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Belgium

Question B: What rules should govern claims by suppliers about the national or geographic origin of their goods or services?

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Introduction

Indications of origin are one of the main challenges faced by the European Union for the implementation of the free movement of goods of which it is the guardian. The Union has adapted regulations¹ applicable to its constituent Member States, including Belgium. However, although European law has gradually taken precedence over national law, the Member States have retained significant room for manoeuvre² when transposing Union law, implementing the registration process required by the Union and regulating where the European legislator has not yet done so.

The indication of origin scheme straddles many areas of law³ and is both technical⁴ and complex. The structure of the Belgian State in particular, characterised by a tailored federal political system and the resulting distribution of jurisdiction to federal entities, renders examination of the matter more arduous.

The purpose of this report is to establish an inventory of the rules of law applicable to indications of origin in Belgium. Certain questions will also provide an opportunity to examine several aspects of case law which illustrate the application of substantive law by the Belgian courts.

In terms of the extent of the report, we will analyse the regulations applicable to agricultural products and foodstuffs⁵ whenever possible and when instructions allow for it. On one hand, because the main European regulations in effect⁶ apply strictly to these goods and, on the other, because wine and spirits are subject to so many regulations that they warrant a dedicated and detailed analysis.

Lastly, the terminology used had to be defined to ensure perfect understanding of this report. Many different terms are used for geographical indications in the broadest sense. Writers refer to "*designations*", "*indications*" and "*appellations*" and use qualifiers including "*of origin*", "*geographical*" among others. The terms are then sometimes followed by the adjectives "*protected*" or "*registered*" to refer to specific protections.

A clear, precise and consistent term reflecting current legal reality had to be chosen. In addition, and most importantly, the term had to match as precisely as possible the specific topic examined at the annual ILCL congress⁷.

¹ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, p.1-29.

² On this subject, Alex Tallon writes that the role of the States in recognising and monitoring European indications is essential. (A.Tallon, "*Les appellations d'origine*", Larcier, 2016, Brussels, p. 13.)

³ Competition law, intellectual property law, consumers' rights and business law come immediately to mind, among others.

⁴ This technical aspect is further confirmed by the high number of prejudicial questions European regulations have been subject to.

⁵ The attention of the rapporteurs was drawn to the scheme applicable to wines and spirits in the case of some of the questions asked. The specific schemes are, exceptionally, covered under those questions.

⁶ See footnote n°1.

⁷ For the International League of Competition Law. For more information, see: www.ligue.org

The term "*indication of origin*" is used most often in the English-language questionnaire provided to national groups. It covers a wider field than the registered designations⁸ for which the terms "PDO"⁹ and "PGI"¹⁰ have been selected by the European Union¹¹.

For the sake of consistency, we decided to use the term "*indication of origin*" primarily. Therefore, we look at all designations which tend to, in one way or another, link a product to a particular geography (city, region, or other), regardless of format, whether registered or not, whether the link to the product is strong or not, and whether the product comes from Belgium, here or elsewhere.

However, in view of the comparison work that will be undertaken between the various national reports at the ILCL Congress, we have kept the term "*indication of origin*" in the question titles in reference to the same term used in the English-language version of the questionnaire.

⁸ The preamble of the English-language questionnaire provides the following explanation: "*Hereinafter, the term indication of origin will be used as an umbrella term that encompasses indications of source, geographical indications and appellations of origin*" (see page 1 of the questionnaire which can be viewed on the ILCL website). For a more in-depth explanation of the issue examined at the annual congress, see the English-language questionnaire, which can be found at:

<http://ligue.org/uploads/documents/cycle%202016/Questionnaire%20B%20-%20février%202016.pdf>).

⁹ For "protected designation of origin".

¹⁰ For "protected geographical indication".

¹¹ The title of the main applicable European regulation (seen footnote ^o1) uses the terms "*geographical indications*" and "*designation of origin*".

1. Do your jurisdiction's laws have provisions dealing with indications of origin that are used by manufacturers, distributors and service providers to commercialise their goods and services (e.g. passing off, unfair competition law, trademark law, *sui generis* law regulating the use of indications of source, geographical indications, or appellations of origin)? If yes, please provide the text of those provisions.

In Belgium, the protection of indications of origin is primarily regulated by the Code of Economic Law¹² which contains a number of different provisions for them:

- A. - A section on definitions contains the designations registered in accordance with the applicable rules of the European Union¹³: Article I.8 of the Code defines "protected designation of origin" for agricultural products and foodstuffs. In this respect, reference is expressly made to the definition in the European standards¹⁴.

The article also defines the term for goods other than agricultural products and foodstuffs:

*"Protected designation of origin applies to products originating in that region, specific place or country, the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined geographical area when it has been recognised in accordance with the applicable regional regulations"*¹⁵;

and the protected geographical indication:

*"Protected geographical indication applies to products originating in a region or specific place, and which possess a specific quality, reputation or other characteristics attributable to that geographical origin, and the production and/or processing and/or preparation of which take place in the defined geographical area when it has been recognised in accordance with the applicable regional regulations."*¹⁶

With the exception of the protection¹⁷ of indications of origin, which is regulated by the Code of Economic Law, all other aspects¹⁸ of obtaining protection for indications of origin were regionalised in 1988 following the reform of the Belgian State. Each of the three

¹² Law of 23 February 2013, Code of Economic Law, *B.O.J.*, 29 March 2013, p. 19975. The Code of Economic Law is a recent codification of Belgian law which came into effect in successive phases in 2014. The new code compiles different laws related to commercial law, consumer protection, market practices, freedom of establishment and freedom to provide services, certain aspects of intellectual property, etc.

¹³ Primarily: Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, p.1-29.

¹⁴ Article 2 of Regulation 510/2006.

¹⁵ Article I.8. 4°, b) of the Code of Economic Law.

¹⁶ *Ibid.*

¹⁷ We have underlined to emphasise the fact that, while the protection (solely the scope) of indications of origin continues to be a matter governed by the Belgian federal legislator it has, however, been regionalised such that the Regions have jurisdiction for the protection request procedure which results, if applicable, in the granting of protection by the European Union under a PDO or PGI label.

