



CEDR

**Comité européen
de droit rural**

European Council for Rural

Law **Europäische**

Gesellschaft für

Agrarrecht und

das Recht des

ländlichen

Raums



**Congrès européen de droit rural – 9–12 septembre 2015
Potsdam (Allemagne)**

**European Congress on Rural Law – 9–12 September 2015
Potsdam (Germany)**

**Europäischer Agrarrechtskongress – 9.-12. September 2015
Potsdam (Deutschland)**

organisé sous la direction du C.E.D.R.
par la Société Allemande de Droit Agraire
organised under the direction of the C.E.D.R.
by the German Society for Agricultural Law
organisiert unter der Leitung des C.E.D.R.
durch die Deutsche Gesellschaft für Agrarrecht

Commission III

National report of Finland

**Appellation d'origine protégée
- Protected designations of origin for agricultural
products in the European union**

Rapporteur : Jukka Anttila, judge

Administrative Court of Hämeenlinna in Finland

Appellation d'origine protégée - Protected designations of origin for agricultural products in the European Union

by Jukka Anttila, judge

Administrative Court of Hämeenlinna in Finland

jukka.anttila@oikeus.fi

1. Introduction

The theme of comission III in CEDR congress is focused through one special policy sector of EU agriculture. Protected designation of origin for agricultural products and foodstuffs as a quality-price-instrument at market is one part of common agricultural policy (CAP) in the EU. Fisheries and aquaculture as rural industries are one part of CAP too. The system relating to quality and origin of these products is meant to improve product price and marketing and also to shield rights of producers and consumers. International treaties also recognize the need to protect local agricultural products with their geographical names even if freedom of competition is somewhat limited.¹

Beginning from the late 1960s CAP has been very fragmented, but during the last decade progress has been achieved by more general and consistent approach to sector with fewer regulations instead of managing numerous products separately.² Common currency euro has also reduced the amount of moving components. CAP contains several ways to organize markets in the EU and these measures are based on means with or without public money. Support forms of public subsidy are for example direct payment financed by EU alone and EUs partly financed environmental compensation and different investment subsidies for rural industries. Protected designation of origin can be defined as a special collective trademark and an intellectual property right. Protected denominations as a system created by CAP is a conceptual framework and structure and as such also a support form for agricultural industries and enterprises without public money payments. Organisations and registration of course cause certain costs for public and private parties involved. The system

¹ Hollo, p. 255-256.

² Monnet, p. 753; Regulation (EC) N:o 1234/2007, preamble 1-4; Danielsen, p. 4-6 and 56-57.

can be seen in a concrete way on labels of these products. The number of these products is great and conditions vary, but the system needs to treat producers and other market operators equally in the union.

When volumes of 28 EU countries are reckoned together the value of commerce on EU agricultural products is significant. Regarding commerce on wine the EU-countries have today market share of over 60 % in the world and the annual value of global wine commerce is above 30 milliard euros. On meat and milk products the relative share of EU-countries is smaller, while in commerce on olive oil their global market share is 75 %. In commerce on cereals the EU-countries have a market share of about 10 %.³ Production and commercial rights relating to good food and drink has to be covered in order to increase market shares and value of production at the sector. Designation of origin and geographical indication are covered at EU level by registration, which is applied from Commission through national authority.

I examine from my point of view mostly protected designation of origin but also other geographical denominations when necessary. To have standard concepts I use french expressions and abbreviations AOP (appellation d'origine protégée) and IGP (indication géographique protégée).

