aspect is the annual turnover of the producer. The largest producers' sites are inspected twice a year and the smallest producers are inspected at least every 5 years.

The general rules of controls are established in the Act on Administrative Procedures. Controllers have the powers to enter the producers' premises and access documents. They can also impose fines if the operator does not cooperate. Moreover, the Act states that in cases of compelling reasons, the CA can carry out the control despite the resistance of the operator. The controllers may ask for the assistance of the police force if the site subject to inspection is closed, even though the authority tries to avoid this since leaving the site unattended after a forced opening may raise issues of financial responsibility.

The control procedure is standardised and reported in written documents. Detailed documentation is prepared about the inspections. A copy is delivered to the operator at least in the case of non-compliance. Reports will be made available in the case of an audit.

All cases of non-compliance, misuse and relevant findings are recorded in an internal database (together with reports on inspections, decisions, correspondence received from the producer, etc.). The database is only available for the controllers/officers working within the same directorate/unit.

2.1.2 Verification of compliance with product specifications

According to national provisions on GI controls, the verification of compliance with the product specifications for all product sectors is carried out at the place of production and preparation for distribution.

As regards wines, as mentioned above, the first verifications are done by the Local Wine Community Council and the Wine Judges during the procedure of issuing the certificate of origin. Thereafter, the Wine Authority (the NCA and the regional authorities) is entitled to control compliance with the product specifications. Therefore, every batch has to undergo a quality control on the basis of laboratory and organoleptic tests (quality controls from the European Economic Area are accepted). When the wine meets the product specification requirements, a marketing authorization is issued.

As far as sampling is concerned, specific rules are stipulated in Ministerial Decree No 127/2009. More details are laid down in internal guidelines, with a separate section containing the rules in relation to sampling GI products.

Ministerial Order No 1/2013 and presidential orders also contain rules for laboratories. Test

methodologies, including analytical tests, are determined by the head of the laboratory.

2.2 CONTROLS ON THE MARKET

As described above, CAs have competence for surveillance of the use of GI names in the marketplace.

However, they are complemented by the NFH, which has responsibility for official controls relating to misleading information on labelling and advertising of foodstuffs. In particular, the NFH can start proceedings if an infringement relates to misleading labelling, on request and of its own initiative in the event of an unfair commercial practice. In public administrative proceedings the county government offices, acting within their competence for consumer protection, act in the first instance, and the NFH acts in the second instance.

Additionally, the **Hungarian Council of Origin Protection (HCOP)** provides opinions and recommendations to the FM, based on which the Minister takes the final decision. The HCOP has 15 members of staff, organised as follows:

- 3 persons for educational and research institutes linked to the agricultural sector;
- 3 persons for professional interest bodies of producers of agricultural products and foodstuffs;
- 3 persons for the FM;
- 3 persons for the Agricultural Office;
- 1 person for the **Hungarian Intellectual Property Office (Szellemi Tulajdon Nemzeti Hivatala — HIPO)**;
- 1 person for the NFH;
- 1 person for non-governmental organisations representing consumer interests.

The president is appointed by the Minister from among the representatives of the FM.

As regards the surveillance of the use of the name in the marketplace:

- the district government offices have competence in relation to foodstuffs;
- the NCA and the county government office have competence for wines and spirits.

The controllers carry out on-site inspections, check the labels and take samples (if applicable).

In cases of products imported from a Member State or a third country, a report is sent to the competent county government office on the basis of the first storage place. The sampling and control is carried out by analogy with Hungarian products: the product is inspected at the source (i.e. the first Hungarian distributor).

Documentation regarding the origin of the product must be collected by the controller.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

In general, under Act 2011/CXCIX, the training of civil servants is carried out by the National University of Public Service. Attendance at additional training for all civil servants is compulsory in order to keep their

knowledge up to date. The training is ordered by the principal officers, for whom targeted leadership training is available.

The controllers must have appropriate qualifications (university level qualifications) and participate in additional training continuously. The NCA is responsible for preparing the annual training plan for the staff and organises the training, while the county offices might organise further training on the basis of practical problems and/or demands.

An e-learning system has been set up and is used actively for continuous training and to keep staff up to date.

In accordance with Regulation (EC) No 882/2004, training about controls on imports has been provided via several mechanisms including on-the-job training, local meetings/training and annual training for Border Inspection Post staff organised by the central CA. Moreover some Border Inspection Post staff attend **Better Training for Safer Food (BTSF)** courses on import and GI controls.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As regards transparency of information about controls, the MANCPs, the supervision programmes of the NÉBIH, as well as summaries about audits and supervision activities are published on the NÉBIH's website. As has already been mentioned, the Annual report as per Regulation (EC) No 882/2004 does not contain specific information on controls on GIs.

Country government offices' control plans, work plans and annual reports are available on their websites. The list of producers involved in non-compliance cases is made public on the Government's website³⁸¹.

³⁸¹ <http://www.kormany.hu/hu/dok?source=3&type=304#!DocumentBrowse>.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Hungary uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between **Member States**. The national contact point for the FFN system is the Directorate for Priority Cases of the NÉBIH.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

If the controlled GI products do not comply with product specifications, several administrative sanctions apply according to the seriousness of non-compliance. Especially:

- in cases of severe non-compliance with product specifications detected before putting the product on the market, commercialisation is prevented;
- in cases of misuse of GIs or other related unlawful uses detected after the product has already been placed on the market, fines are applied.

Please see the Guide for more details on the applicable administrative sanctions and fines.

6.2 CRIMINAL PROSECUTION

A criminal procedure is initiated by the CA or by the individuals concerned before the **National Tax and Customs Authority (Nemzeti Adó- és Vámhivatal — NAV)**³⁸² (investigation body).

General types of criminal offences and penalties envisaged in cases of infringements of intellectual property rights (IPRs) apply³⁸³ to GI infringements.

Please see the Guide for more details on criminal prosecution.

6.3 EX OFFICIO PROTECTION

In order to ensure proper protection of GIs in accordance with EU regulations, it is the responsibility of

³⁸² The National Tax and Customs Administration will conduct the investigation in accordance with Act C of 2012 on the Criminal Code in cases of infringement of industrial property rights (Section 388) and imitating competitors (Section 419).

³⁸³ Act C of 2012 on the Criminal Code (Sections 384 to 388, 419): <http://www.parliament.am/library/Qreakan/Hungary.pdf>.

the competent directorates of the NCA to establish and maintain close relationships and communication channels among the different sectors, agencies and with the CAs of other Member States and/or third countries.

The relevant national legislation obliges the authorities (acting on other fields) to:

- immediately inform the NÉBIH when immediate action is needed within the scope of food chain safety;
- communicate relevant data and information on a yearly basis in other cases.

In cases of infringements of labelling, the NFH and the NÉBIH must inform each other immediately about the details of the case and the subject.

It was reported by national authorities that control of e-commerce was not a regular practice but it is planned for the near future.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

7.1 CIVIL ACTION

According to the Hungarian law on the Protection of Trade Marks and Geographical Indications, in the case of any infringement of GIs, the rights holder or lawful user of a GI may initiate proceedings before the court and assert claims set out in the law. Proceedings for infringement may also be instituted by interest groups of the holders and by organisations for the protection of consumers³⁸⁴.

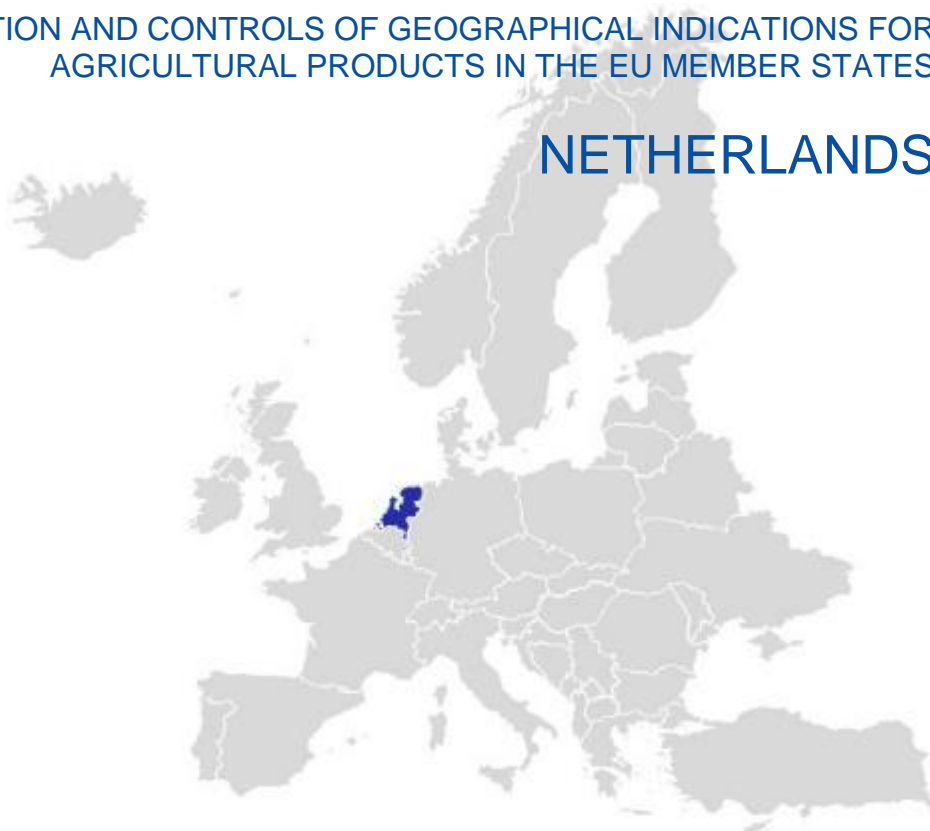
Moreover, in the case of unlawful use of a GI, action may be taken not only by the rights holders but also by the authorities in charge of verifying compliance with the product specifications.

Please see the Guide for more information on civil action.

³⁸⁴ Article 110, Act XI of 1997 on the Protection of Trade Marks and Geographical Indications.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

NETHERLANDS



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

CBb	Trade and Industry Appeals Tribunal (College van Beroep voor het bedrijfsleven)
COKZ	Netherlands Controlling Authority for Milk and Milk Products (Centraal Orgaan voor Kwaliteitsaangelegenheden in de Zuivel)
EZ	Ministry for Economic Affairs (Ministerie van Economische Zaken)
FP	National Public Prosecutor's Office for Financial, Economic and Environmental Offences (Functioneel Parket)
KCB	Quality Control Bureau (Kwaliteits-Controle-Bureau)
NVWA	Netherlands Food and Consumer Products Safety Authority (Nederlandse Voedsel- en Warenautoriteit)
NVWA-IOD	NVWA Intelligence and Investigation Service (Inlichtingen- en Opsporingsdienst van de Nederlandse Voedsel- en Warenautoriteit)
RvA	Dutch Accreditation Council (Raad voor Accreditatie)
VWS	Ministry of Health, Welfare and Sports (Ministerie van Volksgezondheid, Welzijn en Sport)
ZBO	Independent Administrative Public Body (Zelfstandig bestuursorgaan)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The competence regarding food, feed safety, animal health, welfare and plant health is structured in a centralised manner and policies are directed through a number of agencies and bodies.

The national authorities responsible for official controls on GIs are the **Ministry for Economic Affairs (Ministerie van Economische Zaken — EZ)** in collaboration with the **Ministry of Health, Welfare and Sports (Ministerie van Volksgezondheid, Welzijn en Sport — VWS)** when it comes to transparency and product labelling in the food chain and for fraud, health and food safety issues.

1.2 GENERAL STRUCTURE OF THE SYSTEM

Under Dutch legislation, the general structure of the control system envisages autonomous management agencies/bodies that implement specific tasks in the public interest. These entities are under the external control of the two Ministries concerned, but are competent for making independent and sector-specific decisions.

However, **independent administrative public bodies (Zelfstandig bestuursorganen — ZBOs)** might be empowered by a specific law or act as private bodies performing contracted services in the public interest. Decisions made by either type of ZBOs have legal effect. The legal relationship between a central authority such as the **Netherlands Food and Consumer Products Safety Authority (Nederlandse Voedsel- en Warenautoriteit — NVWA)** and a specific ZBO is laid down in Dutch legislation, under which the coordination authority has to approve the annual programme of the ZBO and must receive all inspection reports from the latter.

The relevant national legislation for official controls of GI product specifications as well as use of protected names in the market of GIs is the following:

non-animal origin

- the Agricultural Quality Act (*Landbouwkwaliteitswet*) as currently in force³⁸⁵, which is the general umbrella act on general rules on the quality of agriculture and fishery;
- the Agricultural Quality Decision (*Landbouwkwaliteitsbesluit*) as currently in force³⁸⁶, laying down implementing rules on the quality of agricultural products;
- the Regulation of the Ministry of Agriculture, Nature and Food Quality (*Landbouwkwaliteitsregeling*)³⁸⁷, as currently in force, containing implementation rules on the quality of agricultural products;
- Regulation of the Ministry of Economy (*Regeling wijn en olijfolie*)³⁸⁸ containing rules on the marketing of wine and olive oil.

³⁸⁵ <http://wetten.overheid.nl/BWBR0002755/2015-01-01>.

³⁸⁶ <http://wetten.overheid.nl/BWBR0022535/2014-07-01>.

³⁸⁷ *Regeling van de Minister van Landbouw, Natuur en Voedselkwaliteit van 14 september 2007, No TRCJZ/2007/2968, houdende regels inzake de kwaliteit van landbouwproducten* (<http://wetten.overheid.nl/BWBR0022543/2015-11-26>).

animal origin

- the Implementing Decree on products of animal origin of 2 November 2012 (*Besluit dierlijke producten*)³⁸⁹, as currently in force, laying down rules concerning animal products. Article 2(9) of the aforementioned Decree makes a link with the Agricultural Quality Act as well as the Disciplinary Regulation concerning the Agricultural Quality Act;
- the Regulation on products of animal origin (*Regeling dierlijke producten*)³⁹⁰, as currently in force.

Within the general system for official controls, control tasks are delegated to CAs and there is no approved CB.

The CAs determining the policies with respect to GIs in the Netherlands are the NVWA and the following ZBOs:

the **Netherlands Controlling Authority for Milk and Milk Products (Centraal Orgaan voor Kwaliteitsaangelegenheden in de Zuivel — COKZ)**;
the **Quality Control Bureau (Kwaliteits-Controle-Bureau — KCB)**.

All of the abovementioned CAs involved in official controls are fully competent within their own fields of activity and responsible for the planning and implementation of official controls, including decision-taking on enforcement measures to be applied when cases of non-compliance are found.

The NVWA, which is an independent agency in the EZ and a delivery agency for the VWS, is the responsible authority for market controls on all GIs. It is also responsible for the official controls on wines and spirits GIs, as well as the GIs for products other than fruit, vegetables, potatoes or dairy products.

The COKZ is an independent administrative body, supervised by the NVWA, which only performs public duties. In particular, it is the designated CA for providing assurance about the safety and quality of dairy products produced in the Netherlands, including verification of compliance with GI product specifications in the entire dairy chain, from the raw materials to delivery to the final consumer. The EZ approves the annual programmes of the COKZ, which has to send all inspection reports to the NVWA.

The KCB is an independent administrative body, supervised by the EZ and performs only public duties. KCB is the designated CA for official controls on GIs for fruit, vegetables and potatoes.

Information on control activities in the GI field is provided by the NVWA in the Multi-Annual National Control Plan, which includes references to activities of the COKZ, KCB and NVWA.

Capacity of laboratories

NVWA has in-house laboratory resources to analyse samples collected during official controls and inspections. The following table³⁹¹ lists the laboratories, the numbers of their staff and their respective location.

³⁸⁸ *Regeling van de Minister van Economische Zaken van 5 juni 2014, No.. WJZ/14070246, houdende regels inzake de verhandeling van wijn en olijfolie* (http://wetten.overheid.nl/BWBR0035180/2017-01-01#Hoofdstuk1_Artikel1).

³⁸⁹ *Besluit van 2 november 2012, houdende regels met betrekking tot dierlijke producten* (<http://wetten.overheid.nl/BWBR0032335/2016-07-01>).

³⁹⁰ *Regeling van de Minister van Economische Zaken van 7 december 2012, nr. WJZ/12346914, houdende regels met betrekking tot dierlijke producten* (<http://wetten.overheid.nl/BWBR0032462/2016-07-20>).

³⁹¹ MANCP — Annual report 2015.

NVWA-LABORATORY	NUMBER OF STAFF	NRL ³⁹²	LOCATION
1 for food safety	130	RIVM ³⁹³ RIKILT ³⁹⁴ NVWA ³⁹⁵	Wageningen
1 for plant diseases and pests	55	NVWA ³⁹⁶	Wageningen
2 for product safety: (1 for chemical and microbiological analyses and 1 for physical, mechanical and electrical analyses)	20 20	NVWA ³⁹⁷	Groningen Zwijndrecht

1.3 CONTROL BODIES

There is no delegated CB.

1.4 ACCREDITATION BODY

The Dutch Accreditation Council (Raad voor Accreditatie — RvA) is the Dutch national accreditation body.

In 2010, the Dutch government appointed the RvA as the national accreditation body based on Regulation (EC) No 765/2008. Since then, the RvA has become an independent government agency that reports to the EZ. As an independent organisation and independent government agency, the RvA is a non-profit organisation³⁹⁸.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

In general, the NVWA is responsible for coordinating and supervising the enforcement of legislation of the food sector.

The NVWA has an independent Internal Audit Department³⁹⁹ that reports directly and independently to the Inspector General and the Audit Committee. However, it was not possible to ascertain the supervision activity related to GI controls.

³⁹² National reference laboratory.

³⁹³ NRL for microbiology (except *Campylobacter*).

³⁹⁴ NRL for heavy metals, marine biotoxins, dioxins, polycyclic aromatic hydrocarbons (PAHs), growth promoters, veterinary medicinal product residues, animal feed and genetically modified organisms.

³⁹⁵ Pesticides in human food and animal feed.

³⁹⁶ Plant diseases and plant pests (phytosanitary).

³⁹⁷ NRL for FCM = food contact materials.

³⁹⁸ <https://www.rva.nl/en>.

³⁹⁹ Interne Audit Dienst — IAD.

1.6 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

The **NVWA Intelligence and Investigation Service (Inlichtingen- en Opsporingsdienst van de Nederlandse Voedsel- en Warenautoriteit — NVWA-IOD)** is a specific directorate responsible for criminal investigations within NVWA domains.

NVWA-IOD acts as an Intelligence and Investigation Service and operates under the Investigative Services Act, which provides extensive investigative powers for gathering intelligence and carrying out investigations.

The Directorate is focused on serious forms of complex, international and organised crime. Since its powers are equal to those of the police, NVWA-IOD can seize illegally obtained profits. Investigations are carried out under the aegis of the **National Public Prosecutor's Office for Financial, Economic and Environmental Offences (Functioneel Parket — FP)** in order to pursue prosecution by the FP through the courts⁴⁰⁰.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

As regards performance of controls before placing the product on the market, official controls are risk based, taking into account:

- the inspection history;
- self-checks at company/producer level (done by the company or producers themselves as part of their quality system);
- the risks associated with the nature of the products.

According to the audit conducted by the DG SANTE in 2014⁴⁰¹, inspections of operators are carried out on a monthly basis and are always unannounced. A key part of the official control is related to extensive sampling to test the composition of the products.

Sampling can be reduced if the operator is compliant over a certain period of time and on the basis of self-checks carried out by operators. Samples for analytical tests and organoleptic tests are taken at each site visit. Additional requirements for the product specifications other than those tested through sampling are checked at least twice a year.

Regarding dairy GIs, controls are carried out by the COKZ in accordance with the relevant control plans and product specifications.

As an example, the standard control programme for PGI cheeses Gouda Holland and Edam Holland, includes nine control visits per quarter. Each quarter, a maximum of 150 samples are taken for analysis

⁴⁰⁰ http://ec.europa.eu/food/audits-analysis/act_getProfile.cfm?pdf_id=446

⁴⁰¹ DG(SANTE) 2014-7109 — MR.

of the composition and pasteurisation of the milk for the cheeses. Furthermore, samples are analysed at frequency for microbiological aspects and nitrate, and the brine is analysed.

In addition, all initial processors are inspected four times a year in order to assess, inter alia, the use of the correct rennet and lactic acid as well as of the PGI cheese label.

The administrative control of the origin of the milk used for cheese production takes place once a year. At each production plant, a mass balance is used to compare all farm milk received with the amount of cheese produced and the PGI cheese produced. If non-Dutch milk is received, the procedures to separate Dutch milk and non-Dutch milk and related compliance are assessed.

Traceability tests are used to verify that PGI cheese is produced from Dutch milk.

Most importantly, a reinspection takes place shortly thereafter based on the nature, severity and grade of the non-compliance.

As regards wines, the NVWA is appointed for the annual verification of product specifications. A minimum of one control per year for each GI is established, to be combined, as far as possible, with regular control visits. Administrative monitoring of compliance with product specifications is also encompassed, together with other legal requirements.

Companies are required to have samples analysed by certified laboratories, in or outside the Netherlands, from a list of laboratories submitted and approved by the NVWA for each wine. The NVWA monitors this through its administrative control and takes random counter-samples for analysis at the NVWA laboratory.

The group of producers involved in each GI organises organoleptic inspections. They decide when inspections are to take place and make use of a list of certified persons (a panel of 20-30 persons to be provided by the companies) and the method approved by the NVWA. The companies inform the NVWA about the dates of the organoleptic inspections and the NVWA will be present at random and monitor the progress.

2.1.2 Verification of compliance with product specifications

Official controls are generally based on documented procedures containing instructions and information for the inspectors. These procedures include the use of checklists, which are drafted by the CAs for the individual product specifications. These checklists focus on the annual situation at the producers' level, production and market levels of the relevant GI products.

In national control plans regarding food for 2014 and 2015, there are dedicated chapters concerning controls on GIs.

As an indication of the types of controls, the 2015 annual report provides, inter alia, the following information:

SIZE OF CONTROL FILE IN 2015

TYPE OF ESTABLISHMENT	NUMBER AT 1/07/2014
Producers, importers, trading and storage establishments of cheese with protected GIs:	

• Factory processors of PDO and/or PGI cheese	13
• Processors of raw milk cheese /TSG) and/or Boeren-Leidse met sleutels (PDO) cheese	232
• Subsequent processors of PDO, PGI and/or TSG cheese	90
TOTAL	335

SUPERVISION OF PDO, PGI AND TSG CHEESE, RESULTS IN 2015

RESULTS	NUMBER
COKZ inspections in 2015 of cheese with protected GI	
• Factory processors of PDO and/or PGI cheese	361
• Processors of raw milk cheese/TSG) and/or Boeren-Leidse met sleutels (PDO) cheese	485
• Subsequent processors of PDO, PGI and/or TSG cheese	90
Samples/analysis of cheese with a protected designation	
• Factory processors of PDO and/or PGI cheese	361
○ microbiological analysis	158
○ phosphatase activity	5 224
○ compositional analysis	
• Processors of raw milk cheese /TSG) and/or Boeren-Leidse met sleutels (PDO) cheese	485
○ compositional analysis	40
○ phosphatase	
• Subsequent processors of PDO, PGI and/or TSG cheese	38
○ compositional analysis	113
○ phosphatase	

After each inspection:

a debriefing with operators takes place to communicate the outcome of the visit;
reports describing the purpose and the outcome of inspections related to GI products are issued and submitted to the management of the company inspected;
after that, a written report is prepared and sent to the operator a few days after the inspection informing them on the outcome of the inspection, including laboratory results.

This follow-up procedure applies to all CAs, namely the COKZ, NWWA and KCB.

2.2 CONTROLS ON THE MARKET

As already mentioned, the NVWA is responsible for surveillance of the use of the registered names in the marketplace for all GIs (agricultural products and foodstuffs; spirits, aromatised wines and wines). No other ZBO is concerned with controls on wines, aromatised wines and spirits.

