

CAN GEOGRAPHICAL INDICATIONS BRING VALUE TO ENVIRONMENTAL PROTECTION?

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Rocheffort cheese, Bordeaux wine, Pingu Peach are protected designations of origin (PDOs) at national and/or European Union level that acknowledge that a particular product's "quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors".¹ It is generally considered that "Geographical Indications (GI) are an umbrella term, covering inter alia the EU Protected Designations of Origin (PDO) and Protected Geographical Indication (PGI)...."² "The fundamental concept behind GIs is that specific geographic locations yield product qualities that cannot be replicated elsewhere."³ The uniqueness of the characteristic features of the similar French notion of "terroir" is highlighted by the European Commission in the following definition: "le goût du terroir as: a distinct, identifiable taste reminiscent of a place or locality...Foods and beverages that evoke the term terroir have signature qualities that link their taste to a specific soil with particular climate conditions. Only the land, climate and expertise of the local people can produce the product that lives up to its name."⁴ Thus, the description of the French notion "terroir" acknowledges the embodiment of an original blend of geographical and human factors in a product. So too does a decision of the Appeal Board from Jerusalem that notes that while "Citrus fruit from South Africa may be of high quality, just like citrus fruit produced in Israel, but differences may result from conditions that pertain to one country alone. [...] the fruit raised in Israel still contained the distinctive qualities

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¹Article 5, paragraph 1, letter b) from Regulation (EU) no. 1151/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 November 2012 on quality schemes for agricultural products and foodstuffs, O.J. L 343/14.12.2012

²Susan Hall, *Geographical Indications: a Signposted Route to the Future or an Impenetrable Labyrinth?* (2013) 8 *Journal of Intellectual Property Law & Practice* 252

³Kal Raustiala and Stephen R. Munzer, *The Global Struggle Over Geographical Indications*, (2007) 18 *The European Journal of International Law* 338.

⁴Ibid at 344.

connected to the geographic locale identified by the designation [Jaffa] to merit its continued registration as an appellation of origin."⁵ Here, a direct connection between the quality of the fruits, food and beverages and a certain geographical area was emphasized. The unique combination of the geographical factors, from a certain space, is a prime criterion in order to obtain juridical protection for a PDO. The argument presented in this insights piece is that these characteristics might also open the door to environmental protection. The preservation of geographical factors will likely entail environmental conservation.

Support for this idea is found in the work of Kerkhoff and in the work of some NGOs such as the Slow Food Foundation for Biodiversity, known as Slow Food Presidia⁶ which aims to protect "*quality production at risk of extinction, protect unique regions and ecosystems, recover traditional processing methods, safeguard native breeds and local plant varieties*".⁷ This foundation created a project that emphasizes the three European Union quality schemes of protection,⁸ as a shield for its goals. According to Kerkhoff, designations of origin play a role in safeguarding the quality of the products, as well as local territories, each of which is viewed as a "*homogeneous geographic space because of its resources and agricultural specialization and its interaction with natural and human factors in the production standards that ensure the characteristics of the product*."⁹ The maintenance of homogeneous space involves the conservation of geographical and human factors. According to this view, the PDO symbol on the label of a product guarantees certain characteristics of that particular product through the preservation of natural conditions. Similarly, GIs may involve the protection of local products that are manufactured using traditional skills and knowledge.

⁵Neil Wilkof and Shir Uzrad, *In the Matter of the Appellation of Origin for 'JAFFA'*, (2008) 3 Journal of Intellectual Property Law & Practice 19.

⁶<http://www.slowfoodfoundation.com/presidia>

⁷Ibid.

⁸Protected designation of origin, protected geographical indication and traditional speciality guaranteed by Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, O.J. L 343/14.12.2012.

⁹Rudolf Kerkhoff, *The Fuentes de Ebro, Sweet Onion: Autonomy through Globalisation*, in Yassine Essid&William D. Coleman, *Two Mediterranean Worlds. Diverging paths of globalisation and autonomy* (UBC Press Canada 2012) 189.

Thus it appears that GIs occupy an important position in the preservation and development of biodiversity, since they have the capacity to protect uniqueness and authenticity.¹⁰ Furthermore, the link between geographical indications and biodiversity is highlighted by article 8 j) from the Convention of Biological Diversity.¹¹ Although article 8 j) does not mention expressly any form of GIs, GIs are a national and European pattern of protecting "traditional lifestyles relevant for the conservation and sustainable use of biological diversity" and thus fall within the definition. As Verrier argues "A Protected Designation of Origin (PDO) supports the conservation of local breeds and their production environments through marketing of typical products."¹² Indeed the Parties to the Biodiversity Convention have already acknowledged biodiversity may progress through a wide variety of ways, one of which is food production using traditional knowledge.¹³

In practice GIs have proved very important in the conservation of a number of species and ecosystems, including small ruminants in the Mediterranean states. Similarly rice cultivation in the Albufera lagoon from Spain sustains the conservation of diverse flora and fauna. This link was recognized at the "International Year of Rice", celebrated in 2004 by the United Nations. As has been noted, rice cultivation will protect the ecosystem of the lagoon if