¹⁸ That is, essentially, the procedure to be followed to obtain registration of the designation to be protected (competent bodies, definition of the persons authorised to submit the request, review of the request, specifications, etc.).

regions (the Walloon Region, the Flemish Region and the Brussels-Capital Region) has its own regulation:

- For the Walloon Region: the Decree of 19 December 2002¹⁹;
- For the Flemish Region: the Government Decree of 19 October 2007²⁰;
- For the Brussels-Capital Region: the Government Decree of 22 October 2009²¹.

B. - Article XII.22 on the registration of domain names forbids the registration of a domain name which is identical to (or similar to the point of causing confusion) a "*geographical indication*" or a "*designation of origin*" belonging to another²².

- Article VI.17 § 1 on comparative advertising allows as legal any advertising which, for goods with a indication of origin, compares goods with the same name which do not gain undue benefit from name recognition by their association with the indication of origin of competing goods²³.
- With respect to misleading commercial practices, Article VI.97 establishes as such commercial practices which contain false information which induce (or may potentially induce) consumers into error regarding the information provided about the products. This includes product characteristics such as geographical or commercial origin²⁴. Indications of origin also have a bearing when examining the lawfulness of company practices.
- Article VI.105 forbids any advertising which induces (or may potentially induce) into error any person other than a consumer which it targets or which it impacts and which contains false information about the geographical or commercial origin of the product²⁵. In this case also, the Code of Economic Law protects indications of origin and, more precisely, the forms used to present them.

C. There is also a federal regulation in place regarding the issuing of certificates of origin, that is, a document officially attesting to the geographical origin of products made in

¹⁹ Decree of the Walloon Region of 19 December 2002 amending the decree of 7 September 1989 on the allocation of the Walloon quality label, the local appellation of origin and the appellation of Walloon origin, *B.O.J.*, 5 February 2003.

²⁰ Decree of the Flemish Government of 19 October 2007 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs and traditional specialties guaranteed for agricultural products and foodstuffs, *B.O.J.* 7 November.

²¹ Decree of the Government of the Brussels-Capital Region of 22 October 2009 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs and traditional specialties guaranteed for agricultural products and foodstuffs, *B.O.J.* 20 November.

²² Article XII.22 of the Code of Economic Law. The term "*belonging to another*" is important given that, according to the Belgian legislator, following the example of the Union, a protected indication of origin is not intended for personal appropriation. It is not a right which any market participant can boast ownership of. It is therefore our understanding that the law is intended to apply to the registration of a name which is identical (or similar to the point of causing confusion) to an indication which is already protected in some shape or form.

²³ Article VI.17, §1, 6° and 7° of the Code of Economic Law. In addition, note that Article XIV.9 § 1 of the same Code, also related to comparative advertising, stresses the same principle.

²⁴ Article VI.97, 2° of the Code of Economic Law.

²⁵ Art. VI.105, 1°, a) of the Code of Economic Law.

Belgium. This is the royal decree of 30/05/1936²⁶ (whose execution is regulated by a more recent ministerial decree of 14/09/2000²⁷). The certificate allows economic operators to use the label "*made in ...*" on their products²⁸. The two above-mentioned laws define the conditions to be met by the bodies authorised to issue certificates and state that the Minister of Economic Affairs is competent to appoint them. In addition, the regulation has implemented an "*Origin assessment commission*" responsible for carrying out an annual audit of the bodies. The audit reviews the procedures for issuing certificates (compliance with ministerial instructions, justification for issue, etc.). Issuance is, therefore, not left to chance in any way.

2. What requirements in your jurisdiction must be met in order for goods to be marketed with an indication of origin?

Companies wishing to commercialise a product with an indication of origin by registering it (whether a PDO or PGI) must comply with the conditions set in the specifications for the indication of origin. There are two different approaches depending on the existence of registered protection for the designation:

- If the goal is to sell a product with a designation which has already been registered, the company must comply with the existing specifications for the registered designation;
- If the goal is to sell a product with a designation which has not yet been registered, a registration request must be submitted together with specifications which must be rigorously complied with when using the designation²⁹.

In any event, the specifications are a required tool for the commercialisation of the product using the designation since its instructions must be followed to the letter. They set the very specific and strict conditions under which the designation can be used.

In this respect, the regulations applicable in the Walloon Region and in the Brussels-Capital Region refer to the definition of the specifications in Article 7 of Regulation 1151/2012 of the Parliament and the Council³⁰ as containing the following *minimum* items:

- The product name
- A description of the product³¹
- The boundaries of the geographical area
- The items proving that the product originates in the delimited geographical area
- A description of the method by which the product is produced and, if applicable, all local, fair and consistent methods, as well as information regarding packaging when the party requesting the registration determines and demonstrates that packaging must

²⁶ R.D. n°283 of 30 March 1936 on the regulation of the issuance of certificates of origin, *B.O.J.*, 7 April.

²⁷ Ministerial Decree of 14 September 2000, regulating the exercise of Royal Decree n° 283 of 30 March 1936 on the regulation of the issuance of certificates of origin, *B.O.J.*, 18 October.

²⁸ This point will also be further explored in question n°13 which specifically addresses this certification method (see below, page 18).

²⁹ The registration process will be reviewed in detail below in question 5 (see below, page 7).

³⁰ See footnote n°1.

³¹ Either the raw materials it contains or its main physical, chemical, microbiological or organoleptic characteristics.

take place in the delimited geographical area to safeguard the quality of the product, guarantee its origin or ensure control

- The items demonstrating the connection between the quality or the characteristics of the product and the specific geography or the link between a given quality level, the reputation or another characteristic of the product and its geographical origin
- The name and address of the authorities or bodies verifying compliance with the provisions of the specifications and their mission
- Any specific labelling rules
- Any requirements to be complied with by virtue of community or national provisions.

There are, therefore, many detailed requirements.

The legislation applicable in the Flemish Region expressly refers to the definition of the specifications found in Article 7 of Regulation 1151/2012 of the Parliament and the Council³², the requirements of which are exactly the same as those of Regulation 510/2006. This means that the specifications of the three Regions use the same standards, that is, those of the European Union.

