Turkey: Development of origin-based food quality labels in the Bursa Region

Technical assessment of the legal framework for Geographical Indications in Turkey

2017

in collaboration with
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ACRONYMS

BoS: Book of Specification

CB: Certification Body

DGCCRF: Direction Générale de la concurrence, de la consommation et de la répression des fraudes, in France

EBRD: European Bank for the Reconstruction and Development

EU: European Union

FAO: Food and Agricultural Organization of the United Nations

GI: Geographical Indication

GDP: Gross Domestic Product

GTHB: Ministry of Food, Agriculture and Livestock (Turkey)

IPL: Intellectual Property Law

IPR: Intellectual Property Rights

PDO: Protected Designation of Origin

PGI: Protected Geographical Indication

TM: Trademark

TPE: Turkish Patent Institute

TPN: Traditional Product Name

TPTI: Turkish Patent and Trademark Institution

TSG: Traditional Speciality Guarantee

WIPO: World Intellectual Property Organization
1. INTRODUCTION

1.1. BACKGROUND INFORMATION

Agriculture plays an important role in the Turkish economy, both in economic and social terms. It contributes 8 percent to the national Gross Domestic Product (GDP), and provides around 24 percent of total employment. The Bursa province has a particularly strong agricultural and agrifood industry that accounts for about 20 percent of the province’s gross income. In 2014, 61 percent of the total vegetable production in Turkey was produced in the Bursa province.

GIs are one type of intellectual property rights (IPR) and as such GIs are exclusive and territorial rights. “A GI is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.” In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.”

The development of Geographical Indications (GIs) for local products that have a good market potential can be an effective way to achieve market differentiation and add value to both fresh and processed products. Producers are even more interested in protecting local products since they are already confronted to the misuse of Bursa appellations by producers outside of Turkey, e.g. in the case of black figs produced in Israel and placed on the market as “Bursa” figs.

Under the FAO/EBRD cooperation, the EBRD has called upon FAO’s expertise to support the development of GIs in Turkey. The FAO/EBRD project will consist in supporting pilot GIs in the Bursa region, that could demonstrate good practices for other groups of producers in the region and nationwide. It will also aim at strengthening the GI system in the country, from an institutional point of view and, possibly, from a legal/regulatory point of view. Ultimately, the project’s goal is to enhance quality and value added in the Turkish agrifood sector and improve export market opportunities.

The project is organized around three main components: (i) strengthening the legal and institutional framework; (ii) developing pilot origin-based quality labels that can demonstrate good practices; and (iii) disseminating lessons learned regarding the development of GIs.

The present report falls under component (i) above.

1.2. OBJECTIVE AND RATIONALE

The objectives of this report are four-fold:

(i) Characterize the Turkish legal framework for the protection of GIs, by taking the legislative and institutional features into account (property rights, institutions, labelling, inspection, etc.);
(ii) Compare the Turkish system with the European Union (EU) GIs protection system;
(iii) Identify strengths and weaknesses of the Turkish legal framework for GIs protection; and
(iv) Provide recommendations within the scope of the project.

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1. Definition given by the World Intellectual Property Organisation
1.3. Limits of the Study

This report does not intend to be a legal interpretation of the Turkish Law. It aims to provide information on the functioning of the Turkish legal framework for GIs recognition and protection and compare it with the EU legislation to identify main gaps, in case, Turkish registrants would like a recognition and protection within the EU.

2. Geographical Indications Legal Framework in Turkey

Turkey is a member of the World Intellectual Property Organisation (WIPO) since 1976, a signatory to the Paris Convention since 1995 and to the Madrid Protocol since 1999. Turkey is also a member of the World Trade Organization (WTO) since 1995.

Turkey established its own *sui generis* system for the protection of GIs yet in 1995, through the enactment of Decree-Law No. 555/1995 pertaining to the protection of geographical signs. It has evolved through various modifications (previous modifications in 1995, 2004, 2008) and has been entirely revised in December 2016 (see annex 1, main differences between Decree-Law No. 555/1995 and the recent Intellectual Property Law (IPL) No. 6769/2016).

There are currently 179 registered GIs in Turkey, of which 76 are processed food and 53 are agricultural products. Among them, two are registered at the EU level: Antep Baklavasi (Baklava pistachios - 2013) and Aydin Inciri (Aydin figs - 2016).

There is no specific bilateral agreement between the EU and Turkey about GIs.

2.1. Current Legislation


The implementing regulation under Law No. 6769/2016 – Regulations pertaining to the enforcement of Industrial Property Law - has been adopted on 24/04/2017. The regulation has been elaborated by the Turkish Patent and Trademark Institution (TPTI) - old Turkish Patent Institute (TPE) – which is the competent authority, based on the consultation of all relevant stakeholders and academics. The implementing regulation provides detailed information (see annex 2) on:

- Application,
- Objection,
- Registration and Request for amendment,
- Use, Inspection and Waiver,
- Common Provisions.

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2 A *sui generis* system simply means “one that is of its own kind1”. In this case it refers to the creation of a new national law or the establishment of international norms that would afford protection to intellectual property dealing with quality or reputation liked to origin.
The law No. 5996/2010 on veterinary services, plant health, food and feed provide relevant provision on GIs; Art. 23(2) states:

“The Ministry shall perform controls with respect to verification of compliance with the specifications of agricultural products and foodstuffs which are protected GIs and protected designations of origin or protected as traditional specialities guaranteed.” This provision identifies the Ministry of Food, Agriculture and Livestock (GTHB) as the monitoring authority for GIs covering agricultural products and foodstuffs.

EU corner

In the EU, the legal framework for GIs is laid out by four different regulations:

- Reg. (EU) No. 1151/2012 on quality schemes for agricultural products and foodstuffs.
- Reg. (EU) No. 1308/2013 establishing a common organization for markets of agricultural products; specifically Articles 92 to 116 regulate GIs protecting Wines.
- Reg. (EU) No. 110/2008 on the definition, description, presentation, labelling and protection of GIs for spirit drinks.
- Reg. (EU) No. 251/2014 on the definition, description, presentation, labelling and protection of GIs for aromatized wine products.

Other relevant laws are:


2.2. SCOPE

The Turkish law No 6769/2016 aims at protecting more categories of products under geographical signs than the EU-wide legislation. The Turkish Law aims to protect:

1. Natural Products
2. Agricultural Products
3. Mining Products
4. Industrial Products
5. Handicrafts

There is no further specification as to what these products can be.

The EU-wide legislation aims to protect:


3 Art. 33, law No. 6769/2016
Assessment of the Geographical Indications legal framework in Turkey


There is currently no EU-wide legislation for the protection of non-agricultural goods. Several laws exist at national or regional level but there is no harmonisation at EU level.

Nevertheless, since 2011, the European Commission is studying the possibility of extending the scope of GIs protection to non-agricultural goods within the EU.

Conclusion / Comparison: The EU limited the scope to agricultural products, foodstuffs and wines and spirituous while the Turkish law is more extensive in the protection of GI products and takes into account non-agricultural products. This difference is explained by the history of GI development in both countries.

In the EU framework, GIs protection was fragmented and was built upon experience. GIs have been protected for a very long time in some Member States which have long tradition in food production and quality/differentiation (e.g. France, Italy). The first notion of “Appellation of Origin” in France started with wine at the beginning of the 20th century. This concept was then homogenized at the EU level and the scope was extended to spirits and agricultural products and foodstuff.

In Turkey, the development of GIs has started in 1995 and the protection system is quite recent with the implementing regulation adopted in 2017. This latest legal framework was developed based on existing legislation. They took advantage of the strengths of existing systems and could have a greater scope of products to protect under quality signs.

2.3. GEOGRAPHICAL SIGNS

Under the IPL No 6769, three types of geographical signs can be used to protect products:

1. Protected Designation of Origin (PDO)
2. Protected Geographical Indication (PGI)
3. Traditional Product Name (TPN)

The difference between the three signs lies in the strength of the link between product and territory. The three signs can be used to protect any of the categories of products stated by Art. 33 of Law No. 6769/2016.

1. A Protected Geographical Indication (PGI) can only be granted if all these conditions are met:
   a) The product originates from a place, an area, or a region of which geographical boundaries have been defined;
   b) The product possesses a specific quality, reputation or other characteristics attributable to this place, area or region;
   c) At least one of the activities of production, processing or preparation of the product takes place within the defined boundaries of this place, area or region.

   Examples: Finike Portakali (Finike oranges), Malatya Kayisisi (Malatya apricots)

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4 Wines, spirits and agricultural products and foodstuff
5 Art. 34, of Law No. 6769/2016
6 Art. 34 (1a) of Law No. 6769/2016
7 Art. 34 (1b) of Law No. 6769/2016
8 Art 34 (1c) of Law No 6769/2016
2. **A Protected Designation of Origin** (PDO) can only be granted if all these conditions are met:
   a) The product originates from a place, an area, a region or, in exceptional cases a country, of which the geographical boundaries have been defined;
   b) The product’s quality or characteristics are essentially or exclusively due to the inherent natural and human factors of this place, area or region;
   c) The production, processing and preparation of the product takes place within the defined boundaries of this place, area, region or country.

   *Example: Antep Baklavasi* (Baklava pistachios)

3. **A Traditional Product Name** (TPN) is a product which has had a customary usage in the current language for at least thirty years in the relevant market, and can only be granted if **at least one of these conditions** is met:
   a) The product originates from traditional production or processing techniques or traditional composition.
   b) The product has been produced from traditional raw materials or ingredients.