In 2016, the NVWA started a programme of surveillance of GIs for agricultural products and foodstuffs in the marketplace in accordance with Regulation (EU) No 1151/2012, although no further relevant data was provided on this topic.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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The NVWA 2015 annual report⁴⁰² on the implementation of the MANCP, in particular its Chapters 2 and 3, includes information on the number of staff carrying out official controls, running laboratory analyses, etc., but figures specifically related to GIs cannot be broken down.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The Dutch authorities have developed the 2014-2018 single integrated **Multi-Annual National Control Plan (MANCP)** for the Netherlands, which also covers the control on GIs and is published on the NVWA website in English⁴⁰³.

No further detailed information was provided on this topic.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The Netherlands is part of the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)** as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between EU Member States. The national contact point for the FFN system is the NVWA.

⁴⁰² The report is available at: <https://english.nvwa.nl/about-us/contents/multi-annual-national-control-plan-mancp>.

⁴⁰³ <https://english.nvwa.nl/about-us/contents/multi-annual-national-control-plan-mancp>.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

The CAs involved in official controls have legal powers to take action in cases of non-compliance. The general framework of the sanctioning systems is primarily established by the Disciplinary Regulation on the Agricultural Quality Act of 12 July 1979, as currently in force (*Tuchtrechtbesluit Landbouwkwaliteitswet*)⁴⁰⁴.

In order to determine the amount of the fine, categories are established, including the value of the goods in respect of which an offence has been committed, or the value of the unlawful benefit enjoyed wholly or partly by means of the offence. Other factors taken into consideration may be the quantity of infringing goods, the experience of the operator, recidivism of the infringers and violations involving labelling or hygiene.

Moreover, CAs have disciplinary tribunals that are competent to apply administrative sanctions.

Besides the previously mentioned Disciplinary Regulation on Agricultural Quality Act, the COKZ and KCB have independent disciplinary tribunals based on the respective disciplinary regulations.

Please see the Guide for more details on the administrative sanctions.

6.2 CRIMINAL PROSECUTION

GIs can be protected through national criminal legislation enacted by the Dutch Criminal Code (*Wetboek van Strafrecht*).

In particular, any persons who, with the intention of establishing, preserving or increasing their or another person's market position, perpetrate any form of deception in order to mislead the general public or a specific person will, if such activity leads to any disadvantage to their competitors or those of that other person, be guilty of engaging in unfair competition and will be liable to a term of imprisonment not exceeding one year or a fine of the fifth category⁴⁰⁵.

More details on the applicable criminal offences are provided for in the Guide.

6.3 FOLLOW-UP OF CASES

The European Commission 'Country profile' drafted for the Netherlands reported tools for systematic follow-up of cases of non-compliance by the NVWA, including databases, such as those that are part of the planning tool ISI database.

The system automatically flags the follow-up inspections. Under legislation on food, non-compliance may

⁴⁰⁴ <http://wetten.overheid.nl/BWBR0003252/2015-01-01>.

⁴⁰⁵ Article 328*bis* of the Dutch Criminal Code.

lead to a second inspection, which must be paid for by the operator. Three possible procedures may be applied for infringements:

- an administrative record;
- a follow-up visit;
- a fine and possible withdrawal of approval.

NVWA inspectors may seize products from the market under criminal law, or hold them under administrative law. The Legal Department coordinates these cases and issues letters confirming that products are being held.

The NVWA has established a Multi-annual Enforcement strategy for 2012-2016 that covers all authorities' areas of competence. This NVWA strategy has identified new elements:

- a risk-based approach to be applied, with a particular focus on repeat offenders;
- agreements signed with industry organisations to exchange industry's self-control information;
- a 'naming and shaming' principle introduced through publishing inspection results (currently applied only to catering establishments).

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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CIVIL ACTION

Under the Dutch law, GIs can be 'indirectly' protected within the framework of civil law, such as:

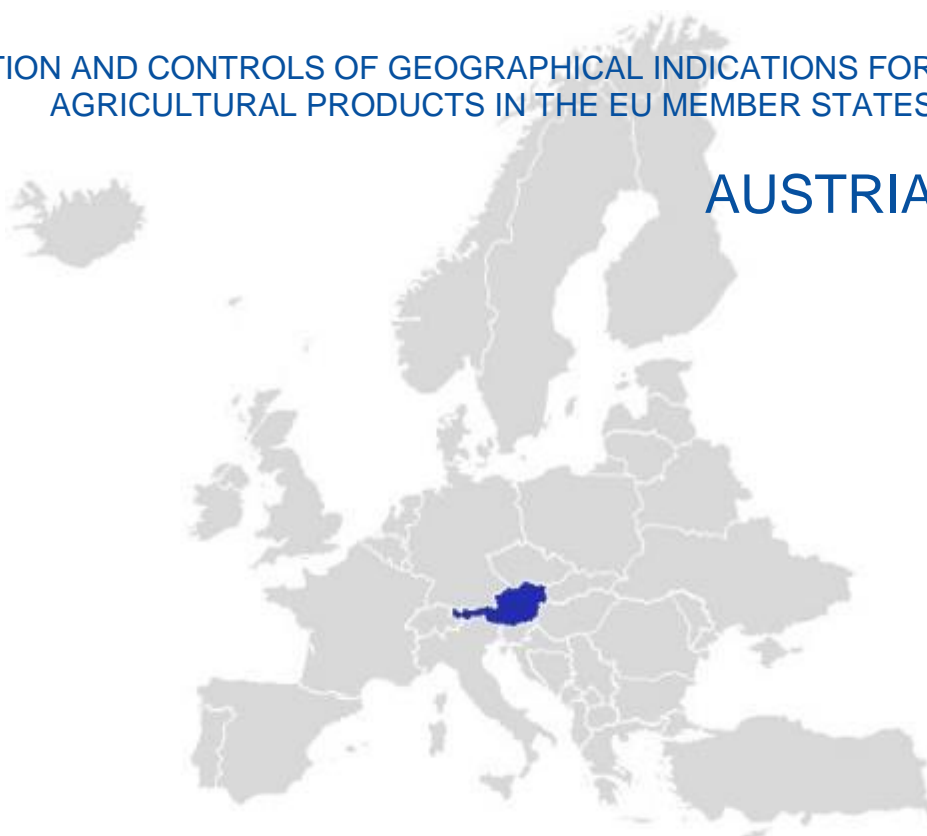
- Trade mark legislation⁴⁰⁶;
- The national unfair competition legislation;
- Dutch Trade Name Act (*Handelsnaamwet*).

Please see the Guide for more details on this topic.

⁴⁰⁶ Benelux Convention on Intellectual Property; Regulation (EU) 2015/2424 on the European Union trade mark; and Directive (EU) 2015/2436 to approximate the laws of the Member States relating to trade marks.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

AUSTRIA



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AA	Accreditation Austria (Akkreditierung Austria)
AGES	Austrian Agency for Health and Food Safety (Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH)
BMGF	Federal Ministry of Health and Women's Affairs (Bundesministeriums für Gesundheit und Frauen)
BMLFUW	Federal Ministry of Agriculture, Forestry, Environment and Water Management (Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft)
BMFWF	Ministry of Science Research and Economy (Bundesministerium für Wissenschaft, Forschung und Wirtschaft)
EU-QuaDG	EU Quality Regulations Implementation Act (EU-Qualitätsregelungen-Durchführungsgesetz)
GESG	Austrian Health and Food Safety Act (Gesundheits- und Ernährungssicherheitsgesetz)
LMSVG	Food Safety and Consumer Protection Act (Lebensmittelsicherheits- und Verbraucherschutzgesetz)
MSchG	Austrian Trade Mark Protection Act (Markenschutzgesetz)
UWG	Austrian Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

Austria is a Federal Republic comprising nine states (*Bundesländer*): Burgenland, Carinthia, Lower Austria, Upper Austria, Salzburg, Styria, Tyrol, Vorarlberg and Vienna. At federal level, the government consists of the Federal Chancellor and Federal Ministers, while each State has an executive body composed of a State Governor (*Landeshauptmann*) and Councillors.

For foodstuff and spirit GIs, the Central CA at federal level is the **Federal Ministry of Health and Women's Affairs**⁴⁰⁷ (**Bundesministeriums für Gesundheit und Frauen — BMGF**), through the following departments:

Department II/B/13 Food Safety and Consumer Protection, Control, Hygiene and Quality;
Department II/B/16 Crisis Coordination, Communication and Law Unit B/16a Food Law and Food Labelling.

For wine GIs, the central CA is the **Federal Ministry of Agriculture, Forestry, Environment and Water Management**⁴⁰⁸ (**Bundesministerium für Land- und Forstwirtschaft, Umwelt und Wasserwirtschaft — BMLFUW**), responsible for the rules and regulations to control product specifications of wines pursuant to the Austrian Wine Act (*Bundesgesetz über den Verkehr mit Wein und Obstwein — Weingesetz 2009*)⁴⁰⁹.

1.2 GENERAL STRUCTURE OF THE SYSTEM

The implementing act for the national control system in Austria on agri-food products and spirits is the **EU Quality Regulations Implementation Act (EU-Qualitätsregelungen-Durchführungsgesetz — EU-QuaDG)**. The Act is an amendment to the **Austrian Health and Food Safety Act (Gesundheits- und Ernährungssicherheitsgesetz — GESG)** and the **Austrian Trade Mark Protection Act 1970 (Markenschutzgesetz — MSchG**⁴¹⁰), and provides the national legal basis for the control system on the organic production and labelling of organic products and GIs.

Responsibilities and tasks for official controls are divided amongst CAs at federal and at state level.

The central authorities are responsible for drafting legislation and coordinating monitoring and training. The national regulation establishes the responsibilities of the CAs.

At regional level, the State Governors implement the federal food policy by following the instructions issued by the central authorities. These regional CAs are responsible for organising controls on GIs, approving the CBs that are located in their region. Once approved, the CBs are eligible to operate

⁴⁰⁷ Radetzkystraße 2, A-1030 Vienna; email: eu-quadg@bmgf.gv.at.

⁴⁰⁸ Stubenring 1, 1010 Vienna.

⁴⁰⁹ Articles 9(5) and 10(9).

⁴¹⁰ BGBl I No 130/2015 <https://www.verbrauchergesundheit.gv.at/Lebensmittel/qualitaetsregelungen/Qualitaetsregelungen.html>
for the English version: https://www.verbrauchergesundheit.gv.at/Lebensmittel/qualitaetsregelungen/BGBLA_2015_I_130_en-GB_korr_rev.pdf?5te4ti.

throughout Austria.

The supervision of the CB is the responsibility of the regional CA in which the CB operates.

CBs are entitled to access premises, obtain information, review documents, take samples and request assistance from the operator⁴¹¹.

Operators are obliged to comply with product specifications, to allow controls and to assist the CAs and CBs in their controlling activities. In particular, operators have the following duties:

to support CB staff and the supervisory bodies in performing control tasks and in fulfilling their duties in the best possible way and, if necessary, to supply persons that are familiar with the company;

to allow the inspection of documents relevant to the control and for the purposes of traceability (company records, delivery schedules, hard copy invoices, data media) or, if this is not possible, to submit these documents within a reasonable period and to prepare copies or printouts free of charge at the request of the CB staff or supervisory bodies or to provide these documents electronically;

to provide CB staff or the supervisory bodies with all the necessary information, in particular with regard to the production, preparation, marketing, storage, import, origin and customers of products, as well as with regard to all units of the company including means of transport that are used to produce, prepare and market products. If this information is not available immediately, the CB or the supervisory bodies will set a deadline by which operators must comply with the relevant request.

Control tasks on the foodstuff and spirits sectors are delegated to authorised CBs.

No CBs have been delegated for official controls on wines.

To ensure management of controls, a control committee will be established at the BMGF for the purpose of coordinating the authorities and CBs, with the following tasks:

elaboration and approval of guidelines and manuals;
elaboration and approval of control plans as part of the integrated long-term control plan, pursuant to Section 30 of the **Austrian Food Safety and Consumer Protection Act (Lebensmittelsicherheits- und Verbraucherschutzgesetz — LMSVG)** for performing the official control;
coordination of authorities with regard to the approval of CBs;
clarification of questions concerning interpretation in relation to controls;
exchange of information in relation to the implementation of the current controls;
elaboration and approval of lists of measures in relation to regulations pursuant to Article 1, as well as if a clear or gross breach of regulations relating to food, animal welfare, feed, wine, pesticides, fertilisers or seeds is suspected.

Legal status and powers of staff of Competent Authorities

According to the EU-QuadDG, for the purposes of official controls, inspectors are authorised to carry out any investigations and, in particular:

to enter the relevant premises, buildings and means of transport;
to gather the necessary information and to question persons;
to inspect business documents in hard copy and on data media and if necessary, to prepare copies or printouts or to have such copies and printouts produced electronically;

⁴¹¹ Article 6 EU-QuadDG.

to take samples pursuant to the provisions relevant to the taking of samples against acknowledgement of receipt without reimbursement;
to obtain assistance in performing investigations and controls.

The performance of a control may be enforced if acceptance thereof is refused. In this case, the bodies of the public safety authority will provide assistance to the supervisory bodies and the staff of the CBs with regard to their request, to ensure that the control powers are exercised within the scope of their statutory area of responsibility.

Furthermore, amongst their obligations in the performance of official controls, inspectors must exchange information on results of controls, in particular for the purposes of verifying traceability.

Capacity of laboratories

As regards laboratories, tests of official samples are performed by the federal laboratories under the umbrella of the **Austrian Agency for Health and Food Safety (Österreichische Agentur für Gesundheit und Ernährungssicherheit GmbH — AGES)** in: Vienna (headquarters), Innsbruck (Tyrol) and Linz (Upper Austria). In addition, official food testing is carried out outside the AGES by three provincial testing institutions in the provinces of Carinthia, Vorarlberg and Vienna.

If required, the official laboratories are permitted to subcontract work to accredited laboratories in other European countries.

All laboratories have obtained ISO 17025 accreditation from the Austrian Accreditation Body, **Accreditation Austria (Akkreditierung Austria — AA)**.

1.3 CONTROL BODIES

According to the EU-QuaDG, the State Governor is the CA for official controls pursuant to Regulation (EC) No 882/2004.

The control to verify compliance with product specifications pursuant to Article 36(3)(a) of Regulation (EU) No 1151/2012 (agri-food), product specifications pursuant to Article 22 of Regulation (EC) No 110/2008 (spirits) and requirements of Regulation (EC) No 834/2007 (labelling) are delegated to CBs that have been approved by the CA.

The CB must be approved by the State Governor after written application by the CB to the State Governor, in so far as the following requirements are met and compliance is not related to the performance of administrative procedures:

compliance with the conditions pursuant to Regulation (EC) No 882/2004 and the minimum requirements and procedures for controls;

the accreditation as a CB for products pursuant to the Accreditation Act 2012 or for a CB with its head office in another EU Member State or signatory to the Agreement on the European Economic Area (EEA Member State) or an equivalent accreditation in the Swiss Confederation.

The approval is issued for the entire federal territory. Controls on operators of agri-food and spirit GIs are delegated to seven approved CBs.

These CBs are supervised at the office by the Governor of the Province in Austria where they have been approved. The supervision of the CBs, as reported in the following paragraph, is performed on the basis

of work instructions from a quality management system of the CAs. Office audits of the CB's headquarters take place annually. Audits during the control activities carried out by CBs are performed as necessary.

As regards wines, the related control measures are established in the Austrian Wine Act ⁴¹². The following CBs are designated at central level for wines, namely:

Bundeskellereiinspektion (Marxergasse 2, A-1030 Vienna);

Bundesamt für Weinbau (Gölbeszeile 1, A-7000 Eisenstadt);

Education and Research Centre for Viticulture and Pomology (Wiener Str. 74, A-3400 Klosterneuburg).

In the wine sector, monitoring of compliance with product specifications is done only by the three central CBs responsible.

1.4 ACCREDITATION BODY

All CBs are accredited by the **Ministry of Science Research and Economy (Bundesministerium für Wissenschaft, Forschung und Wirtschaft — BMWFW)** in accordance with ISO/IEC17065:2012 (General requirements for bodies operating product certification systems) and are subject to regular surveillance and reassessment by the national accreditation body, AA.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

According to the EU-QuaDG, CBs are subject to supervision by the State Governor and are bound by the Governor's instructions and directions.

According to the Federal Act on the accreditation of conformity assessment bodies, the CB must provide the State Governor with:

the decision issued by the accreditation body;

the assessment reports concerning the regular on-site evaluation, monitoring and long-term reassessment of its tasks by the accreditation body.

The State Governor issues the necessary instructions and directions to ensure that control tasks are carried out pursuant to the legal provisions.

The State Governor may also organise audits of the CBs' tasks pursuant to Regulation (EC) No 882/2004. A report must be prepared for each audit. Experts from other authorities can accompany the supervisory bodies of the State Governor during audits.

For the wine sector, the three abovementioned central CBs (*Bundeskellereiinspektion*, *Bundesamt für Weinbau*, Education and Research Centre for Viticulture and Pomology) are supervised by the BMLFUW.

1.6 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

No other Austrian authorities or bodies have specific competences in relation to the verification of the

⁴¹² *Bundesgesetz über den Verkehr mit Wein und Obstwein (Weingesetz 2009)*, BGBl. I No 111/2009. Available in German at: <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20006524>.

compliance with product specifications of products protected by GIs.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

The BMGF adopts an annual national control plan based on risk assessments and statistical data for the official control of companies and products within the scope of the long-term integrated control plan. The basic principles of the plan are published. It is prepared in collaboration with the AGES and the individual Austrian regions in various working groups.

The State Governor and the CBs are responsible for compliance with the control plan. An action report for the previous year is communicated to:

the State Governor by the CBs by 1 March of the following year;
the office of the State Governor in the agency by 31 March of the following year.

Inspection and sampling are carried out in accordance with the national control plan. Risk-based national targets are incorporated into the control and sampling plan by means of specific campaigns. The control plan covers all establishments dealing with food and is risk based for food safety and general labelling issues.

To date, there has been no specific risk analysis for the official controls of GI products on the market in Austria.

Nevertheless, there are nine risk categories, based on volume of production, on the risk associated with the company and on the results of previous inspections. Information is given in the **Multi-Annual National Control Plan (MANCP)** (2017-2019) and Austria's 'Country Profile'.

For the wine sector, inspections and sampling are carried out in accordance with a control and sampling plan.

The plan is prepared by the head of the Bundeskellereiinspektion, is risk based and follows specific risk categories, such as size of the holding, amount of wine produced, number of quality wine checks, numbers refused, etc. The control plan covers all establishments.

Austrian wines have to undergo two rigorous inspections, firstly through a chemical analysis and additionally through a tasting panel composed of qualified and state-authorised wine tasters.

CBs do not generally announce their audits. However, in practice, to ensure that the relevant personnel are present, some notice is given. The CB inspector always prepares a report on each inspection and gives a copy to the **Food Business Operator (FBO)** inspected. A copy of each inspection report is not automatically provided to the regional CAs. This would only happen in the event of a serious non-compliance being detected and this situation has not arisen to date.

CBs and CAs work in accordance with a Quality Management System Handbook. This procedure is also

valid for wine.

2.1.2 *Verification of compliance with product specifications*

In the agri-food and spirit sectors, CBs carry out verifications on the basis of risk assessment. Moreover, verification of product compliance is conducted on the basis of a quality assured standard control programme, according to the requirements of the product specifications before placing the products on the market. Certification is issued for the product and the operator, when compliance is verified.

As regards the verification of compliance with product specifications, the EU-QuadDG sets forth obligations of operators to:

- support the control activity;
- allow the inspection of documents relevant to the control;
- provide information regarding the production, preparation, marketing, storage, import, origin and customers of products, as well as regarding all units of the company, including means of transport that are used to produce, prepare and market products.

In addition, any operator, recognising or having reason to assume that a product that the operator has marketed may not comply with legal provisions must notify the relevant CB without delay.

As regards wines, each GI wine must undergo an analysis and an official tasting procedure, in accordance with the Austrian Wine Act.

No further detailed information was available on operational aspects of how controls of compliance are performed.

2.2 CONTROLS ON THE MARKET

Market controls cover products in the scope of the EU-QuadDG in the framework of the general control and sampling plan (National Control Plan) of the LMSVG and the risk assessment is carried out by taking account of the general risk of labelling.

Surveillance of the use of the name in the marketplace is undertaken by the regional CAs. This involves site visits to supermarkets every 3 years and in some regions, specific campaigns have been organised.

For wines, surveillance of the use of the name in the marketplace is carried out by the Bundeskellereiinspektion.

Each Austrian quality wine (*Qualitätswein*) is assigned a unique state control number. This confirms that the wine has undergone a chemical and sensory analysis in a federal bureau of oenology. In Austria, bottled quality wines also have the red-white-red banderol seal (to symbolise the national flag), imprinted with the winery registration number, on either the capsule or screw cap closure.

Surveillance of the use of the name in the marketplace by CAs is always unannounced and no copy of the report is given to the FBOs unless cases of non-compliance are detected.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

According to data available from national authorities on resources for controls on GIs in the food sector, given the broad scope of CA activities under the LMSVG and the Eu-QuaDG, it is not possible to break down the number of full-time equivalents specifically allocated to GIs.

As regards training, workers within each regional CA receive training in accordance with the LMSVG Ordinance on basic and continuing training (*Aus und Weiterbildungsverordnung*, BGBl II, No 275/2008).

The continuous training of the staff in accordance with the above ordinance is the responsibility of the regional CAs.

The CBs themselves are responsible for the initial and ongoing training of their staff and for ensuring that their staffing numbers are sufficient. As described in the Quality Management Handbook, compliance of such training activities is checked by the accreditation department and the CAs as part of their monitoring activities.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

To ensure transparency of controls, guidelines, manuals, control plans and lists of measures are published by the BMGF on its home page, in so far as this does not conflict with the intended purpose of the control.

In the wine sector, all results of controls, analysis and tasting are stored in a database managed by the BMLFUW.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As regards foodstuffs and spirits, information is shared between State Governors, CAs, CBs, the accrediting body and the BMGF. The BMGF informs the European Commission in particular cases.

In the wine sector, coordination is ensured under Regulation (EC) No 436/2009 and, in addition, through several bilateral contacts between the *Bundeskellereiinspektion* and CBs in other Member States.

Austria also makes use of the **Administrative Assistance and Cooperation System (AAC)**, which facilitates the exchange of information regarding food fraud between Member States. The BMGF is the responsible contact point in Austria within the AAC system.

Austria is part of the **Rapid Alert System for Food and Feed (RASFF)**, which facilitates the exchange of relevant food product safety information between EU authorities. AGES houses the Austrian contact point for the administrative processing of RASFF reports (RASFF Salzburg liaison centre). It is here that all reports are recorded, evaluated and forwarded to the relevant authority or authorities. The manner in which individual cases are processed depends upon whether the goods involved were actually or possibly delivered to Austria or whether any connection to Austria can be ruled out.

As reports are forwarded to the authorities, action can be taken quickly. The relevant federal state authority visits the business named in the report immediately and initiates measures depending on the type of risk. For instance, it can take samples, prohibit any further distribution of the goods and establish whether these have been delivered to other Austrian or Member States. The authorities of the Austrian states involved are informed immediately in the event of delivery to any of them.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

In the area of official controls of GIs in the agri-food and spirit sectors, the CAs have the right and the duty to impose appropriate measures according to the nature of the non-compliance⁴¹³.

In the wine sector, sanctions and procedures are established by the Austrian Wine Act⁴¹⁴.

More details on administrative sanctions are provided in the Guide.

6.2 CRIMINAL PROSECUTION

Cases of suspected misuse of GIs are referred to the public prosecutor's office.

Article 68(h) of the MSchG provides for criminal sanctions in cases of infringements of GIs.

The offences will be prosecuted only upon request by a person entitled to the use of the protected GI or designation of origin.

As for the competent court, criminal prosecution falls in the exclusive jurisdiction of the Criminal District Court of Vienna.

Please see the Guide for more details on criminal prosecution.

