

From Região da Mantiqueira de Minas Gerais IP to Mantiqueira de Minas DO: a case study of a change in a type of Brazilian geographical indication

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Abstract – In the world coffee market, those with social, quality and traceability criteria are increasingly valued. In this market in Brazil, geographical indications are being used to highlight the origin and particular characteristics of the product. The objective of the present study is to describe and analyse the case of the "Mantiqueira de Minas" coffee, considering that this is the first amended Brazilian geographical indication case, foreseen in the national legislation only from 2018. It was found that the alterations of the geographic name, the delimited area, the type of registration and the technical specifications aimed at adapting the sign to the reality of the collective. This is due there was a specialisation of coffee production in the region with the adoption of more rigid criteria throughout this decade after registration. The option to maintain only the central nucleus of the name demonstrates the consolidation of the geographical name "Mantiqueira de Minas" as a quality coffee with a specific origin.

Keywords – Intellectual property, special coffee, Brazilian Geographical Indications; Amendments in Geographical Indications

INTRODUCTION

Brazil is the largest commodity Coffee exporter in the world. In this business segment the coffee that has identification of the origin obtains a superior quotation in the external market, since the price practiced internationally follows better evaluation of its quality. Located in the south of the state of Minas Gerais, Brazil, the Mantiqueira de Minas region has a centuries-old tradition in the production of quality coffee, being one of the most awarded regions in quality competitions in Brazil.



Figure 1. Location of the Mantiqueira de Minas DO (MM) (Mantiqueira de Minas website, 2022).

Choosing the distinctive sign related to origin that best represents the community, as well as the best way to guarantee its protection, was a great challenge. This is because Brazil traditionally only registered Individual Marks, but since 1996 has started registering Geographical Indications, Collective Marks and Certification Marks. All signs that are GIs are governed by Law No. 9279/1996. This law defines Geographical Indications (GIs) into two species: Indication of Provenance (IP) and Denomination of Origin (DO).

This article aims to analyse how the distinctive sign Geographical Indication related to origin available in Brazil was being used by the regional producers of the Mantiqueira de Minas. For this purpose, the legal parameters about geographical signs in Brazil are analysed, as well as the specific case of the Mantiqueira de Minas related to the signs concerning it, paying attention to the pioneer process of alteration of GI registration documents.

METHODOLOGY

To carry out the study in question it was used the exploratory methodology aligned with the case study method (Yin, 2005).

The Brazilian legislation and other regulations stipulated by the National Institute of Industrial Property, the institution responsible for the registration of geographical indications in Brazil, were highlighted as a source of consultation. Special importance was given to the official and public document published in Industrial Property Magazine No. 2.579 of 09 June 2020 where the information about the alteration process of the registration of the Geographical Indication "Mantiqueira de Minas" (INPI, 2020) process under study was presented.

RESULTS

First of all, it is important to describe that Brazilian legislation, unlike that of Europe, defines Geographical Indications (GI) in two types: Indication of Provenance (IP) and Denomination of Origin (DO). IP is the geographical name of a country, city, region, or location in a territory that has become known as a centre for the extraction, production, or manufacture of a certain good or the provision of a certain service. And DO is the geographical name of a country, city, region, or location in a territory that designates a

good or service whose qualities or characteristics are an exclusive or essential result of the geographical environment, including natural and human factors.

It was noted that Mantiqueira de Minas local producers started with an individual trademark application in 2006 for coffee. In 2007, they applied for a coffee certification mark and also for an IP. Following a grant of the IP in 2011, in 2015, they abandoned all trademark applications. In 2016, they applied for a DO. However, at that time, it was impossible to apply for a change of registration, from IP to DO, in Brazil. This happened because although GIs are governed by Law No. 9279/1996, the amendment to the registration was only allowed after Normative Instruction No. 95/2018 of the National Institute of Industrial Property. This Normative Instruction was revoked and currently the norm in force is the Ordinance No 04/2022 which maintains the possibility of amendments.

In the specific case of Mantiqueira de Minas, the INPI decided to take advantage of the application for DO registration made in 2016 and transform it into an application for amendment of registration in 2019. In 2020, the Mantiqueira de Minas was the first Brazilian GI case of amendment of registration. A publication in the official magazine n° 2.579 (INPI, 2020) showed that they received all the four amendments prescribed in the rule applicable at the time. So, they reduced the geographical name from "Região da Mantiqueira de Minas Gerais" to "Mantiqueira de Minas" (Figure 2), increased the delimited area by adding 3 surrounding towns, changed the technical specifications and changed the GI species from an IP to a DO.



Figure 2. Graphic representation of the Indication of Provenance and Denomination of Origin (INPI, 2020).

There is a further difference between Brazilian and European legislation, where it can be seen that the graphic representation can be associated with the geographical name when registering the Brazilian GI and this element can also be changed.

Regarding the Technical specifications, it was specified from simply "coffee" to "coffee for green coffee beans, and industrialized roasted coffee in beans or ground", adding the production phase and determined that only coffee above 1040 meters of altitude, where before were to have 85% of the plantations deployed between 1000 and 1200 meters (INPI, 2020). In other words, there was adaptation of the initial registration in 2011 to the reality of production that has specialized over this decade of cultivation.

To be entitled to use the Denomination of Origin, the coffee must be 100% Arabica, fully traceable and

produced with good agronomic practices respecting the environmental and social legislation, adequate post-harvest processing and reach a minimum classification of 83 points in the evaluation by the American Specialty Coffee Association - SCAA methodology. Another characteristic of the production is that it is composed mainly by family producers and with harvesting done manually due to the large amount of hills in the place.

Currently, the coffee from the region is among the winners of major world competitions, such as the renowned Cup of Excellence.

CONCLUSIONS

In the process of recognising geographical signs in Brazil, we have come up against some obstacles, including the fact that registration is not always duly consistent with the reality of production or the collectivity. In a scenario where competitiveness is increasingly fierce, nothing could be more natural than for GIs to be able to adapt to changes in the original conditions, to what has been learned from past failures or even to adapt to developments or new market strategies.

This is the relevance of the legal possibility of alteration of registration in the face of this reality. Not having studied any case, local producers decided to be identified only by the DO, the most valuable sign of origin in the quality coffee market aware of demanding consumers, especially the international one. Due to its pioneering nature of being the first change of GI registration in the country, the case studied of the "Mantiqueira de Minas" may be useful to other collectives interested in changing their GI registration.

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