The product is not necessarily linked to a specific geographical area. This sign has been added to the Law No. 6769/2016 and is similar to the EU sign Traditional Speciality Guarantee (TSG). It was in fact added in order to harmonize the Turkish law with the EU legislation.

**EU corner**

Under EU-wide legislation, there are three types of geographical signs:

- Protected Geographical Indication (PGI)
- Protected Designation of Origin (PDO)
- Traditional Speciality Guarantee (TSG)

But, not all of them can be used to protect the same products:

- **PGI**: Agricultural Products and Foodstuffs, Wines, Spirit Drinks, Aromatized Wines;
- **PDO**: Agricultural products and Foodstuffs, Wines;
- **TSG**: Agricultural Products and Foodstuffs.

**PGI, PDO, TSG requirements for Agricultural Products and Foodstuffs in the EU:**

Since these are the requirements for the category of products we are studying in the framework of the project, it makes most sense to compare them – with the exception of wines or other alcoholic beverages – to territorial requirements under Turkish Law.

1) **PGI on Agricultural Products and Foodstuffs** - Art. 5 (2), Reg. (EU) No. 1151/2012
   a) Product originating from a specific place, region or country;
   b) Product’s given quality, reputation or other characteristic is essentially attributable to its geographical origin; and
   c) At least one of the production steps takes place in the defined geographical area.

2) **PDO on Agricultural Products and Foodstuffs** - Art 5(1) and (3), Reg. (EU) No. 1151/2012
   a) Product originating in a specific place, region or, in exceptional cases, a country;
   b) Product’s given quality or characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and
   c) Production steps all take place in the defined geographical area.
However, some names can be treated as PDOs although product’s raw materials come from a geographical area larger than, or different from, the defined geographical area. For this, conditions are:

a) The production area of the raw materials is well defined;
b) Special conditions for the production of the raw materials exist;
c) Control arrangements are in place to ensure that the conditions referred to in point b) above are adhered to; and
d) PDOs in question have been recognized in their country of origin before 1/5/2004.

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

It is important to note that, although in the context of the same type of geographical sign, territorial requirements seem to vary in order to adjust to the category of products in question.

For example:

- **PGI requirements for Agricultural Products and Foodstuffs** - Art. 5(2), Reg. (EU) No. 1151/2012
  - The product has to originate from a specific area, region or country;
  - At least one of the production steps have to take place in the defined geographical area.

- **PGI requirements for Wines** - Art. 93(1)[b], Reg. (EU) No. 1308/2013
  - At least 85% of the grapes used for the wine’s production have to originate exclusively from a specific geographical area;
  - Production has to take place in that geographical area.

3) **TSG on agricultural Products and Foodstuffs** - Art. 18 (1), Reg. (EU) No/ 1151/2012
   a) Product or foodstuff resulting from a mode of production, processing or composition corresponding to traditional practices, or
   b) Product produced from raw materials or ingredients that are those traditionally used.

NB: Traditional means proven usage on the domestic market for a period that allows transmission between generations; this period has to be at least 30 years.

**Conclusion /Comparison:** With regards to the new Turkish Law No 6769, Turkey harmonized its legislation to the EU legislation. Both EU and Turkey quality signs guarantee that a particular product comes from a specific region and/or follows traditional production processes. Therefore, the three signs are substantially very similar in the two legal systems, although the EU regulation is more precise in its definition and accounts for the differences between categories of products, and establishes tailored territorial requirements to those products.

Turkish law does not differentiate territorial requirements for registration on a product-category basis. This is probably the consequence of its historical background on GI development. In the EU, GIs are rooted in the legislation system. The latest evolved over the years to become more technical and not only providing a legislative framework, which allowed tailored requirements. The Turkish law is recent and is mostly funded on existing legislations (mainly EU). There is no feedback from “technical” experience of GIs systems and protection.

**Note:** it seems that the definition of Traditional Product Name in the Turkish law No 6769\(^9\) does not link the traditional aspect of the product to the transmission between generations within a timeframe while it is clearly mentioned in the EU regulation\(^10\).

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\(^9\) Art 34 (1c) of Law No 6769/2016
\(^10\) Art. 18 (1), Reg. (EU) No/ 1151/2012
2.4. PROTECTION

In Turkey, GIs are protected under a **sui generis** system.

The relevant provisions are in **Art. 44 [2] of the Turkish law No. 6769/2016**. Additional provisions are found in **Art. 53 of the Turkish law No. 6769/2016**.

The registrant of a GI and those entitled to use protected geographical sign have the right to prevent third parties to:

a) **Have any direct and indirect commercial use of a GI or its logo** provided for use as per Art. 46 in respect of products that are registered or comparable to the products registered, or any use of the name to benefit from GI reputation, even if product characteristics in GI registry are not possessed.

b) **Make any misleading use of the registered GI on a product that does not possess registered properties or that is similar enough to make an association or an imitation**, thereof through indicating the real geographical origin or characteristic of the product as a word but which conveys a false impression as to its origin, or of the translated name, or usage of the name accompanied by expressions such as “style”, “type”, “method”, “as produced” or other similar description.

c) **Make any use of false or misleading indications as to the origin, nature or essential qualities** of the product with GI on the inner or outer packaging, on advertising or promotion material or on documents relating to the product.

d) **Make any use of the GI logo as to mislead the consumer.**

All person entitled to use the GI may appeal for a lawsuit by notifying the registrant about the acts of infringement via notary public. If the registrant refuses or fails to file a lawsuit within 3 months (date of notification), the persons entitled to use the GI may file a lawsuit by attaching the notification and shall inform the registrant. In case of serious damage risk, the persons entitled may request the court to decide temporary injunction regardless of the period.

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**EU corner**

In the EU Law, the relevant provisions for GIs protection are the following:

- **Art. 13, Reg. (EU) No. 1151/2012 for Agricultural Products and Foodstuffs**
- **Art. 103, Reg. (EU) No. 1308/2013 for Wines**
- **Art. 20, Reg. (EU) No. 251/2014 for Aromatized Wines**
- **Art. 16, Reg. (EU) No. 110/2008 for Spirit Drinks**

**Scope of protection over Agricultural Products and Foodstuffs:**

The **Art. 13, Reg. (EU) No. 1151/2012** states that 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** (this last specific provision did not exist in the EU system until 2012).

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 material 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.

Art. 13 (3), Reg. (EU) No. 1151/2012 states that Member States shall take appropriate administrative and judicial steps to prevent or stop the unlawful use of DPO and PGI that are produced or marketed in that Member State. This is the basis of an ex-officio system\textsuperscript{11}.

Members States have to designate the Competent Authority in charge of implementing measures to prevent or stop unlawful use. In France, the Competent Authority is the Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes (DGCCRF). The mechanism of protection by Member States is the following:

1. Any person who identify an unlawful use of PDO or PGI inform the competent authority of its country, the DGCCRF in France.
2. The Competent Authority shall note the infringement / unlawful use, the DGCCRF in France.

The Competent Authority take appropriate administrative and judicial measures.

Note: In the EU regulation, it is specified that competent authority shall demonstrate specific features as: objectivity, impartiality, qualified staff and necessary resources.

Conclusion / Comparison: The names registered both at the EU and the Turkish level are legally protected against infringement of rights. However, the legal tools to prevent and protect GI holders against infringement are different in the UE and in Turkey.

The EU establishes an ex officio\textsuperscript{12} procedure where Member States take responsibility for the enforcement of the GI law and the detection of any unlawful use of GIs. National Competent Authorities of Members State has the obligation, by the law, to take administrative or judicial actions to stop the unlawful use of PDO or PGI.

Whereas, in Turkey such system does not exist. First only applicants or in some cases, persons entitled to use the GI can appeal for a lawsuit in case of acts of infringement. The specificity of the Turkish law lays down in that in case of infringement, the applicant decides whether he wants to take judicial actions or not, based on the gravity of the infringement. Therefore, measures may never be taken for some infringements.

Finally, in Turkey, neither the State nor any competent authority have the obligation to take measures to stop unlawful use of PDO or PGI unlike with the ex-officio system of the EU regulation.

2.5. THE APPLICATION AND REGISTRATION PROCEDURES

To obtain GI registration in Turkey and in the EU, the following steps shall be followed:

1. Application
2. Review of the application by the competent authority
3. Publication of the Application
4. Period of Opposition/objection
5. Registration of the GI

EU corner

\textsuperscript{11} A procedure by which governments take responsibility on the enforcement of a law.
\textsuperscript{12} A procedure by which governments take responsibility on the enforcement of a law.
In the EU, this process can take place twice:

1) At National Level, resulting in Transitional National Protection within that Member State
2) At the EU level, resulting in definitive protection

Applicants from Third Countries, seeking GI protection for their products within the EU, can skip the first phase and apply directly to the European Commission.

2.5.1. Applicant / Registrant

Note: There is no clear definition of registrant and applicant. Nevertheless, it assumed in Turkey that, person entitled to apply for a GI is the applicant during the registration phase and becomes the registrant when the GI is registered.

In Turkey, the following subjects can apply for GI and TPN13:

a) Producers groups (either a natural or legal person) of the product in question. **Producer means the person who produces or processes** the product or plays a part in the supply chain and operates on the product so as to affect the features of the product. Producers group means the union of producers of the same product14.

b) The **single producer** (either a natural or legal person) given that he/she has proven that he/she is the only producer of this product.

c) **State institutions and professional organizations** with **public institution status** associated with either the product or the geographic area from which the product originates.