⁴¹³ Legal basis is EU-QuaDG, Section 6 (8) and Section 18.

⁴¹⁴ Articles 61 to 64.

6.3 FOLLOW-UP OF CASES

To perform their control tasks CBs exchange relevant information regarding the results of their controls at the request of another CB or in so far as is necessary to perform the control, in particular to guarantee traceability. Where cases of non-compliance are identified during inspection, CBs have a catalogue of measures to which they refer.

Where serious irregularities are established during controls, the CBs notify the regional CAs in accordance with Section 7(2) EU-QuaDG. If necessary, the State Governor must inform the CA responsible for compliance with the general statutory requirements, as well as the office of the control committee in the agency without undue delay. The latter imposes any measure/penalty in accordance with the proportionality principle (notice, administrative measures, marketing ban, administrative sanctions).

The State Governor will be informed of the outcome of the criminal proceedings and will inform the competent CB that reported the non-compliance.

6.4 EX OFFICIO PROTECTION

Although information collected confirmed that the protection of GIs is ensured by public authorities without a request, according to EU regulations (*ex officio* protection), no detailed data on this topic was provided.

7. REMEDIES FOR USER

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

In addition to the appropriate measures taken by food safety authorities, those entitled to legal protection may seek redress in cases of infringement of protected designations of origin by means of applying for an injunction, removal of the products from the market and damages.

According to the MSchG, whoever performs acts that infringe the rights conferred by EU regulations on GIs may be sued by parties entitled to the use of the protected GI or by associations for the promotion of economic interests of entrepreneurs, as far as these associations represent the interests affected by the alleged illicit acts.

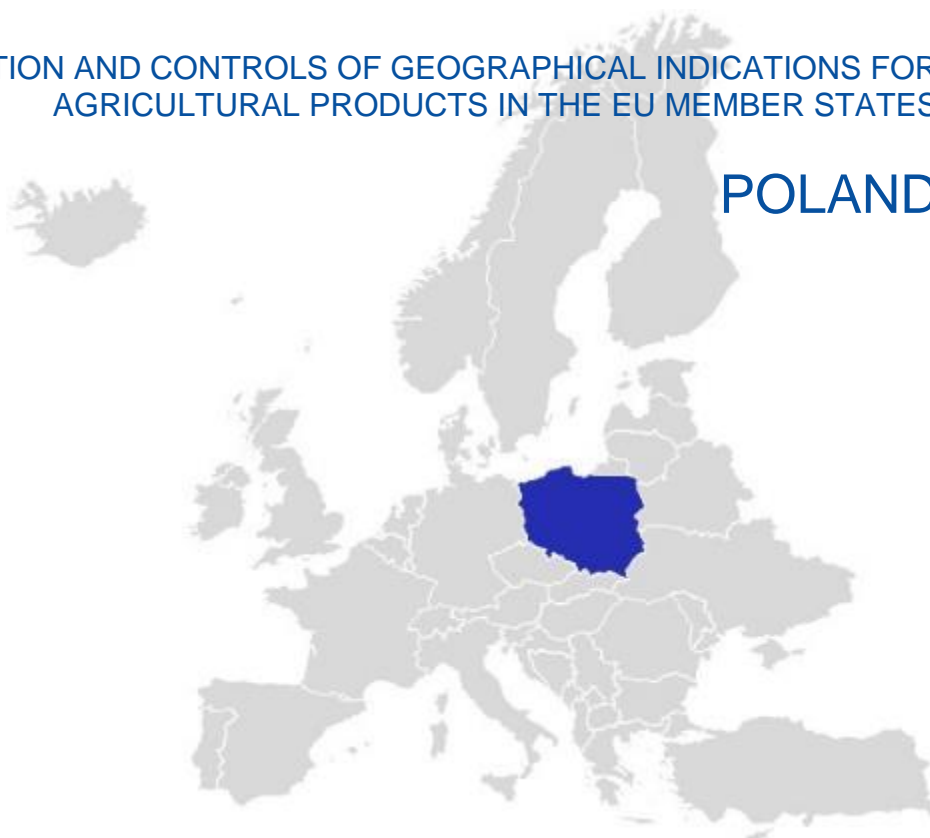
However, there are also other entities entitled to action against a misuse of GIs, in particular the Federal Chamber of Labour (Bundesarbeitskammer), the Austrian Chamber for Trade and Industry (Bundeskammer der gewerblichen Wirtschaft), the Standing Conference of the Presidents of the Agricultural Chambers in Austria (Präsidentenkonferenz der Landwirtschaftskammern Österreichs) and the Austrian Trade Union (Österreichischer Gewerkschaftsbund).

Furthermore, in cases of misuse or the misleading use of a protected GI, provisions of the **Austrian Act Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb — UWG)** may apply for the protection of signs and the respective indications of origin.

Please see the Guide for more information on civil actions.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

POLAND



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

AFQI	Agricultural and Food Quality Inspection (Inspekcja Jakości Handlowej Artykułów Rolno-Spożywczych -IJHARS)
MARD	Ministry of Agriculture and Rural Development (Ministerstwo Rolnictwa i Rozwoju Wsi)
OCCP	Office for Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów)
PCA	Polish Centre for Accreditation (Polskie Centrum Akredytacji)
TI	Trade Inspection (Inspekcja Handlowa - IH)
VAFAQIs	Voivodeship Inspectors of AFQI
ZSI	Integrated Informatics System (Zintegrowany System Informatyczny)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The national central authority of the Polish GI control system is the **Ministry of Agriculture and Rural Development (Ministerstwo Rolnictwa i Rozwoju Wsi — MARD)**, which is responsible for setting up policies and strategies, as well as for maintaining contact with the European Commission concerning GIs.

Moreover, the MARD is responsible for authorising control bodies (CBs) and is the competent authority (CA) for assessing requests for registration of products.

1.2 GENERAL STRUCTURE OF THE SYSTEM

There are two CAs for controls in the Polish national system for controls on GIs, namely the **Agricultural and Food Quality Inspection (Inspekcja Jakości Handlowej Artykułów Rolno-Spożywczych IJHARS — AFQI)**, and the **Trade Inspection (Inspekcja Handlowa IH — TI)**.

In particular, the AFQI is directly accountable to the MARD: it is the CA responsible for supervising the quality of agri-food, wines and spirit drink GIs and for verifying compliance with the product specifications during the production phase.

AFQI carries out its activities under the Commercial Quality of Agri-Food Act and other legal provisions concerning, inter alia, the organisation of the fruit and vegetable market, the hops market, production and bottling of wine products and the production of spirits. In particular, the AFQI is in charge of the following tasks:

- control of conformity of the production process of GI products with the technical specifications;
- control of specificity of the product, its particular features and high quality and protection against unfair trade practices and any direct or indirect commercial use, any misuse, imitation or evocation, as well as any other practice that may mislead consumers about the true origin of the product;
- cooperation with bodies carrying out controls on GIs in other countries;
- supervision of the CBs authorised by the MARD.

These tasks are carried out by the Chief Inspector of the AFQI and 16 Voivodeship⁴¹⁵ governors with the help of **Voivodeship Inspectors of AFQI (VAFQIs)**.

The GI Registration and Protection Act was amended by the Act of 10 June 2016 and the new provisions entered into force on 26 July 2016. The reform was introduced following the past experience in operating the GI system and the entry into force of Regulation (EU) No 1151/2012. The key objective was to increase the transparency and effectiveness of the control system. Therefore, apart from the verification of compliance with the product specifications carried out upon request of the producer, the entities involved in the control (MARD, AFQI, Chief Inspector of AFQI, the VAFQIs and authorised CBs) can also carry out the inspection after the certificate of quality or certificate of conformity has been issued.

⁴¹⁵ Poland is divided into 16 voivodeship (provinces)

The AFQI also has competence for controlling the use of registered names in the marketplace, with the aim of eliminating products from the market that are unlawfully labelled as GIs or with names imitating GIs.

In particular, the objective of this control is to ensure that registered names are protected against any misuse, imitation or evocation and against any other practice liable to mislead the public about the true origin of the product. This refers only to controls on producers or wholesalers supplying enterprises, while the AFQI does not control products on the retail market.

According to the Commercial Quality of Agri-Food Act⁴¹⁶, the AFQI carries out the official control on GIs for foods and agriculture products, wine products and spirits.

As regards wines⁴¹⁷, there are no registered names for wines in Poland, so verification of compliance with product specifications at a producer's request has not been carried out as yet.

Moreover, as regards spirits, the associated Act⁴¹⁸ does not regulate the issue of verification of compliance with product specifications at a producer's request (there are no CAs and CBs). However, an official control of spirit drinks with GIs is carried out by the AFQI⁴¹⁹.

The TI of the **Office for Competition and Consumer Protection (Urząd Ochrony Konkurencji i Konsumentów — OCCP)** is in charge of planning and coordinating inspections at retail level for agri-food, wines and spirit drink GIs, under the Act of 15 December 2000 on Trade Inspection.

It is in charge of the control of the commercial quality of food products, labelling and conformity with producers' declarations. The tasks of the TI are carried out by 16 Voivodeship governors with the help of Voivodeship inspectors. The latter are the heads of the provincial TI, which is part of the central administration in the province. Provincial inspectorates have 34 delegations located in major cities of the provinces.

The President of the OCCP:

- organises and coordinates controls at national level;
- controls the implementation of tasks by provincial inspectors;
- issues guidelines and recommendations to ensure the uniformity of the Trade Inspection procedures and supervision of their implementation;
- organises training for inspectors;
- analyses and assesses the functioning of the market and the state of consumers' protection;
- is responsible for coordinating laboratories.

⁴¹⁶ Article 17(1)(e), (f) and (g) of the Commercial Quality of Agri-Food Act.

⁴¹⁷ The Act of 12 May 2011 on production and bottling of wine products, marketing of these products and organisation of wine market applies.

⁴¹⁸ Act of 18 October 2006 on production of spirits and the registration and protection of GIs of spirit drinks

⁴¹⁹ Article 12(1) of Act of 18 October 2006 and Article 17(1), point 1(g) of the Commercial Quality of Agri-Food Act.

Legal status and powers of staff of Competent Authorities

Inspectors have the legal status of civil servants. In particular, when performing the official controls of commercial quality, AFQI staff are entitled to⁴²⁰:

- access the premises, facilities and rooms of the controlled entities and move around in the area and inside the buildings;
- access the means of transport of the controlled entities and inspect them;
- ask for written or oral information related to the subject of control;
- ask for records related to the subject of control to be shown;
- take samples for testing free of charge;
- ask for the preparation of a photocopy and official translation into Polish of the documents that are written in a foreign language if related to the subject of control;
- prove the identity of persons residing at the auditee's premises when the checks are being carried out;
- secure documents, agri-food and other items related to the control;
- impose sanctions.

Capacity of laboratories

Official and accredited laboratories perform tests and analyses on GI products. In particular, analysis is carried out at six official accredited AFQI laboratories — one central laboratory and further specialised laboratories — at national level, and within the structure of the AFQI's Chief Inspectorate. GIs are controlled in these laboratories, like any other product examined by the VAFQIs.

Methods of laboratory analysis comply with the EU criteria and are performed on the basis of the Commercial Quality of Agri-Food Act. The methods of analysis and sampling are determined in the legal acts currently in force: this assures that the control procedures are uniformed.

The **Polish Centre for Accreditation (Polskie Centrum Akredytacji — PCA)** accredits all the inspection laboratories in accordance with ISO/IEC 17025.

Laboratories are gradually expanding their range of accredited methodologies. This strengthens specialisation in each individual agri-food product group. In 2015, AFQI's laboratories increased their scope of accreditation with 225 further methodologies in the area of classical and instrumental chemical analysis, including those requiring development of test procedures and their validation. Consequently, a total number of 1 044 accredited methodologies has been reached.

The OCCP includes five laboratories in its structure (based in Katowice, Kielce, Olsztyn, Poznań and Warszawa), which perform the analysis of the samples of food products taken during controls carried out by local officers of the Trade Inspection.

Each laboratory performs analysis for more than one Voivodeship Inspectorate of TI. The laboratories have modern equipment for instrumental and molecular analysis, new devices for classic analysis, auxiliary and complementary devices in compliance with the requirements of EU legislation regarding the laboratory analysis performed in the framework of official food controls⁴²¹.

⁴²⁰ Article 17(1), point 1(e), (f) and (g) of the Commercial Quality of Agri-Food Act or the control carried out according to Article 39(1), point 5 of the GI Registration and Protection Act.

⁴²¹ MANCP 2015-19, p. 28-29.

1.3 CONTROL BODIES

CBs are selected by producers. There are five CBs⁴²² that are authorised by the MARD with competence in agricultural markets:

PNG Sp. z o.o.;
COBICO Sp. z o.o.;
BIOCERT MAŁOPOLSKA Sp. z o.o.;
QA Solutions Sp. z o.o.;
Polskie Centrum Badań i Certyfikacji w Warszawie.

The bodies that are interested in becoming CBs for GIs must submit their application to the MARD (GI Unit), providing the following documents together with the application for authorisation:

an accreditation certificate to carry out inspections, issuing and revoking certificates attesting the compliance of the production process of the agricultural products and foodstuffs with a protected GI;
official confirmation of running business activity;
the organisational chart of the body with a clear indication of the organisational unit that is responsible for conducting checks, issuing and revoking certificates attesting conformity of the production processes of agricultural products and foodstuffs with a protected GI;
contact data.

In particular, CBs can only be approved after their accreditation in accordance with EN 17065:2012 by the national accreditation body, the PCA.

1.4 ACCREDITATION BODY

As mentioned above, the accreditation body in the Polish control system is the PCA⁴²³, which is in charge of issuing accreditations in accordance with ISO/EC 17065:2012.

1.5 SUPERVISION OF COMPETENT AUTHORITIES AND CONTROL BODIES

A uniform approach by the VAFQIs in verifying compliance with product specifications is ensured by control programmes issued by the Chief Inspector of the AFQI and by the procedure 'Instruction regarding verification of compliance with the product specifications for agricultural products or foodstuffs',⁴²⁴.

Supervision of CBs

In the case of controls carried out by CBs, there are procedures regulating:

the method for performing the controls;
the frequency;
the cost.

The PCA assesses these procedures and the AFQI evaluates the efficiency of controls carried out by

⁴²² More information on CBs is available at: <http://www.ijhars.gov.pl/index.php/wykaz-upowaznionych-jednostek-certyfikujacych.html>.

⁴²³ <https://www.pca.gov.pl/en/>.

⁴²⁴ Procedure BRE-06-IR-01.

different bodies, as a part of its surveillance duties.

A uniform procedure for the verification of compliance is ensured by the control plan for individual products. These control plans are prepared by CBs and then approved by the Chief Inspector of the AFQI.

The GI Registration and Protection Act regulates the AFQI supervision of CBs⁴²⁵. The Chief Inspector of the AFQI supervises CBs through audits and inspections. The AFQI carries out controls on their registered offices and on the premises of producers controlled by these CBs.

The objective of controls on the registered offices of CBs is to verify whether a CB:

is provided with and applies appropriate procedures relating to the control and certification of products;
has an office with appropriate technical equipment;
has properly qualified inspectors;
carries out control activities in a reliable, efficient and objective manner.

The Chief Inspector:

checks the documentation concerning the controls on producers of agricultural GI products;
analyses the data submitted by the CBs;
transmits the conclusions from controls to the CBs with the time limits set for correcting the non-compliance;
imposes on the CBs adequate corrective measures to implement during the specified period;
approves the plan for the verification of compliance.

If the Chief Inspector deems the CB not to be implementing its tasks or the corrective measures properly, it is possible to issue a decision prohibiting the CB from accepting new requests for compliance checks and to impose additional corrective measures on the CB. The corrective measures have to be implemented over a prescribed period.

The main objective of the control on producers is to verify whether the CB carries out controls in a reliable, efficient and objective manner, in accordance with the applicable legislation and the control plans approved by the Chief Inspector.

As already mentioned, the GI Registration and Protection Act was amended by the Act of 10 June 2016. In accordance with these changes, the Chief Inspector of the AFQI can impose pecuniary fines on CBs that fail to comply properly with the obligations imposed on them and order them to execute corrective actions. Before this change, the Chief Inspector only had the possibility of asking the MARD to withdraw the authorisation given to the CB.

Supervision of the AFQI

According to the **Multi-Annual National Control Plan 2015-19 (MANCP)**, as a result of the certified quality management system based on ISO 9001:2009, the AFQI has internal and external audits to supervise and analyse the effectiveness of its processes. The aim is to assess whether the quality management system complies with the plans and if it is necessary to take corrective or preventive actions.

In particular, internal audits are carried out at the level of the Chief Inspectorate and Voivodeship inspectorates of the AFQI. Additionally, internal cross-audits are planned in the selected AFQI units for

⁴²⁵ Article 40 of the GI Registration and Protection Act.

compliance with the requirements of Regulation (EC) No 882/2004 and internal procedures.

Internal audits are carried out by AFQI employees that have the necessary qualifications (knowledge of the requirements of ISO 9001: 2009, Regulation (EC) No 882/2004, other applicable laws and knowledge of the functioning of the Inspectorate).

To determine the frequency and object of internal audits, the results of previous audits, the status and validity of particular processes, areas of action in the implementation of quality objectives and specific tasks are taken into account. In general, the internal cross-audits are planned every 3 years and the remaining internal audits are planned annually.

As regards the supervision of the activity of the TI, according to the current MANCP 2015-19, the President of the OCCP has the right to control the implementation of statutory tasks by Voivodeship Inspectors⁴²⁶.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

The independence of the public administration from private bodies is guaranteed by Polish law and in particular by the provisions of the Act on the Code of Administrative Procedure, the Constitution and the Act of 24 August 2006 on the Civil Service.

According to the Polish Constitution, a corps of civil servants will operate within the organs of government administration in order to ensure a professional, diligent, impartial and politically neutral discharge of the State's obligations.

Moreover, the law considers several causes for excluding an employee from proceedings, such as conflicts of interests (e.g. personal or family relations), having acted as a witness or expert or representative of one of the parties, having participated in the issue of a contested decision, etc.⁴²⁷.

According to the Act of 21 November 2008 on the Civil Service (repealing the Act. of 24 August 2006), civil service corps members are not allowed to undertake additional employment without written permission from the relevant Director-General, or to perform activities or actions that are contradictory to their duties stipulated in the law or that undermine confidence in the civil service.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

Controls belonging to the scope of activities of the AFQI are also performed by the customs service⁴²⁸. In general, the Polish customs service is involved in the control of the goods suspected of infringing IPRs, which can also be temporarily seized.

To enhance the efficiency of the supervision of GI products in retail and in accordance with the changes introduced to the legislation in 2016, the AFQI and the TI must cooperate closely.

The TI also cooperates closely with other official bodies in its actions, based on the Regulation of 5 March 2002 on the method of cooperation between the TI bodies and district (municipal) consumer ombudsmen, central and local administration entities, control bodies and non-governmental organisations representing consumers' interests.

⁴²⁶ Article 10(1), point 2 of the Act of 15 December 2000 on Trade Inspection.

⁴²⁷ Article 24 of Code of Administrative Procedure.

⁴²⁸ Article 18(a) of Commercial Quality of Agri-Food Act.

Pursuant to an agreement concluded between the President of the OCCP and the Chief Inspector of the AFQI, control samples are tested in laboratories on the basis of reciprocity. Official food control agencies also keep each other informed about the results of controls and take joint actions in order to remove adulterated products from the market.

Currently, the general agreement of 21 December 2009 between the Chief Inspector of the AFQI and the President of the OCCP governs cooperation in all areas, including GIs.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

AFQI's control activities are carried out on the basis of specific procedures, namely:

'Control planning and development of aggregate information from inspections carried out'⁴²⁹;
'Organisation, planning and detailed rules and procedures in carrying out the control and assessment of commercial quality by AQFI employees'⁴³⁰.

Basic principles of control activities of the AFQI are set out in the annual framework control plan, approved by the Chief Inspector of the AFQI and transmitted to the VAFQIs for implementation. The following criteria are taken into account when qualifying topics for control proceedings in a given year:

statutory tasks set out in the Commercial Quality of Agri-Food Act and other statutes giving competences for AFQI actions;
proposals for control topics from the MARD and other institutions cooperating with the AFQI;
control topics resulting from the risk analysis, including information from other institutions and results of AFQI controls from previous years.

On the basis of the annual plan, the quarterly guidelines for the control plan are developed. The guidelines specify planned control topics: aims and basic principles of control, scope and deadlines, the number of controlled units and samples of given products to be taken during the inspection to undergo laboratory analysis.

For each control topic contained in the guidelines, a control programme is prepared, providing detailed guidance on implementing the specific topic. The quarterly guidelines and the control programmes are approved by the Chief Inspector and transmitted to the VAFQIs.

Official controls on producers are also carried out in the same planning framework to verify whether the producers that obtained the certificates of compliance with product specifications meet the specification requirements throughout the validity period of the certificates. These controls are carried out, inter alia, during a planned inspection of commercial quality of foods and agricultural products.

⁴²⁹ Procedure PG-BKJ-01.

⁴³⁰ Procedure BKJ-01-IR-01.

Compliance controls on the production process at the request and expense of the producers are carried out by the VAFQIs⁴³¹.

In general, no prior warning is given.

2.1.2 Verification of compliance with product specifications

As already mentioned, the Chief Inspector elaborates guidelines concerning proceedings of the VAFQIs during official controls on GIs. The control includes at least one of the following activities:

- checking the identification documents of the product, quality certificates, laboratory results and other documents attesting the quality;
- examination of the packaging, labelling, presentation of the product and the conditions for its storage and transport;
- visual inspection of the product;
- sampling and performance of laboratory tests;
- determining the quality class of the product;
- checking the method of production or the correctness of the technological process.

Inspectors are formally authorised to implement each of the controls mentioned above.

During the verification of compliance, inspectors also check the labelling of products to verify whether the product bearing a GI logo complies with the product specifications. Only products meeting the set conditions can be placed on the market with the relevant designation of quality (GI).

After each control, the inspector drafts a report, which contains information regarding the period of control, the name of the inspector and the auditees and a description of facts (including irregularities identified and persons responsible).

In the event of irregularities, the inspector issues recommendations and requires corrective actions to be implemented within a set period. The head of the audited entity has the right to provide comments and/or refuse to sign the report.

Costs of verification of compliance with the product specifications are borne by the producer and are calculated on the basis of the relevant regulation of the MARD⁴³².

Organoleptic controls are carried out on food products during verification of compliance.

As regards spirits, the related act⁴³³ does not regulate the issue of verification of compliance with the product specifications upon a producer's request (there are no CAs and CBs). However, an official control of spirit drinks with GIs is carried out by the AFQI⁴³⁴.

2.2 CONTROLS ON THE MARKET

The CA for surveillance of the use of the name in the marketplace at retail and wholesale level is the TI.

⁴³¹ Article 39(1) point 4 of the GI Registration and Protection Act.

⁴³² Regulation of 16 December 2015, regarding rates for travelling to the location where an assessment is being made, rates for activities involved in preparing the assessment, costs of laboratory testing and issue of commercial quality certificates, as well as the method and time limit for making payments.

⁴³³ Act of 18 October 2006, on the production of spirits and the registration and protection of GIs of spirit drinks.

⁴³⁴ Article 12(1) of the Act of 18 October 2006, on the production of spirits and the registration and protection of GIs for spirit drinks and Article 17(1), point 1(g) of the Commercial Quality of Agri-Food Act.

As regards controls before the product is placed on the market, the AFQI is officially in charge of checks on wholesalers that supply goods to other enterprises (e.g. individual shops). As regards warehouses where end-users might buy products, TI performs controls, even if this is not clearly stated in the legal provisions.

The TI performs its tasks on the basis of periodic control plans. Moreover, if justified in the interests of consumers, unplanned national or local controls can also be carried out.

The control activities are planned, determining the lines of action, control plans and VAFQIs' control plans.