2. Legal norms

Articles 34-35 of the Treaty on the functioning of the European Union prohibit quantitative restrictions on import and export and all measures having equivalent effect. According to article 36 the provisions of articles 34-35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of the protection of health and life of humans, animals or plants; ... or of the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. The particular status of agriculture in community economy is based on articles 38-44 on the Treaty and products subject to these articles and CAP-policy are listed in Annex I of the Treaty. According to article 40(2) of the Treaty common organisation of agricultural markets may include all measures required to attain the objectives set out in article 39. The common organisation shall be limited to pursuit of these objectives and shall exclude any discrimination between producers or consumers within the union. The prohibition of discrimination expresses the

³ ec.europa.eu/agriculture; ec.europa.eu/eurostat; Bahans-Menjuq, p. 388.

general union law principle of equal treatment, which EU and national authorities shall apply to producers and other market operators at the sector.⁴

TRIPS-agreement of World Trade Organisation from 1994 protects industrial and intellectual property rights relating to products. Commercial rights in geographical indication of products have been recognized with the agreement and these rights are one part of commercial politics in the world. The geographical definition in the agreement compares to the definition in EU legislation.⁵ The agreement allows different national systems when all are treated according to same standards. The agreement means certain minimum level whereas AOP level of EU is more demanding concerning geographical and human factors. Various systems of classification tell about structural differences of countries and competition in commerce.

Decisions of Court of Justice have been of significant importance in the community, because still in the 1980s secondary sector legislation was not very covering.⁶ Instead in this respect many member countries in southern Europe have long traditions at the sector legislation. Considering the protected denominations of agricultural products the key material legislation of EU is in the following regulations of Parliament and Council:

- general regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs,
- basic regulation (EU) No 1308/2013 on common organisation of markets in agricultural products; concerns grape wine (among other things),
- regulation on aromatised wine products (EU) No 251/2014 and regulation on spirit drinks (EC) No 110/2008.

In this writing I mainly concentrate on the systems of regulations 1151/2012 and 1308/2013, because they contain AOP level for protection of agricultural products. In the predecessors for regulation 1151/2012 (510/2006 and 2081/1992) the definitions for AOP and IGP have remained quite the same. Grape wine conditions for AOP like in regulation 1308/2013 of today were for the first time created by regulation 479/2008 and technically quite a lot according to general regulation 510/2006, which renewal was taken by regulation 491/2009 as a part of basic regulation 1234/2007 of that time during the last program period. On the other hand the community has already from the 1960s classified quality wines according to grape variety and member state regions for instance by regulations 24/1962, 817/1970, 323/1979, 823/1987 and

⁴ Danielsen, p. 31-32 ; Court of Justice, joined cases 117/76 and 16/77 Ruckdeschel.

⁵ Haarmann-Mansala, pages 34-35; Hollo, p. 255.

⁶ Raitio, p. 478.

1493/1999. Member state national legislations have had their impact on material classification grounds and definition of good agricultural production practices relating to quality wine. To my eye true conclusion is that essential contents of AOP in union legislation have come from classification and definition of quality grape wine. Community legislation was at the beginning more based on concepts similar to french legislation and later more on those agreed in international treaties.⁷ AOP criteria of grape wine in regulation 1308/2013 differs from general regulation 1151/2012 specially concerning allowed plant varieties but also with definition of local production. Regulation 1308/2013 is detailed on product groups and specially on production methods, but many technical elements can be amended through OIV (Organisation Internationale du Vigne) recommendation by delegated Commission regulation.

The general regulation 1151/2012 contains besides AOP and IGP the denomination of traditional product and the regulation knows as denominations also agricultural products of mountain area and islands. Member state can also use other systems for classification. Compared with EU regulations member state may set harder conditions for its national products of AOP, but naturally standard AOP level of EU must be allowed at market. Regulation 110/2008 on distilled alcohols and regulation 251/2014 on aromatized wines know IGP as highest protection level for these products. In this context it is also reason to mention Parliament and Council regulation (EU) No 1169/2011 on foodstuff information for consumers, because according to 26 article origin country of foodstuff products has to be informed .