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d) **Authorized associations, foundations and cooperatives** working for public interest or for protecting the economic interest of their members regarding the product.

**EU corner**

<table>
<thead>
<tr>
<th>Applicants in the EU can be:</th>
</tr>
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<tbody>
<tr>
<td>1. For Agricultural Products and Foodstuffs - Art. 49, Reg. (EU) No. 1151/2012</td>
</tr>
<tr>
<td>a) A group who work with the product in question.</td>
</tr>
<tr>
<td>A group means any association, irrespective of its legal form, mainly composed of producers (production) or processors working with the same product.</td>
</tr>
<tr>
<td>b) A single producer (either a natural or legal person), if these conditions are both met:</td>
</tr>
<tr>
<td>• He/she is the only producer willing to submit an application; and</td>
</tr>
<tr>
<td>• The defined geographical area possesses characteristics which differ appreciably from those of neighboring areas, or the characteristics of the product are different from those produced in neighboring areas.</td>
</tr>
<tr>
<td>2. In regards to Wines (Art. 95, Reg. (EU) No. 1308/2013) and Aromatized Wines (Art. 12, Reg. (EU) No. 251/2014)</td>
</tr>
<tr>
<td>a) Any interested group of producers;</td>
</tr>
<tr>
<td>b) A single producer (only in exceptional cases)</td>
</tr>
</tbody>
</table>

**Conclusion / Comparison:** There are fundamental differences between EU and Turkish Law:

First, applicants entitled to apply for GIs are wider in the Turkish Law. For instance, subjects such as Chambers of Commerce, private companies, municipalities etc. are allowed to apply, while these would not be allowed by the EU regulation.

Secondly, the definition of “producer” differs from one law to another. The EU law defines producer as farmers which mean the person who produces the products. Whereas in the Turkish Law producer name is much wider and include the person who produces, processes or plays a part in the supply chain and operates on the product so as to affect the features of the product.

Consequently, what we observed at the moment in Turkey is that most of GIs holders are Chambers of Commerce and Industries, private companies or municipalities. Actually, only four applications have been made by farmers’ organizations. This results in:

- **Low involvement of farmers in the development of the GI and its Book of Specification (BoS):** farmers are little (if at all) involved in the definition of GI, leading to “theoretical” BoS and difficulties in the management of GI protection. This is a direct consequence of a top down approach.
- **Low appropriation of the content and adhesion by farmers:**
- **Indigent BoS:** small differentiating features, which may lead to the banalization of the concept of GI and make the GI unsuccessful.

### 2.5.2. CONTENT OF THE APPLICATION

In Turkey, applications are received by TPTI. Applications are made by filling the form that is deemed valid by the TPTI in electronic environment and submitting thereof to the TPTI.\(^\text{15}\)

\(^\text{15}\) Art 35 [2] of the Implementing Regulation
The minimum contents of the application for registration of a geographical sign are\(^{16}\):

a) **Identification and contact information.**
b) Information regarding under **which group** it falls, and documents indicating this condition.
c) In case the applying natural or legal person is the only producer of product, information and documents proving this claim.
d) Information and documentation proving requested registration of GI **complies with either PDO or PGI** and information and documentation about the product group and its **compliance with GI definition.**
e) The **description of the product**, including technical information and documentation explaining the physical, chemical, microbiological and **sensorial properties** of the product and, if necessary, of its raw material.
f) Information and documentation clearly indicating and defining the **geographical boundaries** of production and if necessary a **map** showing the geographical borders thereof.
g) For **PDO and PGI** application, information and documents describing the **production, processing and other processes related** to the product that will be performed **within the boundaries** of the defined area.
h) Information and documentation regarding **production techniques** and, if relevant, about **local production practices and customs** that provide **specific characteristics** to the product.
i) Information and documentation proving the **connection between quality, reputation or other features** of the product subject, to GI registration within the context of GI definition and the relevant geographical area.
j) Information and documentation regarding the **historical background** of the product in the relevant geographical area.
k) Information and documentation detailing the **inspection structure** in accordance with article 45 of the Implementing Regulation and **including the sample inspection report**: contact details, **qualification, inspection plan, and inspection report**\(^{17}\). (see part 2.7 on inspection)
l) Information regarding the **use of the GI** and, if relevant, **labeling and packaging methods.**
m) In applications originating from foreign countries, in case the GI contains letters other than those in the Latin alphabet, the equivalent of the letters in Latin alphabet and their translation to Turkish, if available.

n) If the application is made via an **attorney/representative**, **identification and contact information of the person.**
o) Evidence that the **application fee has been paid.**

For TPNs, the minimum contents for registration are:

a) Application form including information about the applicant, and about the applicant’s group: identification and contact information, information on the applicant’s group.
b) Information regarding the TPN and product group applying for registration, and information and documentation proving relevancy to the definition provided in Article 34.
c) The **description of the product**, including technical information and documentation explaining the physical, chemical, microbiological and **sensorial properties** of the product and, if necessary, of its raw material.
d) Definition of **production methodologies** explaining the preparation techniques for product characteristics along with the traits of raw materials and other compounds used as ingredients.
e) Information and documentation explaining the **inspection structure** provided in Article 49 and in accordance with the provision of Article 45 of the Implementing Regulation and **including the sample inspection report**: contact details, qualification, inspection plan, inspection report\(^{18}\).
f) Information and documentation regarding the **use of TPN** and if relevant **labeling and packaging methods.**
g) In applications originating from foreign countries, in case the GI contains letters other than those in the Latin alphabet, the equivalent of the letters in Latin alphabet and their translation to Turkish, if available.

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\(^{17}\) Article 45 of the Implementing Regulation.

\(^{18}\) Art. 45 of the Implementing Regulation.
h) If the application is made via an attorney/representative, identification and contact information of the person.

i) Evidence that the application fee has been paid.

The new Turkish law and its implementing regulation added a provision pertaining to applications originating from foreign countries. The following conditions shall be met along with the conditions of Art.37 of the law:

a) The GI should be under protection by the country of origin or the international community it is included in: official document approved by relevant authorities shall be provided.

b) The country of origin should provide equal inspection conditions as the ones listed in Art. 39 of the law and article 45 of the Implementing Regulation (this provision is explained at a later stage in this report).

c) The country of origin should provide equal protection to GI registration applications from Turkey.

EU corner

Under EU law for agricultural products and foodstuff Reg. (EU) No 1151/2012, the minimum contents of application for registration of geographical signs over Agricultural Products and Foodstuff, as laid out by Art. 8 of Regulation (EU) No. 1151/2012 is the following:

a) The name and address of the applicant group and of the authorities or, if available, bodies verifying compliance with the provisions of the product specification;

b) The product specification (Book of Specification):
   (i) The name to be protected as a designation of origin or geographical indication,
   (ii) A description of the product, including the raw materials, if appropriate, as well as the principal physical, chemical, microbiological or organoleptic characteristics of the product;
   (iii) The definition of the geographical area delimited
   (iv) Evidence that the product originates in the defined geographical area
   (v) A description of the method of obtaining the product and, where appropriate, the authentic and unvarying local methods as well as information concerning packaging,
   (vi) Details establishing the following: (i) the link between the quality or characteristics of the product and the geographical environment; or (ii) where appropriate, the link between a given quality, the reputation or other characteristic of the product and the geographical origin
   (vii) The name and address of the authorities or, if available, the name and address of bodies verifying compliance with the provisions of the product specification pursuant to Article 37 and their specific tasks; 14.12.2012 Official Journal of the European Union L 343/9 EN
   (viii) Any specific labelling rule for the product in question.

c) A single document setting out the following:
   (i) The main points of the product specification: the name, a description of the product, including, where appropriate, specific rules concerning packaging and labelling, and a concise definition of the geographical area;
   (ii) a description of the link between the product and the geographical environment or geographical origin, as the case may be, including, where appropriate, the specific elements of the product description or production method justifying the link

There are, however, some additional requirements to the application that depend on its origin.

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Assessment of the Geographical Indications legal framework in Turkey

In fact, applications that have previously gone through National Phase registration and are now being sent to the Commission in order to obtain definitive protection, must also include an Application Dossier, which contains:

a) The name and address of the applicant group;
b) The Single Document referred to in point 3 of the previous list;
c) A declaration by the Member State stating that the application lodged by the applicant group qualifying for the favorable decision meets the conditions of Reg. (EU) No. 1151/2012 and the provisions adopted pursuant thereto;
d) The publication reference of the product specification.

The key document in EU applications is the Product Specification: it contains the standards for production and processing the protected product, and the standards and conditions for quality.

Note: If the application originates from a third country, the applicants may apply to the European Commission, either directly or through their country’s authorities - for Agricultural Products and Foodstuffs, Art. 49(5), Reg. (EU) No. 1151/2012.

When applications come from Third Countries they shall contain in addition to the information mentioned above the proof that the name of the product is protected in its country of origin, Art. 8 (1), Reg (EU) No 1151/2012. Besides, the control of the product specifications shall be done by Public Authorities designated by the country or one or several certification bodies. Art. 37(2), Reg. (EU) 1151/2012.

Conclusion / Comparison: Minimum requirements for both Turkish and EU application are similar with the exception of traceability. EU regulation contains specific provision for traceability while the Turkish law never refers to traceability.

Besides, unlike the EU regulation, the Turkish law No 6769 does not mention / refer to a Book of Specification. Nevertheless, the content of the EU Book of Specification, shall appear in the Turkish application form.

Both legislations have similar provisions with regards to foreign applications and required that GI name of the product is protected in its country of origin and the content of the application, the protection and control systems in place are equivalent in the two countries.