The President of the OCCP sets up the lines of action of the TI and the control plan. In particular, the lines of action are established for the duration of the government policy relating to consumer protection and the control plan is established annually. The control plan takes into account:

- the statutory tasks of the TI;
- lines of action;
- market situation affecting the protection of consumers' interests;
- proposals submitted by the VAFQIs of the TI;
- information provided by consumers;
- conclusions from central and local government bodies and non-governmental organisations, responsible for the protection of consumers' interests.

Control plans of Voivodeship inspectorates are established on a quarterly basis, taking into account:

- the annual control plan;
- needs identified by the Voivodeship governors;
- requests made by the local authorities, including proposals for the district (municipal) consumer ombudsmen;
- complaints reported by consumers;
- requests from organisations protecting consumers' interests .

Control plans also include sampling plans, which are further detailed in the control programmes prepared for the specific control topics.

Control procedures are regulated, inter alia, in the Act on Trade Inspection and Recommendations of the President of the OCCP (updated following the mentioned changes to the legislation). The recommendations give solutions to problems usually encountered during inspections. Detailed guidance is included in the control programmes.

The President of the OCCP and 16 Voivodeship governors carry out the tasks of the TI, with the VAFQIs participating.

In particular, the President of the OCCP is the appeal body in administrative proceedings initiated and carried out by the VAFQIs.

Moreover, if the AFQI finds any inappropriate usage of registered names on the market or receives alerts from authorities from another EU Member State, it can carry out controls on producers or communicate the matter to the OCCP.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The AFQI has two FTE employees involved in controls.

Moreover, there are trained officers in each Voivodeship Inspectorate of the AFQI, but not all the VAFQIs have the same workload related to GI controls. In 2016, checks at the request of producers were carried out in 10 Voivodeship Inspectorates of the AFQI. In the Inspectorates that cover the largest number of GIs, there are at least two inspectors dealing with GIs; however, they do not deal exclusively with the control of GIs.

The employees of all Voivodeship Inspectorates of the AFQI receive training on GIs at least once a year.

The rules of training for civil servants apply to all staff. Those taking a job in the civil service for the first time must (with some exceptions) undergo preparatory training for civil servants. Since November 2009, all civil servants have been subject to an annual review during which the quality of their work is verified and training needs are identified.

There is no coordinating body responsible for organising training at a national level. Each CA is responsible for its own training. Nevertheless, joint training may be carried out and resources and expertise shared on the basis of cooperation agreements with other CAs or bodies.

As for the AFQI, the Chief Inspectorate is responsible for coordinating planning and organising at the central level of training, covering matters for which the AFQI is responsible. This is part of a quality management system.

According to the MANCP 2015-19, the AFQI training policy is implemented in the framework of its quality management system, which is based on the requirements of ISO 9001:2009. The training plan is based on the training priorities for a given year, particularly to ensure the effective implementation of AFQI statutory tasks.

The training plan is set up annually, separately for the Chief Inspectorate (with particular emphasis on specialised training for offices and laboratories) and for Voivodeship Inspectorates of the AFQI (with emphasis on the training of inspectors performing official controls).

Moreover, one of the strategic quality objectives of the AFQI is to ensure sustainable development of the analytical potential of laboratories. Consequently, priority is given to the systematic training of employees conducting laboratory tests on food.

As far as the OCCP and TI are concerned, training programmes are planned yearly but ad hoc training sessions can also be held, depending on needs. Training programmes include external training for staff and those organised by cooperating bodies and institutions. According to the MANCP 2015-2019, training includes:

control programmes and working meetings organised by the OCCP at the level of Voivodeship Inspectorates of Trade Inspection, including the participation of OCCP laboratories;
control actions of national relevance based on control programmes in which details and methods of carrying out controls, methods of sampling and the scope of laboratory research are discussed.

Moreover, employees involved in controls participate in the European Commission's **Better Training for**

Safer Food (BTSF) programme. The knowledge gained through these training courses is also disseminated to all relevant staff using a cascade system, together with the training materials⁴³⁵.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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AFQI provides an **Integrated Informatics System (Zintegrowany System Informatyczny — ZSI)** for the collection of data about its performance and for the generation of statistical reports, problem analysis and periodic reports. Data gathered in the ZSI also include GI controls.

Moreover, the OCCP has an electronic virtual library (created with the use of the Lotus programme) containing analysis reports made by OCCP staff of the Department of TI dealing with official food controls and by the staff working in laboratories. In particular, OCCP laboratories must enter copies of analysis reports into the said library.

5. COORDINATION WITH OTHER MEMBER STATES

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In cases of information from another Member State concerning the unlawful use of protected names, the AFQI requests the corresponding Voivodeship Inspectorates to conduct specific controls or forward the case to the OCCP if the matter is beyond the scope of its tasks.

To date, the AFQI has received several claims for the unlawful use of registered names from the ICQRF, the Italian CA for enforcement of GIs. In the past 3 years, there have been cases concerning Prosecco, Aceto balsamico di Modena, Brunello di Montalcino and Rosso di Montalcino.

Poland also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States. The national contact point for the FFN system is the AFQI.

⁴³⁵ DG (SANTE) 2016-8846 Final, p. 12.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

The GI Registration and Protection Act regulates the verification of compliance with product specifications.

In particular, in cases of non-compliance, the producer is asked to find a remedy to the situation within a predefined time limit. If no remedy is available, the CBs refuse or withdraw the certificate of compliance and inform the Chief Inspector of the AFQI, the MARD and the other entities involved in controls⁴³⁶.

One of the aims of the new Act of 10 June 2016, which amended the GI Registration and Protection Act, is, inter alia, to increase the effectiveness of sanctions imposed on producers illegally using GIs. The previous sanctions were considered disproportionate to the irregularities. The marketing of products labelled as GIs and non-compliance with the product specifications were treated as a criminal offence, and the offender could be punished with a fine or even imprisonment of up to 5 years (if these offences provided the perpetrator with a regular source of income or if the offences concerned products of significant value).

According to the new provisions, the inappropriate use of names registered as GIs is punished with fines. These may be imposed by the Voivodeship Inspectors of the AFQI or TI on the basis of an administrative decision, taking into account the harmfulness, scope of the infringement, current activities of the infringing entity and volume of its turnover.

Please see the Guide for more details on the administrative sanctions.

6.2 CRIMINAL PROSECUTION

As already mentioned in the previous paragraph, the new provisions in force since 2016 have repealed some of the existing criminal sanctions that were applicable to infringement of GIs.

Nevertheless, criminal provisions are applicable within the protection against unfair competition. According to the Act of 16 April 1993 on combating Unfair Competition (Chapter 4 — Criminal provisions), the penalty of imprisonment or a fine⁴³⁷ can be imposed to whoever marks, or contrary to the obligation, does not mark goods or services; misleads the customer either about their origin, quantity, quality, content, method of production, usefulness, possibility of application, repair or maintenance or other significant features of the goods or services; or does not inform customers about the risk linked to their use.

The prosecution of these offences requires a claim by the injured party or by a national or regional organisation whose statutory objective is to protect the interests of entrepreneurs⁴³⁸.

⁴³⁶ Article 44 of the GI Registration and Protection Act.

⁴³⁷ Article 25 of the Act of 16 April 1993 on combating Unfair Competition.

⁴³⁸ Article 27 of the Act of 16 April 1993 on combating Unfair Competition.

6.3 *EX OFFICIO* PROTECTION

According to the information collected, both the AFQI and the TI carry out controls on Polish and foreign GIs independently from without a specific request.

Control programmes for commercial quality inspections include separate chapters on the obligation to pay attention to the correct use of registered names. The AFQI also conducts ad hoc controls in the case of suspected infringements concerning the use of registered names.

The penalties provided by the GI Registration and Protection Act in the event of the unlawful use of protected names apply to all products from the EU. If such products are detected on the market, the TI may impose penalties under the GI Registration and Protection Act⁴³⁹.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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CIVIL ACTION

Although Polish law prohibits the infringement of GIs, the GI Registration and Protection Act does not directly grant the holders any remedies under civil law to enforce their rights (i.e. claims for damages).

Nevertheless, civil law protection is ensured regarding the false indication of GIs as an unfair trade practice, through the Act on Combating Unfair Competition (as amended).

In particular, the Act regulates the prevention and combating of unfair competition in industrial and agricultural production, inter alia, in the interest of the public, entrepreneurs and consumers.

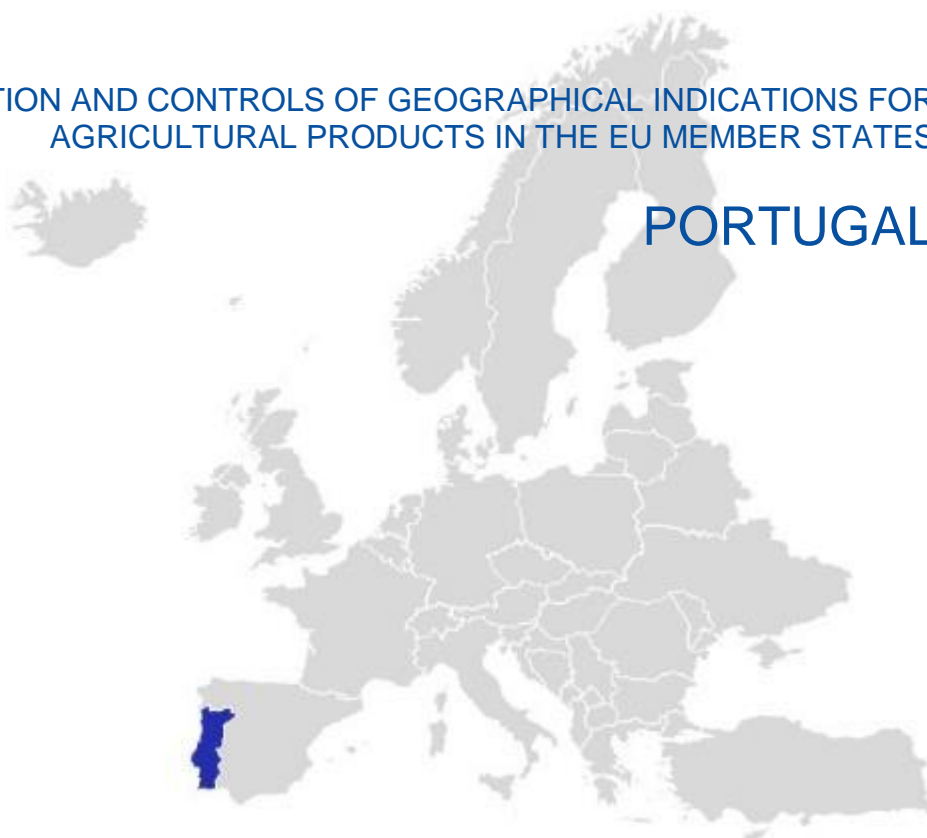
The Act on Combating Unfair Competition includes, inter alia, provisions regarding the false or deceitful indication of a geographical origin, misleading designation of a company, the imitation of products, unfair or prohibited advertising, etc.

Please see the Guide for more details on civil action remedies.

⁴³⁹ Article 58(b) of the GI Registration and Protection Act.

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PORTUGAL



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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ASAE	Economic and Food Safety Authority (Autoridade de Segurança Alimentar e Económica)
CVR	Regional Commissions of Vines and Wines (Commissoes Vitivinícolas Regionais)
DGAV	Directorate-General for Food and Veterinary (Direção Geral de Alimentação e Veterinária)
IGAMAOT	Inspectorate General for Agriculture, Sea, Environment and Spatial Planning (Inspeção-Geral da Agricultura, do Mar, do Ambiente e do Ordenamento do Território)
INIAV	National Institute for Agricultural and Veterinary Research (Instituto Nacional de Investigação Agrária e Veterinária, I. P.)
IPAC	Portuguese Institute for Accreditation (Instituto Português de Accreditação)
IVBAM	Madeira Wine Institute (Instituto do Vinho, do Bordado e do Artesanato da Madeira)
IVDP	Douro and Port Wine Institute (Instituto dos Vinhos do Douro e do Porto)
IVV	Vine and Wine Institute (Instituto da Vinha e do Vinho)
LBPV	Beverages and Wine Products Laboratory (Laboratório de Bebidas e Produtos Vitivinícolas)
LFQ	Physical and Chemical Laboratory (Laboratório de Físico-Química)
LM	Laboratory of Microbiology and Molecular Biology (Laboratório de Microbiologia)
MAFRD	Ministry of Agriculture, Forests and Rural Development (Ministério da Agricultura, Florestas e Desenvolvimento Rural)
PNCPI	National Plan of Control (Plano Nacional de Controlo Plurianual Integrado Único)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITY

The **Directorate-General for Food and Veterinary Science (Direção Geral de Alimentação e Veterinária — DGAV)** within the **Ministry of Agriculture, Forestry and Rural Development (Ministério da Agricultura, Florestas e Desenvolvimento Rural — MAFRD)**, is a body of the central government administration, with administrative independence, which is responsible for preparing and implementing control plans for quality schemes, including GI products.

The other authority responsible for the supervision and implementation of controls with respect to counterfeiting and food safety, including GIs, is the **Economic and Food Safety Authority (Autoridade de Segurança Alimentar e Económica — ASAE)** within the Ministry of Economy⁴⁴⁰.

1.2 GENERAL STRUCTURE OF THE SYSTEM

Official controls in Portugal are assigned to designated CAs, and are delegated to CBs for some of the protected wines.

Foodstuffs and spirits

The ASAE and the DGAV are the CAs designated for official controls on GI foodstuffs and spirits.

While the ASAE is considered the CA for the surveillance of the use of the name in the marketplace, the DGAV is in charge of controls before placing the product on the market.

The ASAE is a central service of the Portuguese State Administration⁴⁴¹ and encompasses three regional units (north, central and south). It is managed by a General Inspector (*Inspetor — Geral*) and two Deputy General Inspectors (*Subinspetores — Gerais*). The internal organisation is categorised as hierarchical (divided into technical and administrative areas), containing a matrix structure in the areas of supervision, research and operations, including:

- Department of Food Risks and Laboratories (Departamento de Riscos Alimentares e Laboratórios);
- National Operations Unit (Unidade Nacional de Operações);
- National Information and Criminal Investigation Unit (Unidade Nacional de Informações e Investigação Criminal);
- Department of Administration and Logistics (Departamento de Administração e Logística);
- Department of Legal Affairs and Administrative Offences (Departamento de Assuntos Jurídicos e Contra-ordenações).

The DGAV is in charge of approving control plans for GIs, as well as for controls on GIs in the production phase. In this regard, the DGAV may delegate control tasks at producer level to CBs.

⁴⁴⁰ Decree-Law No 194/2012 of 23 August, establishing the mission and scope of action of ASAE.

⁴⁴¹ Decree-Law No 194/2012 of 23 August, establishing the mission and scope of action of ASAE.

Wines

In the wine sector, the CAs in charge of controls are the following ⁴⁴²:

- the **Douro and Port Wine Institute (Instituto dos Vinhos do Douro e do Porto — IVDP)** ⁴⁴³;
- the **Madeira Wine Institute (Instituto do Vinho, do Bordado e do Artesanato da Madeira — IVBAM)**; ⁴⁴⁴
- the **Vine and Wine Institute (Instituto da Vinha e do Vinho — IVV)**, which is responsible for the coordination and control of the institutional organisation of the national wine sector, namely for the audits of the interprofessional **Regional Commissions of Vines and Wines (Comissoes Vitivinícolas Regionais — CVRs)**, as well as for participating in the coordination of GI wine products for the Douro and Porto regions. CVRs are entities acting as delegated CBs for some of the protected wines (see below).

The IVDP and IVBAM are in charge of controls and certification for Port and Madeira wines and they are entrusted with control powers for their respective regions. Even though public authorities are not obliged to be accredited, IVDP is certified to ISO/IEC 17065:2012.

All three CAs mentioned above are public institutes under the umbrella of the MAFRD.

Legal status and powers of staff of Competent Authorities

As regards the powers of staff and authorities, ASAE is considered a legally qualified public authority, including a criminal police body, with a prominent role as an auxiliary body of the judicial authorities.

Moreover, ASAE can collect notifications of infringements and prevent, if possible, their consequences by taking the necessary and urgent measures to secure the evidence.

Capacity of laboratories

There are official and accredited laboratories that perform tests and analysis on GI products. The ASAE in particular has the Food Safety Laboratory, encompassing:

- **Beverages and Wine Products Laboratory (Laboratório de Bebidas e Produtos Vitivinícolas — LBPV)**;
- **Physical and Chemical Laboratory (Laboratório de Físico-Química — LFQ)**;
- **Laboratory of Microbiology and Molecular Biology (Laboratório de Microbiologia — LM)**.

For the wine sector, the tasting chamber and laboratories of the IVDP are publicly accredited in accordance with ISO/IEC 17025.

1.3 CONTROL BODIES

As previously mentioned, verification of compliance with product specifications before placing the product on the market can be delegated to private CBs in the Portuguese system, which must be accredited in

⁴⁴² The wine sector is regulated by Decree-Law No 212/2004 of 23 August (*Organização institucional do sector vitivinícola*).

⁴⁴³ <https://www.ivdp.pt/pagina.asp?codPag=62> for Douro wine;

<https://www.ivdp.pt/pagina.asp?codPag=63&codSeccao=1&idioma=0> for Porto wine.

⁴⁴⁴ <http://www.ivbam.gov-madeira.pt/>.

accordance with ISO/IEC 17065:2012. Verification has been delegated for some of the protected wines.

For wines other than Porto and Madeira, certification and official controls are delegated to the CVRs, each competent for the respective region.

The CVRs are the following:

- Comissão Vitivinícola Regional do Vinho verde, which refers to the DOC 'vinho verde' and 'bagaceira da região do vinho verde';
- Comissão Vitivinícola Regional Alentejana
- Comissão Vitivinícola Regional da Península de Setúbal
- Comissão Vitivinícola Regional do Tejo
- Comissão Vitivinícola da Região de Lisboa
- Comissão Vitivinícola Regional de Trás-Os-Montes
- Comissão Vitivinícola do Algarve
- Comissão Vitivinícola Regional do Dão — C.V.R. do Dão — CVRD — Organismo de Certificação
- Comissão Vitivinícola Regional da Beira Interior — Organismo de Certificação
- Comissão Vitivinícola da Bairrada
- Comissão Vitivinícola Regional Távora-Varosa
- Comissão Vitivinícola Regional dos Açores.

The CVRs are responsible for quality assurance, authenticity and for providing support to wine production. Authorisation is granted after accreditation in accordance with ISO/IEC 17065:2012 by the national accreditation body (see below).

Moreover, private CBs are also assessed and approved by the MAFRD on the basis of the requirements established in Ministerial Order No 22522/2006 and Decree-Law No 212/2004.

1.4 ACCREDITATION BODY

The Portuguese accreditation body is the **Portuguese Institute for Accreditation (Instituto Portugues de Accreditação — IPAC)**⁴⁴⁵, an authority issuing accreditations in accordance with ISO/IEC 17065:2012.

1.5 SUPERVISION OF CONTROL AUTHORITIES AND CONTROL BODIES

As regards supervision, the ASAE has an internal audit system for inspections in place, which, in general, has no hierarchical or functional dependence on the audited units and is applied in connection with an annual audit programme⁴⁴⁶.

As regards foodstuffs, supervision is ensured by the DGAV.

As for Porto and Madeira wines, the IVDP and the IVBAM are supervised by the **Inspectorate General for Agriculture, Sea, Environment and Spatial Planning (Inspeção-Geral da Agricultura, do Mar, do Ambiente e do Ordenamento do Território — IGAMAOT)**. CAs must submit a report once a year about the implemented controls and all the activities that have been carried out.

⁴⁴⁵ <http://www.ipac.pt/>.

⁴⁴⁶ Article 1(h) of Decree-Law No 66/2012 of 16 March; Article 3 of Decree-Law No 213/2004 of 23 August 2004 (competent authorities).

The IGAMAOT has a role in the Portuguese control system to the extent that it carries out external audits on MAFDR's official control systems and on the DGAV internal audit systems. The IGAMAOT also coordinates the national audit system and promotes audit methodologies and planning within the framework of EU standards and legislation, although it must not be considered responsible for controls on GIs.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation*

The DGAV is in charge of national plans for official controls on GIs for agri-food products. In particular, the DGAV coordinates the Multi-Annual National Control Plan (MANCP).

In the planning process, the National Institute for Agricultural and Veterinary Research (Instituto Nacional de Investigação Agrária e Veterinária, I.P. — INIAV), which is a state laboratory acting in the scope of competence of the MAFRD, participates as an observer. The IGAMAOT has a role as well, due to its comprehensive overview of the overall system.

The current updated Plan has been issued by the DGAV, covering the period 2015-2017.

In planning official controls, the following criteria are considered:

- risk assessment in the food chain;
- operational results for previous years and operators' past records;
- recommendations given by the European Commission (formerly FVO audits), commitments and protocols;
- default rate for previous years by chain and sector phase;
- number of economic operators in each geographical area.

2.1.2 *Verification of compliance with product specifications*

Inspections are usually unannounced and based on documented procedures and supporting documents, as well as technical inspection sheets.

In the wine sector, controls carried out by the competent CAs are unannounced and at least once per year, even though the verification of compliance occurs more frequently for the Porto/Douro and Madeira GIs. In particular, controls on Porto and Douro are carried out by the IVDP with local on-site inspections at producer level every day, which are carried out by six teams, and encompass the following activities:

- physical and chemical analysis;
- organoleptic tests through an accredited laboratory and tasting chamber;
- checks on quantity and quality;
- traceability from the grape to the bottle.

As regards quality and quantity:

all producers and traders must be registered;
physical controls are done at the vineyards, wineries and cellars (four samples are collected from the wine still in bulk or during the bottling process);
the yield per hectare is checked;
the minimum quantity of Porto wine stored is checked;
after the first control, inspectors may return to the producer to verify that the wine is the same as the approved one;
the Porto wine is registered according to its category (a vintage, a late bottled vintage, a harvest port, etc.);

For all other wine GIs, private CBs carry out inspections on the sites of the winemakers, as well as controls on the wine-making process, storage and bottling operations.

2.2 CONTROLS ON THE MARKET

The ASAE is the CA entrusted with the coordination for the surveillance of the use of the name in the marketplace (in relation to all sectors, i.e. foodstuffs, wine and spirits) in the context of food safety and fraud control.

The products checked on the market are selected on the basis of a risk analysis. All controls undertaken by the ASAE are planned and implemented in the framework of food safety. As the ASAE is also responsible for controlling economic activities, the checking of fraud is also factored in, and specific GI elements are taken into account.

Regarding the wine sector, the IVDP and the IVBAM check that the quantities of wines sold by operators do not exceed the certified quantities, and the ASAE also carries out this verification for the other wines certified by the CBs⁴⁴⁷.

As regards Porto and Douro GIs, all the labels must be previously approved by the IVDP and all the wines must have a guarantee seal. Controls are also carried out at retail level.

As regard the other wine GIs, ad hoc controls can be carried out in cases of complaints submitted by the IVV or third parties. Models of labels that the business operators intend to use must be approved by the respective CB.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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The personnel generally available for official controls total around 250 inspectors. To provide qualifications, inspectors are provided with regular internal training.

Before starting as inspectors, staff are required to complete one year of training in technical and judiciary matters.

⁴⁴⁷ DG (SANTE) 2016-8749 — MR, Final Report of an Audit Carried out In Portugal from 11 to 21 October 2016.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The results of official controls carried out by the ASAE are available on its website under the section *Fiscalização — Atividade Operacional — Dados Estatísticos* and in its newsletter.

In addition, the ASAE has a database but it is only available for internal use.

The IVDP and the IVBAM, as CAs entrusted with controls over Porto and Madeira wine GIs, publish the report regarding the controls carried out on their website, and send such reports to the MAFDR.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Portugal uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed System (RASFF)**, which facilitate the exchange of information between Member States. The national contact points for the FFN system are the DGAV and the ASAE.