3. Statistics on protected denominations⁸

From point of view of regulation 1308/2013 and grape wine AOP registrations are following:

Italy (474), France (376), Spain (100), Hungary (54), Bulgaria (52), Portugal (46), Romania (38), Greece (33), Austria (26), Slovakia (17), Croatia (16), Slovenia (14), Germany (13), Tcech (12), Belgium (7), Cypros (7), Malta (3), Great Britain (2) and Luxemburg (1). Nine member countries do not have AOP registrations on these products (Denmark, Estonia, Irland, Latvia, Lituania, Netherlands, Poland, Finland and Sweden). From non-member countries Brasil ja USA have one AOP registration each.

⁷ Bahans-Menjucq, p. 3.

⁸ ec.europa.eu/agriculture/markets/wine/e-bacchus
ec.europa.eu/agriculture/quality/door/; (both 5.6.2015)

Registered IGPs of grape wine are following:

Italy (129), Greece (116), France (75), Spain (44), Germany (26), Romania (13), Netherlands (12), Portugal (10), Hungary (8), Danmark (4), Cypros (4), Austria (3), Slovenia (3), Slovakia (3), Belgium (2), Bulgaria (2), Tcech (2), Great Britain (2) and Malta (1). Nine member countries do not have IGP registrations on these products (Estonia, Irland, Croatia, Latvia, Lituania, Luxemburg, Poland, Finland and Sweden). Non-member countries have several hundreds of registrations.

According to regulation 1151/2012 registered AOPs:

Italy (162), Spain (97), France (97), Greece (74), Portugal (64), Great Britain (23), Germany (11), Austria (9), Slovenia (8), Poland (8), Tcech (6), Hungary (6), Netherlands (5), Finland (5), Belgium (3), Luxemburg (2), Sweden (2), Lituania (1) ja Slovakia (1). Eight member countries do not have registrations (Bulgaria, Danmark, Estonia, Croatia, Cypros, Latvia, Malta and Romania). From non-member countries Vietnam has 1 and China 4 registrations.

4. Trademark and AOP

Enterprises at market are free to use any symbols to sell their products as long as other right owners and good manners are not hurt. According to definition in regulation (EC) No 207/2009 article 4 registered community trademark may consist of any signs capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings

By name and trademark an enterprise distinguishes itself and its products from other competitors and their products at market economic profit as goal. Rightowner of a trademark is privileged to use that mark and deny others to use or hurt it.⁹ AOP can be seen as an agricultural application of collective trademark. On community level collective trademark is defined in regulation (EC) No 207/2009 article 66. AOP and IGP cannot be delivered separately nor

⁹ Haarman-Mansala, p. 15-17.

be separated from the region, where agricultural products come from. These denominations can be extended by attaching administratively more land to respective region or establishing new or larger farms at the region. AOP is capitalized as added value to reference group enterprises of a successful AOP. Quality attached to trademark is important, because trademark creates on consumers' minds expectations on product quality based on advertising and own experience. AOPs have similar functions and consumers expect special quality for these controlled products.

Two marks may collide judicially and solution can be found through principles of time priority, procedural preclusion or how passive or in good faith parties have been. In collisions are taken into consideration if marks are mixable and used in trade, which can hurt or exploit mark in question.¹⁰ Same principles are stated in regulations 1151/2012 and 1308/2013 and they can be applied to collision of an AOP and trademark. In collision earlier AOP wins later trade mark which relates to a product of the same type. If a trade mark is in good faith registered or registration applied for or legally established by use before AOP, both the trade mark and the AOP have parallel existence at the same time. A name proposed for registration as a designation of origin shall not be registered where, in the light of a trade mark's reputation and renown and the length of time it has been used, registration of the name proposed as the designation of origin would be liable to mislead the consumer as to the true identity of the product. Potential collisions are meant to be cleared out at opposition procedure connected to registration.

Designation of origin or geographical indication has in practice stronger position compared with traditional trademark. A trademark classically as privilege of one or few cannot without merit win a special collective trademark that can spread economic benefit better at the region.