The specifications set the conditions and, therefore, the limits of use of the protected designation since its use can only be implemented if they are strictly complied with.

What are the requirements for services?

To our knowledge, there is no equivalent to this regulation for services. It only covers products. Therefore, given that there are no specific rules for indications of origin for services, there are no specific requirements for them. However, the rules of the Code of Economic Law sanctioning unfair competition and protecting consumer information could come into play with respect to misleading information and/or practices.

In addition, another type of protection, which involves services, may be applicable. This is the protection provided by quality labels which are intended to highlight certain qualities of a service, including its origin. This particular protection is examined below in question 12.

³²See footnote n°1.

3. Are there different provisions for different types of goods (e.g. for wines and spirits, foodstuffs, natural goods, industrial products, etc.)? If so, what are the respective requirements?

The regulations applicable in the three regions must again be differentiated:

- In the Brussels-Capital Region, there is only one regulation which covers agricultural products and foodstuffs.
- In the Flemish Region, the Decree of 19 October 2007³³ only covers agricultural products and foodstuffs. The Flemish Government has implemented specific regulations for wine and spirits³⁴.

They refer to the procedure for the protection of designations of origin and geographical origins of wines covered in Regulation 1234/2007 of the Council³⁵. The procedure is similar to that in place for agricultural products and foodstuffs given that it first implements a preliminary procedure at the national level prior to review by the Commission which proceeds, *in fine*, with registration and, concurrently, with the listing of the registered name in the register it keeps up to date³⁶.

- In the Walloon Region, in addition to the Decree of 19 December 2002, there is also a specific regulation for wines produced in Wallonia³⁷.

The regulation only contains two articles and sets the conditions and procedures for the approval of wines produced under the designations "*Côtes de Sambre et Meuse*" and "*Vins de pays des Jardins de Wallonie*". In its preamble, the government decree refers to European Regulations n°1494/1999³⁸, 353/2002³⁹ and 510/2006⁴⁰. A Ministerial Decree of the same day sets the conditions which must be met for the designation "*Vins de pays des Jardins de Wallonie*". No execution decree has been passed for the second designation.

Therefore, Union law must be applied, as is the case for agricultural products and foodstuffs.

³³ See footnote n°24.

³⁴ Decree of the Flemish Government of 17 February 2012 on the protection of geographical indications, designations of origin and traditional terms of wine products and the protection of geographical indications of distilled beverages, *B.O.J.*, 29 March.

³⁵ Regulation (EC) n° 1234/2007 of the Council of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products, *O.J.E.U.*, L.299, p. 1-149.

³⁶ Note that there is a European register for wines and spirits. This is the "E-Bacchus" which can be viewed at: <http://ec.europa.eu/agriculture/markets/wine/e-bacchus/index.cfm?language=FR>.

³⁷ Decree of the Walloon Government of 27 May 2004 setting the appellation and conditions for approval of wines produced in the Walloon Region, *B.O.J.*, 15 June, p.44441.

³⁸ Regulation (EC) n° 1494/1999 of the Commission, of 30 June 1999, laying down the reduced agricultural components and additional duties applicable from 1 July to 31 December 1999 inclusive to the importation into the Community of goods covered by Council Regulation (EC) No 3448/93 under European Agreements, *O.J.E.C.*, L.173, p.1-20.

³⁹ Regulation (EC) n° 353/2001 of the Commission of 22 February 2001 amending Regulation (EC) n° 2428/2000 granting Portugal a derogation for the 2000/01 marketing year from Articles 1(1) and 20(1) of Regulation (EC) No 2366/98 laying down detailed rules for the application of the system of production aid for olive oil, *O.J.E.C.*, L.53, p.3.

⁴⁰ See footnote n°1.

It should also be noted that quality labels (examined below in question 12) also enable the establishment of protection for products other than foodstuffs and agricultural products. For example, spirits could have their link to a specific geographical area protected with a quality label. Once again, these are regional matters.

4. Do the same provisions apply to domestic indications of origin as to foreign indications of origin?

Yes, with respect to foreign indications of origin protected by *"the provisions of the European Union setting the rules for their protection"*⁴¹.

The *"DOOR"*⁴² data bank, set up and maintained by the European Commission, contains the specifications for all designations registered by the various countries of the Union. These conditions, included in the specifications established by foreign groups responsible for registrations, must be complied with equally and to the same extent as the conditions set in the specifications for Belgian PDOs and PGIs.

Does your jurisdiction for example apply the country-of-origin principle, according to which foreign indications of origin are judged according to the law of their country of origin?

No. They must be judged based on European Union provisions which determine their protection and based on Belgian laws which, as a result of the provisions, protect the registered designations as Belgian designations.

In fact, we can see aspects of the equal treatment of Belgian and foreign indications in the Code of Economic Law⁴³ which states that, with respect to registered indications, the protection provided by Belgian law covers PDOs and GIs *"or any other equivalent designation (...) in application of the provisions of the European Union which sets the rules for their production"*. The law does not, therefore, distinguish between Belgian or foreign indications. All are governed by the same scheme.

With respect to the indications of origin of other countries, the judge will apply Belgian law when examining protections, as they do for Belgian ones. See, for example, the *"Champagne"* decree rendered by the Court of Appeal of Brussels in which the Court found a violation of the controlled appellation of origin (AOC) *"Champagne"* - a French legal protection – with respect to the law applicable in Belgium⁴⁴.

⁴¹ Article I.8, 4° of the Code of Economic Law.

⁴² See: <http://ec.europa.eu/agriculture/quality/door/list.html>

⁴³ Article I.8 of the Code of Economic Law.

⁴⁴ Brussels, 13 March 2014, in *"Pratiques du marché Propriété Intellectuelle Concurrence"*, 2014, p.66.

5. Is there a special register for the registration of indications of origin for goods and/or services within your jurisdiction? If yes, what goods or services and what kind of indications of origin can be registered in this register?

No, to our knowledge the Belgian government does not have a specific registration system or register for this purpose. The federated entities implement the Union's registration procedure, at least for the first phase, for which they have jurisdiction.