Moreover, the DGAV is the contact point at central level in charge of the cooperation with other Member States or third countries, to exchange information, alerts or follow-ups on infringements of EU GIs.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

CAs have a range of enforcement measures available, reflecting the principles of Regulation (EC) No 882/2004. Portuguese law provides two categories of food fraud, subject respectively to administrative and/or criminal penalties, usually based on the gravity of the offence. In some situations, CAs may also impose the seizure and destruction of goods.

Please see the Guide for more details on the applicable administrative sanctions.

6.2 CRIMINAL PROSECUTION

The relevant provisions related to criminal prosecution can be found in the Portuguese national legislation⁴⁴⁸.

According to Portuguese Law, the punishable offences are set forth in Article 325 of the Industrial Property Code and consist in the reproduction or imitation of a GI, as well as the use of signs that constitute reproduction, imitation or expression thereof, even if the true origin of the products in question is indicated or the appellation or indication is accompanied by qualifying expressions such as 'style', 'type', 'quality', 'method', 'imitation', 'rival to', 'superior to' or others.

More details on criminal prosecution are given in the Guide.

6.3 FOLLOW-UP OF CASES

In cases of identified non-compliance, infringing operators are monitored and are subject to reinspection.

Monitoring is ensured by means of a specific database, called 'GestASAE'.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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CIVIL ACTION

Civil laws provide for important mechanisms to provide effective enforcement for GI rights holders. False indications of provenance are protected under unfair competition rules specified in the Industrial Property Code⁴⁴⁹.

Unfair competition can take the form of an unlawful civil act and may give rise to civil liability, provided that there is an obligation to establish compensation in cases where damage was caused to the property of the rights holder, in accordance with the rules of civil liability.

The court may rule to determine the destination of the infringing goods, impose measures to control the continuation of the violation, such as deprivation of participation in fairs or markets or the temporary or permanent closure of the establishment. In addition, the judge may order the publication of the final decision.

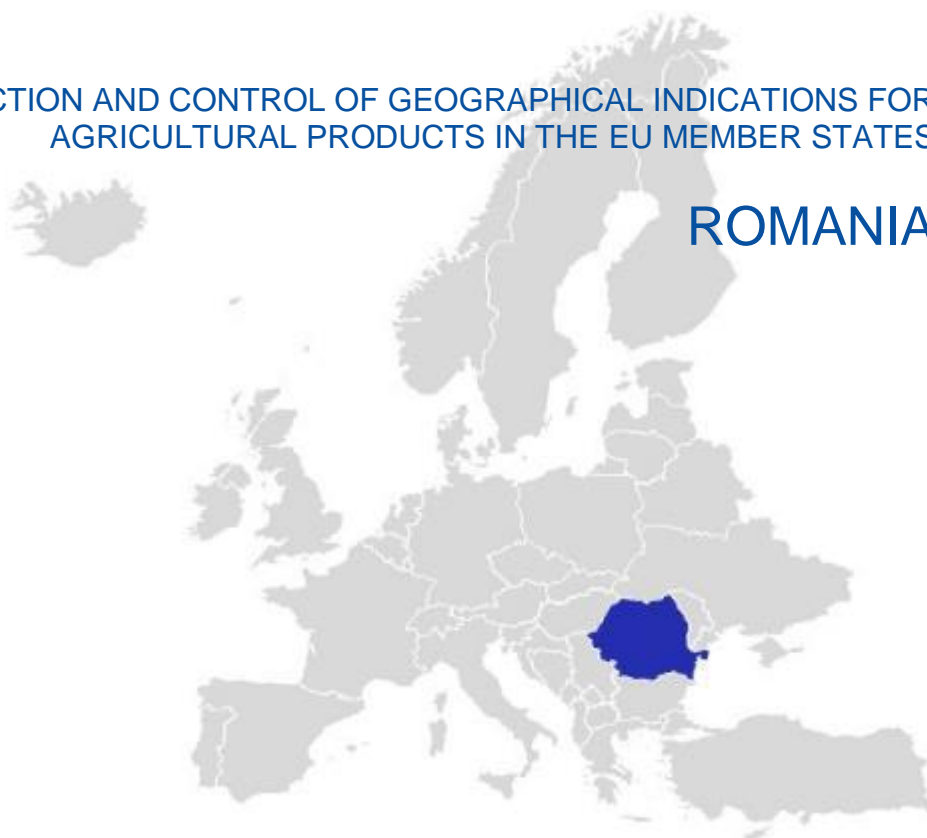
Please see the Guide for more details on civil action.

⁴⁴⁸ Industrial Property Code as amended up to Law No 46/2011 of 24 June 2011; Decree-Law No 212/2004, Criminal Code

⁴⁴⁹ Articles 317 and 318.

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

ROMANIA



ABBREVIATION LIST

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE
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ANPC	National Authority for Consumer Protection (Autoritatea Națională pentru Protecția Consumatorilor)
ANSVSA	National Sanitary Veterinary and Food Safety Authority (Autoritatea Națională Sanitară Veterinară și pentru Siguranța Alimentelor)
DGCAI	Directorate-General for Control, Antifraud and Inspections (Direcția Generală Control, Antifraudă și Inspecții)
DII OCT	Directorate for the Investigation of Organized Crime and Terrorism (Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism)
ISCTV	State Inspection for Technical Vine and Wine Control (Inspecția de Stat pentru Controlul Tehnic Vitivinicol)
MADR	Ministry of Agriculture and Rural Development (Ministerul Agriculturii și Dezvoltării Rurale)
ONVPV	National Office of Vine and Wine Products (Oficiul Național al Viei și Produselor Vitivinicole)
POHCCJ	Prosecutor's Office Attached to the High Court of Cassation and Justice (Parchetul de pe lângă Înalta Curte de Casație și Justiție)
RENAR	Romanian Accreditation Association (Asociația de Acreditare din România)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

At national level, the protection of GIs is laid down in the Romanian Law on Trade Marks and Geographical Indications⁴⁵⁰ and related Government Decision No 1134/2010 (approving the Regulation on the application of the Law on Trade Marks and Geographical Indications).

Subsequently, the Government approved Decision No 152/2015, establishing measures for implementation of Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs and Decision No 276/2014 for the establishment of the system of protection of GIs for spirits based on Regulation (EC) No 110/2008.

According to the abovementioned Decisions, the **Ministry of Agriculture and Rural Development (Ministerul Agriculturii și Dezvoltării Rurale — MADR)** is the national CA with responsibility for controls and protection of GIs for agricultural products, foodstuffs and spirits.

However, GIs for the wine sector are regulated by Vine and Wine Law No 164/2015 for the common market wine organisation. The **National Office of Vine and Wine Products (Oficiului Național al Viei și Produselor Vitivinicole wine ONVPV)** is the national CA responsible for the verification of product specifications for the protection of wine GIs.

1.2 GENERAL STRUCTURE OF THE SYSTEM

The following table gives an overview of the distribution of responsibilities in relation to the control system and operational levels:

SECTOR	POLICY COORDINATION	COORDINATION OF CONTROLS	IMPLEMENTATION OF CONTROLS
Foodstuffs	MADR	MADR	CERTIND SA
Spirit drinks	MADR	MADR	MADR
Aromatised wine drinks	MADR	MADR	MADR
Quality labelling	MADR	MADR	MADR, DIRECTORATE FOR STATE INSPECTIONS (DSI); ANPC

⁴⁵⁰ Law No 84/1998 on Trade Marks and Geographical Indications, further defined by the Implementing Regulation of the Trade Mark Law, adopted by Government Decision No 1134/2010.

SECTOR	POLICY COORDINATION	COORDINATION OF CONTROLS	IMPLEMENTATION OF CONTROLS
Wines	ONVPV	ONVPV	ONVPV/ISCTV

The verification of compliance at the production phase for foodstuffs and spirits is carried out by the MADR through a private CB operating as a product certification body, and by the ONVPV for the wine sector (see below).

As regards the procedures for registering and examining documentation in order to obtain GI protection for spirit drinks⁴⁵¹, the MADR has the following responsibilities:

implementation of the procedure to register and examine documentation in order to obtain GI protection for agricultural products, foodstuffs and spirits, the procedure to declare an opposition at national level and the procedure to transmit to the European Commission the application for registration of GIs in order to obtain protection at EU level;

control and monitoring of the activities of the private CBs.

The control on the market is carried out generally by the MADR and the **National Authority for Consumer Protection (Autoritatea Națională pentru Protecția Consumatorilor — ANPC)** and is mainly for labelling; for wines, the **State Inspection for Technical Vine and Wine Control (Inspekția de Stat pentru Controlul Tehnic Vitivinicol — ISCTV)** is also competent for controls on the market.

The ONVPV and ISCTV are two separate bodies involved in activities related to viticulture and winemaking⁴⁵², as detailed below.

ONVPV

The ONVPV is a public institution with legal personality that operates as a CA under the MADR. It was founded, organised and functions on the basis of Government Decision No 1408/2009,

The ONVPV acts through a central unit at national level and a territorial structure established by territorial inspectorates, which cover the following wine regions of Romania as established under the law:

Podișului Transilvaniei wine region;
Dealurile Moldovei wine region;
Dealurile Munteniei și Olteniei wine region;
Banat wine region;
Crișana and Maramureș wine region;
Colinele Dobrogei wine region;
Terasele Dunării wine region and other lands in the south of the country.

The ONVPV is in charge of elaborating and managing the preliminary procedure for registration of new GIs, the modification of the specific conditions for each product and the verification of compliance with product specifications in accordance with a control plan developed by the ONVPV, which is brought to the attention of operators and covers every stage of winemaking.

⁴⁵¹ Orders No 1762/2015 and No 864/2016.

⁴⁵² Article 46 of the Vine and Wine Law No 164/2015.

It also manages the national electronic register of records and controls on wine GIs at national and EU level.

In 2013, ONVPV was accredited by the ISO integrated management system of quality, occupational health and safety standards in accordance with ISO 9001:2008 and OHSAS 18001:2007.

ISCTV

The ISCTV operates within the **Directorate-General for Control, Antifraud and Inspections (Direcția generală control, antifraudă și inspecții — DGCAI)** of the MADR, and has tasks related to viticulture and winemaking, as well as specialised technical coordination to strengthen controls on production and marketing of wine products.

As regards wines, the ISCTV can intervene at all stages of control both during compliance control and during controls on the market. In particular, it has competence over:

verifying compliance with legal provisions regarding practices and treatments allowed in winemaking and wine products;

checking compliance on the part of producers, storage and bottling operators with legal provisions by applying special oenological practices through the use of specific products allowed by law;

checking compliance on the part of bottling operators with legal provisions on packaging, labelling and presentation of wine products intended for sale;

withdrawing from the market wines and other wine products that do not comply with legal provisions on labelling;

prohibiting the marketing of lots of wine and other wine products throughout the commercial chain, applying seals on those lots, where there is a suspicion in terms of quality until the situation has been clarified;

applying the seal on wines whose origin and traceability cannot be proven by the holder, including ordering, as appropriate, the destruction of such consignments;

exercising technical control during all stages of wine production; verifying the traceability of these products and conformity with the legal provisions when issuing documents that assess the quality of those products, including marketing;

checking, by sampling, the accuracy of declarations regarding stocks and crop production, both the records and the facts, and their deposit by the respective deadlines (also for products with GI as envisaged in Order No 75/2004 of the Minister);

notifying the CAs in the event of possible crimes committed by operators in the wine sector;

applying sanctions provided for by law to natural and legal persons for infringements detected in the production, circulation and marketing of wines and other wine products.

Legal status and powers of staff of Competent Authorities

Inspectors are civil servants and work in accordance with the basic principles laid down in Law No 188 of 1999, on the Statute of Civil Servants.

Civil servants have the obligation to conscientiously perform their duties with professionalism, loyalty and fairness, and to refrain from any action that might cause damage to the public organism of authority or institution within which they perform their duties.

Capacity of laboratories

All laboratories used by CBs are accredited in accordance with ISO/IEC 17025.

The tests of product samples taken during inspections are performed in accredited laboratories with which CERTIND SA has signed service contracts.

1.3 CONTROL BODIES

In Romania, there is one CB notified to the EU for the area of protected GIs for agricultural products and foodstuffs, which is **CERTIND SA**.

The procedure for the accreditation in accordance with ISO/IEC 17065:2012 of CBs is carried out by the **Romanian Accreditation Association (Asociația de Acreditare din România — RENAR)**⁴⁵³.

In 2013 the Inspections in the Food Industry Department of the MADR conducted a check on SC CERTIND SA in Bucharest, and this body was accredited for certifying GIs for the following types of foodstuffs:

Class 1.2. Meat products (cooked, salted, smoked, etc.);
Class 1.3. Cheese;
Class 1.6. Fruit, vegetables and cereals, fresh or processed;
Class 1.7. Fresh fish, molluscs and crustaceans and products derived therefrom.

The MADR has a section on its website that provides the name of the CBs approved in accordance with the provisions of MADR Order No 8/2013⁴⁵⁴.

As for wine products, no authorised CBs have been delegated.

1.4 ACCREDITATION BODY

RENAR is formally recognised as the unique national accreditation body by Government Order No 23/2009 based on the provisions of Regulation (EC) No 765/2008 and operates under the coordination and surveillance of the Ministry of Economy.

To demonstrate the conformity with the criteria established in the reference harmonised standard for accreditation bodies, RENAR is peer evaluated by the **European Co-operation for Accreditation (EA)**, which is recognised by the European Commission, after consulting the Member States, as the European accreditation infrastructure based on the provisions of Article 14 of Regulation (EC) No 765/2008.

1.5 SUPERVISION OF CONTROL AUTHORITIES AND CONTROL BODIES

Monitoring and auditing the activity of the delegated CB is carried out by the MADR through its specialised department, under the provisions of MADR Order No 8/2013, Regulation (EU) No 1151/2012, and Order No 8 of the Minister of 12 January 2013, approving the regulation concerning the approval of private CBs in the area of agricultural products or foodstuffs and the surveillance of the activity of these bodies in the area of agricultural products or foodstuffs that obtained GI protection.

⁴⁵³ A non-governmental, non-profit organisation, constituted on the provisions of Law No 21/1924 with subsequent modifications, its legal status was granted by Decision No 1966 of 7 August 1990 (file 1975/PJ/1990) of the Civil Court of Sector 1, Bucharest.

⁴⁵⁴ <http://www.madr.ro/industrie-alimentara/sisteme-de-calitate-europene-si-indicatii-geografice/produse-agricole-si-alimentare/organisme-de-inspectie-certificare-prod-agricole-si-alimentare.html>; <http://www.madr.ro/docs/ind-alimentara/registru-recunoastere-organisme-de-inspectie-16.06.2015.pdf>.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

The procedures for product certification (under ISO/IEC 17065:2013) provide that control activities and the assessment of control results must be performed by different staff in order to avoid any conflict of interest.

There are established criteria to avoid conflicts of interests. The inspectors agree in their job description, which is endorsed by the management of the institution (stating the powers they have), to avoid situations that could create a conflict of interest when carrying out their duties.

Civil servants must not engage in any activities that result in a conflict of interest to ensure their impartiality when carrying out official controls.

The CB CERTIND SA continuously identifies and evaluates threats to impartiality that may become apparent during its activities, defining measures to eliminate or reduce risks to acceptable levels. It requires all interested parties to reveal known situations that may represent a conflict of interests and affect the certification/verification/validation activities.

In the case of threats to impartiality related to persons or entities, CERTIND SA commits itself to act promptly and adopt adequate measures.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

National Authorities and police forces are in charge of the fight against counterfeiting, which includes the agri-food sector.

The **Prosecutor's Office Attached to the High Court of Cassation and Justice (Parchetul de pe lângă Înalta Curte de Casație și Justiție — POHCCJ)** is the central body coordinating the activities of prosecutors. Within the POHCCJ, the **Directorate for the Investigation of Organised Crime and Terrorism (Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism — DIIOCT)** is responsible for investigating organised crime and terrorism offences⁴⁵⁵.

Based in Bucharest, the DIIOCT has 15 territorial services in the circumscription of the 15 Courts of Appeal, as well as 41 territorial offices at the level of the Prosecutor Offices attached to Tribunals.

The competences of the DIIOCT include investigation into intellectual property-related crimes, if committed by organised criminal groups⁴⁵⁶.

The POHCCJ, in addition to preventing IPR infringements, coordinates the initiatives of public institutions involved in the protection of these rights at national level.

The National Customs Authority has competence over enforcing rights in protected trade marks and protected GIs at the borders, in accordance with the law.

⁴⁵⁵ Established by Law No 508/2004.

⁴⁵⁶ Article 12 of Law No 508/2004.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

With regard to planning and prioritisation, criteria and frequency are described below for foodstuff products, spirits and wines.

Foodstuffs and spirits

The MADR, through the delegated CB, is the CA that verifies compliance with product specifications of GIs for agricultural products, foodstuffs, spirits and aromatised drinks.

The controls on the operators and on the applicant group of producers are undertaken in the most favourable period for obtaining the product subject to certification (especially if it is seasonal). Checks are carried out on all operators that obtain the product under certification, in order to maintain the conditions of certification surveillance programmes through the so-called surveillance programme. Any cases of non-compliance are communicated to the applicant group of producers.

The controls planned for producers that have already obtained certification (supervising maintenance of the certification conditions) are carried out after the first year and after the second year from the date of certification. Planning for the next control is transmitted along with the certificate of compliance.

The exact date of control for each operator and for the group of producers is sent by the delegated CB 10 days before the control. This date is also communicated to the CA (MADR), which can participate in the control as an observer.

Unscheduled checks are carried out by CERTIND SA upon receipt of information regarding non-compliance with certification conditions on the part of one or more certified operators. The control date is communicated 48 hours before the control. This date is communicated to the CA (MADR), which can participate in the control as an observer.

Wines

For wines, the ONVPV implements an annual control plan for GI schemes regarding all national operators that own areas of vineyard included in the National Registry of Vineyards from which GI wines are obtained, which have facilities/capacity/infrastructure for winemaking, and that make labelling and packaging for wines after their production has been supervised by the ONVPV.

All regional inspectorates apply this annual plan, which corresponds to the annual wine year, and means:

control on the planted area (vineyard);
control on processing capacities in which the grapes and must from controlled plantations are processed;
control on the certification stage of wines obtained following previous checks.

Annual reports on the **Multi-Annual National Control Plan (MANCP)** are submitted to the European

Commission each year.

2.1.2 Verification of compliance with product specifications

Verification processes on compliance with product specifications are described below for foodstuffs, spirits and wines.

Foodstuffs and spirits

I. Initial certification

The applicant group of producers sends the request for certification of a product and the related documentation (i.e. the product specifications and the required documents) to CERTIND SA.

The request is analysed by the Director of the Food Product Certification Department of CERTIND, and if all the requirements are met, CERTIND SA submits the draft contract to the applicant group.

After both parties (CERTIND SA and the applicant group) have signed the contract, the Director designates the expert who will act as head of the inspection team.

II. Procedural steps

The verification of product specifications is performed by the head of the inspection team of CERTIND SA, who is appointed by the Director of the Food Product Certification Department of CERTIND.

Controls are carried out regarding all the operators of the applicant group by the inspection team of CERTIND SA. Product samples are taken for verification of characteristics with product specifications.

The control is undertaken at the operators' headquarters by the designated inspection team. If cases of non-compliance with product specifications are found at the operators' site, the inspection team sets deadlines for their resolution.

Samples from the checks are sent to laboratories for testing.

After resolving non-compliance and receiving test results from the samples taken, CERTIND SA evaluates the results of the operators' checks and the results of the testing of the samples against the product specifications. According to the outcome of the evaluation, CERTIND SA decides whether to grant or refuse certification. If all requirements are met, the certificate is issued and sent to the applicant group.

The following aspects are controlled for all operators producing/processing the product under certification:

the specified geographic area, by checking authorisations and by carrying out verifications on the spot. In addition, each operator that processes the product in the area of collection of the raw material is checked;

respect for the method of obtaining the product, with regard to all materials referred to in the specifications, by checking the traceability of at least two batches of the product, of which one is randomly chosen by the team leader and the second is taken from the batches of the product processed on the date of control;

compliance with the process flow from the receipt of raw materials to the labelling of the finished product. All stages of technological processing are verified, such as time, temperature, ventilation, humidity, etc., as stated in the product specifications;
four samples of finished products are taken in order to perform specific tests;
checking product characteristics. The inspection team will verify the following characteristics: size, external appearance, interior appearance, texture, taste, smell, etc.;
the samples taken are sealed and labelled by the head of the inspection team and are sent to CERTIND SA in optimal conditions for testing by an accredited laboratory.

All activities performed are detailed in a control report stating the document issuer, the date, the registration number of the operator, the results/findings, the participants in the control, etc. The control report is signed by the head of the inspection team and the operator.

III. Monitoring the maintenance of compliance with the product specifications (two controls: one year and 2 years after certification)

The control procedures are mainly the same as for the initial certification. Controls are carried out with regard to all the operators and at the applicant producer group. Samples are taken and the subsequent tests are performed by specialised laboratories. Cases of non-compliance detected at the operator's site are communicated to the applicant producer group and deadlines for compliance are given.

According to the outcome of the assessment, CERTIND SA decides whether to maintain the certification and the transmission of the specific mark that is applied to the certificate.

Wines

The ONVPV carries out verification of compliance with product specifications for GI wines, through controls by specialist inspectors during all phases of production, and is in charge of these controls during the various phases of GIs, by:

controlling compliance with product specifications in order to authorise operators (vine areas planted, facilities) to produce wine grapes to obtain GI wines. The checks are carried out applying the conditions in the product specifications for each GI;
approving (by means of Ministerial Order) the GIs corresponding to product specifications drawn up by professional associations of producers for each GI established in the geographical wine area;
verifying compliance with a control plan covering every stage of production.

After the control on the vineyard from which grapes for wines that use GIs are collected, an authorisation is granted by the ONVPV, at the applicant's request. This authorisation is issued annually provided the relevant conditions for GIs are met. Only vineyards that are included in the National Register of Vineyards and that comply with the GIs requirements can be authorised annually.

Even though the planned area does not change its purpose, the production and its conditions may differ from year to year. It is necessary that the ONVPV, through its territorial inspectorates, verifies each year how production evolves in accordance with the product specifications for the grapes to be used for a GI wine.

Similarly, the ONVPV annually authorises operators processing grapes harvested from areas authorised to produce wines with GIs. This authorisation is granted to operators that own cellars/facilities for initial processing of raw materials from plantations certified by the ONVPV (e.g. grapes from areas registered as GI areas) and also those that bottle GI wines.

After the control on the wine obtained from the controlled vineyard, the ONVPV issues a certificate for the wine to be commercialised as a GI. The certificate can be suspended or withdrawn if compliance is no longer ensured. The ONVPV also notifies the ISCTV of any non-compliance with product specifications, as such wines cannot be commercialised under the relevant GI label.

2.2 CONTROLS ON THE MARKET

With regard to controls performed on the market, related information is provided separately for foodstuffs, spirits and wines.

Foodstuffs and spirits

The MADR is responsible for surveillance of the use of registered names on the market for foodstuffs and spirit GIs.

Even if the CB CERTIND SA does not have specific competences regarding the surveillance of the use of the name of a GI in the marketplace, it indirectly monitors the use of the protected name of a product under a quality system during the compulsory controls on the group of producers. Under this control, CERTIND SA verifies if the applicant has documented and implemented the procedures set out in Article 45(1)(a), (b), (d) and (f) of Regulation (EU) No 1151/2012.

In addition, if CERTIND SA is informed of the existence of GI products in the market from producers that are not explicitly mentioned in the certification, CERTIND SA informs the applicant group of producers and calls for necessary actions to be taken. The actions are usually taken through a law firm, which contacts the producers to cease production⁴⁵⁷.