5. Material conditions for AOP in regulations concerned

5.1. General regulation 1151/2012

In article 5 in general regulation 1151/2012 conditions for AOP are defined:

Requirements for designations of origin and geographical indications

¹⁰ Pihlajarinne, p. 609 and 613-614.

1. For the purpose of this Regulation, 'designation of origin' is a name which identifies a product:

- (a) originating in a specific place, region or, in exceptional cases, a country;
- (b) whose quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and
- (c) the production steps of which all take place in the defined geographical area.

2. For the purpose of this Regulation, 'geographical indication' is a name which identifies a product:

- (a) originating in a specific place, region or country;
- (b) whose given quality, reputation or other characteristic is essentially attributable to its geographical origin; and
- (c) at least one of the production steps of which take place in the defined geographical area.

3. Notwithstanding paragraph 1, certain names shall be treated as designations of origin even though the raw materials for the products concerned come from a geographical area larger than, or different from, the defined geographical area, provided that:

- (a) the production area of the raw materials is defined;
- (b) special conditions for the production of the raw materials exist;
- (c) there are control arrangements to ensure that the conditions referred to in point (b) are adhered to; and
- (d) the designations of origin in question were recognised as designations of origin in the country of origin before 1 May 2004.

Only live animals, meat and milk may be considered as raw materials for the purposes of this paragraph.

4. In order to take into account the specific character of production of products of animal origin, the Commission shall be empowered to adopt delegated acts, in accordance with Article 56, concerning restrictions and derogations with regard to the sourcing of feed in the case of a designation of origin.

In addition, in order to take into account the specific character of certain products or areas, the Commission shall be empowered to adopt delegated acts in accordance with Article 56, concerning restrictions and derogations with regard to the slaughtering of live animals or with regard to the sourcing of raw materials.

These restrictions and derogations shall, based on objective criteria, take into account quality or usage and recognised know-how or natural factors.

5.2. Basic regulation 1308/2013

In regulation 1308/2013 article 93 conditions for of grape wine AOP are following :

Designations of origin and geographical indications

1. For the purposes of this Section, the following definitions shall apply:

(a) "a designation of origin" means the name of a region, a specific place or, in exceptional and duly justifiable cases, a country used to describe a product referred to in Article 92(1) fulfilling the following requirements:

(i) the quality and characteristics of the product are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors;

(ii) the grapes from which the product is produced come exclusively from that geographical area;

(iii) the production takes place in that geographical area; and

(iv) the product is obtained from vine varieties belonging to *Vitis vinifera*;

(b) "a geographical indication" means an indication referring to a region, a specific place or, in exceptional and duly justifiable cases, a country, used to describe a product referred to in Article 92(1) fulfilling the following requirements:

(i) it possesses a specific quality, reputation or other characteristics attributable to that geographical origin;

(ii) at least 85 % of the grapes used for its production come exclusively from that geographical area;

(iii) its production takes place in that geographical area; and

(iv) it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*.

2. Certain traditionally used names shall constitute a designation of origin where they:

- (a) designate a wine;
- (b) refer to a geographical name;
- (c) fulfil the requirements referred to in points (a)(i) to (iv) of paragraph 1; and
- (d) have undergone the procedure conferring protection on designations of origin and geographical indications laid down in this Subsection.

3. Designations of origin and geographical indications, including those relating to geographical areas in third countries, shall be eligible for protection in the Union in accordance with the rules laid down in this Subsection.

4. Production as referred to in point (a)(iii) of paragraph 1 shall cover all the operations involved, from the harvesting of the grapes to the completion of the wine-making processes, with the exception of any post-production processes.

5. For the purpose of the application of point (b)(ii) of paragraph 1, the maximum

15 % share of grapes which may originate outside the demarcated area shall originate from the Member State or third country in which the demarcated area is situated.

5.3. AOP summary

Conditions for AOP of agricultural products can be summarized into three parts:

- Designation of origin specifies as a name a product that comes from a certain region or place and in exceptional cases a country.