2.5.3. Examination and Publication of the Application

In Turkey, applications are received by the TPTI. The TPTI may request opinions from relevant institutions and organizations such as universities or research centers, to evaluate the technical information.

The examined and approved applications are published in the Bulletin.

Foreign applications are received by TPTI and should meet the requirements mentioned above.

EU corner

In Europe, applications are received by either - Art. 49 (3) (4) (5) (6), (7), Reg. (EU) No 1151/2012

1) The competent National Authority designated by a Member State
2) The European Commission

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However, in order to get permanent protection, the application must receive final approval by the European Commission. And, if the application originates in a Member State, it must first go through a Preliminary National Procedure in that state.

The Commission shall, at least each month, make public the list of names for which registration applications have been submitted to it, as well as their date of submission. When the application is considered compliant by the Commission, the application is published in the Official Journal of the European Union. *Art. 50, Reg. (EU) No 1151/2012.*

Examination procedure, the French example.

There are four main phases for the recognition of a GI in France:

**Phase 1: Pre-instruction of the application**

Regional Services of INAO support GI applicants in the creation of the GI. They provide personal advices and are able to confirm the applicant whether the project is adapted to a GI recognition or not.

**Phase 2: Instruction of the application**

Steps:
- Examination of the admissibility of the application by the Permanent Commission
- Review of the application by the Investigation Commission. In parallel, the director of INAO examines the control plan to approve it
- Development of a report by the Investigation Commission to the National Committee of INAO including the Book of Specification and the Control Plan and its conclusions
- Examination of the report provided by the Investigation Commission by the National Committee who provides its decision with regards to the application
- Set up of a national objection procedure
- Examination of the objections by the National Committee
- Modifications of the application if required by the National Committee based on the objections

**Phase 3: Homologation**

- Transmission of INAO approval to the Ministry of Agriculture
- Homologation of the GI Book of Specification approved by INAO
- Publication of the homologation by the Ministry of Agriculture in the Official Journal of the French Republic

**Phase 4: EU registration**

- Transmission of the approved application by the Ministry of Agriculture to the European Commission
- Review of the application by the European Commission
- Objection Procedure
- EU registration
- Official Publication in the Journal Official of the European Union
There are three different bodies in charge of the examination and evaluation of the application form:

- The National Committee: there are 5 national committees at INAO including one National Committee for Geographical Indications. GI National Committee is in charge of the examination and approval of the application. A part of its tasks is delegated to the Permanent Commission.
- The Permanent Commission: is a lightened body of the National Committee who delegated the examination to the permanent commission. The Permanent Commission is in charge of the first examination of the application.
- The Examination Commission: is composed of members of the National Committee who do not have any conflict of interest with the product. The examination Commission is in charge of the review of the content of the application and can conduct field work to provide a report to the National Committee for decision.

Conclusion / Comparison:

In the EU, there are 2 verifications for GIs application: 1 at the national level and one at the EU level. Both Turkish and EU legislation recommend to Member State to scrutinize the application by appropriate means; which is most of the time realized through experts’ consultation. In Europe, the examination is mostly delegated to Commissions composed of professional experts of the Competent authority.

2.5.4. Objection/Opposition and Examination of Objection

After the competent Authorities have reviewed the application and found it to be conforming to regulation, the opposition process begins.

In Turkey, objections shall be addressed to the TPTI by signing an objection form in electronic environment within two months upon notification of the application in the Bulletin.

The persons who can lodge an objection are the following:

1. Within three months (instead of 6 months in the Decree-Law 555/1995) after the publication of the application, “Anybody legitimately concerned” (third parties) may object to the registration by filing an objection as to the invalidity of the sign.
2. Within two months after the application is denied by TPTI, the applicant may object by a reasoned and written submission.

Objections in Turkey shall be examined by the Commission who may request opinion from relevant institutions and organizations, as Universities, Public Institutions, or Independent Private Institutions, regarding the claims of objection.

The Commission, as defined in the Implementing Regulation, operates under Re-examination and Evaluation Department of TPTI. The Commission is composed of TPTI staff.

The Commission takes the final decision of the objection.

EU corner

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21 Turkey: the TPTI
Europe (for the EU Phase): the European Commission
22 Art. 40 of Law No. 6769/2016 and Art. 39 of the Implementing Regulation.
In the EU, an objection can be made within three months after the publication in the Official Journal of the European Union by the Authority of a Member State or a Third Country or a moral person and provided that they:

- Have a legitimate interest, and
- Lodge a “Duly Substantiated Statement” as to the lack of eligibility of the product in question

The opposition is addressed to the Commission and is reviewed by the Commission. The Commission informed the applicant of the objection. Both the applicant and the person that lodged the opposition can realise consultations and provide additional information to the Commission. The Commission will then again scrutinise the application and take the final decision.

Conclusion / Comparison: The examination and objection procedures are similar system in both systems.

2.5.5. Registration

Applications that have been validated after the objection period shall be registered and recorded in the Register provided that the registration fee is paid. Registered GIs are published in the Bulletin.

EU corner

Final decision on applications (registered GI or rejected GI) are published in the Official journal of the EU. Art. 52, Reg. (EU) No 1151/2012.

Conclusion / Comparison: The registration and publication procedures are similar system in both systems.

2.6. Changes to Specifications

The new Turkish IPL No. 6769/2016 mentioned an important point that was missing in the Decree-Law No. 555/1995 pertaining to change to specifications. In fact, Article 42[1] of the Law No. 6769/2016 allows to change or correct the content of a registered GI. It was not possible under the Decree Law No. 555/1995.

2.7. Inspection

Systems of control on production are needed to offer guarantees to the consumer that the product has been produced in accordance with its specification and has the origin claimed on the label.

They are also fundamental to the producers of such products, who want to preserve the reputation and value of their registered names.

2.7.1. External Control

In the Turkish law, relevant provision is found by Art. 49 of IPL No. 6769/2016. Articles 44 to 46 of the Implementing Regulation provide details on the use of registered GI and the inspection system.

Registered GIs can be used by all the actors involved in the production and marketing activities related to the GI product. Producers and non-producers who are involved in marketing activities and who have an effect on the product shall notify the registrant with regards to their activities. This means that all the persons that may

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23 Three months: for Agricultural Products and Foodstuffs and two months, for Wines (Art. 98, Reg. (EU) No. 1308/2013) and Aromatized Wines (Art. 15, Reg. (EU) No. 251/2014)

24 Art. 41 of the law No 6769 and Art 41 of the Implementing regulation.
impact the quality of the product should be notified to the registrant/applicant; such as raw material suppliers, processors, packers, storage owners etc. This notion of “effect” is still ambiguous, but should be understood as “all the people intervening in the supply chain from production to packaging and labelling shall notify their activity to the registrant.

This provision suggests that all these notified actors are subject to inspection. Besides all the actors notified shall figure in a list that will serve as a basis for the inspection. This list has to be provided to the TPTI and the inspection bodies.

It is important to note that all sales actors are not obliged to notify their activities to the registrant.

The Implementing Regulation provides detailed information on the activities that shall be carried out during inspection and specifies that the compliance with the BoS shall be supervised at each stage of the production of the products. Therefore, all the actors notified to the registrant and all type of activities that have “an effect” on the product are subjected to inspection.

The inspections shall be performed by inspection bodies. Inspection bodies shall be mentioned in the registry / application form by the applicant and shall be approved by TPTI during the registration phase. Inspection bodies are mostly represented by a consortium of members of Chambers of Commerce, Universities, etc. So far, there is no restriction to composition of the inspection bodies; thus applicants or GIs users may be part of the inspection body. Nevertheless, at this stage, we do not know if TPTI will validate such inspection body. Besides, it seems that certification bodies, like Ecocert are also authorised to carry out the controls. Nevertheless, the last case raises the question of “control fees” paid by the applicant or the GI user.

The inspection bodies are not expected to be accredited ISO 17065, nonetheless, Art. 45 [2] gives some provisions with regards to inspection bodies competency similar to ISO 17065:2012: objectivity, qualification, enough resources and equipment. Each member shall sign an “commitment letter” to guarantee their competencies which is reviewed by the TPTI. Nonetheless, compared to the ISO 17065, there is no reference to impartiality and independence aspects.

The inspection body has to develop:

- An inspection plan (which shall be included in the application and thus approved by the TPTI). The inspection plan shall define the frequency of evaluation, which is decided by the applicant.
- An inspection report: a report is required for each inspection. Inspection reports shall contain at least the following information:
  - Identification of all the stakeholders of the supply chains.
  - Signatures of the parties involved in the inspection.
  - Traceability elements: date of inspection, product inspected (lot, number etc.)
  - Additional information and documents that allow to execute the inspection efficiently. This point is quite unclear and vague.
  - Inspected properties
  - If there is any specific precaution detailed in the registration file this shall be indicated in the report. There is no clear information on what does this point means. Still unclear.
  - Compliance of the logo.

It is interesting to highlight that, probably due to the status of the inspection bodies, no audit tools are developed to carry out the audit such as audit checklists. Therefore, until now, the only elements that are evaluated during

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27 ISO/IEC 17065:2012 related to Conformity Assessment – Requirements for bodies certifying products, processes and services.
28 Until now, no inspection body has been rejected by the TPTI.
Assessment of the Geographical Indications legal framework in Turkey

inspections are the physical characteristics of the products. This has been clearly observed when we assisted to Gemlik olives audit.

