

Country of Origin Labelling. The situation in Spain

Vicente Rodríguez Fuentes
Abogado

INTRODUCTION

1) Introduction.

There is no specific Spanish regulation on mandatory or voluntary “made in Spain” labelling for foods products.

EU law applies directly. Article 26 of Regulation 1169/2011 and... Union Customs Code

The most common legal forms to indicate the origin of a food product in Spain, are:

PDOs/ PGI/TSG and others as per Regulation 1151/2012, Ley 6/2015 and RD 1335/2011.

EU Collectives Marks. Article 66 of EUTM Regulation. These are used as a mean to protect geographical names, sometimes additional to PDO and PGI, sometimes on their own to protect regional names.

2) Some specific cases where origin is regulated

Apart from this general regulation there are some specific cases where the origin is regulated:

Beef.

Annex II of RD 1698/2003 and according to Regulations 1760/2000 and 1825/2000. Beef origin labelling.

Traditional meat products

RD 474 /2014 on quality standards for meat products which indirectly rules on the use of geographical names.

Iberian meat product, *jamón* and *caña de lomo ibéricos* (Iberian cured sirloin and ham).

RD 4/2014, regulation on quality standard for Iberian products, reserving this geographical name (**Iberian/ibérico**) for meat products that are made according to this regulation and coming from some limited areas of Spain and Portugal.

3) A particular case; Olive oil.

Even if it is mainly subject to a EU legislation, Regulation 29/2012 on marketing standards for olive oil, and subsidiarily to Spanish RTS on edible oils and IOC standards, the fact is that olive oil is a Spanish product (and, of course, Italian, Greek, Portuguese and to a lesser extend French).

Olive oil is a good example of detailed Cool regulation and illustrate some of the problems posed by these rules.

Article 4 of Regulation 29/2012, rules very strictly how to indicate the origin of the product (PDO and PGI are excluded from these legal provisions).

Imperative and prohibitive designation of origin

There are four possible olive oil products than can be placed on the market at a retail stage (Regulation 1308/2013 on Common Market Organisation):

Extra Virgin Olive Oil

Virgin Olive Oil,

Olive Oil, composed of refined olive oils and virgin olive oils

Olive Pomace Oil. Refined olive pomace oil blended with virgin olive oil

For two of these products origin is mandatory and for the other two forbidden.

Extra virgin olive oil and virgin olive oil shall bear a designation of origin on the labelling.

Olive oil and olive pomace oil shall not bear any designation of origin on the labelling.

What is understood by designation of origin in olive oil?

For the purposes of this Regulation, 'designation of origin' **means a reference to a geographical area** on the packaging or the label attached to the packaging.

The address of the company cannot be regarded as a designation of origin, as per article 2.2.g) of FIC.

Registered Trade marks, when the application was made before the 31 May 2002, are not considered indication of origin

What designation of origins are permitted?

Designations of origin referred shall only consist of:

- (a) in the case of olive oils originating from one Member State or third country, a reference to the Member State, to the Union or to the third country, as appropriate; or
- (b) in the case of blends of olive oils originating from more than one Member State or third country, one of the following mentions, as appropriate:
 - (i) 'blend of olive oils of European Union origin' or a reference to the Union;
 - (ii) 'blend of olive oils not of European Union origin' or a reference to origin outside the Union;
 - (iii) 'blend of olive oils of European Union origin and not of European Union origin' or a reference to origin within the Union and outside the Union; or

How is the origin of the product to be established?

There are two important moment in the production of virgin and extra virgin olive oil; **harvest and milling**. Therefore, the origin is established according to this.

The designation of origin mentioning a Member State or the Union shall correspond to the geographical area in which the olives were harvested and the mill where is situated, if in the same MS.

The ECJ Judgment of 14 December 2000 (case 99/99), refused the existence of a general principle of EU Law stating that the origin of agricultural products is to be determined by the cultivation origin.

If the olives have been **harvested** in a Member State or third country other than that in which the **mill** where the oil was extracted from the olives is situated, the designation of origin shall contain the following wording: '(extra) virgin olive oil obtained in (the Union or the name of the Member State concerned) from olives harvested in (the Union or the name of the Member State or third country concerned)

Question:

How imperatives this mandates are?

Prohibition.

Do they mean that it is forbidden to make any reference to the origin in the labelling of olive oil and olive pomace oil?

For example, made only with Spanish olives

Question:

How imperatives this mandates are?

Mandatory labelling

Can a reference to a part of a Member State, for example Andalusia, be considered as a reference to the Member State, Spain in this case, in the sense of the Regulation ?





LEGAL
AGRIFOOD
ABOGADOS



This product is distributed in the USA

Avenida de República Argentina 21A
41011 Sevilla- Spain
tel. (34) 955122708
www.legalagrifood.com

THANK YOU FOR YOUR ATTENTION

www.legalagrifood.com