A Name has to contain name of a geographical area and a countrywide name has to be justified. In Pistre case (C 321-324/94) Court of Justice ruled that the mere expression "Mountain" could not be protected, because it was question of a general name without any specific bond to that place. In Feta II case (C-465-466/02) Court of Justice ruled "Feta" not to be too generic a name and it could be registered as AOP for a certain greek cheese.

- Product is produced and processed within a limited geographical area.

In the definition of regulation 1151/2012 all production phases take place within a defined geographical area that can be wider than the product name. In regulation 1308/2013 production takes place in the name area from where also all *Vitis Vinifera* -grapes came for production. By production is meant all measures from grape harvesting to the completion of the winemaking processes, with the exception of any post-production processes. These after processes may take place on a wider area.

In the Rioja-case C-388/95 of Court of Justice one member country brought an action against Spain, because spanish legislation ordered spanish AOP Rioja-redwine to be bottled in Rioja region if it was to be marketed with that denomination. Court of Justice considered that the requirement of bottling in the region of production was aimed to preserve the considerable reputation of the wine bearing the designation of origin by strengthening control over its particular characteristics and quality is justified as a measure protecting the designation of origin which may be used by all the wine producers in that region and is of decisive importance to them. The measure must be regarded as being in conformity with Community law despite its restrictive effects on trade, since it constitutes a necessary and proportionate mean of attaining the objective and there are no less restrictive alternative measures.¹¹

- Product quality or/and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors.

The definition is almost identical in both regulations. In regulation 1151/2012 either quality or characteristics need to come from the definition elements, while in regulation 1308/2013 they both are due to the defined facts. In practise it is question of quality coming essentially from the nature of a place or region and human factors. The concept of human factors is essential and could have been opened more in the regulations. Before by article 4 (3) in the regulation EEC No 24/1962 member states may have taken into account fair and traditional customs - *usages loyaux et constant* - and determine such other conditions of production and characteristics as shall be obligatory for quality wines produced in specified regions. In the past according to regulations EEC No 817/1970 (article 4) and 1493/1999 (Annex VI point C) each member state shall lay down the provisions regarding wine-growing methods required to ensure the best possible quality for quality wines psr. At the context of regulations 1151/2012 and 1308/2013 is meant good agricultural production practices and know-how of people aiming to high quality product taking into account circumstances of nature. These fair and

¹¹ Decisions of same category; C-108/01 (Prosciutto di Parma) and C-469/00 Ravil v Bellon (Grana Padano).

traditional practices mean collective and successive work of AOP producer group members.¹² At the sector of foodstuffs the quality is of course also a matter of taste, but more objectively can be evaluated relevant practices of production and traditions that are to bring added value to a product compared to an average product. Traditions from generation to another can well be connected to the concept so that product quality is tested and controlled at market long enough by consumers and authorities. For younger products there are other denomination categories available in the first place.

6. Other material and procedural conditions in AOP application matter

An administrative application is firstly sent to competent national authority and in second phase to Commission to decide the subject matter. The central parts in application are the name to be registered, applicant, product specification and production method and mechanism of control.

Concerning grape wines the applicant can be a group of producers or an individual producer for wine they produce. In regulation 1151/2012 by group is meant any association, irrespective of its legal form, mainly composed of producers or processors working with the same product. An individual producer-processor is not mentioned in general regulation and that kind of application should be well grounded. Group of many producers as an AOP rightholder can be seen to better benefit the region as a difference from trademark that usually is a privilege of one. After positive decision of the Commission applicant group has right to AOP name and all operators selling the product may use that name. The definition of applicant tells about structures in bigger producing countries where interest organisations are strong in production lines down to local level. For instance in the county of Champagne in France to the union and interest group of wine farmers (Syndicat General des Vignerons de la Champagne) belong 15000 farmers and this organisation has 280 local sections and production in 320 municipalities.¹³ Of course many AOP organisations are much smaller than that. There is also no absolute obstacle for applicant producer group that covers several production lines because of structural differences in member countries. In this respect certain organisation and rules strong enough are needed for high quality work and control. Control authority needs to be mentioned in the application and the authority has to be independent of producer group in question. In reasonable public control predefined concrete facts that can be checked are needed and control authority

¹² Bahans-Menjucq, p. 3.