After inspection, **reports have to be sent to the registrant/applicant by the inspection body.** A copy of the report/audit findings is delivered to the inspected body. The applicant reviews the inspection reports and shall take legal action (court) in case the reports mentioned aspects that are against the registry. The following information shall appear in the inspection reports after applicant review:

- Identification and contact information of the inspected body.
- For each inspection: date, amount of inspected product, **measures taken for products that do not comply with the Registry, legal actions taken.**
  This refers to corrective actions however there is no sanction scale. If a sanction scale is desired by the applicant, it shall be included in the registration file.
- Compliance of logo use.

Article 53 (2) (3) (4) of the Turkish regulation is really interesting and pointed out that the State is not so much involved in the GI, solely in case of important infringement. In case of “small” infringement, the State “delegate” the management to the registrant. This means that GIs users may appeal for lawsuit and notify the applicant if they identified an infringement. The registrant has the right to refuse the request. Only in case of serious damage risk, user can directly to the court.

**Applicant shall at least present inspection reports to TPTI once a year** which undermine that at least 1 control per year shall be conducted; which was not the case before as inspection reports were sent every 10 years...TPTI will review inspection reports and can ask applicant additional documents and information. If the reports are considered deficient. If the applicant does not remedy the deficiencies, TPTI will request for a change of applicant. In case, there is no request or the request is not accepted, the right of the GI or TPN is terminated. The information is published in the Bulletin.

Art. 45 [12] pertaining to inspection fees in unclear. We still cannot understand who will bear the costs of the inspection.

The inspection system specified in the Implementing Regulation also covers the provision found in **Art. 23(2) of Law No. 5996/2010 on veterinary services, plant health, food and feed; which states:**

“The GTHB shall perform controls with respect to verification of compliance with the specifications of agricultural products and foodstuffs which are PGI and PDO or protected as traditional specialties guaranteed”

There has been no modification to the 1995 Decree-Law in order to reference Art. 23(2) of Law No. 5996/2010, or any other provision on the role of the Ministry of Food, Agriculture and Livestock (GHTB) as competent monitoring authority. The role of the Ministry is unclear and not precise enough. The Ministry shall perform controls to verify the compliance of GI. This provision needs clarification and need to be strengthened for a better understanding of the role of the Turkish Government.

EU corner

In the EU law, external control is regulated by **Regulation (EC) No. 882/2004 on official controls performed to ensure the verification of compliance with food and food law, animal health and animal welfare rules.** This Regulation, however, must be read in conjunction with the provisions contained in each of the four major GI Regulations over different product category.

For Agricultural Products and Foodstuffs, the Reg. (EC) No. 882/2004 fills in loopholes the existing legislation by reorganizing **official controls** so that these are integrated at all production stages and in all sectors. It stipulates that **National Authorities designated by each Member State shall carry out official controls,**
without warning at any stage of the production, processing or distribution. Analyses may be performed during the control process by specific laboratories. A multiannual national control plan shall be developed by the Member States and reported annually to the European Commission.

Chapter 1 of Title 5 of Reg. (EU) No. 1151/2012 on quality schemes for agricultural products and foodstuffs, in conjunction with Reg. (EC) No. 882/2004 stipulates that Member States shall designate the authority or authorities responsible for official controls carried out to verify compliance with the legal requirements related to the quality schemes established by this Regulation, with respect to Reg. (EC) No. 882/2004. The competent authorities referred shall offer adequate guarantees of objectivity and impartiality, and shall have at their disposal the qualified staff and resources necessary to carry out their functions.

Official controls shall verify that a product complies with the corresponding product specification; Competent authorities may delegate specific tasks related to official controls of the quality schemes to one or more accredited control bodies, if and only if:

a) There is an accurate description of the tasks that the control body may carry out and of the conditions under which it may carry them out;

b) There is proof that the control body:
   • Has the expertise, equipment and infrastructure required;
   • Has a sufficient number of suitably qualified and experienced staff;
   • Is impartial and free from any conflict of interest;

c) The control body communicates the results of the controls carried out to the competent authority on a regular basis and whenever the authority requests it. If the results of the controls indicate non-compliance or point to the likelihood of non-compliance, the competent authority shall immediately be informed;

d) There is efficient and effective coordination between the delegating competent authority and the control body.

• Competent authorities delegating specific tasks to control bodies shall organize audits or inspections of control bodies as necessary. If, as a result of an audit or an inspection, it appears that such bodies are failing to carry out properly the tasks delegated to them, the delegating competent authority may withdraw the delegation. It shall withdraw it without delay if the control body fails to take appropriate and timely remedial action.

• Any Member State wishing to delegate a specific control task to a control body shall notify the Commission. This notification shall provide a detailed description of:
   • The competent authority that would delegate the task;
   • The task that it would delegate;
   • The control body to which it would delegate the task to.

Conclusion / Comparison:

Both in the EU and Turkish legislations, inspection activities are related to the assessment of the conformity of the product at all stages of the production. This is a new provision for the Turkish law.

In the EU legislation, the control is of the responsibility of national authorities designated by each Member State; who can delegate the control to accredited certification bodies. In the Turkish legislation, the control is the responsibility of inspection bodies, which is composed by the applicant who select members of Chambers of Commerce and Universities etc. Based on commitment letters of each members, inspection bodies are approved by TPTI during registration phase. Nonetheless in Turkey, there is no list of approved inspection bodies. There is no requirement for accreditation in the Turkish law but inspection bodies shall provide evidence of competencies very similar to those required by the accreditation. Only elements referring to impartiality and independence aspects.
While in the Turkish law, **audit tools**, as audit checklists, are **not required** to be developed by inspection bodies; the EU is more rigorous, as the certification bodies have to be accredited for their activity. For instance, during Gemlik audit visits we noticed that controls only consisted in visual verification and organoleptic test of the products.

With regards to sanction plan / level of sanction, the **Turkish legislation does not possess any sanction scale in its framework and is vague in the process on how should be identified non-compliances and how shall be treated the non-compliances found.** It appears that, the State is only involved when "important" frauds/misuses are detected and let the registrant dealing with minor non-compliance.

In the EU legislation, there is a notion of "certification". First, non-compliances are identified and distributed on a scale depending on their gravity. Then, each non-compliance is noted by their certification bodies who expected corrective actions within a specific timeframe from the user of the GI to correct its non-compliance (depending also on the gravity of the non-compliance). At the end, the certification body take the final decision on the compliance of GI user and decide whether the user is allowed to use the GI name and logo or not.

Therefore, fundamental differences lay down in:

- The verification of the competences of the inspection body: accreditation vs commitment letters.
- The development of specific audit tools, in addition to audit reports.
- The spirit/involved of the State in the management of the GI.

### 2.7.2. INTERNAL CONTROL

Previously, Art. 20 of Decree-Law No. 555/1995 states that **“Any association [...] of the producers [...] of the product which has registered the related geographical sign […], shall possess sufficient qualified staff, equipment and resources to inspect the production, marketing, medium of use of registered designation of origin or GI, labelling details of the product bearing the protected geographical sign. Co-operation of the related experts and independent bodies may be enlisted.”**

The Turkish IPL No. 6769/2016 removed this part of what we could name “internal control”. The law only refers to external control realized by inspection body. Nonetheless, applicants who wish to establish an internal control system can include in its application form a requirement on internal control system.

**EU corner**

In the EU, there is no specific provision on internal control system (ICS). Nevertheless, **Art. 45, Reg. (EU) 1151/2012** provide some guidelines on ICS by providing specific responsibilities to the groups:

- **Contribute to ensuring that the quality, reputation and authenticity of their products are guaranteed on the market by monitoring the use of the name in trade and, if necessary, by informing competent authorities, or any other competent authority**
- **Take action to ensure adequate legal protection of the protected designation of origin or protected geographical indication and of the intellectual property rights that are directly connected with them;**
- **Develop information and promotion activities aiming at communicating the value-adding attributes of the product to consumers;**
- **Develop activities related to ensuring compliance of a product with its specification;**
- **Take action to improve the performance of the scheme, including developing economic expertise, carrying out economic analyses, disseminating economic information on the scheme and providing advice to producers;**
• Take measures to enhance the value of products and, where necessary, take steps to prevent or counter any measures which are, or risk being, detrimental to the image of those products.

Most of the type, Internal Control System are developed by the groups to assure the activities related to “ensuring the compliance of a product with its specification.

**Conclusion / Comparison:** Internal control is a great tool for the development of a GI and for strengthening the credibility and robustness of the GI. Internal Control is also very useful to incentive GI holders to the importance of the rules and the importance to differentiate the production.

The notion of “Role of the groups/registrant” is not at all included in the Turkish law.

2.8. **QUALITY LOGO**

Under Turkish Law No. 6769, there is a provision dealing with the use of logo attesting a product’s authenticity of origin or purported qualities.\(^{29}\)

The logo has been created by the TPTI, but is not yet available.

The Turkish Law states:

- The GI or TPN shall be mentioned on the product or its package with its logo;
- The use of logo for GI is obligatory;
- The use of TPN without logo is not subject to provision;
- If the logo cannot be used on the product or on its package, the registered indication or name with the logo shall be maintained in the enterprise.