Please provide a brief description of the registration process and the effects of such a registration and the scope of protection of registered indications of origin.

The registration procedure takes place in two phases, one national and one European:

- a) First, the three regions are competent to receive registration requests and to accept or reject them. Requests must be submitted by national producer or product processing groups. Specifications must be submitted with the request. They must describe the conditions under which the indication to be protected can be used (geographical area, production method, product quality, etc.).

The competent region must then proceed with publication of the registration request to enable any natural persons or entities with a legitimate interest to oppose the request.

- b) In the second phase, if the Region believes that the request is sound and there has been no opposition, the request will be sent by the Region to the Ministry of the Economy which in turn will send it to the European Commission⁴⁵. On receipt, the request will again be published (in the OJEU⁴⁶) and start the opposition period. If no opposition is recorded by the deadline, the indication will be recorded in the European register (transcribed in the DOOR database) which distinguishes between indications for which a request has been submitted and those already registered. The Commission will then carry out an additional review and take the final decision to recognise the indication requested. If applicable, the protected designation of origin or protected geographical indication will be registered.

With respect to temporary protection, only one of the three regions (the Walloon Region) grants temporary protection after the first phase. The protection ends when the Commission has taken its decision⁴⁷ and either becomes definitive if registered or disappears in the event of refusal. The Walloon Region authorises temporary protection by virtue of Article 5 §6 of Regulation 510/2006, that is: "*The Member State can grant, on a temporary basis only...*"⁴⁸

⁴⁵ E. Degryse, "*Les droits intellectuels*", 2nd edition, Larcier, Brussels, 2013, p.250.

⁴⁶ For the "Official Journal of the European Union".

⁴⁷ Decree of the Walloon Region of 19 December 2002 amending the decree of 7 September 1989 on the allocation of the Walloon quality label, the local appellation of origin and the appellation of Walloon origin, *B.O.J.*, 5 February 2003, Article 16. The decree states that: "(...) *the geographical indication is recognised by the Walloon Region on a temporary basis (...)*".

⁴⁸ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, Article 9, p.10.

Once the indication of origin or the geographical indication has been registered, the designation is protected against all misuse or imitation. The scope of this protection is defined in Article 13 of Regulation 510/2006⁴⁹ and by Article VI.124 of the Code of Economic Law:

"1. Registered names shall be protected against:

- a) Any direct or indirect commercial use of a registered name in respect of products not covered by the registration where those products are comparable to the products registered under that name or where using the name exploits the reputation of the protected name, including when those products are used as an ingredient;*
- b) Any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected name is translated or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation' or similar, including when those products are used as an ingredient;*
- c) Any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product that is used on the inner or outer packaging, advertising materials or documents relating to the product concerned, and the packing of the product in a container liable to convey a false impression as to its origin;*
- d) Any other practice liable to mislead the consumer as to the true origin of the product. "*

The protection is, therefore, relatively extensive. It should be noted, in particular, that point d) of the provision expressly extends the scope of protection as fully as possible. It enables behaviour which does not come under one of the three categories above, and which would prejudice the protected designation, to be addressed.

We note, in passing, some of the names registered by Belgian groups. The PDOs include, for example, "Beurre d'Ardennes" and "Fromage de Herve"; and the PGIs, "Jambon d'Ardennes" and "Pâté gaumais".

Is it possible that a registered indication of origin becomes a non-protected generic term or are there specific rules that prevent a registered indication from becoming generic?

A registered indication of origin cannot become generic because the main European regulation governing the matter expressly excludes this: "*Protected designations of origin and protected geographical indications shall not become generic*"⁵⁰. Belgian law expressly restates the

⁴⁹ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, Article 13, p.11.

⁵⁰ *Ibid.*

principle⁵¹. One commentator wrote on this topic that one of the main objectives of DPO and PGI protection is to prevent the degeneration of designations into generic names⁵².

6. Is the registration of certain indications of origin mandatory in order for them to be protected and their use to be regulated?

There are different levels of protection for Belgian indications of origin which are of varying importance. In question 1, we looked at the specific regulations protecting indications of origin. In answer to the current question, we can say that other laws can combine to protect designations which have not been registered. We can take a look at a decision made by the courts in this context, although we could have also considered others. This is the "*Cistercienne*" case⁵³ which recognised a degree of protection for an indication which had not been registered.

In their decision, the President of the Court of the Commercial Court of Mons recognised the protection afforded by the name "*Cistercienne*" based on the fact that, in the consumer's mind, beers named after abbeys or communities of monks are brewed and sold by abbeys or communities or, at the very least, with their consent. He therefore considered the designation to be equivalent to a real indication of origin and sanctioned the incriminated behaviour, that is, the use of said name on beers which were not made by a community of monks, based on the former law on commercial practices⁵⁴:

"By using the indication in dispute, the first defendant committed an act of parasitic competition contrary to fair commercial practices."

Both Belgian regulations and case law provide protection for indications of origin, even when they have not been registered.

In addition to Belgian regulations (discussed in question 1) and case law (a revealing example of which is given above), we should also note that an indication of origin can also be protected as a collective Benelux brand⁵⁵. The collective brand is a sign which identifies the shared characteristics of certain products, potentially including their geographical origin⁵⁶.

⁵¹ Article VI.124 §2 of the Code of Economic Law.

⁵² E. Degryse, "*Les droits intellectuels*", 2nd edition, Larcier, Brussels, 2013, p.248.

⁵³ Comm. Mons (cess.), 9 November 2004, *Ing.-Cons.*, Bruylant, 2004, IV, p. 465. We can note there are a large number of caselaw relating to abbey's beers in the matter of indication of origin. For example, concerning a registered indication, we can read the ECJ caselaw "*Malheur*" : E.C.J., 19 April 2007 (DE LANDTSHEER EMMANUEL SA v. INTERPROFESSIONNEL COMMITTEE OF CHAMPAGNE WINE, WIDOW CLIQUOT PONSARDIN SA), C-381/05, Rep.ECJ , p.1-03115.