¹³ Bahans-Menjucq, p. 27.

needs to know the industry in question. A product has to be in conformity with product specification that is detailed information to control authority and consumers. The specification may contain such technical details that same product is in different variations at market ¹⁴

7. Concluding aspects from a national point of view

In this chapter I examine among other things possibilities of Finnish production to AOP for one small product (fruit wine) and one already established product (barley). Before community membership 1995 Finland did not have outside traditional trademark any special system to register collective agricultural denominations like AOP. South and Central Europe countries have long traditions at the sector, although even in some old member countries like in Benelux-countries it has not been very popular by the statistics. The differences in structure and judicial system are due to circumstances at market. If agricultural product market is profitable enough or some market operator more powerful, special added value instruments may not be so wanted. Consumers do not know the AOP system well in Finland where foodstuffs are relatively expensive already without special added value instruments. In Finland added value and demand for products are created by national classification through traditional trademark use. Commerce in Finland is quite concentrated; there are only two major retail trade chains also with their own denominations for consumer goods including foodstuffs. Interest of a potential AOP producer-seller is opposite to that of first-hand-buyer of product; buyer wants also the quality product as cheaply as possible and public subsidy at sector tends to lower product price for producer. There are five AOP registrations from Finland on the ground of regulation 510/2006 and three of them are based on reindeer meat products of Northern Finland (Lapin Poroliha, Lapin Kuivaliha, Lapin Liha) and the applicant was Paliskuntain yhdistys as the special interest group of that sector. One AOP is a potato variety (Lapin Puikula) of Northern Finland with producer group as an applicant. Kitkan Viisas is a special fish food and AOP from North Eastern Finland with a limited company as an applicant.

Concerning grape wine there is little need for complementary national legislation because of the detailed structure of regulation 1308/2013, but with all plants local circumstances set their own conditions for what can be considered usual or good agricultural production practice. The most northern denominations of grape wine at the moment are four IGPs from biggest islands and mainland of Denmark (Bornholm, Sjaelland, Fyn and Jylland). For natural

¹⁴ Hollo, p. 264 ; Raitio p. 480.

reasons there are no finnish grape wine AOPs, because grape as an agricultural plant is not very succesful with cold winters of Finland. This may change with warming climate and new plant varieties, but on the other hand faster can change matters of taste of consumers.

The cultivation and production of wine in Finland can so far be based on berries and fruits other than grape. According to regulation 1308/2013 an AOP can only be based on local cultivation and production of certain varieties of grape and not on other fruits. Similarly according to regulation 251/2014 one compulsory component in any aromatised wine is grape. As a concept the wine can not be legally classified as a grape product only. Grape and for instance apple or cherry are all fruits. From the historical point of view the oldest word known for wine is in ancient sanskrit - *vēna* - meaning both wine and love. On those days wine was made of any fruits.¹⁵ Based on article 83 point 5 in regulation 1308/2013 and annex VII part II point 1d subparagraphs a)-b) member state may adopt or maintain provisions for marketing and denominations for wine produced of other fruit than grape. This is also stated in the Court of Justice decision C-75/90 on the ground of similar type of regulation coordinates of that time. In Finland classification of fruit wines is based on national regulation 1344/1994 and control activities belong to state authorities. By article 2 in the regulation 1151/2012 AOP classification seems possible for all agricultural products listed in Annex I of the Treaty on functioning of EU. In that Annex is mentioned as a group fermented beverages other than grape wine and in version in finnish also apple wine is mentioned as an example. Because of he principle of equal treatment AOP can be obtained by regulation 1151/2012 for wine produced of other fruit than grape. Name of the fruit has to be mentioned clearly in the denomination. Regarding product specification and methods good agricultural production practices with relevant legal norms need to be followed in order to reach quality product. The same analogy may well suit for aromatised wines too, because this quality denomination should be able to benefit as many product sectors as possible in EU agriculture. It is hard to see aromatised wine to be processed beyond first-stage level and to fall outside Annex I products.¹⁶ Tensions and different interests between industries of cognac and whiskey in some member countries were the reason why AOP was literally left out of regulation 110/2008 on spirit drinks.¹⁷