**EU corner**

The EU Law, in regards to The EU Law, in regards to agricultural products and foodstuffs registered as GIs, states that:

- In view of the products’ specific nature, special provisions on labelling should be adopted, requiring producers to use the appropriate Union symbols or indications on packaging.
- In the case of Union names, the use of such symbols or indications should be made compulsory in order to raise awareness amongst consumers about this category of products and the guarantees attached to them, and in order to allow easier identification of these products on the market, thereby facilitating controls *(Recital (28) to Regulation (EU) No. 1151/2012)*
- The Union symbols shall appear on the labelling of products. In addition, the registered name of the product should appear in the same field of vision. The indications PGI and PDO, or the corresponding abbreviations, may appear on the labelling. *(Art 13(3), Reg. (EU) No. 1151/2012)*
- These symbols may only be used in connection with products produced in conformity with the rules of the quality scheme to which they apply. *(Art 13(3), Reg. (EU) No. 1151/2012)*

The technical characteristics of the Union symbols and indications, other rules regarding their use, and rules on the appropriate linguistic versions to be used, are laid out by Commission Delegated Reg. (EU) No. 664/2014.

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- These symbols may only be used in connection with products produced in conformity with the rules of the quality scheme to which they apply. (Art 13(3), Reg. (EU) No. 1151/2012)

The technical characteristics of the Union symbols and indications, other rules regarding their use, and rules on the appropriate linguistic versions to be used, are laid out by Commission Delegated Reg. (EU) No. 664/2014.

**Conclusion / Comparison:** The development of a common label for GI products in Turkey should strengthen the development of the concept of GI in the country. This will allow to:

- Harmonize the communication for consumers;
- Improve the readability of this category of products and the guarantees associated to it;
- Facilitate controls - especially in case of infringement.

### 3. Stakeholders involved in geographical indications and responsibilities

Table 1 provides a list of the main stakeholders involved in the definition and protection of GIs and their main responsibilities.

<table>
<thead>
<tr>
<th>Stakeholder (TPTI)</th>
<th>Responsibilities</th>
<th>EU Commission</th>
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<tbody>
<tr>
<td>Institution (TPTI)</td>
<td>Review the application</td>
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<td></td>
<td>Publish GIs in the Bulletin</td>
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<tr>
<td></td>
<td>Take final decision on registration</td>
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<tr>
<td></td>
<td>Review or reject BoS modifications</td>
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<td></td>
<td>Cancellation of GI</td>
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<td></td>
<td>Review / verify the inspection bodies’ competencies</td>
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<tr>
<th>Stakeholder</th>
<th>Responsibilities</th>
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<tbody>
<tr>
<td>EU Commission</td>
<td>Review the application</td>
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<td></td>
<td>Publish GIs in the Official Journal of EU</td>
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<td>Analyse the objections</td>
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<td></td>
<td>Take final decision on registration</td>
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<td></td>
<td>Develop a register of GIs</td>
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<td></td>
<td>Review or reject BoS modifications</td>
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<td></td>
<td>Cancellation of GI</td>
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<tr>
<td>Role</td>
<td>Responsibilities</td>
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<tr>
<td>Member States</td>
<td>- Take administrative and judicial measures to protect GIs - Designate competent authorities in charge of official controls - Examine or delegate the examination of GIs’ applications</td>
</tr>
<tr>
<td>State/court</td>
<td>- Examine acts of infringement lawsuit - Implement the judicial measures to protect GIs</td>
</tr>
<tr>
<td>Authorities</td>
<td>- Implement the administrative and judicial measures to protect GIs</td>
</tr>
<tr>
<td>Commission (TPTI staff)</td>
<td>- Examine the objections - Take final decision with regards to the objections</td>
</tr>
<tr>
<td>Competent Authorities</td>
<td>- Examine the application - Carry out official controls and delegate specific control tasks</td>
</tr>
<tr>
<td>Inspection Bodies</td>
<td>- Carry out inspection according to the BoS - Provide audit reports to the registrants</td>
</tr>
<tr>
<td>Certification Bodies (accredited)</td>
<td>- Carry out the inspection according to the BoS - Follow up inspection non-compliances - Provide audit reports to the registrants and inspected body - Validate the final results of the inspection - Certify</td>
</tr>
<tr>
<td>Applicant/registrant</td>
<td>- Define the product specifications - Form GI’s inspection body - Apply for GI’s recognition - Pay the application fee - Apply for BoS modification - Appeal for a lawsuit in case of acts of infringement - Provide inspections report to TPTI</td>
</tr>
<tr>
<td>Groups</td>
<td>- Define product specifications - Apply for GIs recognition - Pay the application fee - Contribute to guarantee the quality, reputation and authenticity of GI products (e.g. promotion, internal control, etc.) - Apply for BoS modification - Appeal for a lawsuit in case of acts of infringement</td>
</tr>
</tbody>
</table>

### 4. Conclusions and Recommendations

In its scheme, Turkish Law is in harmony with the EU Law. They are both based on international frame with an updated registration system and specific legal means of protection (sui generis system). They both provide a substantially very similar definition of GIs through the three geographical signs PDO, PGI and TSG. Therefore, the content of the Book of Specifications is very similar.

**Figure 1. SWOT analysis for the 2 pilot GIs recognition at the EU level**
Besides, procedures for GI application, objection, registration, publication and appeal for modifications are very similar in both frameworks. It is important to note that appeal for modifications is a new provision in Turkey legal framework; which confers more flexibility to GIs.

Finally, with regards to inspection and the scope of inspection within the Turkish legal framework; all actors from production to packaging and labelling shall be notified to the registrant and may be subjected to control. This provision is also new in the Turkish law and is fully align to the EU regulation.

Nevertheless, in some cases, the Turkish legal framework presents major differences with the EU legal framework that may hampered GIs’ recognition at the EU level. The main “weaknesses” or items that need to be reflected for recognition at EU level are detailed below:

- **Inspection bodies**: in the Turkish law, inspection bodies shall be formed by the registrant. They can be composed of staff of Universities, chambers of commerce etc. The Turkish law does not require any accreditation for those inspection bodies but each organisation shall provide commitment letters for GIs registration confirming their competencies. These letters are reviewed by the TPTI during the phase of application review. Nevertheless, the EU regulation required that inspections are carried out by competent authority designated by the State or a certification bodies that shall be accredited according to ISO 17065. Therefore, the absence of accredited certification bodies may hamper recognition of the pilots at the EU level. Up to date, TPTI never rejected any inspection body.
We look for more information of the 3 GIs from Turkey which are recognised at the EU level\textsuperscript{30}. It seems, concerning the control system, the applicant based the credibility of the control system on official control realised by the Ministry of Agriculture.

- **Inspection tools and procedures**: as accreditation is not required, audit procedures and tools are not as formalised as in the EU. Indeed, the Turkish law never refer to any certification process like it is the case in the EU – there is no procedure nor accreditation for inspection bodies. The Turkish law solely required an inspection report and the definition of inspection frequency. Nonetheless, what we could observed on-site is the absence of concrete audit tools with a checklist and features to assess apart from product physical and organoleptic characteristics.

  Besides, as mentioned below, there is a fundamental difference of GIs spirit between the Turkish and the EU legal frameworks. In the EU, the States are fully involved in GI protection and provide very precise guidelines to certification bodies to ensure the protection and conformity of GIs while in Turkey, the State solely intervenes for severe acts of infringements and provides solid guidelines for registration process but none for the implementation of inspection activities. In this framework, the Turkish law is more an incentive to GI rather than a “tool”.

  As a consequence, the Turkish law does not provide any guidance for the management of GIs: inspections’ follow up, sanction plan in case non-compliances that do not require a lawsuit, etc.

- **Absence of formalised Book of Specification**: the Turkish law does not require to develop a specific document, called Book of Specification. The content of the Book of Specification is part of the application file. Anyone who wants to know the content of a GI can review the application file. Nevertheless, for recognition at the EU level, a specific “Book of Specification” is required.

- **Absence of provision on traceability**: the Turkish law never refers to any traceability system. Nonetheless, without a strong traceability system (which is required by the EU regulation), it is difficult to provide guarantee and visibility to the consumers.

- **Nature of applicants**: what we observed at the moment in Turkey is that most of GIs holders are Chambers of Commerce and Industries, private companies or municipalities. Actually, only four applications have been made by farmers’ organizations. This results in:
  - Low involvement of farmers in the development of the GI and its Book of Specification (BoS): farmers are little (if at all) involved in the definition of GI, leading to “theoretical” BoS and difficulties in the management of GI protection. This is a direct consequence of a top down approach.
  - Low appropriation of the content and adhesion by farmers;
  - Indigent BoS: small differentiating features, which may lead to the banalization of the concept of GI and make the GI unsuccessful.

Table 2 provides a summary of the main conclusions of the report.