The ANCP undertakes the controls on GIs in the market and has the following main tasks:

notifying the institutions involved in the quality of products, based on findings and information received from non-governmental organisations and consumers, of compliance of products with certification documents and suggesting improvements or development of regulations in the field;

noting offences and taking measures to limit the consequences of manufacturing, importation, sale or offer of free food or foodstuff products and services that are not in accordance with laws, applying contravention penalties established by law, before the prosecution finds violations of criminal law;

carrying out market surveillance activities for products and services intended for consumers;

enforcing legal provisions on consumer protection, related to the safety of products, as well as protecting consumers' legitimate rights and interests, by conducting inspections of producers, importers, distributors, retailers, service providers, including financial services and customs units, having access to places where products are manufactured, stored or sold, as well as to related documents, except for food producers' sanitary and veterinary controls;

detecting offences and taking action to limit the consequences of manufacturing, supplying, importing, marketing or free delivery of food or non-food products and services, including financial services that are not in compliance with the legal provisions, by applying administrative sanctions provided for by national law, notifying the criminal investigation authorities whenever there is an infringement of criminal law.

⁴⁵⁷ In the event of failure to initiate corrective actions, CERTIND SA will record the non-compliance in accordance with to Article 45(1)(b) of Regulation (EU) No 1151/2012.

Wines

As regards wines, the ISCTV undertakes the relevant controls on the market.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE
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All staff involved in all the activities and aspects of control have appropriate training, experience and expertise verified by RENAR during their assessments for accreditation and confirmation of accreditation.

As regards the controls on wines, the ONVPV has the following resources:

the structure of territorial inspectorates includes the staff assigned to these territorial inspectorates, currently 15 employees (inspectors). The inspectors have specialised studies and their skills are developed continuously with the Association of Authorised Wine Tasters of Romania⁴⁵⁸ to assess wines organoleptically (taste and appreciation of the final wine qualities) throughout their evolution up to their marketing;

the territorial inspectorates all have the same structure, usually one employee in each inspectorate, with the exception of three inspectorates where the area covered and the number of operators require the presence of two employees.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE
EU MEMBER STATES

The MADR has a section on its website that gives a list of foodstuff and spirit GIs, along with the address of product associations, the names of the CBs to which controls have been delegated and the status of certification for each GI⁴⁵⁹. However, no further information was provided about the accessibility of reports on controls carried out.

In the sector of wines, transparency of information is ensured by the following.

Databases available to authorities:

- databases of authorised producers;
- databases of eligible vineyards. These databases can be provided by the MADR upon justified request.

Access to/publicity of information about controls:

⁴⁵⁸ www.adar.ro.

⁴⁵⁹ <http://www.madr.ro/en/food-ind/european-quality-schemes-and-geographical-indications.html>.

- product specifications for each GI;
- applications for product specifications;
- approvals for granting protection,
- national registers according to Article 118, paragraphs (f), (s), of Regulation (EC) No 1234/2007⁴⁶⁰.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

Romania makes use of the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States.

In this regard, the Romanian contact point is the **National Sanitary Veterinary and Food Safety Authority (Autoritatea Națională Sanitară Veterinară și pentru Siguranța Alimentelor — ANSVSA)**.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

The CAs involved in official controls have legal powers to take action in cases of non-compliance.

National legislation provides sanctions for any breaches of relevant legislation. When an operator does not correct deficiencies found during official controls, sanctions and measures are applied on the basis of Government Decision No 984/2005.

6.2 CRIMINAL PROSECUTION

The Romanian legislative framework⁴⁶¹ regards wilful infringement of industrial property rights as a criminal offence.

The marketing of a product under a GI that indicates or suggests that the product concerned originates from a geographic region other than its true region of origin, with the intent of misleading the public about the geographic origin of the product, constitutes an infringement.

⁴⁶⁰ <http://www.onvpv.ro/ro/content/registru-unic-doc-ig>.

⁴⁶¹ Government Emergency Order No 100/2005 on the Enforcement of Industrial Property Rights; Law No 214/2008 supplementing Government Emergency Order No 100/2005 on the Enforcement of Industrial Property Rights; Law No 280/2005 approving Government Emergency Order No 100/2005 on the Enforcement of Industrial Property Rights; Law No 344/2005 on Specific Measures for the Enforcement of Intellectual Property Rights in Customs Clearance Operations.

GIs for wines and spirits benefit from additional protection, since the persons authorised to use a GI may prohibit the use of the GI for any other wines and/or spirits that do not come from the region suggested by the relevant GI, even where the true origin of the product is expressly mentioned or the GI is used in a translated form or accompanied by terms such as 'kind', 'type' and 'like'.

It is hence not necessary to prove that the consumers were misled or that acts of unfair competition were carried out.

The Public Ministry is the authority within the judiciary performing the public prosecution on behalf of the State in criminal law infringement cases.

Please see the Guide for a complete overview on the applicable criminal fines.

6.3 FOLLOW-UP OF CASES

Different measures for following-up cases are described below.

I. Suspension of the certification

If cases of non-compliance that cannot be resolved by the agreed deadline, or unsatisfactory results of the tests carried out on samples taken, are detected during the controls of operators for monitoring the respect of product specifications, CERTIND SA suspends the certification awarded for a maximum period of six months.

The certification can be suspended for a single operator or for the whole applicant group.

At the request of the operator/applicant group, within six months, CERTIND SA will conduct a new inspection to verify compliance with the certification requirements. If the requirements are met, CERTIND SA will withdraw the suspension and communicate the withdrawal to the CA (i.e. the MADR).

II. Withdrawal of certification

Where the applicant group no longer meets the requirements for certification, after expiry of the suspension period, CERTIND SA will cancel the certification awarded, withdraw the certificate and communicate the decision to the CA (i.e. the MADR).

III. Limitation of certification

Certification is limited in the following situations:

1. following an operator's request if the operator acknowledges that it is no longer able to meet the requirements for certification;
2. when cases of non-compliance are found during the control on surveillance at one or more operators that cannot be corrected during the period of suspension. In this situation, CERTIND SA will issue a new certificate that only lists the operators that meet the requirements.

6.4 EX OFFICIO PROTECTION

According to the Romanian Law on Trade Marks and Geographical Indications ⁴⁶², the central specialised public authority may, *ex officio* or at the request of any interested party, carry out verification of the products marketed under a registered GI.

7. REMEDIES FOR USERS

PROTECTION AND CONTROL OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

CIVIL ACTION

Apart from the causes of action indicated above, both civil claims and criminal complaints can be filed under Unfair Competition Law No 111/1991:

where there is use of a trade name, emblem or packaging that is likely to cause confusion with that of another trader; or

where products or services are produced, imported, exported, offered for sale or sold bearing false indications concerning trade marks meant to deceive other traders and consumers.

Under the Law on Trade Marks and Geographical Indications and the Unfair Competition Law, as well as under the Civil Procedure Code, a rights holder has the right to request the court to order a preliminary injunction. The rights holder may thus request a preliminary injunction that would temporarily prevent the infringer from marketing goods or services bearing the infringing signs, or from other acts or omissions that may further prejudice the rights holder's rights.

Where a civil action is incorporated in the criminal complaint proceedings, the infringer may also be liable to pay damages.

More details about civil redress are provided in the Guide.

⁴⁶² Article 83 of Law No 841/1998 on Trade Marks and Geographic Indications.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
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SLOVENIA



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

IKC-UM	Institute for Inspection and Certification of University of Maribor (Inštitut za kontrolo in certifikacijo UM)
Inštitut KON-CERT	Institute for Inspection and Certification in Agriculture and Forestry Maribor (Inštitut za kontrolo in certifikacijo v kmetijstvu in gozdarstvu Maribor)
IRSKGLR	Inspectorate of RS for Agriculture, Forestry, Hunting and Fisheries (Inšpektorat Republike Slovenije za kmetijstvo, gozdarstvo, lovstvo in ribištvo)
KGZ MB	Agricultural and Forestry Institute, Maribor (Kmetijsko gozdarski zavod Maribor)
KGZ NG	Agricultural and Forestry Institute, Nova Gorica (Kmetijsko gozdarski zavod Nova Gorica)
KGZ NM	Agricultural and Forestry Institute, Novo Mesto (Kmetijsko gozdarski zavod Novo Mesto)
KI	National Institute of Chemistry of Ljubljana (Kemijski inštitut)
KIS	Agricultural Institute of Slovenia (Kmetijski inštitut Slovenije)
MKGP	Ministry of Agriculture, Forestry and Food (Ministrstvo za kmetijstvo, gozdarstvo in prehrano)
NIB	National Institute for Biology (Nacionalni inštitut za biologijo)
NLZOH	National Laboratory of Health, Environment and Food (Nacionalni laboratorij za zdravje, okolje in hrano)
NVI	National Veterinary Institute (Nacionalni veterinarski inštitut)
SA	Slovenian Accreditation (Slovenska akreditacija)
UVHVVR	Administration of the Republic of Slovenia for Food Safety, Veterinary Sector and Plant Protection (Uprava rs za varno hrano, veterinarstvo in varstvo rastlin)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The **Ministry of Agriculture, Forestry and Food (Ministrstvo za kmetijstvo, gozdarstvo in prehrano — MKGP)** is the national central authority appointed to supervise and regulate the protection of GI products in Slovenia. Two State administrative bodies of the MKGP carry out tasks concerning official controls and the enforcement of GI.

- **Administration of the Republic of Slovenia for Food Safety, Veterinary Sector and Plant Protection (Uprava rs za varno hrano, veterinarstvo in varstvo rastlin — UVHVVR);**
- **Inspectorate of the Republic of Slovenia for Agriculture, Forestry, Hunting and Fisheries (Inšpektorat Republike Slovenije za kmetijstvo, gozdarstvo, lovstvo in ribištvo — IRSKGLR).**

1.2 GENERAL STRUCTURE OF THE SYSTEM

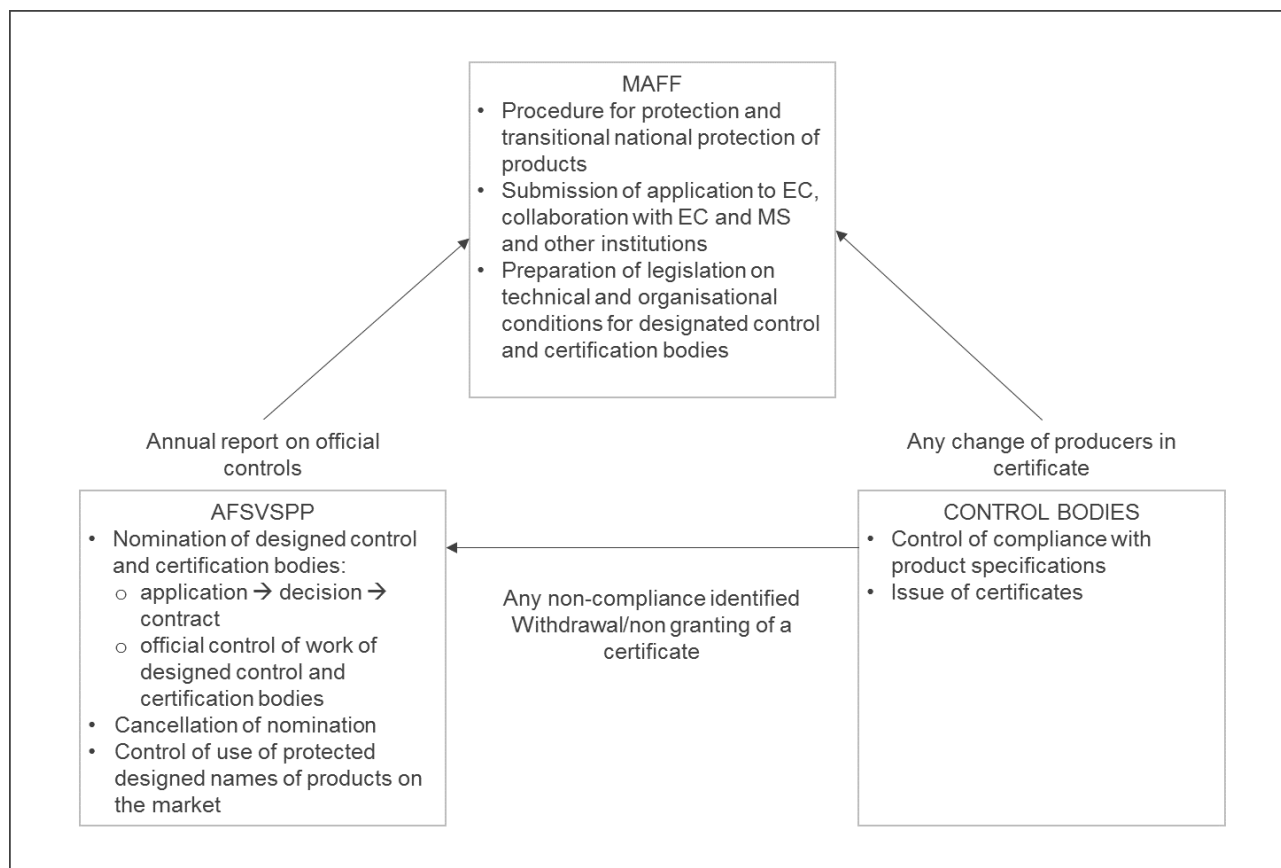
In Slovenia, competence for the enforcement and coordination of GIs has been assigned to the UVHVVR (for agricultural products, foods and spirits) and the IRSKGLR (for wines and aromatised wines), which act as CAs for official controls. Moreover, controls are also delegated to approved CBs.

The provisions of Regulation (EC) No 882/2004 are integrated into and complemented by national legislation on the organisation of controls, duties and requirements of CAs and CBs. The national system of official controls on GIs is organised on two levels:

controls on GIs at producer/processor level aimed to ensure compliance with the product specifications are carried out by delegated CBs;

official controls of GIs on the market are undertaken by the regional offices of the UVHVVR and IRSKGLR and border inspection offices. Regional offices are located in Koper, Gorica, Kranj, Ljubljana, Celje Maribor, Murska Sobota and Novo Mesto. The UVHVVR also has regional offices in Postojna and Ptuj. Border inspection offices of the UVHVVR are located in Ljubljana-Brnik and Koper.

The general structure of controls carried out by the UVHVVR is shown in the figure below⁴⁶³.



Legal status and powers of staff of Competent Authorities

Legal status and powers of inspection staff are set out in the Inspection Act⁴⁶⁴ and the Minor Offences Act⁴⁶⁵. Inspection control for GIs is further regulated by the Agriculture Act⁴⁶⁶, Articles 91, 172, 174 and 175.

Competences of the UVHVVR are laid down in the Act Amending and Supplementing Certain Food Safety, Veterinary Sector and Plant Protection Acts⁴⁶⁷ and the Plant Health Act⁴⁶⁸, the Agriculture Act and in Article 8 of the Decree amending the Decree on administrative bodies within ministries⁴⁶⁹, and comprise administrative and professional/expert tasks, as well as official inspection and control tasks.

Competences of the IRSKGLR are laid down in the Act of Wine⁴⁷⁰ and in the Regulation on the composition of ministries⁴⁷¹. The main duties and powers of authorised food and wine inspectors are defined in Articles 174 and 175 of the Agriculture Act:

⁴⁶³ Source DG (SANCO)/2014/7005 Final. In this scheme MAFF indicates the Ministry of Agriculture, Forestry and Food and AFSVSP indicates the Administration of the Republic of Slovenia for Food Safety, Veterinary Sector and Plant Protection.

⁴⁶⁴ OJ RS, Nos 43/07 and 40/14.

⁴⁶⁵ OJ RS, Nos 70/2006, 115/2006 and 3/2007.

⁴⁶⁶ OJ RS, Nos 45/08, 57/12, 90/12 – ZdZPVHVVR, 26/14 and 32/15.

⁴⁶⁷ UL RS, No 90/2012, 30.11.2012.

⁴⁶⁸ UL RS, Nos 62/2007-ZZVR-1-UPB2 and 36/2010.

⁴⁶⁹ UL RS, No 40/2011.

⁴⁷⁰ UL RS, Nos 105/06, 72/11 and 90/12 – ZdZPVHVVR in 111/13.

⁴⁷¹ UL RS, Nos 35/15 in 62/15.

- inspection of agricultural estates and business premises;
sample taking;
access to data collection necessary for carrying out controls;
control on labelling;
follow up on seizure and destruction of inappropriate goods;
set time limits to remedy deficiencies;
suggestions to cancel a certificate;
prohibition of the use of GIs in relation to products that do not fulfil the requirements.

Capacity of laboratories

There are official and accredited laboratories, which perform tests and analysis on GI products.

The laboratories for official controls undertaken by both the UVHVVR and IRSKGLR are:

- the **National Laboratory of Health, Environment and Food (Nacionalni laboratorij za zdravje, okolje in hrano — NLZOH)**
- the **National Institute for Biology (Nacionalni inštitut za biologijo — NIB)**;
- the **National Veterinary Institute (Nacionalni veterinarski inštitut — NVI)**
- the **Agricultural Institute of Slovenia (Kmetijski inštitut Slovenije — KIS)**
- the **National Institute of Chemistry of Ljubljana (Kemijski inštitut — KI)**.

1.3 CONTROL BODIES

As mentioned above, CAs have delegated some control tasks to CBs.

CAs (UVHVVR and IRSKGLR) appoint CBs that must be accredited in accordance with ISO/IEC 17065:2012 by the national accreditation body, which is **Slovenian Accreditation (Slovenska akreditacija — SA)**⁴⁷². The delegating CA ensures that CBs meet the criteria required in Regulation (EC) No 882/2004.

The approved CBs, performing controls and certification of the producers in the GIs sector, consist of 36 administrative units across the country.

The following CBs are delegated to perform the certification of GIs at producer/processor level to ensure compliance with the product specifications: **Agricultural and Forestry Institute, Novo Mesto (Kmetijsko gozdarski zavod Novo Mesto — KGZ NM)**, **Agricultural and Forestry Institute, Maribor (Kmetijsko gozdarski zavod Maribor — KGZ MB)**, **Agricultural and Forestry Institute, Nova Gorica (Kmetijsko gozdarski zavod Nova Gorica — KGZ NG)**, **KIS (Agricultural Institute of Slovenia AIS)**, and **Zvonko Fabijan s.p.**

Other approved CBs performing controls and certification of the producers are: Bureau Veritas⁴⁷³, the **Institute for Inspection and Certification in Agriculture and Forestry Maribor (Inštitut za kontrolo in certifikacijo v kmetijstvu in gozdarstvu Maribor — Inštitut KON-CERT)** and the **Institute for Inspection and Certification of University of Maribor (Institut za kontrolo in certifikacijo UM — IKC-UM)**⁴⁷⁴.

⁴⁷² <http://www.slo-akreditacija.si/>.

⁴⁷³ <http://www.bureauveritas.si/>.

⁴⁷⁴ <http://www.ikc-um.si/ikc-um/>.

1.4 ACCREDITATION BODY

Within the Slovenian control system, the accreditation body is the SA, which is in charge of issuing accreditations in accordance with ISO/EC 17065:2012.

1.5 SUPERVISION OF CONTROL AUTHORITIES AND CONTROL BODIES

CBs are supervised by the relevant regional offices of the CA, which are also responsible for market controls.

The audit carried out by the European Commission DG for Health and Food Safety in 2014⁴⁷⁵ reported that until 2014, the supervision of CBs by the UVHVVR was limited to an annual, announced documentary check at the CB premises. Since 2014, the UVHVVR has included site visits where it undertakes a control following an inspection of the CB. Alternatively, CB inspectors are supervised while conducting an inspection at a producer/processor of GIs.

The **Producer Groups (PG)** play a significant role, overseeing the conduct of their members through annual inspections.

1.6 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

The protection of IPRs is ensured by customs, in accordance with EU regulations.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

The tasks related to the verification of compliance with the product specifications are delegated to approved CBs. According to the audit carried out in 2014 by the European Commission Directorate-General for Health and Food Safety, the designated CBs are required to carry out controls on each GI certificate holder on a regular basis.

Where there is a PG, the process involves the CB initially carrying out an audit of documents at the office of the PG once a year. For each GI, a number of producers are randomly selected for inspection during that year. The selection is calculated using the square root of the number of registered producers/processors.

Moreover, the PG itself is required to inspect each of its members once a year. This inspection is announced and comprises a documentary check, organoleptic testing, observing the production process as well as, in certain cases, undertaking laboratory analysis. The prescribed frequency of official controls

⁴⁷⁵ DG (SANTE) 2014-7102-MR FINAL.

is never reduced, even with a good inspection history, whereas if cases of non-compliance are detected, their frequency may be increased.

According to the data collected, CBs inform the **Food Business Operators (FBOs)** in writing that an inspection is planned for a specific date.

Moreover, to undertake special control activities, results of inspections and analyses, notifications through the **Rapid Alert System for Food and Feed (RASFF)**, information from other inspection services or other sources and complaints received are taken into account.

2.1.2 Verification of compliance with product specifications

In terms of procedures and according to the audit carried out in 2014 on the Slovenian system by the European Commission Directorate-General for Health and Food Safety in relation to the food sector, a new producer must either apply to the CB that has been designated for certifying the foodstuff in question or to a PG. In both cases, the certification is granted by the relevant CB.

If the producer applies to a PG, the latter must conduct an internal control on the new producer. Where the new producer has been found compliant with the product specifications, the CB will be notified accordingly. The CB will then amend the annex to the certification document.

If the new producer submits the application for certification directly to the designated CB, the verification of compliance is carried out directly by the CB, which, if positive, will issue the relevant certificate to the new producer.

The certification is valid for 3 years in both cases. In cases where non-compliance is detected and the product does not comply with product specifications, the CB issues a decision refusing to issue a certificate.

A producer may be part of a PG, in which case the certification documents are held by the PG and the names of all members of the PG are listed in the annex to the certificate. In these situations, the CB deals directly with the president of the PG.

A producer may decide not to become a member of a PG and can be certified individually. In these situations, the CB always deals directly with the FBOs on all issues relating to the annual control.

After the control, if cases of non-compliance are detected, a copy of the report is sent to the president of the PG or directly to the FBOs if the producer is not part of a PG. In cases where non-compliance is rectified within a specified time period, the file is closed. A copy of each individual report is not sent to the UVHVVR or the MKGP.

The CB is required to inform the CA when it withdraws certification, which is the only sanction available to the CB.

Each FBO is obliged to inform the MKGP of the quantities of GI products produced each year (if the producer/processor is a member of a PG, the data may be collected and submitted by the PG).

In addition to controls performed by CBs, regional officers of the UVHVVR may carry out controls in the framework of regular controls planned in advance or extraordinary and unplanned controls based on any information about suspected non-compliance.

2.2 CONTROLS ON THE MARKET

As already mentioned, official controls of GIs on the market are primarily carried out by the regional offices of the UVHVVR and the IRSKGLR.

The surveillance of the use of the GI names (including GIs from third countries) in the marketplace is envisaged in the Annual Control Plan prepared by the CAs. The Annual Control Plans are distributed to every regional office or unit, which will in turn prepare the detailed Control Plan for the FBOs located in the region within the competence of that particular UVHVVR regional office.

Priorities for routine control activities are based on a number of factors, such as risk assessment and classification of different establishments (high, medium, low risk establishments), data relating to the preceding controls, or legislative obligations.

For the wine inspections, performed by the IRSKGLR, the following risk factors are taken into account:

risk factor R1 = the vineyard area;
risk factor R2 = the quantity of wine produced;
risk factor R3 = irregularity at any time in recent years;
risk factor R4 = irregularity in the last year.

Moreover, the Sampling Programme specifies the number of samples to be taken by each regional office or unit, the commodity to be sampled, the week of sampling and the laboratory where the samples must be sent.

Controls on the market can be undertaken as part of the normal control plan, in response to consumer complaints and non-compliant results of laboratory analysis.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As regards resources for controls of GIs, at national level, the UVHVVR has 78 official control officers, while the IRSKGLR counts on 12 official control officers.

At regional level, the UVHVVR has 264 regional officers and 4 officers at the border inspection offices. For the Wine Inspection Service, there are 6 officers.

4. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

The Slovenian Republic also uses the European **Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the RASFF, which facilitate the exchange of information between Member States; the national contact point for the FFN system is the UVHVVR.