The possibility to classify finnish barley as an AOP is based on regulation 1151/2012 the same way as fruit wine above; in the Annex I cereals are listed as a group. The finnish cereals contain special features and due classification is

¹⁵ Bahans-Menjucq, p. 63 and 65.

¹⁶ Court of Justice case 185/73 (König).

¹⁷ Bahans-Menjuncq. p. 88-91.

therefore possible. In Finland cereals are after harvesting dried in warm-air-process which takes out excessive moisture, prevents mould and guarantees quality. During the Agenda 2000 program period Finland was the only member country besides northernmost Sweden to get community financed drying compensation in addition to CAP-subsidy for cereals and oilseeds (regulation EC N:o 1251/1999 article 4 point 4). This special feature of Finnish barley too has so already once been recognized as base for common market organisation measures. Other characteristics for cereals in Finland are intensive growing season with light summer nights and hard winters are no asset for plant diseases. Finnish AOP barley would have potential for AOP vodka of Finland or AOP whiskey of Scotland. As a part of good agricultural practices and product specification can function rules on cross-compliance in regulation (EU) N:o 1306/2013 article 93 and annex II and to them related national provisions. These rules are practically similar to those in previous regulation 79/2009 (article 5 and annex II).

The benefit of AOP can come from added value to product price or bigger sale of product because of buyers trust and higher demand. An interesting point is, which one is better, geographically small or larger AOP. A smaller label may better underline special circumstances at the region, but without the total volume of production big enough the label will remain small, which can be problematic in countries with smaller production at the sector. On the other hand smaller denominations may be useful for competition. By regulation 110/2008 on distilled alcohols is registered Finnish IGP "Vodka of Finland". The same statewide structure is in the grape wine AOP "Malta" and IGP "Maltese Islands" registered 8.8.2009. AOPs of Great-Britain are 29.11.2011 registered "English" and "Welsh". Slovakia has three different grape wine IGPs "Slovenská", "Slovenské" and "Slovenský". Luxemburg registrations by regulations 110/2008 and 1151/2012 are of structure "Marque Nationale Luxembourgeoise", while grape wine AOP is "Moselle Luxembourgeoise". The Finnish fruit wine AOP could be built like "Suomalainen omanaviini" / "Vin des pommes finlandaise", but other raw materials need own names or combination of names. Concerning barley the denomination might be "Suomen ohra" / "Orge de Finlande". The more poetic AOP "Suomen valoisin kesäyön ohra" / "Orge de été clair en Finlande" pointing out facts of geography and climate may not be impossible at least compared with 18.9.1973 registered Italian grape wine AOP "Est!Est!!Est!!! Di Montefiascone". In AOPs more modest line of basic geographical expression is well motivated, because that way maximum number of names remain free for market use and collision risks between names are reduced. Cereals AOP could be expressed in designed certificate attached to documents of traded product unit.

On union or national level there can be parallel impacts on AOP or other denomination value through criteria of biological production and production subsidies. The label of biological production is a clear added value factor and a green trademark as such. Considering also the regulation (EU) N:o 1169/2011 it can be used in classification, how healthy or secure the products are. More parallel added value for denomination can be created through family farming instead of bigger units of faceless ownership. Work effort and certain investment is needed to fulfill conditions for EU subsidies. Agricultural product fulfilling the requirements for EU environmental compensation should reach higher price compared with products of lower standards at the market. Productional plant varieties and animal breeds and rights attached to them have similar parallel value effect on AOP. It will be seen in the future if GMO is a threat or a possibility at the context. A quality AOP product is based on quality plant variety or animal breed and if combined these rights could create more valuable entities.