⁵⁴ Since abrogated by the new Code of Economic Law mentioned in question 1 (see footnote n° 12).

⁵⁵ One example is the collective brand "*Belgian Beer*" which has been protected by the OBPI (Benelux Office for Intellectual Property) since 1991, and the collective brand "*Eqwalis*" protected since 2003, which are clearly indications of origin (Belgium in the first case and the Walloon Region in the second). Note that, as for the protected designation of origin scheme and protected geographical indications, the use of the collective brand requires compliance with the associated specifications.

⁵⁶ A.Cruquenaire and S.Dusollier, "*Le cumul des droits intellectuels*", Larcier, 2009, Brussels, p.130.

However, in order for the use⁵⁷ of an indication of origin of an agricultural product or foodstuff to be regulated, it has to be registered (see the registration procedure described above in question 5). The conditions for use can be defined in a limited way via the specifications. This is, in fact, the most important protection for setting the conditions of use of the indication, for PDOs, PGIs and collective brands.

If yes, to which indications of origin and for what kind of goods and services does such registration requirement apply?

The registration requirement to ensure protection by the specific regulation is applicable to agricultural products and foodstuffs and includes two categories of known indications of origin, that is, DPOs and PGIs, and "*any other similar name*"⁵⁸.

They can be easily differentiated as follows: the first can be granted to products which are produced, processed and prepared within a given geographical area whereas the second requires, at a *minimum*, that one of the three stages be associated with a limited geographical area. There is, therefore, in the case of DPOs, an exclusive link between the product and the region in question, whereas the PGI is a more flexible concept which only requires a more tenuous connection between the product and the geographical area to which it is linked⁵⁹.

In addition, a second criterion differentiates the two designations: for the DPO, the product must originate in the region in question and its qualities/characteristics must be essentially or exclusively the result of the region. On the contrary, the PGI must refer to a region in which the product originates and its qualities and characteristics must be linked to the region. Again, the PDO requires a much stronger connection with the region promoted⁶⁰.

For the others, the judge must assess:

- If the name refers to a region or a location
- And, if they are agricultural products or foodstuffs.

7. Who is entitled to apply for the registration of an indication of origin (any market player, manufacturer organisations only, etc.)?

Registration requests can be submitted by a national producer or product processing group of the product in question. However, in accordance with European Union Regulation 1151/2012, a natural person or legal entity can replace a "group" under specific conditions⁶¹.

⁵⁷ We have underlined because it is this aspect of protection that differentiates the registration of PDOs and PGIs by the European Commission from the other protections available under Belgian law.

⁵⁸ Article I.8 of the Code of Economic Law.

⁵⁹ A. Cruquenaire et S. Dusollier, "*Le cumul des droits intellectuels*", Larcier, 2009, Brussels, p.129; L. Van Bunnan, "*Examen de jurisprudence (2009 à 2013)*", *R.C.J.B.*, 2013, p.195; E. Degryse, "*Les droits intellectuels*", 2nd edition, Larcier, Brussels, 2013, p.249.

⁶⁰ L. Van Bunnan, "*Examen de jurisprudence (2009 à 2013)*", *R.C.J.B.*, 2013, p.197.

⁶¹ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, p.1-29, Article 49.

Note also that a producer group established outside of the Union can also submit a request for protection if the the name is already protected in its country. This process can be quicker given that, unlike national groups, foreign groups can contact the European Commission directly to request registration without necessarily involving the competent Belgian authorities. They can, therefore, skip the first phase of the registration process, which will obviously save time.

Does the registration of an indication of origin confer property rights upon a specific owner?

No, registered names are not open to individual appropriation and do not confer any property rights to a particular owner. The protected indication does not belong to anyone; it belongs to the *terroir*⁶². It cannot be transferred and a licence may not be granted, as for other intellectual property instruments⁶³. It can only be used under certain conditions, but anyone meeting the conditions can use it.

Registration is intended to serve collective interests by protecting both producers and consumers. It is, therefore, a collective property. This is confirmed by the fact that, except in special cases⁶⁴, the registration request is submitted by a group⁶⁵.

8. If your jurisdiction provides for a registration of certain indications of origin, who defines the rules that have to be followed and the requirements that have to be met when using the registered indication for certain goods or services (the applicants, the lawmaker, a combination of both, others)?

To obtain a registration, the requester must describe the rules and conditions that must be met to use the designation. When registration is granted, it will normally include them. The government can, obviously, add requirements to the rules and conditions.

First, the group⁶⁶ introducing the request must define the conditions of use of the designation in its specifications.

Following registration of the indication of origin, any group meeting the conditions set in European regulations for submitting a registration request can ask that the specifications be modified. The new conditions will be submitted for review by the Commission⁶⁷.

⁶² To use the well-chosen image of one commentator (T. Van Innis, "*Les signes distinctifs*", Larcier, Brussels, 1997, p.183.)

⁶³ E. Degryse, "*Les droits intellectuels*", 2nd edition, Larcier, Brussels, 2013, p.243.

⁶⁴ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, p.1-29, Article 49, 1).

⁶⁵ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, p.1-29, Article 49.

⁶⁶ Subject to the exception above, by virtue of which a natural person can submit the registration request (see footnote 61).

⁶⁷ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, Article 53, p.21.

If the applicants are competent to define those rules and requirements (e.g. in specifications), are there any provisions or principles that limit the applicant's power and have to be considered by the applicants (e.g. antitrust law, free speech arguments, free movement of goods, etc.)?

If the description of the rules and conditions to be met makes it apparent that they will clearly violate the essential rules of public order, for example, the government can refuse registration under these conditions.

If this is not the case, or if the violation of legal provisions only becomes apparent when the indication of origin is used, the judge to whom the issue is submitted may forbid use of the indication under these conditions which do not conform to applicable laws and regulations.

9. Is it possible that manufacturers, suppliers and distributors of goods or services which have lawfully advertised their goods or services with an indication of origin for a long time be excluded from using the indication of origin after the indication's registration (e.g. because they cannot comply with new use requirements that apply after the registration of the indication of origin)?

In theory, yes⁶⁸.