The legal basis for the implementation of the RASFF system is laid down in the 'Decree coordinating the operation of ministries and organs under their responsibility having competences in the field of food or foodstuff safety including in the process of risk analysis'.

The necessary RASFF procedures and email address, and the staff responsible for processing notifications have been put in place by the UVHVVR Management.

5. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

5.1 ADMINISTRATIVE SANCTIONS SYSTEM⁴⁷⁶

Administrative measures are primarily carried out by the UVHVVR and IRSKGLR.

In general, if cases of non-compliance are detected during controls, the business operator has the opportunity to rectify the non-compliance within a given time frame. Corrective actions take into account the severity of the infringement, its consequences for the public interest and the circumstances affecting the time within which the business operator under inspection will reasonably be able to rectify the non-compliance in question.

If non-compliance is not corrected, the inspector will impose a fine or rectification of the detected non-compliance by a third person/entity. Moreover, inspectors can determine the seizure and destruction of inappropriate goods, propose to cancel the certificate, or prohibit the use of GIs in relation to products that do not comply with the requirements.

⁴⁷⁶ The general legal framework for enforcement of official controls as per Regulation (EC) No 882/2004 is mainly constituted by: Regulation on implementation of Council Regulation (EC) No 509/2006 on agricultural products and GIs and designations of origin for agricultural products and foodstuffs (OJ RS No 102/07); Public Administration Act (OJ RS No 113/05) administrative tasks as a part of the executive of the Republic of Slovenia, general provisions and basic principles, organisation, relations, supervision; General Administrative Procedure Act (OJ RS No 24/06) general principles and rules of administrative procedure; Inspection Act (OJ RS No 56/02) defines general principles; Organisation of inspection, the statutes, the rights and the duties of inspectors, procedural provisions, measures in cases of violations of regulations and other questions related to inspection control; Minor Offences Act (OJ RS, Nos 70/06, 115/06, 3/07) — laying down the general conditions applied to prescribing offences and related sanctions; Agriculture Act (OJ RS Nos 26/14, 32/15), Articles 175-178; Wine Act (OJ RS No 105/06), Section VII — Implementation of Inspection Provisions, Section VIII — Penal Provisions; Act Implementing the Customs Regulations of the European Community Articles 50-56, addressing actions when intellectual property rights are involved

Please see the Guide for more details on the applicable administrative sanctions.

5.2 CRIMINAL PROSECUTION

In general, the infringements of IP rights are considered criminal offences in Slovenia.

Criminal measures are within the competence of the police, the Office of the State Prosecutor, and local courts with territorial jurisdiction.

Under Article 233 of the Slovenian Criminal Code⁴⁷⁷, those who, with the intention of deceiving buyers or users of services, use another's business name, another's geographic mark of origin for goods or services or incorporate particular features of these marks into their business name, their geographic mark of origin, their stamp or trade mark or into their special mark for goods, will be punished by a fine or imprisonment up to 3 years.

Moreover, goods marked with unauthorised GIs as well as tools and devices used for their manufacture, may be seized.

5.3 FOLLOW-UP OF CASES

In cases of minor non-compliance, an inspector may issue a decision imposing a fine or any other type of penalty, such as a warning or caution. In the latter case (caution) the inspector will notify the non-compliance to the business operator, require the non-compliance to be rectified, and will issue the relevant decision defining a deadline for its rectification. In defining the deadline for rectifying non-compliance, the inspector will take into account the severity of infringement, its consequences for the public interest and circumstances affecting the time within which the business operator under inspection will reasonably be able to rectify the non-compliance in question.

In turn, the business operator must notify the inspector immediately after the non-compliance has been remedied.

If the inspector finds that the business operator has not rectified the non-compliance within the required deadline, the inspector will impose a fine or rectification of the non-compliance by a third person.

The non-compliance statistics are published in national annual reports and the cases are included in the follow-up as one of the criteria for the monitoring controls.

As already mentioned, if cases of non-compliance are detected, reports of controls are not sent to the UVHVVR or the MKGP. However, the relevant CB is required to inform the CA when it has withdrawn a certification.

As regards wines, if non-compliance relates to sampling, the wine of the relevant producer will be included in the sampling of the following year.

In cases where non-compliance is detected in the GI sector, the producer will be prohibited from marketing the wine by means of administrative measures. This is irrespective of whether the wine is being marketed in the territory of Slovenia or in other territories. The RASFF system will not be informed accordingly.

⁴⁷⁷ http://www.wipo.int/wipolex/en/text.jsp?file_id=180880.

As already mentioned, to undertake special control activities, the results of inspections, analyses, notifications through the RASFF, information from other inspection services or other sources, and complaints received are taken into account.

6. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

The District Court of Ljubljana has exclusive jurisdiction over disputes related to IPRs in general.

In cases of infringement, a rights holder may institute civil proceedings for infringement of the holders' rights and lodge one or more claims⁴⁷⁸. In particular, it is possible to request the court to prohibit the infringement, to rectify the situation caused by the infringement, to recall infringing goods from the market, to destroy infringing goods and the means used for the infringement, and to publish the court's judgment.

In deciding the case, the court will take into account all the circumstances of the case, in particular the proportionality between the seriousness of the infringement and the claim, as well as the interest of the rights holder in ensuring effective protection of the holder's rights.

Please see the Guide for more details on civil actions.

⁴⁷⁸ Industrial Property Act of 23 May 2001 and subsequent amendments.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

SLOVAKIA



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

DVFA	District Veterinary and Food Administrations (Regionálna veterinárna a potravinová správa)
HACCP	Hazard Analysis and Critical Control Points
MPRV	Ministry of Agriculture and Rural Development (Ministerstvo pôdohospodárstva a rozvoja vidieka)
ŠKČ	State Control Number (Štátne kontrolné číslo)
SNAS	Slovak National Accreditation Service (Slovenská Národná Akreditačná Služba)
ŠVPS	State Veterinary and Food Administration (Štátna veterinárna a potravinová správa)
ÚKSÚP	Central Control and Testing Institute in Agriculture (Ústredný kontrolný a skúšobný ústav poľnohospodársky)
VPÚ	State Veterinary and Food Institute (Štátny veterinárny a potravinový ústav)

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The national central authority of the Slovakian GI control system is the **Ministry of Agriculture and Rural Development (Ministerstvo pôdohospodárstva a rozvoja vidieka — MPRV)**.

In particular, controls on GIs fall under the chapter 'EU Quality Policy' of the **Multi-Annual National Control Plan (MANCP)**.

1.2 GENERAL STRUCTURE OF THE SYSTEM

In Slovakia, the national system for the protection and enforcement of GIs is coordinated by the MPRV through a designated CA, namely the **State Veterinary and Food Administration (Štátna veterinárna a potravinová správa — ŠVPS)** and through approved CBs.

The ŠVPS is a State administrative authority in the field of food surveillance pursuant to Article 9(a) and Articles (8) and (10) of the Food Act of the National Council of the Slovak Republic No 152/1995, as amended.

The ŠVPS acts as CA for the surveillance of the use of the name in the marketplace in relation to quality controls in all sectors: foodstuffs, wines, spirits and aromatised wines.

As regards foodstuffs and spirits, controls on compliance with product specifications are carried out both by delegated CBs and the ŠVPS, while they are delegated to a CB for wines and aromatised wines.

During controls, the ŠVPS is assisted by inspectors from the 40 **District Veterinary and Food Administrations**⁴⁷⁹ (**Regionálna veterinárna a potravinová správa — DVFA**).

The ŠVPS may also impose fines and inform the relevant CBs of the controls carried out, and their results.

Legal status and powers of staff of Competent Authorities

Inspectors from the ŠVPS, performing state control functions, have the legal status of civil servants. Consequently, ŠVPS inspectors are obliged to follow the Code of Ethics for Civil Servants and other rules of behaviour for civil servants and employees and are bound by the respective provisions of the Law on Civil Service.

No further information was provided on powers of controllers.

⁴⁷⁹ The list of DVAFs can be found at http://www.svps.sk/zakladne_info/rvps.asp.

Capacity of laboratories

There are official and accredited laboratories, which perform tests and analysis on GI products.

In the food sector, the laboratory is the **State Veterinary and Food Institute (Štátny veterinárny a potravinový ústav — VPÚ)**, managed by the ŠVPS and located in Dolný Kubín, with four branches in Bratislava, Dolný Kubín, Košice and Prešov.

For wines, the chemical analyses, which are part of the verification of product specifications, are performed by laboratories accredited in accordance with ISO 17025:2005.

There are five accredited laboratories in Slovakia for which the MPRV has granted official approval to perform analysis for the certification of GI wines.

Central Control and Testing Institute in Agriculture (Ústredný kontrolný a skúšobný ústav poľnohospodársky — ÚKSÚP) in Bratislava;

ŠVPS, through the VPÚ Košice; the VPÚ Dolný Kubín; the VPÚ Bratislava;

VIN.LAB s.r.o., Pezinok;

EUROFINS BEL/NOVAMANN s.r.o., Nové Zámky;

Financial directorate of the Slovak Republic — customs laboratory.

1.3 CONTROL BODIES

The MPRV has delegated official controls for before the product is placed on the market to CBs.

For foodstuffs and spirits, the CBs are:

EUROFINS BEL/NOVAMANN s.r.o.;

ŠVPS acting as the certifying body.

These entities carry out verification of compliance with the product specifications, in accordance with Section 9(a), (7) and (9) of the Food Act of the National Council of the Slovak Republic No 152/1995, as amended.

Through its certifying body CERTEX, EUROFINS BEL/NOVAMANN s.r.o carries out controls and is responsible for controls on compliance with product specifications for the abovementioned sectors.

The ŠVPS, acting as a CB, is responsible for:

verifying compliance with product specifications for foodstuffs and spirits during the production phase based on MPRV Decision No 442/2017-100 of 15 March 2017;

carrying out regular surveillance of the certified products;

issuing certificates of compliance with product specifications.

Both EUROFINS and the ŠVPS are accredited as CBs by the Slovak national accreditation service (Slovenská Národná Akreditačná Služba — SNAS) in accordance with ISO/EC 17065:2012 'Conformity assessment — Requirements for bodies certifying products, processes and services'.

As regards wines, the ÚKSÚP is a state CB responsible for the certification of wine products complying with GI specifications before being placed on the market.

The ÚKSÚP carries out official controls in accordance with Section 37 of the Act on Viticulture and Viniculture No 313/2009.

Although it is not accredited in accordance with ISO/IEC 17065:2012, it performs the certification of wine products in accordance with this standard.

1.4 ACCREDITATION BODY

The Slovak accreditation body is the SNAS, which is in charge of issuing accreditations in accordance with ISO/IEC 17065:2012. No further detailed information on the accreditation body was available.

1.5 SUPERVISION OF CONTROL AUTHORITIES AND CONTROL BODIES

On the basis of the recommendations from DG Health and Food Safety (formerly DG Health and Consumers) audit⁴⁸⁰ in 2013, the MPRV started supervising CBs in the food sector. Supervision is performed approximately every 2 years and depends on the amount and type of possible findings.

Moreover, the MPRV has issued methodical instructions for audits of control activities performed by the CBs. These controls are performed by qualified MPRV personnel and follow the steps set out in the instructions:

1. appointment of the control lead and the members of the control group;
2. definition of objectives, subject and criteria of the control activities;
3. planning of control activities and communication of the date of controls to the inspected subjects;
4. preparation of working documents;
5. start of controls;
6. gathering and verifying information;
7. formulation of findings;
8. closure of control activities;
9. elaboration of control report and protocol about the results;
10. approval and distribution of control report and protocol;
11. end of control activity;
12. performance of follow-up controls.

During supervision controls, inspectors are supported by a checklist including a set of questions for different areas, as outlined below:

1. Work management and work organisation:
 - is an updated organisation chart of the CB in question available?
 - are the inspectors fully qualified and regularly trained?
2. Evidence of establishments and databases of controlled subjects:
 - is there a database of controlled establishments in place?
 - is the database updated regularly?
3. Fulfilment of control plans:
 - is there a control plan in place?
 - is the plan being implemented?

⁴⁸⁰ DG(SANCO) 2013-6651 MR FINAL available at: http://ec.europa.eu/food/audits-analysis/audit_reports/details.cfm?rep_id=3234.

4. Sampling:
 - is there a plan for sampling for the calendar year and is it being implemented?
 - are suitable storing conditions ensured before dispatch to laboratory?
 - is evidence of samples and are results of laboratory analysis stored?
5. Documentation:
 - are the documents being completed correctly?
 - is evidence of decisions on corrective measures stored?
 - are follow-up controls on corrective measures carried out?
 - is all documentation being archived?
6. Equipment, legal basis and guidelines:
 - are inspectors equipped with the necessary measuring apparatus and instruments for sampling?
 - is evidence of cleaning of sampling instruments kept?
 - are inspectors provided with the necessary legal provisions and methodical guidelines?
 - do the inspectors have internet access?
7. Management of complaints from consumers and associations:
 - is the examination procedure for complaints followed in accordance with Act No 152/1998 Coll. on Complaints?
 - is evidence of complaints and initiatives kept?
8. Control of official controls:
 - does the management of the CBs inspect the performance of controls by their inspectors and the integrity of the final documentation?
 - is the evidence kept?

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Inspectors of the ŠVPS performing state control functions have the legal status of civil servants.

In particular, Section 60 of Act No 400/2009 on the Civil Service ensures that staff carrying out official controls are free from any conflict of interest. Civil servants must:

carry out their duties impartially within the limits of their authority and refrain during the exercise of their duties from anything that would undermine confidence in their impartiality;
maintain confidentiality on matters they have learned during the performance of their duties that may not be communicated to others in the interests of the service authority;
refrain from any behaviour that could lead to a conflict of interest with their personal interests, in particular not misuse information obtained in connection with the performance of their duties to their own or others' advantage and not abuse their position as a civil servant.

In addition, Quality policy document No CV/4/14 ensures that the CB offers its services in an objective, impartial and non-discriminatory way, complying with the principle of confidentiality of information. It also states that employees cannot own shares or have financial or managerial interests in the entities where they perform the verification of compliance with GI product specifications.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

Controls at producer level are carried out by the ŠVPS and take place as regular annual checks.

The private CB EUROFINS BEL/NOVAMANN s.r.o. prepares its own national plan of official checks on the basis of relevant information from the MPRV concerning the conclusion of approval processes for the individual GI products.

Since the approval of these products may take a whole calendar year, the CB ensures the necessary annual updating of the plan, which is always done in the month of January of the following year. Once the product has been certified, the subsequent controls are carried out on an annual basis.

In addition, ad hoc controls can be performed upon the request of the MPRV or the requestor (producer or association of producers).

The relevant control plan includes a sampling plan. Sampling is ensured during each control on the verification of compliance with product specifications and for each producer. The samples taken are analysed mainly for the specific physical-chemical, quality and sensory characteristics outlined by the product specifications for each product.

The supporting documents for the national plan are also used to create the annual plans for control activities. EUROFINS BEL/NOVAMANN s.r.o. maintains a database of producers of foods and spirits with GI indications with which it has a contractual relationship. The database is updated for each registration of a new GI product.

As regards wines, the verification of compliance with product specifications before placing products on the market does not include the control of whether any past non-compliance has been detected on other products of same producer. However, when subsequent controls are performed at the producer's site, it is checked whether complaints were filed about that specific product.

2.1.2 *Verification of compliance with product specifications*

The verification of compliance with product specifications is documented by the certification authority and is managed in a controlled and accredited manner in accordance with ISO/EC 17065:2012. One of the main documents of reference is the quality manual, which details the activity of CBs and ensures quality of work, expertise, impartiality and objectivity.

In particular, in relation to the certification procedure for food and spirit GIs, the ŠVPS receives the request for certification from the applicant and examines it, thus determining the criteria for assessing the product.

Then the ŠVPS performs the control by testing the sample in laboratories identified under an agreement and evaluates the compliance of the product.

After the assessment, the ŠVPS prepares a protocol on the results of the control (i.e. 'compliance' or 'non-compliance') and sends it to the applicant. In cases of non-compliance, the ŠVPS will invite the applicant to implement corrective measures; the applicant can send observations stating that the deficiency has been remedied or raising objections. At the end of the procedure, the ŠVPS will decide to grant or withhold the certificate of compliance.

Once the product has been certified, regular annual surveillance is carried out following the same steps; on the basis of the outcome of the annual control, the certificate is maintained or withdrawn.

Controls at producer level for wines are set forth in Internal Order No 2/2015 on Wine Certification and Internal Directive No 5/2015 on Wine Certification. Both documents are revised regularly and serve as internal guidelines for the inspectors in charge of wine certification and controls. The Internal Order also lists the professional requirements for inspectors, as well as their duties.

All wines bearing a GI are subject to certification. In addition, GI wines in bottles marked with a traditional term can be placed on the market only if they have obtained the 'State control number' (*Štátne kontrolné číslo* — ŠKČ). A standard label bearing this number must be visible on the bottle.

This number is granted based on the results of the certification and will only be given for the exact number of bottles indicated in the request. The number can be revoked if the wine no longer fulfils the specific requirements or if the owner of the ŠKČ prevents the CBs from performing the controls.

Wine certification is granted on the basis of the results of several control activities, in particular:

- sensory evaluation of the conformity of organoleptic qualities with the specification indicated by the applicant; the conformity is assessed by the wine evaluation committee;
- chemical analysis of wine performed in an accredited laboratory;
- verification of data entered in the viticulture register and compliance with the product specifications;
- verification of grape certificates before granting the ŠKČ.

The requirements for sensory, physical and chemical qualities of wines bearing GI are listed in Annexes 21 and 22 of Implementing Act No 350/2009, which implements some of the provisions of Act No 313/2009.

Wine analyses are performed by qualified staff that demonstrate awareness of the requirements of ISO/IEC 17025:2005. The report on the results of these controls and the recommendation to issue or withhold the certificate are sent to the control lead, who takes the final decision.

2.2 CONTROLS ON THE MARKET

The ŠVPS is the CA for market controls in all four sectors.

The surveillance of the use of GI names (including GIs from third countries) in the marketplace is envisaged in the annual plan of official control of the ŠVPS in the retail network, which is based on a risk analysis combined with sampling, as well as on random checks.

The following risk analysis criteria are taken into account:

- size of the establishment;
- supply in the region (other Member States or third countries);
- products' risk;

products intended for sensitive groups of population (people with allergy, children, pregnant women, elderly people);
conditions of machinery and technical equipment;
raw materials used and their source;
history of **Hazard Analysis and Critical Control Points (HACCP)**;
qualifications of staff of the establishment.

In Slovakia, the annual plan is based on the MANCP.

Controls on the market are performed by inspectors from the DVFA at regional level. The procedures for DVFA inspectors are defined by the manual for checking products with protected designations and the annual plan of checks and sampling.

During controls, the inspector checks whether there are any GI products in the inspected retail establishment and examines detailed information about such identified products (exact name of the product, producer, type of product, type of protected indication, etc.). In performing controls, inspectors also verify the right to use the GI logo by using the EU DOOR database.

If a potential unlawful use of name is detected, an additional control is performed on the establishment, in accordance with Section 6(4)(b) of Act No 152/1995 on Foodstuffs of the National Council of the Slovak Republic.

Photographic documentation of suspicious products must be attached to the report. In cases of positive findings, copies of the report of the additional controls must immediately be sent to the ŠVPS.

The results of the control are entered in the KIČ programme (an electronic database of controls), in a specific section called 'Quality policy'.

The KIČ programme is a tool for processing the results from the official controls of agricultural products and foodstuffs, including GI products. It is a support tool for DVFA inspectors at regional level, as it includes results from controls at the producer site (including sampling) and enables them to keep track of the findings on different producers. Furthermore, it also helps to define the control plan for the following year.

Results are evaluated at the ŠVPS central level and provide input data for the annual report, for both coordination and planning of controls. Data entered in the KIČ include, inter alia: the date of the control, the details of the producer, the type of control, the name of the inspector and results and sanctions related to the performed controls.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

According to available data, the ŠVPS has 40 inspectors for controls before placing the product on the market, who are also trained to perform GI controls at least once a year. EUROFINs BEL/NOVAMANN s.r.o. has seven inspectors dedicated to GI controls.

Moreover, the inspectors from ŠVPS and DVFA attend the European Commission **Better training for safer food (BTSF)**.

At least once a year, DVFA inspectors are given training on the results of the inspections of the previous year, the objectives of the checks for the current year, new legislation and current issues in quality policy.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Information on ŠVPS control activities is available to the public on the official website of the ŠVPS⁴⁸¹.

In particular, the ŠVPS publishes a monthly and an annual report on controls on its website.

There is no database of past records regarding the phase of pre-market controls. The records are stored within the respective CBs. Records from market controls are available on the ŠVPS website⁴⁸². GI controls are listed together with the other official controls.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

If non-compliance is detected regarding a product from another Member State, the MPRV checks the DOOR database or the database of the CAs and contacts the relevant CA.

The Slovak Republic also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate the exchange of information between Member States.

In this regard, the national contact point for the FFN system is the ŠVPS.

⁴⁸¹ - <http://www.svps.sk/potraviny/spravy.asp>.

⁴⁸² <http://www.svps.sk/puk/>.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

If cases of non-compliance are detected during the process of certification or surveillance inspections, the business operator is initially given the opportunity to rectify the matter within a given time frame. If this is not achieved, the CB may revoke the certificate.

The CB is required to inform the MPRV of the cancellation and the database of producers managed by the MPRV is amended accordingly.

Furthermore, in relation to evocation, misuse or other unlawful use of a GI, the law provides for administrative sanctions.

Please see the Guide for details on the certification cancellation procedure and the administrative sanctions.

6.2 CRIMINAL PROSECUTION

The Slovakian Criminal Code (Act No 300/2005 Coll.) sets forth criminal liability for certain infringements of industrial property rights⁴⁸³.

In particular, as for the criminal offences against GIs, according to Section 281, whoever (in order to achieve an economic benefit) puts into circulation goods unlawfully marked with a sign that is identical or confusingly similar to the registered designation of origin for a product and the GI for a product where the exclusive right belongs to another person, will be punished by imprisonment of up to 3 years.

Please see the Guide for more information on criminal prosecution.

6.3 FOLLOW-UP OF CASES

In cases of detection of non-compliance, reports and supporting documents are sent to the ŠVPS, which forwards them to the MPRV. Subsequently, the MPRV instructs the CBs to take appropriate action for those products produced in Slovakia. In the case of a product from another country, the MPRV checks the DOOR database and contacts the relevant CA.

For foodstuffs and spirits, all findings at regional level are entered in a database from which the ŠVPS selects information for the annual report, proposes the annual plan, coordinates activities and proposes any necessary updates of the MANCP. In the event of a failure to respect the product specifications, the ŠVPS communicates with the MPRV, which is the national focal point for the European quality policy. The results of checks performed by the CBs are reported to the MPRV once a year in the annual report on controls.

For wines, CBs submit an annual report for approval by the MPRV; the cooperation between CBs is

⁴⁸³ http://www.wipo.int/wipolex/en/text.jsp?file_id=366539.

established by Section 37(3)(n) and (4)(j) of Act No 313/2009 on Viticulture and Viniculture.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

The contact point for claims/complaints from users is the ŠVPS⁴⁸⁴.

CIVIL ACTION

Act No 469/2003 on Designations of Origin for Products and GIs refers to the Civil Code and provides for remedies if the protected rights are infringed.

In particular, any person is entitled to claim prohibition of the use of a registered designation of origin for identical or similar products that do not meet conditions for its use and the removal of such products from the market.

Furthermore, provisions on unfair competition of the Slovak Commercial Code⁴⁸⁵ also apply to the infringement of GIs.