\textsuperscript{30} Malatya Kayısı (DPO); Aydın İnciri (DPO); Antep Baklavası/ Ganziantep Baklavası
# Table 2. Summary of the main differences between the Turkish and EU system

<table>
<thead>
<tr>
<th>International Legal Framework</th>
<th>Turkey</th>
<th>European Union</th>
<th>Conclusion / Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>· Member of the WIPO since 1976</td>
<td>· Specific to each EU country</td>
<td>The two frameworks are harmonized</td>
</tr>
<tr>
<td></td>
<td>· Signatory to Paris Convention since 1995</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>· Signatory to Madrid Protocol since 1999</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>· Member of WTO since 1995</td>
<td></td>
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</tr>
</tbody>
</table>

## National Legal Framework

| Relevant Regulatory Framework | Turkey | European Union | |
|------------------------------|--------|----------------||
|                               | · Implementing Regulation under the law No.6769/2016 pertaining to the enforcement of Industrial Property Law adopted on 24/04/2017 | · Reg. (EU) No. 1308/2013 establishing a common organization for markets of agricultural products |
|                               | · Law No. 5996/2010 on veterinary services, plant health, food and feed | · Reg (EU) No. 110/2008 on the definition, description, presentation, labelling and protection of GIs for spirit drinks |
|                               | | · Reg (EU) No. 110/2008 on the definition, description, presentation, labelling and protection of GIs for wine products |

| Type of Protection | Turkey | European Union | |
|--------------------|--------|----------------||
| The protection is obtained via a *sui generis* system. | The protection is obtained via a *sui generis* system. | |
| The protection is provided via an *ex-parte protection* which means that it is provided only at the request of a third party. The registrant (right holders) is the one entitled to go to courts to claim protection for the GI. Relevant provisions: Art. 44 and 53 (2) of the law No. 6769/2016 | The protection is provided by an *ex-officio protection* which means that the Member States (or public authorities) are responsible for policing and ensuring protection of GIs. Member States have to designate the Competent Authority in charge of implementing measures to prevent or stop unlawful use of GI (measures can be administrative or judicial). | Weaknesses: |
| | | · No ex-officio protection |
| | | · There is an action only in case of strong infringement. |
### Assessment of the Geographical Indications legal framework in Turkey

**Relevant provisions:** Art. 13 (3) of the Reg. (EU) No. 1151/2012

<table>
<thead>
<tr>
<th>Scope of Legislation</th>
<th>All goods</th>
<th>Only agricultural products and foodstuffs, wines and spirits and drinks</th>
<th>Wider than the EU law</th>
</tr>
</thead>
<tbody>
<tr>
<td>GI signs</td>
<td>There are three types of GIs:</td>
<td>There are three types of GIs:</td>
<td>The two frameworks are harmonized</td>
</tr>
<tr>
<td></td>
<td>- Protected Designation of Origin (PDO)</td>
<td>- Protected Designation of Origin (PDO)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Protected Geographical Indication (PGI)</td>
<td>- Protected Geographical Indication (PGI)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Traditional Product Name (TPN)</td>
<td>- Traditional Speciality Guarantee (STG)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FORMAL REQUIREMENTS FOR AN APPLICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicants / Registrants</td>
</tr>
<tr>
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<tr>
<td>Application Forms</td>
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</tbody>
</table>

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30
**Assessment of the Geographical Indications legal framework in Turkey**

### Examination process

- Examination made by TPTI with the support of relevant institutions and organization if necessary.
- Approved registration published in the Bulletin.
- Examination made by the National Authority by appropriate means. In France, several commissions composed of members of the national authority, are dedicate to the review of the application (1 for “desk” verification, 1 for on-site expertise and 1 for final validation).
- Final examination made by the European Commission (after objection period).
- Approved applications are published in the Official Journal of the European Union.

#### Weaknesses:

- Absence of dedicated commission within the TPTI to examine and validate (NB. There is only one commission in charge of re-examination and re-evaluation in case of objection).

#### Recommendations:

- Build one or several TPTI commission to examine the application (before objection); including a commission which may go in the field.

<table>
<thead>
<tr>
<th>Administration Responsible for Registration</th>
<th>Turkish Patent and Trademark Institute</th>
<th>National Authority and EU Commission</th>
</tr>
</thead>
</table>

### Inspection

- Approved by TPTI (registration phase).
- Inspection bodies which demonstrate competency: objectivity, qualification, resources and equipment.
- National Competent Authorities or Certification Bodies ISO 17065 accredited.

#### Weaknesses:

- No recognised scheme for the qualification of the inspection bodies nor for their approval by TPTI.
- Absence of accreditation of the inspection bodies at the national level and at the EU level. The latest can hampered the GI recognition at the EU level.
## Assessment of the Geographical Indications legal framework in Turkey

### Inspection

- All notified users are subjected to inspection
- Frequency of evaluation is determined in the application form
- Inspection bodies develop inspection plan and inspection report framework
- Inspection report are sent to the Applicant
- Inspection report are reviewed by the Applicant who takes the legal action in case of infringement.
- Applicant must share inspection reports with TPTI once a year.

- All operators of the supply chain are subjected to inspection
- Frequency of evaluation is determined in the application form
- Inspection bodies are accredited ISO 17065 thus audit tools, sanction plan with sanction scale must be developed.
- Inspection report are reviewed by the CB who takes the final decision about the conformity of the user.
- CB issued a certificate of conformity

### Recommendations:
- Strengthen the external control for those who want a recognition at the EU level (control by CB ISO 17065 accredited)
- Incentive inspection bodies via training or workshop on how to conduct controls according to ISO 17065 requirements

### Weaknesses:
- No guidance from the Turkish law for the management of the GI: no inspection tool and procedures (sanction plan, follow up etc.)

### Recommendations:
- Develop a sanction plan with a sanction scale
- Develop audit tools (audit checklist, audit follow up)

### Communication

- Common logo mandatory on the labelling of the product (but not yet available)

- Union symbols mandatory on the labelling of the product

### Weaknesses:
- Absence of a common logo at the moment

### Recommendations:
- Develop a common logo for a better recognition of the GI purpose by the consumer. This can also strengthen the GIs position in other countries.

### Timeframe

- Unlimited duration
- Unlimited duration
- The two frameworks are harmonized
In light of the results of the assessment of GIs legal framework in Turkey and with the objective to obtain recognition for the 2 pilot GIs at the EU level, we recommend the following for the project:

1. Involve farmers in the development of the GIs and make farmers’ organisation one of the main stakeholders of the applicant group: farmers unions (figs and peaches) will bear the application of GIs. *This has been done.*

2. Develop a Book of Specification in addition to the application file.

3. Develop a chapter on traceability in the BoS.

4. Strengthen the external control for those who want recognition at the EU level. Additional requirements on inspection will be included in the Book of Specification. For instance, we suggest 2 levels of inspection: 1 for those who needs to comply with national requirement and 1 for those who want to export to the EU. For those who export to the EU we can required that controls are carried out by accredited certification bodies (ISO 17065).

5. Develop a sanction plan with a sanction scale.

6. Incentive the inspections bodies of the 2 pilot GIs, through *Trainings or workshops for inspection bodies staff (for the pilot GIs) on inspection methodology.*

7. Incentive the registrants to their promotion role and protection role, through *trainings or workshops for registrants (in the project case, the farmers’ union) to the wider role they can have.*
## Annex 1: Main Differences between Decree-Law No. 555/1995 and IPL No. 6769/2016

<table>
<thead>
<tr>
<th>Dispositions</th>
<th>Decree Law No. 555/1995</th>
<th>Law No. 6769/2016</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Framework</td>
<td>Pertaining to the Protection of Geographical Signs</td>
<td>Pertaining to Intellectual Property</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Implementing Regulations under Decree-Law No. 555/1995 pertaining to the protection of</td>
<td>Implementing Regulation under Law No. 6769/2017</td>
<td></td>
</tr>
<tr>
<td></td>
<td>geographical signs</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Decree-Law No. 556/1995 pertaining to the protection of TMs, whose provisions also</td>
<td>Law No. 5996/2010 on veterinary services, plant health, food and feed</td>
<td>This law has been removed and is part of the new IPL</td>
</tr>
<tr>
<td></td>
<td>touch on their possible conflicts with GIs.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Denominations, Indications, symbols</td>
<td>No common symbol or logo</td>
<td>Common logo created by TPT(^1). All registered GI shall use the logo on the</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>package. If the logo cannot be used on the package, it can be placed anywhere</td>
<td></td>
</tr>
<tr>
<td>The Protection Mark</td>
<td>The TSG highlights the traditional production method or composition of a product,</td>
<td>The law describes TPNs(^3).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>transferred from generation to generation, without necessarily being linked to a specific</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>geographical area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GI application of foreign countries</td>
<td>New article on GI application of foreign countries</td>
<td>New article on GI application of foreign countries</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Except for international agreements, foreign countries should implement the new IPL</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>rules and comply with some extra rules:</td>
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</tr>
<tr>
<td></td>
<td>a) The product should be under protection by the country of origin (CO) or the</td>
<td></td>
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<td></td>
<td>international community it is included in.</td>
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<tr>
<td></td>
<td>b) The CO should provide inspection conditions provided in Art. 49 Inspection of</td>
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<td></td>
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<tr>
<td></td>
<td>Use</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>c) The CO should provide equal protection to GI or TP registration applications from</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Turkey</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\(^1\) The TPTI replaced the TPE.

\(^3\) These are similar to Traditional Geographical Sign (TGS)
### Approval to changes to specifications

- It is possible to make some corrections in the content of registered GIs.

### Registration process

<table>
<thead>
<tr>
<th>Applicants</th>
<th>Details provided regarding the nature of the applicants.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Parties</td>
<td>Third Parties can make an objection within 6 months after the publication of the application in the Legal Gazette.</td>
</tr>
<tr>
<td>TPE Bulletin</td>
<td>Third Parties can make an objection within 3 months after the publication of the Application in the TPE Bulletin.</td>
</tr>
</tbody>
</table>

### Opposition Process

- Objections are reviewed by the TPE.
- The objections are reviewed by the Commission.

### Inspection

- Inspection are performed by GI holder who ensure the competencies of its staff to perform the inspections.
- Inspections shall be performed by Inspection Body (or inspection Commission).