Does your jurisdiction have any provisions which try to prevent such exclusions of previous legitimate users of indications of origin?

There are no legal provisions for this case. It is up to the users to contest either the registration or the use of the indication of origin registered in accordance with the specifications.

10. Do your country's laws provide for the registration of indications of origin as trademarks or service marks, i.e. as certification marks, collective marks or individual marks? If so, what are the requirements?

As stated in question n°6, protection under a Benelux collective brand (covering Belgium, the Netherlands and Luxembourg) can include the origin of a product⁶⁹. Protection cannot be provided by an individual brand given that this is forbidden by the Benelux Convention⁷⁰. The conditions of use of a collective brand are similar to those of a registered indication in that compliance with "*use and control regulations*" identical to those in the specifications is a prerequisite⁷¹.

⁶⁸ We should point out, however, that Article 15 of Regulation 1151/2012 (see footnote 1) allows for a transitional period during which a group already using the name for which registration is requested can continue to use it.

⁶⁹ The Benelux Convention on Intellectual Property (Trademarks and Designs) of 25 February 2005, approved by the Law of 22 March 2006, *B.O.J.*, 24 August 2006.

⁷⁰ *Ibid.*, Article 2.11, 1, c).

⁷¹ *Ibid.*, Article 2.37.

11. How are conflicts between trademarks and non-registered indications of origin or indications of origin that are subject to *sui generis* protection resolved under your country's laws?

These conflicts are resolved via normal dispute settlement channels according to the same rules as those used when a brand and trademark conflict.

Are there specific rules or case law governing such conflicts?

To our knowledge, there is no specific Belgian case law applicable to these disputes.

12. If during the manufacturing process of a certain product a certain manufacturing step has taken place at a particular location or in a specific geographical area XY, but other steps have taken place in other geographical areas so that the conditions are not satisfied that the product as a whole can be considered to originate from XY, is it possible in your jurisdiction to highlight in the advertisement for this product that one specific manufacturing step took place in XY, e.g. by highlight for example "Research & Development in XY" or "Filled in XY" if those activities actually took place in XY but the product as such does not originate from XY? Do your country's laws have provisions which regulate the reference to the geographic origin of certain manufacturing steps? If so, can you please provide the wording of these provisions?

As explained above, Belgian regulations refer to European law for products for which one of the manufacturing, production or preparation steps (for PGIs), or all of the steps (for DPOs) was/were carried out in a specific, identified geographical location.

On the other hand, a quality label can be used for products which do not originate in a specific area. Its purpose is to enable consumers to identify a product with specific qualities⁷². There are different types of labels; however, the specific quality of the product highlighted on the label can refer to the geographical origin of the product.

These provisions have been implemented at the regional level.

For example, the Walloon Region has the "*Agriculture de Wallonie*" label which certifies that a product has certain characteristics (defined in the specifications) including, for example, the requirement that the producer be located in the Walloon Region, or the condition that at least half of the raw materials used in the product are from the Region⁷³.

⁷² A.Tallon, "*Les appellations d'origine*", Larcier, 2016, Brussels, p. 256.

⁷³ To find out more about the label and specifications, see: <http://www.wallonie.be/fr/actualites/agriculture-de-wallonie-une-identification-pour-le-consommateur>. With respect to regional labels intended to highlight local products, caution is required to ensure that they are not contrary to the principles of European law governing freedom of movement.

The Flemish Region has also created this type of label. For example, the "*Meritus*"⁷⁴ label for beef certifies that meat carrying the label is from cattle bred in Belgium, raised by Belgian farmers, processed in Belgian slaughterhouses and sold by Belgian wholesalers.

Note that the labels have wider application than European regulations for designations of origin and geographical indications given that they cover more than agricultural products and foodstuffs and, especially, because they can also include services.

13. Do your jurisdiction's laws have specific provisions or is there any case law with regard to the requirements that have to be met to use of the indication "Made in XY" for goods?

The Belgian government implemented specific rules for the use of the "*made in ...*" label which are contained in the royal decree of 1936 regulating the issue of certificates of origin⁷⁵.

In accordance with the decree, the certificate of origin authorising the use of the "*made in.....*" indication is issued by specially approved bodies: the respective Chambers of Commerce of the various sectors of activity and the Diamond High Council for the diamond sector⁷⁶.

14. Do provisions in the laws of your jurisdiction provide that for certain goods or services the geographic origin must be indicated (mandatory labelling requirements for example in the legislation with respect to foodstuffs, cosmetics, pharmaceuticals or customs)? If so, what is the wording of these provisions?

Belgium has not implemented regulations requiring an indication of the geographical origin of products or services other than those required by Union law for the labelling of foodstuffs, which require, among the compulsory information which must be included on foodstuffs, the address and food sector of the operator and the country of origin or place of origin of the food⁷⁷. This principle was already implemented several years ago in the law of 1999 which included the concept, found in the Code of Economic Law, according to which the place of origin must be included on the label when its omission could potentially mislead consumers regarding the real origin or source of the foodstuff⁷⁸.

Note, however, that the requirements of Union law include those which already existed in the former Belgian regulations in effect requiring that the origin of foods be included on the label

⁷⁴ Decree of the Flemish Government of 26 March 2007 approving the food quality scheme, *B.O.J.*, 14 April. To find out more about the label and specifications, see: <http://www.meritus.be/>

⁷⁵ See footnote n°26.

⁷⁶ See question 1, point C.

⁷⁷ Regulation (EU) 1169/2011 of the Parliament and the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 of the Commission, *O.J.E.U.*, L.304, 22 November, p.18-63.

⁷⁸ Royal Decree of 13 September 1999 on the labelling of pre-packaged foods, *B.O.J.*, 29 October, Article 2, §1, 10°.

only when omission could potentially mislead consumers. This is also the case for European regulations⁷⁹.

With respect to pharmaceutical products, there are to our knowledge no specific Belgian labelling regulations for the geographical origin of products.

To which goods or services do these provisions apply?

Article I.8. of the Code of Economic Law on registered designations refers primarily to agricultural products and foodstuffs⁸⁰, but also to other products which want to use a geographical origin⁸¹.