Concerning agricultural products the fact is that people use different denominations of public and private sector in the future too for various reasons, but buyers and sellers need to have choice. In balanced circumstances it is decisive, which systems get customers' trust. For quality products objective criteria is needed. If grounds for a denomination of quality and thereto related procedures are decided totally privately or publicly on national level without objective public control of criteria on international level like in AOP system, it is more likely for national systems to break the principle of equal treatment at market. Before in the Community classification of quality grape wines was fragmented and the AOP system of today has meant progress with standards. Grape wine remain still probably the most regulated agricultural product in the EU. On these days when deregulation in some member state governments is so fashionable it is interesting to see EU grape wine to dominate the world market. By EU regulation with an eye to national circumstances has been created disciplined base for hard work and quality product. Successful quality policy at functioning market may also help weakened economies of today in member states if amount of subsidy needed becomes smaller. Considering the statistics non-member countries have either little interest on subject or real difficulties meeting the criteria of AOP, which is no bad news for EU member countries in commercial competition.

SUMMARY

Protected designation of origin (AOP) for agricultural products and foodstuffs as a quality-price-instrument at market is one part of CAP in the EU. Geographical indications relating to quality and origin of these products with controlled product specification are meant to improve product price and shield rights of producers and consumers. TRIPS-agreement of WTO recognize the need to protect local agricultural products with their geographical names even if freedom of competition is somewhat limited. Protected designation of origin can be defined as a special collective trademark and an intellectual property right of a producer group.

The key EU legislation is in the Treaty on functioning of the EU (articles 34-44) and in following regulations of Parliament and Council: general regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs and basic regulation (EU) No 1308/2013 on common organisation of markets in agricultural products. The essential contents of AOP for agricultural products in union legislation have come from classification and definition of quality grape wine. In short these AOP elements are:

- Designation of origin specifies as a name a product that comes from a certain place or region and in exceptional cases a country.
- A product is produced and processed within a limited area.
- Product quality is essentially due to a particular geographical environment with its inherent natural and human factors. By human factors is meant good agricultural production practices and know-how of people aiming to high quality product taking into account product line traditions and circumstances of nature.

By article 2 in the regulation 1151/2012 and the principle of equal treatment in union law AOP classification seems possible for all agricultural products meant in Annex I nomenclature of the Treaty on functioning of EU. Non-member countries have either little interest on subject or difficulties meeting the criteria of AOP in competition.

KEY CONCEPTS

- agricultural product, applicant, CAP, control, collective trademark, designation of origin, equal treatment, good agricultural production practice, parallel value, product specification, region, wine

WORKS AND OTHER SOURCES CITED

- Bahans Jean-Marc, Menjunq Michel: Droit de la vigne et du vin. LexisNexis, Paris 2010.
 - Danielsen, Jens Hartig: EU agricultural law. Kluwer 2013.
 - Haarmann Pirkko-Liisa, Mansala Marja-Leena: Immateriaalioikeuden perusteet (Grounds for IPR-law). Talentum, Helsinki 2012.
 - Hollo Erkki J.: Elintarvikeoikeus (Food law). Edita, Helsinki 2008.
 - Monnet Jean: Mémoires. Fayard, Paris 1976 (édition 2014).
 - Pihlajarinne Taina: Feta-juustosta Lapin puikulaan – maantieteellisten merkintöjen ja alkuperänimitysten suoja (From Feta-cheese to Lapin puikula – protection of geographical indications and designations of origin). Article in judicial review Lakimies 4/2010 pages 608-623.
 - Raitio Juha: Eurooppaoikeus ja sisämarkkinat (EU law and the inner markets). Talentum, Helsinki 2013.
- Regulations, decisions and websites mentioned in text.