<table>
<thead>
<tr>
<th>Inspection Body</th>
<th>Inspection Body shall be formed by the applicant specified in the application, and approved by TPTI.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inspection report</td>
<td>Inspection report shall be presented to TPTI every 10 years.</td>
</tr>
</tbody>
</table>

| Inspection report | Inspection report shall be presented to TPTI every year. |
**Annex 2: Implementation of Regulation of the Industrial Property Law No. 6769**

<table>
<thead>
<tr>
<th>Article</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art 44 (1) Registered geographical indications and traditional product names are used by those who are involved in production or marketing of products that satisfy the conditions provided in the Registry. Producers and non-producers who are involved in marketing activities and have an <em>effect</em> on products’ registration-specific properties by their position in the supply chain, notify the registrant regarding their activities in relation to the geographical indication and traditional product name. This notification should be made within six months after the publication of the geographical indication and traditional product name registration in the Bulletin; and for those who will start production and marketing activities of the product subject to registered geographical indication and traditional product name after registration, this notification should be made within six months after starting production and marketing activities. <em>One those involved in sales activities are not obliged to notify the registrant.</em> The registrant adds these notifications to the list specified in article 45 and keeps the list up to date. This list serves as basis for inspections performed within the scope of the same article and it shall be submitted to the Institution, if requested.</td>
<td></td>
</tr>
<tr>
<td>First step for the GI is <em>registration</em> in the Bulletin.</td>
<td></td>
</tr>
<tr>
<td>We can define an “effect” by “quality”: inappropriate conditions will damage the quality</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) Persons entitled to use registered geographical indication or traditional product name shall use the relevant geographical indication or traditional product name on the product or its package with its logo. The use of logo for geographical indications is obligatory.</td>
<td></td>
</tr>
<tr>
<td>Notification defines the “entitled persons” using the registered GI</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>- Second step is <em>notification</em> of all actors involved in the supply chain</td>
<td></td>
</tr>
<tr>
<td>- So, the article suggests that all the notified actors are subjects to inspection</td>
<td></td>
</tr>
<tr>
<td>- notification isn’t compulsory for all sales actors</td>
<td></td>
</tr>
</tbody>
</table>
### Assessment of the Geographical Indications legal framework in Turkey

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) If the logo cannot be used with the geographical indication or the traditional product name on the product or its package due to the product’s nature, the registered indication or name with logo shall be maintained in the enterprise - by those with the right to use - in an easily noticeable manner.</td>
<td>We are talking here case of products in bulk for instance</td>
</tr>
<tr>
<td>(4) The use of traditional product name without logo is not subject to the provisions of the law and regulations.</td>
<td></td>
</tr>
<tr>
<td><strong>Art 45</strong></td>
<td></td>
</tr>
<tr>
<td>(1) Inspection of the use of geographical indications and traditional product names; includes all activities regarding compliance of use with the specifications in registration in the stages of production, placing on the market or distribution of the products possessing registered geographical indications or traditional product names or while the mentioned product is in the market.</td>
<td>Regulation states clearly that the compliance with the BoS shall be supervised at each stage of the product</td>
</tr>
<tr>
<td>(2) Inspection shall be performed by an inspection body recorded in the registry and verified as competent by the Institution. The inspection body should be objective, have sufficient and qualified personnel for conducting the inspections and have necessary resources and equipment. The institution may request information and documents that are necessary for proving the competence of the inspection body to be submitted. The inspection body in the Registry can be changed with the approval of the Institution.</td>
<td>- Inspection body is chosen by the applicant and shall be verified by the Turkish Patent and Trademark Institution</td>
</tr>
<tr>
<td></td>
<td>- No accreditation is required. But we find in the requests some of the contents of the ISO17065 norm. Nevertheless, confidentiality and independence aren’t part of the provisions</td>
</tr>
<tr>
<td></td>
<td>- No mentions of the internal control. It depends on the content of the registered GI form. But if there is a statement about internal control in any GI file, so they should do internal control</td>
</tr>
</tbody>
</table>
(3) The inspection body also inspects the use of the logo specified in article 44 while inspecting the compliance of the products carrying the registered geographical indication or traditional product name with the features indicated in the registry.

(4) The registrant keeps a list of producers and those involved in the marketing of products carrying the registered geographical indication or traditional product name to serve as basis for inspection. The registrant shall send this list to the Institution and other relevant institutions and organizations when requested.

(5) An inspection plan shall be prepared by the inspection body considering the frequency of inspection specified in the Registry. A separate report is prepared for each inspection. Reports, which might have different contents depending on the characteristic of the product being inspected and the scope of registration, especially contain the following:

<p>| | |</p>
<table>
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<tbody>
<tr>
<td>a)</td>
<td>Identification and contact information of the inspected party as well as addresses of relevant places if there are several places for production or marketing.</td>
</tr>
<tr>
<td></td>
<td>Identification of all the part of the supply chain</td>
</tr>
<tr>
<td>b)</td>
<td>Identification information and signatures of those involved in the inspection body and the responsible personnel of the place being inspected.</td>
</tr>
<tr>
<td></td>
<td>As usual</td>
</tr>
<tr>
<td>c)</td>
<td>Date of inspection and information regarding the product being inspected such as amount, lot number etc.</td>
</tr>
<tr>
<td></td>
<td>This art refers to the traceability</td>
</tr>
<tr>
<td>ç)</td>
<td>Additional information and documents, if any, required from the inspected party for efficiently executing the inspection.</td>
</tr>
<tr>
<td></td>
<td>Vague sentence interesting for the inspection body</td>
</tr>
<tr>
<td>d)</td>
<td>Using the registration certificate as basis, the inspected properties and whether these properties have been approved or not.</td>
</tr>
<tr>
<td></td>
<td>It implies that the registered information is available for the inspection body</td>
</tr>
</tbody>
</table>
### Assessment of the Geographical Indications legal framework in Turkey

<table>
<thead>
<tr>
<th>e)</th>
<th>For uses that are not approved, necessary precautions and if a new inspection is projected within this scope, details associated with this.</th>
</tr>
</thead>
<tbody>
<tr>
<td>f)</td>
<td>Compliance of logo use</td>
</tr>
<tr>
<td>(6)</td>
<td>Inspection reports are prepared in two copies. One copy is kept by the inspection body and the other by the party being inspected.</td>
</tr>
<tr>
<td>(7)</td>
<td>Reports prepared after the inspections are notified to the registrant by the inspection body. The registrant shall review the reports and take legal action in case he/she finds aspects that are against the registry.</td>
</tr>
</tbody>
</table>
| (8) | The registrant keeps reports of inspection documents notified to him. Inspection reports, whose format is to be announced by the Institution, contains the following:  
  a) Identification and contact information of the inspected party and addresses of inspected places.  
  b) Individually for each inspection: inspection date, amount of inspected product, measures taken for products that do not comply with the features specified in the registry, legal actions taken due to conflict with the registry.  
  c) Compliance of logo use |
| (9) | Inspection reports are submitted to the Institution once a year. However, the Institution may request inspection reports before due date in case of complaints. The period for submitting inspection reports starts when the registration is published in the Bulletin. |

| “not approved uses” means that, if there is any specific precaution refers in the registration file for any bad practices you will indicate or inspect this issue. So, you will warn the operator then inspect him/her again in a short time |
| Cf article 44(2) |
| It refers to ISO 17065 criteria; is seems that the regulation is talking here of the audit findings, which are to be delivered immediately after inspection |
| Here we find the inspection report. Regulation is not talking of sanctions but of “actions” to reach the compliance. Actions to legal authorities (court) |
| - Report format is agreed by the Institution |
| - Again no sanction scale, but legal actions to correct the non-compliances; legal actions means that you can go to the court |
| Several inspections are possible but the issued reports are submitted once a year. |
(10) If, upon examination, inspection reports are found to be **deficient** by the Institution, the registrant will be notified to remedy the deficiencies within six months. If the deficiencies are not remedied within the specified period or inspection activities are not duly performed, the provisions of **Article 43** of the law shall be applied.

Paragraph 7 states that it is the inspection body of the GI holder report their findings to the GI holder. It may be several times in a year – it depends on your inspection plan that you indicated in GI file -

BUT (10) GI holder will send the final inspection report to TPTI (according to (9)) and TPTI will examine the final report of GI holder.

*law 6769 art 43 states: “If there shall be no appeals or the appeals made shall be considered ineligible, the geographic indication or traditional product name right shall be terminated and published in the Bulletin.”* So, the sanction is the cancellation of the GI use.

(11) The Institution may request additional information and documents regarding inspection activities, if necessary.

**(11)** it implies that TPTI can ask additional information or document from the inspection body

(12) The registrant may demand the fees regarding the inspection from the inspected parties.

It is difficult to understand who pays the fees and which fees is the regulation talking about

(13) The inspection specified in this Book covers inspections made by the inspection body specified in the registry and the provisions regarding the inspection of geographical indications and traditional product names provided in Law No 5996 dated 11/6/2010 on Veterinary Services, Plant Health, Food and Feed and in other laws shall remain reserved.

Provisions mentioned by the Law 5996 in its Article 23 (2): The ministry controls the competence or the characteristics of geographical indications and traditional product names relating to agriculture and food specified in the registration.

Other provisions are general provisions for all kind of foods in terms of health and competence for Codex.
General comments

- Inspection body requirements are quite well defined; the criteria of independence isn’t nevertheless part of the conditions, it is a weakness in the reliability

- Actually the law spirit is to incentive the GIs, but the Law lets the applicant to define the control framework, except in case of frauds which are sanctioned by the Law; Turkish GI law draws a framework but the precise content is finally defined by the applicant.

- Inspection and control fees are never paid in Turkish habits; it is based on free participation of institution such as University or Chamber of Agriculture; it is a weak point of the GI sustainability because if for any reason, such institutions aren’t longer able to provide for free the service, no control is performed.