What kind of indications must be made?

They are identical.

Are such mandatory labelling requirements considered to be trade restraints in your jurisdiction?

Not to our knowledge.

15. If your jurisdiction has mandatory labelling requirements with respect to the geographic origin of certain goods or services is there a risk of conflicts between the mandatory labelling requirements and the provisions regarding the voluntary use of geographical indications? In other words, is it possible that the mandatory labelling requirements require that a product is labelled with a certain geographic origin while the provisions dealing with the voluntary use of indications of origin would not allow the use of this indication of origin, e.g. because the link between the product and the indicated geographic origin does not seem to be sufficient.

That is, in fact, possible. For example, with respect to registered designations, the protection afforded by the PDO sign requires that the production, processing and preparation of the product be linked to the referred-to geographical location. The PDO cannot be used if these three conditions are not met. However, the Belgian labelling regulations in effect discussed above (question 14) only require that the origin be included when consumers could potentially be misled about the origin of a product.

⁷⁹ Article 26 of Regulation (EU) 1169/2011 of the Parliament and the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 of the Commission, *O.J.E.U.*, L.304, 22 November, p.18-63.

⁸⁰ Article I.8., 4°, a) of the Code of Economic Law.

⁸¹ Article I.8., 4°, b) of the Code of Economic Law.

It is therefore perfectly feasible that the origin of a product be mentioned on the product (because of labelling standard requirements) although it cannot be labelled as a PDO because it does not meet the right conditions. Similar reasoning could be applied to products with a label, for example. This theory is all the more feasible given the devolution of regulatory authority to the three Belgian regions.

Let's take look at a concrete example: a finished product entirely produced from Belgian crops (Flemish and Walloon), for example, canned red cabbage, which uses cabbage grown in Flanders processed and packaged in the Walloon Region. It could not be labelled "*Agriculture de Wallonie*"⁸² because the producer is not located in the Walloon Region and the product does not consist of 50% raw materials produced in the Walloon Region (i.e. the strict conditions to be met to use the label). It may, however, have to indicate a Walloon origin on the label (that is, the major product preparation steps take place in the Walloon Region). In fact, a judge reviewing the product could impose this indication based on the fact that, in general, in the mind of Belgian consumers, red cabbage is grown in the Flemish Region⁸³. To avoid that consumers or a Walloon intermediary take action because they believe that the entire production chain is located in Flanders, the Belgian judge could be asked to ensure that the location of the main product processing operations (in Wallonia) clearly appear on the merchandise, despite the fact that it cannot bear the "*Agriculture de Wallonie*" label.

In the event of a conflict between the various applicable rules, a decision must normally be made in favour of labelling rules since they are required. However, the King reserves the right to intervene by adopting regulations to amend the labelling, designation and/or composition of a product to resolve any difficulties or conflict⁸⁴.

16. What courts, authorities, or other bodies in your country have jurisdiction to hear cases concerning the protection of indications of origin or are entitled to take measures to protect indications of origin (e.g. civil courts, criminal courts, customs authorities, food safety authorities, chambers of commerce, etc.)?

As stated above, the Regions have jurisdiction to review registration requests before they are sent to the Union which decides whether given requests for protection are valid or not. In the Walloon Region, the Minister responsible for the economy receives the requests⁸⁵. In the Flemish Region, they are sent to the Minister responsible for agriculture and fisheries. In the

⁸² See question 12 for the conditions of use for the label.

⁸³ With respect to the analysis made by the Belgian judge regarding the consumer's reasoning about a potential association between a product and its geographical origin, we can also refer to the "*Yaourt à la grecque*" (Greek-style yoghurt) decision rendered by the Brussels Court of Appeal: "(...) a consumer equipped with a minimum degree of common sense and critical thinking must be viewed as the norm, not the least intelligent consumer" (Brussels, 2 March 1999, in "*Pratiques du marché Propriété Intellectuelle Concurrence*", 1999, p.509.

⁸⁴ Article VI.9 and VI.10 of the Code of Economic Law.

⁸⁵ Decree of the Walloon Region of 19 December 2002 amending the decree of 7 September 1989 on the allocation of the Walloon quality label, the local appellation of origin and the appellation of Walloon origin, *B.O.J.*, 5 February 2003, Article 16.

Brussels Region, the competent department is responsible for agriculture within the economy and employment administration⁸⁶.

With respect to measures to protect indications of origin in the case of a dispute, different jurisdictions are competent depending on the specific procedure⁸⁷:

- The President of the Court of Commerce (established at the seat of one of the five Belgian Courts of Appeal⁸⁸) is competent to review injunctions⁸⁹. Their purpose is to ensure recording of the illegal use of an indication of origin and cessation of the use in question⁹⁰.
- Commercial and civil courts are competent to review cases on serious grounds submitted to record the illegal use of an indication of origin and to order a civil sanction (for example, indemnities or compensation for prejudice suffered).
- Criminal court judges are also authorised to hand down sentences after verifying the illegal use of an indication of origin⁹¹.
- Lastly, the Walloon Region has also implemented a specific cessation procedure for which the President of the Court of Commerce has jurisdiction, i.e., only the basis for action is different.⁹²

The following should also be noted in addition to legal proceedings:

- The authority of customs agents to inspect products crossing the Belgian border. This inspection procedure is regulated by Union law⁹³.
- The authority of agents mandated by the government to record violations of the Code of Economic Law (therefore, including the provisions of interest to us)⁹⁴ or to propose a settlement to end criminal proceedings⁹⁵.
- The Walloon Region has also granted inspection and search authority to some of its agents for the potential misuse of indications of origin⁹⁶.

17. In your personal opinion which rules and concepts of your jurisdiction with respect to the use of indications of source for goods and services do you particularly endorse?

It should be acknowledged that the Belgian legislator has had the merit of granting judges far-reaching prerogatives when they become aware of violations of registered designations:

⁸⁶ Ministerial Decree on the protection of geographical indications and designations of origin for agricultural products and foodstuffs and traditional specialities guaranteed for agricultural products and foodstuffs, *B.O.J.* 23 May 2012, Article 2.

