

Silent GIs registered in the EU: What is at Stake?

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Research question:

- How many ‘silent GIs’ for agricultural products and foodstuffs can be found in the EU GI register and what does this tell us?
- **Definition:** GIs that after their registration, or nonetheless during a relevant period of time, have fallen into disuse or are employed considerably beyond their expected potential

Importance of the question

- Gain a better understanding of the EU GI register of agrifood GIs and of its functioning
- Contribute to the discussion on ‘silent GIs’. Two possible conflicting positions:
 - A GI which is not or rarely used: (a) has no impact on the marketplace; (b) is detrimental to those that truly work; (c) negative impact on trade mark registrations;
 - The market dimension is not decisive: (a) GIs prevent misappropriation and genericization; (b) ‘keep the door opened’ for future use; (c) recognise the existence of the product for various economic purposes, e.g. tourism.

The Law

Art 54(1) Regulation 1151/2012 (cf art 14, DM 14 October 2013 (Italy); art 26 May 2022 Proposal):

1. The Commission may, on its own initiative or at the request of any natural or legal person having a legitimate interest, adopt implementing acts to cancel the registration of a protected designation of origin or of a protected geographical indication or of a traditional speciality guaranteed in the following cases:

- (a) where compliance with the conditions of the specification is not ensured;
- (b) where no product is placed on the market under the traditional speciality guaranteed, the protected designation of origin or the protected geographical indication for at least seven years.

The Commission may, at the request of the producers of product marketed under the registered name, cancel the corresponding registration.

Issues concerning the application of the rules

- The Max Planck Institute's '*Study on the Functioning of the EU GI System*' (Zappalaglio, Guerrieri, Carls, Gocci, February 2022) found that:
 - Cancellation procedure rarely used (4 cases for Agrifood GIs, 2 for Wines)
 - Some national authorities not interested in taking initiative
 - Some national authorities not considered parties having 'legitimate interest' (e.g. German DPMA)

Methodology: how to find 'silent GIs'

- **Sample:** Italian PDO/PGIs, Product Class 1.6 (fruit, vegetables and cereals fresh or processed). 118 products.
- **Criteria:**
 1. **Legal:** The GI has been inactive for an administrative perspective (50 cases found among registrations until 2015; 56 in total)
 2. **Economic:** three alert situations: Silent PDO/PGIs, when production turnover below the €20,000 threshold in all three years 2018-2020; Suspicious PDO/PGIs, when production turnover between €20,000 and €50,000 in all three years 2018-2020; Doubtful PDO/PGIs, where turnover is zero (not available) but there are not entirely negligible quantities of certified product.

Result of the economic assessment

| Typology | Number of PDO/PGIs | As % of total |
|------------|--------------------|---------------|
| Silent | 15 | 12.7% |
| Suspicious | 3 | 2.5% |
| Doubtful | 7 | 5.9% |

Source: Our elaborations on ISMEA data

The combined application of the Legal and Economic criteria has led to the identification of 21 products (17,7%).

Next steps

1. Desk research aimed at gathering info on the status of the GI, e.g. is there an updated website? Are there recent news about the product etc...
2. Identification and analysis of representative case studies to investigate the *causes/reasons* of the non-use/under-use.

Thank you very much!

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