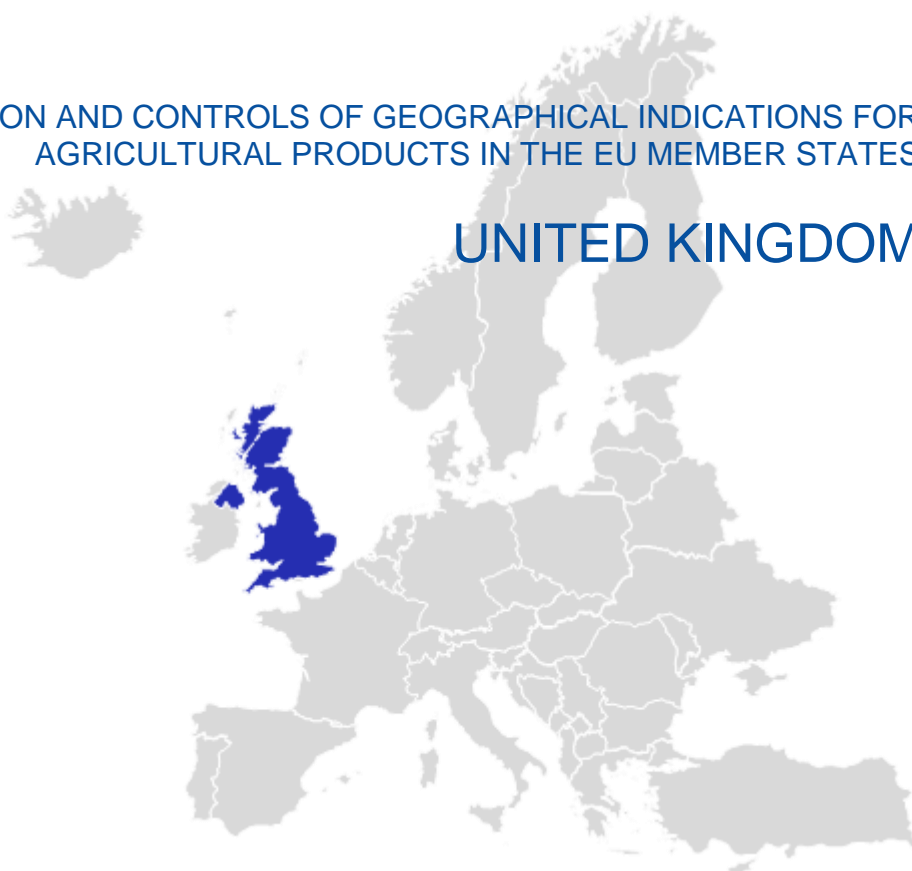
For more details on civil actions, please see the relevant section of the Guide.

⁴⁸⁴ Contact: staznosti@svps.sk.

⁴⁸⁵ Act No 513/1991.

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR
AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

UNITED KINGDOM



ABBREVIATION LIST

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

DEFRA	Department for Environment, Food and Rural Affairs
FSA	Food Standards Agency
HMRC	Her Majesty's Revenue and Customs
TSO	Trading Standard Office
UKAS	United Kingdom Accreditation Service

1. COMPETENT AUTHORITIES AND CONTROL BODIES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN THE EU MEMBER STATES

1.1 CENTRAL AUTHORITIES

The **Department for Environment, Food and Rural Affairs (DEFRA)**⁴⁸⁶ is the national central authority responsible for GIs in relation to all sectors.

1.2 GENERAL STRUCTURE OF THE SYSTEM

Foodstuffs

DEFRA is the competent CA for controls on foods and agricultural products, whereas there are delegated regional authorities responsible for the enforcement of controls at regional level:

- Scottish Government (for Scotland);
- Welsh Government (for Wales);
- Department of Agriculture, Environment and Rural Affairs (for Northern Ireland).

Once registered, all GI products are subject to inspection to ensure compliance with the product specifications, a role undertaken by CBs, which may be either a **Local Authority** (Trading Standards service) or a private inspection body.

The official surveillance of the use of registered names in the marketplace is carried out by the **Trading Standards service of the Local Authorities**⁴⁸⁷.

Wines and aromatised wines

The CA for controls is the **Food Standards Agency (FSA)**, supported by local government organisations (i.e. Trading Standards) and **Her Majesty's Revenue and Customs (HMRC)**.

The FSA is a government body that is competent for controls on wines during the production phase, as well as for the surveillance of the use of the name in the marketplace.

Spirits

DEFRA is responsible for the policy and legal implementation of GIs for spirits⁴⁸⁸.

The CA for the verification of compliance with the product specifications is HMRC.

However, the role of HMRC does not extend to the enforcement of the Spirit Drinks Regulations. In

⁴⁸⁶ <https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs>

⁴⁸⁷ DG (SANCO) 2012-6570 – MR FINAL.

⁴⁸⁸ The legal framework is the Spirit Drinks Regulations 2008, SI 2008/3206
http://www.legislation.gov.uk/uksi/2008/3206/pdfs/uksi_20083206_en.pdf.

relation to this task, 'food authorities' and 'port health authorities' are in charge (see below) and HMRC will pass relevant information on to these authorities in cases of detected non-compliance. A duty of cooperation between all competent and enforcement authorities for the purposes of protection of GIs on spirits is imposed⁴⁸⁹. As regards performance of official controls in accordance with Article 22 of Regulation (EC) No 110/2008, HMRC Commissioners are designated as the authorities responsible for verifying that a relevant spirit drink that is to be placed on the market using a GI complies with the product specifications.

Legal status and powers of staff of Competent Authorities

In general terms, primary and secondary UK legislation sets out the requirements that feed and **Food Business Operators (FBOs)** must comply with, and establishes offences and penalties for non-compliance. It also provides the legal powers for the CAs to carry out their duties in monitoring and verifying compliance with these requirements and in enforcing them where appropriate.

Inspectors of FSA (wine standards) have powers of access, seizure, issuing warning letters and reporting criminal infringements.

As regards spirits, to ensure the enforcement of the Spirit Drinks Regulations, an authorised officer may enter any premises at any reasonable hour for the purpose of ensuring that the provisions of EU regulations are being complied with.

In particular, under the Spirit Drinks Regulations, authorised officers entering the premises can, *inter alia*⁴⁹⁰:

- inspect premises, stills, plants, machineries or equipment on those premises;
- inspect any spirit drink partly or fully packaged ready for sale;
- inspect any product purporting to be a spirit drink partly or fully packaged ready for sale;
- inspect any raw material or ingredients;
- inspect any empty container, label, packaging and advertising or promotional material;
- search the premises;
- take samples and carry out any inquiries, examinations or tests;
- have access and inspect any documents, records and computer equipment.

Capacity of laboratories

As regards wines, Campden BRI⁴⁹¹ is the accredited laboratory for analysis of GIs in accordance with the ISO 17025 standards. Campden BRI is also the manager for the English and Welsh wine (PDO and PGI) schemes.

According to the product specifications for English/Welsh wines (PDOs) and English/Welsh regional wines⁴⁹² (PGIs), an applicant can choose another laboratory but, in this case, the applicant will be required to prove that the chosen laboratory meets the appropriate or equivalent standards. These laboratories may be situated in the United Kingdom or other Member States.

⁴⁸⁹ Article 9 of the Spirit Drinks Regulations.

⁴⁹⁰ Article 11 of the Spirit Drinks Regulations.

⁴⁹¹ <https://www.campdenbri.co.uk/>.

⁴⁹² For more information see <https://www.gov.uk/government/collections/protected-food-name-scheme-uk-registered-products#wine>.

1.3 CONTROL BODIES

Foodstuffs

As has already been mentioned, periodic inspection of producers during the production phase is undertaken by CBs.

The applicant nominates a CB, which is usually either a Local Authority Trading Standards service, or a private inspection body that is accredited in accordance with the appropriate standards by the **United Kingdom Accreditation Service**⁴⁹³ (UKAS), which can undertake inspection of producers. Producers may procure verification inspection from any accredited (or in the case of Trading Standards, recognised) provider.

Private CBs must be independently accredited and audited by UKAS in accordance with ISO/IEC 17065:2012.

Local Authority Trading Standards services, in their capacity as CAs must demonstrate that, as far as possible, they are able to comply with ISO/IEC 17065:2012.

DEFRA should be informed of all outcomes of official controls on a regular basis.

Wines and aromatised wines and spirits

According to the data available at time of the survey, it appears that there are no delegated CBs for wines and spirits. Controls on wine are undertaken by the FSA and FSS, and as necessary by Trading Standards.

1.4 ACCREDITATION BODY

UKAS⁴⁹⁴ is the sole national accreditation body for the United Kingdom. UKAS is recognised by the Government as the body to assess organisations that provide certification, testing, inspection and calibration services against internationally agreed standards.

It operates in accordance with the EN ISO/IEC 17000 series of standards. Accreditation by UKAS demonstrates the competence, impartiality and performance capability of accredited entities.

1.5 SUPERVISION OF CONTROL AUTHORITIES AND CONTROL BODIES

As regards food products, DEFRA is in charge of surveillance.

According to the actual **Multi-Annual National Control Plan (MANCP)**⁴⁹⁵, DEFRA is currently carrying out a major update of its website⁴⁹⁶ with the aim of including more information about the inspection process, role of CBs and its own role.

No further information was available on this topic at the time of this survey.

⁴⁹³ For more information see DG (SANCO) 2012-6570 — FINAL.

⁴⁹⁴ <https://www.ukas.com/>.

⁴⁹⁵ MANCP, p. 137.

⁴⁹⁶ <https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs>.

1.6 MEASURES AGAINST STAFF'S CONFLICTS OF INTERESTS

Officials are required to be free from conflicts of interests; official guidance is in place to ensure that officials work in accordance with the published seven principles of public life⁴⁹⁷. They were first set out by Lord Nolan in 1995 and they are included in the Ministerial Code.

According to these principles, holders of public office must avoid placing themselves under any obligation to people or organisations that might try to influence them inappropriately in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

As regards wines, conflicts of interests are managed by local or central governmental controls.

1.7 OTHER ENTITIES AND AUTHORITIES IN CHARGE OF CONTROLS AND COORDINATION MEASURES

In relation to the wine sector, HMRC is in charge of controls on imports and exports. Moreover, the **police** can assist the CAs with investigations if criminal activity is detected during controls.

For controls on spirits in port districts being imported to or exported from the United Kingdom, each 'port health authority' is responsible for GI protection.

2. PERFORMANCE OF CONTROLS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

2.1 CONTROLS DURING THE PRODUCTION PHASE

2.1.1 *Planning and prioritisation criteria and frequency*

Foodstuffs

Plans of controls are included in the MANCP and priorities are determined by planning purposes and capacity of available resources.

The MANCP for the United Kingdom details the roles and responsibilities of the different authorities and organisations involved in monitoring compliance with, and enforcement of, feed and food law, animal health and welfare rules and plant health requirements. The plan was updated in 2016⁴⁹⁸ and extended to the end of March 2018.

Producers are checked on a risk-based approach up to every 3 years and controls include records collected from previous inspections.

⁴⁹⁷ <https://www.gov.uk/government/publications/the-7-principles-of-public-life>.

⁴⁹⁸ https://www.food.gov.uk/sites/default/files/mancp-uk_0.pdf.

DEFRA defines the minimum frequency of controls⁴⁹⁹.

Wines and aromatised wines

As regards wines, controls are undertaken on a systematic basis, according to a risk analysis. Moreover, random controls based on a risk-basis analysis can also be carried out.

Priorities for controls are established on the basis of previous checks, non-compliance, offences and size of the operation.

Visits are usually conducted under prior notice (systematic basis), but there are also certain percentages of random visits.

Spirits

All producers are verified over a 2-year cycle. Exceptionally, producers will be verified on a more frequent basis (e.g. annually) according to a risk-based approach.

Verification of compliance with product specifications

Foodstuffs

Verification of compliance with product specifications is based on records that are held by producers. Each inspected producer has an individual record.

Producers agree an inspection regime with the CB that verifies compliance with product specifications.

During controls, the appropriate use of logos and labelling in accordance with EU guidelines is checked. Sampling and analysis can be part of the verification checks, as well as traceability requirements and quality checks.

If non-compliance is detected, the CB gives the producer the opportunity to rectify the non-compliance within a given period and reports the situation to DEFRA, which informs the producer that the right will be withdrawn until corrective action is verified by the CB and the non-compliance has been rectified.

It must be noted that the requirements for producer verification and the approach to enforcement on the Protected Food Names scheme are currently being reviewed by the UK Government.

Wines and aromatised wines

Verifying compliance with product specifications for wine GIs includes checking labelling compliance with EU regulations and a visual appearance check (i.e. if the liquid is clear and bright or whether there are sedimentary deposits).

Laboratory analysis and organoleptic assessments are carried out on a systematic basis for qualification of PDO wines, whereas only an analysis is required for PGI wines. The FSA will conduct random control sampling and organoleptic testing to ensure compliance.

During the visits, inspectors also check the quality control systems monitored and the producer's

⁴⁹⁹ DG (SANCO) 2012-6570 — MR FINAL.

records/inventories.

Spirits

As regards control procedures, full records of previous visits and correspondence on performed controls are kept in an internal database. Standard working instructions set out processes followed by inspectors.

A visit report is completed for all verified businesses, setting out the checks undertaken and any recommendation required to comply with the product specifications.

HMRC carries out controls on specific key aspects of the product specifications (e.g. fermentation, distillation, maturation, blending, and bottling and labelling) to ensure that the producer is following the requirements of the technical file.

For each of the UK GIs protected for spirit drinks, a document is made available for operators and the public⁵⁰⁰, which sets out the specifications with which they must comply, along with a range of practical information on how verification will be carried out. Minimum requirements to be included in product specifications are those detailed in Article 17 of Regulation (EC) No 110/2008.

Controls include verifying compliance with the labelling requirements for the products set out in its product specifications.

Sampling is currently only carried out for the Irish cream GI and all samples are taken following the protocol recommended by the independent analyst carrying out the testing.

Under the Spirit Drinks Regulations⁵⁰¹, authorised officers can enter any premises, at any reasonable hour, for the purpose of enforcing the Regulations. If there are grounds for officers to suspect any irregularities, if irregularities occur or in the event of refusal by the operators to undergo controls or obstruction, premises can be entered with a warrant issued by a Justice of the Peace.

2.2 CONTROLS ON THE MARKET

Foodstuffs

UK Local Authority Trading Standards services also have an enforcement role with respect to ensuring that registered food names are not used fraudulently and that general food labelling rules are complied with. Details of Local Authority Trading Standards food law enforcement services are provided in Appendix K of the UK MANCP.

Surveillance of the use of protected food names in the marketplace and subsequent enforcement are carried out on a notification basis, for both domestically produced products and upon request from other Member States or third countries. Trading Standards investigate cases of non-compliance detected by other Member States, third countries as well as those detected by UK CAs.

Cases of non-compliance detected by CBs at verification, if not rectified within a given period, are reported to DEFRA, which will contact the relevant Trading Standards service to check that the non-compliant product is not placed on the market⁵⁰².

⁵⁰⁰ See <https://www.gov.uk/government/publications/spirit-drinks-verification-scheme-technical-guidance>. The checks for Scotch whisky are set out in Annex B of the relevant technical guidance and the checks for Irish spirit drinks are set out in Annexes A and C of the relevant technical guidance.

⁵⁰¹ Article 10 of the the Spirit Drinks Regulations.

⁵⁰² DG (SANCO) 2012-6570 — MR FINAL.

Wines and aromatised wines

The FSA and the relevant Local Authority Trading Standards services are also competent for surveillance of the use of the name in the marketplace for domestic and imported wine GIs.

Spirits

Local Authority Trading Standards officers are entrusted with checking compliance with product specifications on the market.

Third-country blenders, bottlers and labellers of UK GI spirits are verified as part of the verification schemes for these spirit drinks.

Moreover, pursuant to Article 10(14) of the Spirit Drinks Regulations, an authorised officer may carry out inspections at the request of another Member State or the European Commission.

3. RESOURCES AVAILABLE AND TRAINING

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
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Overall, approximately 8 274 staff in terms of full-time equivalents are involved in official food controls at national, regional and local levels. More detailed information on human resources can be found in Appendix O of the UK MANCP. However, specific figures related to staff only competent for GI controls are not broken down.

Officers involved in controls on food products conduct online training. Twelve people involved in GI controls on food products attended the European Commission's **Better Training for Safer Food (BTSF)** courses on quality schemes. In particular, there were seven people from DEFRA, two from different Local Authority Trading Standards services, two from CBs and one from a producer group⁵⁰³.

As regards wine GIs, according to the data available at the time of the survey, the exact number of human resources is unknown. Personnel involved in controls attend in-house or external training.

According to the data collected to date, there are seven HMRC staff responsible for verifying GIs for spirit drinks: one manager, three visiting officers and three support staff.

No further information was available on resources and training at the time of this survey.

⁵⁰³ DG (SANCO) 2012-6570 — MR FINAL, p. 7.

4. TRANSPARENCY OF THE SYSTEM

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

Foodstuffs

Registered GI products from the United Kingdom are listed and their specifications can be downloaded from the internet⁵⁰⁴. However, no central publicly available database of producers is available. Information on controls is available on request.

Wines and aromatised wines

There is an annual database of visits but it is only available for official use, due to data protection constraints, since the reports contain commercial information.

Spirits

Records from the inspections of Scotch whisky are included in the Spirits Drink Verification Look-up Facility⁵⁰⁵ database.

In particular, through the 'Search for a facility' section, it is possible to check whether Scotch whisky production facilities, brands or bulk importers are verified as meeting the requirements of the scheme. Through the 'Search for a brand' section, it is possible to check that a particular brand of whisky has been verified. Any brand that does not appear in the Spirits Drink Verification Look-up Facility database may not be legally marketed.

If somebody is aware of a brand being marketed as Scotch whisky that is not on the list, this can be notified using the email address provided in the tool;

Information in the tool is updated regularly, mostly on a daily basis. Details of production facilities outside Scotland are updated monthly.

5. COORDINATION WITH OTHER MEMBER STATES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

As regards food and agricultural products, in cases of an infringement of a UK GI from another Member State, the relevant CA from this Member State will be contacted.

Trading Standards carry out controls if notified of infringement by another Member State.

⁵⁰⁴ <https://www.gov.uk/government/collections/protected-food-name-scheme-uk-registered-products>.

⁵⁰⁵ <https://customs.hmrc.gov.uk/sdvlookup/index.action>.

As regards wines, an alert system, cooperation and contacts are established between the United Kingdom and authorities in key Member States. Shared information is usually limited to single cases in respect of cross-border investigations.

Potential breaches of GI spirit drink rights are notified by email to the appropriate authorities in the Member State in which the breach has occurred. In the United Kingdom, DEFRA is responsible for coordinating actions with enforcement authorities and reporting them to the referring Member State.

Moreover, the United Kingdom also uses the **European Food Fraud Network (FFN)** and its IT system, the **Administrative Assistance and Cooperation system (AAC)**, as well as the **Rapid Alert System for Food and Feed system (RASFF)**, which facilitate exchange of information between Member States. The national contact point for the FFN system is the FSA.

6. NATIONAL ENFORCEMENT MEASURES

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

6.1 ADMINISTRATIVE SANCTIONS SYSTEM

Foodstuffs

If a case of non-compliance is detected during producer verification, the CB gives the producer the opportunity to rectify the non-compliance within a given period and reports the situation to DEFRA. If considered appropriate, DEFRA will inform the producer that the right to use the protected food name will be withdrawn until corrective action has been verified by the CB and the non-compliance has been rectified.

Wines and aromatised wines

According to the legal framework⁵⁰⁶, in cases of detected non-compliance, inspectors can issue warning/advice notices for minor offences or seizures and other measures for more significant offences.

Under the Wine Regulations, the FSA, Trading Standards and HMRC have competence for offences. The FSA manages most controls and offence provisions.

Seizure and required disposal can be provided for under the terms of control notices or legislation.

Spirits

The Spirit Drinks Regulations set out the legal framework for administrative enforcement measures, as well as procedures in cases of offences.

As already mentioned, the 'food authorities' and 'port health authorities' (within their area/district of competence) are in charge of the enforcement of GI protection in cases of detected non-compliance.

⁵⁰⁶ Provided by the Wine Regulations 2011

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82332/wine-consult-si-draft.pdf.

For more details on national administrative sanction system, see the relevant section of the Guide.

6.2 CRIMINAL PROSECUTION

A person who commits any offence under the Food Safety Act, the Wine Regulations or the Spirit Drinks Regulations is liable:

- (a) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both;
- (b) on summary conviction, to a fine not exceeding the relevant amount or to imprisonment for a term not exceeding six months or to both

It must be noted that the requirements for producer verification and the approach to enforcement on the protected food names scheme are currently being reviewed by the UK Government.

For further details on criminal offences and prosecution, see the relevant section of the Guide.

6.3 FOLLOW-UP OF CASES

Foodstuffs

As already mentioned, CBs verify whether the producer has rectified the detected non-compliance within the given period; the situation is reported to DEFRA, which contacts the relevant Trading Standards office to check that the non-compliant product is not placed on the market.

Follow-up of notified infringements is ensured by the Trading Standards office.

There is no database of infringements and cases of non-compliance are not included in national reporting.

Wines and aromatised wines

In cases of non-compliance, warning, enforcement and seizure notices can be applied. Moreover, the business operator is moved to a higher risk category under the national control plan.

Spirits

Most cases of non-compliance are dealt with by informing the producer that is not complying with the product specifications, giving the producer time to remedy the non-compliance.

Many cases of non-compliance cover labelling issues.

6.4 EX OFFICIO PROTECTION

As regards wines, government CAs also act *ex officio*.

7. REMEDIES FOR USERS

PROTECTION AND CONTROLS OF GEOGRAPHICAL INDICATIONS FOR AGRICULTURAL PRODUCTS IN
THE EU MEMBER STATES

CIVIL ACTION

In general, the illicit use of a GI could lead to liability for a tort of passing off if there is a risk of confusion/misrepresentation in the course of trade.

The action for passing off is a private law action for misrepresentation. The protection against unfair competition and passing off serves the goal of protecting traders and producers from the unauthorised use of geographical names by third parties, rather than creating individual property rights over those names.

Indeed, it is a legal instrument that aims to ensure the fair functioning of trade rather than guaranteeing the authenticity of the product⁵⁰⁷.

For more details on civil action, see the relevant section of the Guide.

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<http://www.veterinarstvo.hr/default.aspx?id=1269>

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Department of the Central Inspectorate for the Protection of Quality and Combating Agri-Food Product Fraud:

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Directorate-General for the Recognition of Inspection of Control Bodies and Certification and Consumer Protection (VICO):

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Directorate-General for Preventing Fraud in the Agri-Food Sector (PREF):

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<http://vmvt.lt/maisto-sauga/kontrole/patikrinimu-klausimynai>

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Ministry of Agriculture official website: www.zum.lt

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Luxembourg Office of Accreditation and Surveillance (OLAS): <https://portail-qualite.public.lu/fr/acteurs/ilnas/olas.html>

Section 'Rapid Alert System' of the OSQCA website: http://www.securite-alimentaire.public.lu/organisme/rasff_alerte_rapide/fonctionnement_rasff/index.html

Web form available for complaints on the OSQCA website: <http://www.securite-alimentaire.public.lu/consommateur/doleances/index.php>

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National Food Chain Safety Office (NFCSSO) official website: <http://portal.nebih.gov.hu/>

List of Hungarian laboratories: <http://portal.nebih.gov.hu/web/guest/kapcsolat/laboratoriumok/nebih-laboratoriumok>

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For Douro wine: <https://www.ivdp.pt/pagina.asp?codPag=62>

For Porto wine: <https://www.ivdp.pt/pagina.asp?codPag=63&codSeccao=1&idioma=0>

Instituto do Vinho, do Bordado e do Artesanato da Madeira

<http://www.ivbam.gov-madeira.pt/>

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<http://www.ipac.pt/>

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Institute for Inspection and Certification in Agriculture and Forestry Maribor (Inštitut KON-CERT)
<http://www.ikc-um.si/ikc-um/>

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The Department for Environment, Food and Rural Affairs (DEFRA)

<https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs>

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<https://www.gov.uk/government/publications/the-7-principles-of-public-life>

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FOR AGRICULTURAL PRODUCTS
IN THE EU MEMBER STATES



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