⁸⁷ A.Tallon, "*Les appellations d'origine*", Larcier, 2016, Brussels, p. 220.

⁸⁸ This is a specific jurisdiction expressly provided by law for certain intellectual property rights, including indications of origin (Article 633*quinquies* of the Judicial Code).

⁸⁹ Underlined, given that this refers to a case with special forms and effects.

⁹⁰ Article XVII.1 of the Code of Economic Law.

⁹¹ Article XV.69 et seq. of the Code of Economic Law.

⁹² Decree of 27 March 2014 on the Walloon Code of Agriculture, *B.O.J.*, 5 June 2014.

⁹³ Regulation (EU) 608/2013 of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Regulation 1383/2003, *O.J.E.U.*, L.181 of 29 June, p.15-34.

⁹⁴ Article XV.2, § 1 of the Code of Economic Law.

⁹⁵ Article XV.61, §1, sect.1 of the Code of Economic Law.

⁹⁶ Article D.390 et seq. of the Decree of 27 March 2014 on the Walloon Code of Agriculture, *B.O.J.*, 5 June 2014.

"When a judge becomes aware of a violation (...), they will order that the violator(s) cease and desist.

The judge can also issue an injunction to cease and desist to intermediaries whose services are used by a third party violating the rules on registered designations.

(...) At the request of the party authorised to bring an infringement action, the judge can order the recall and definitive removal from the channels of commerce, or destruction, of the infringing goods and, when appropriate, of the materials and instruments used to create or produce the goods.

(...) They can order, at the request of the party authorised to bring an infringement action, that the author of the violation provide the party which brought the action with all of the information it has regarding the origin and distribution networks of the infringing goods or services and provide all related data as long as the measure is justified and proportional. An injunction can also be brought against a person found to be in possession of infringing goods on a commercial scale, who has been found to be using infringing services for commercial purposes or who has been found to be providing, services used for infringing activities on a commercial scale.

(...) The judge can order that their decision (...) be posted (...) and order the publication of their decision (...) in print or any other media.

(...) The judge can (...) order the delivery to the plaintiff of the infringing property and, when appropriate, of the materials and instruments used to create or produce the goods which are still in the possession of the defendant. If the value of the property, materials and instruments exceeds the extent of real prejudice, the judge will determine the balancing payment to be made by the plaintiff.

(...) The judge can (...) order the transfer of all or part of the profits made as a result of the violation and the rendering of accounts in this respect"⁹⁷.

Which rules or concepts would you prefer to be amended or abandoned?

Lastly, in question 5, we examined the "transitional" protection scheme for registered designations specifically implemented by the Walloon Region. In our opinion, it is a good thing to provide protection prior to definitive registration, even on a temporary basis, for the period required for the registration request to be completed following review by the Commission.

⁹⁷ Article VI.125 to VI.127 of the Code of Economic Law.

Our review of the DOOR data bank showed that registration request processing times can be very long.⁹⁸ Temporary protection is therefore clearly useful. The Union authorises it⁹⁹, but only the Walloon Region uses it. We would like to suggest to the Brussels and Flemish regions that, following the example of the third region, they too provide (even limited and short-term) protection when a registration request is submitted.

Ideally, based on competition law and/or consumer protection, judges should enjoy many, identical prerogatives for indications of origin which have not yet been registered. For example, under current Belgian law, a judge would not be able to avail themselves of the same set of measures to sanction a Chinese beef producer using the "*Meritus*" label on its products for the simple reason that it is not a registered designation¹⁰⁰. This is regrettable, because the situation can be misleading for consumers and Belgian judges do not have sufficient and suitable means to put an end to the situation under current law.

Finally, the European regulation provides recording indications relating to products originating in a specific place, region or in exceptional cases, a country¹⁰¹. In Belgium, the allocation of jurisdiction to receive applications for registration to Régions prevent denomination's recording beyond the territory of the Regions. This is unfortunate. Regions could work together to fix it but, as we know, it is not yet valid.

Conclusion

The regulations applicable to indications of origin are complex and few in number. This does not facilitate the task for either the consumers or producers of goods and services given the highly technical nature of the matter.

Belgian federalism and the devolution of legislative and executive authority to federated entities make the situation even more complex for practitioners. Consumers and companies come to mind first, but this also includes the legal profession (in the broadest sense) which must deal with the matter on a daily basis¹⁰².

There are also many people who do not fit any of the above categories, but for whom the link between a geographical location and a good and/or service is essential because it guarantees its quality¹⁰³ and often the usages and traditions which characterise it: the farmer,

⁹⁸ We noted that a request was submitted by a Belgian group in July 2013 for the "*Vlaamse laurier*" PGI for ornamental flowers and plants. The request was published in the Register in December 2014 and registered in May 2015.

⁹⁹ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, Article 9, p.10.

¹⁰⁰ See question 12 for the conditions of use for the label.

¹⁰¹ Regulation (EC) n°1151/2012 of the Parliament and Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs, *O.J.E.U.*, L. 343, of 14 December 2012, p.1-29, art.5.1, a).

¹⁰² Including corporate lawyers, magistrates, the writers of laws, etc.

¹⁰³ A.Tallon, "*Les appellations d'origine*", Larcier, 2016, Brussels, p. 12.

distributor, restaurant owner¹⁰⁴, gourmet, the people who fight to protect the environment and many others...too many to mention here.

However, we should be happy that the DPO and PGI system implemented by the European Union works, has been tested and, especially, makes a major contribution to the successful implementation of the principle of free movement.

Improvements are desirable¹⁰⁵ because adapting the regulations to the needs and wishes of the various players involved remains a major challenge. We hope that this report will make a contribution to achieving this goal¹⁰⁶.

¹⁰⁴ We were particularly affected by the words of one cited in one of the main reference works used for this report: A.Tallon, "*Les appellations d'origine*", Larcier, 2016, Brussels, p. 311.

¹⁰⁵ See question n° 17.

¹⁰⁶ This report could not have been prepared without the assistance, help and precious advice of Maître Daniel Dessard, lawyer at the Bar of Liège, whom we sincerely thank.