¹⁰See, G.E. Evans and Michael Blakeney, *The Protection of Geographical Indications After Doha: Quo vadis?* (2006) 9 *Journal of International Economic Law* 579; Mariano Riccheri, Benjamin Görlach, Stephanie Schlegel, Helen Keefe, Anna Leipprand, *Impacts Of The IPR Rules On Sustainable Development*, Contract No. SCS8-CT-2004-503613, Workpackage 3 *Assessing the Applicability of Geographical Indications as a Means to Improve Environmental Quality in Affected Ecosystems and the Competitiveness of Agricultural Products*, Final Report, 53 – 55, http://www.ecologic.eu/download/projekte/1800-1849/1802/wp3_final_report.pdf (accessed at 26.11.2014)

¹¹See Armelle Caron, Valérie Boisvert, Christophe Berthelot, Philippe Chambon, Alain Gueringer and Valérie Angeon, *Biodiversity Conservation as a New Rationale for Localized and Sustainable Agro-Food Systems. The Case of Two French PDO Mountain Cheeses*, 9th European IFSA Symposium, 4-7 July 2010, Vienna (Austria), 1638, http://ifsa.boku.ac.at/cms/fileadmin/Proceeding2010/2010_WS4.1_Caron.pdf (accessed at 4.01.2015)

¹²<http://www.wageningenur.nl/en/article/Breeding-programs-for-rare-local-breeds-to-serve-and-use-their-unique-traits.htm> (accessed at 3.01.2015)

¹³United Nations Decade on Biodiversity, *Biodiversity: The Foundation for Sustainable Development CBD – Get Ready For 2015*, February 2014, <http://www.cbd.int/development/doc/sdg-feb2014-info-en.pdf> (accessed at 4.01.2015) [please check this should be in the following order: author, title, place of publication, year.]

carried out with traditional methods.¹⁴ In turn, the PDO Arroz de Valencia may enhance the use of traditional methods, which will reflect positively on environmental conservation of the lagoon. Although, in practice the influence of the PDO is limited, because only 11% of the rice produced in the area is labelled as such, other research has also pointed to the benefit of GIs in that they do not endanger local breeds, due to their final low crop yield.¹⁵ A similar finding was made with regard to the conservation of plant genetic resources from rural communities in Italy and Portugal.¹⁶

In contrast, specialists¹⁷ from some European universities argue that the effects of GIs regarding the issue of environmental protection vary in accordance with different classes of products. Some GIs have a positive influence on the conservation of the natural elements of the environment, while others wield a negative effect on soil, water and biodiversity due to the use of fertilizers and chemical substances destined for the protection of plants.¹⁸ Despite this there is support for the use of PDOs from the public. In part, this may be explained by a study of two French PDO mountain cheeses, Salers and Saint-Nectaires, which pointed out that while legislation does not yet embody the link between environmental protection, biodiversity and the PDO French system, they were connected in public debates referring to the new French agricultural law from 2006. In addition, consumers requested a combination between the PDO system and organic farming labels. In the authors' opinion, the results of this study may be used as a prompt to amend the law.¹⁹

¹⁴See further, Mariano Riccheri, Report for Case Study "Arroz de Valencia", Universidad de Alicante, 12 – 35, http://www.ecologic.de/download/projekte/1800-1849/1802/arroz_de_valencia.pdf (accessed at 7.01.2014)

¹⁵See further, M. Zjalic, A. Rosati, A. Dimitriadou and E. Murelli, *Geographic Indication of Animal Products and Farm Animal Biodiversity: Case of Twelve Northern and Five Mediterranean Member States of the European Union*, in I. Casasús, J. Rogošić, A. Rosati, I.Štoković, D. Gabina, Editors *Animal Farming and Environmental Interactions in the Mediterranean Region*, (Wageningen Academic Publishers 2012) 145 – 157.

¹⁶See, European Cooperative Programme for Plant Genetic Resources, *Report of a Task Force on On-farm Conservation and Management*, Third Meeting, 2-3 October 2007, Ljubljana, Slovenia, 4 - 5, <http://www.ecpgr.cgiar.org/resources/publications/publication/report-of-a-task-force-on-on-farm-conservation-and-management-2009/> (accessed at 6.01.2015)

¹⁷Riccheri et al n. 14.

¹⁸For example, geographical indications for potatoes and pickled cucumbers are associated with negative effects.

¹⁹See further, Caron, et al n.15.

Conclusions and Recommendations

The ecological effects of GIs seem largely to arise as a result of voluntary work. One may say that GIs play a Lilliputian role within the generous area of environmental policies, but their importance in trade and on consumer preferences should not be overlooked. The combination of their impact on trade and on the environment may be best embodied through the creation of a new form: GIs with ecological effects. The examples discussed above provide support for this idea. If, however, this concept is to work, local communities should be familiarized with the concept of GIs and its potential impact upon environmental protection.