

Decision of the French Council of State of 19 December 2019, No 421818

Protection of registered names against evocation (Article 13 of the Regulation of 21 November 2012) – Challenge to a protected geographical indication (PGI) relating to a product similar to that benefiting from a protected designation of origin (PDO) – No evocation in view of the differences in the names of the two products and the differences in protection between them.

Applicants seeking annulment of the Order of 20 April 2018 by which the Minister for Agriculture and Food and the Minister for the Economy and Finance approved the specification for the name ‘Jambon sec de l’Île de Beauté’ with a view to transmission of its application for registration as a protected geographical indication (PGI) by the European Commission.

Although the applicants maintain that the expression ‘Île de Beauté’ is the well-known and traditional synonym for the term ‘Corse’ and that the ham covered by the PGI ‘Jambon sec de l’Île de Beauté’ is a product similar to the ham covered by the protected designation of origin (PDO) ‘Jambon sec de Corse - Prisuttu’, the use of different terms and the difference in the protection afforded by a designation of origin, on the one hand, and by a geographical indication, on the other, are such as to preclude the risk that reasonably well informed and reasonably observant and circumspect consumers will, in the presence of the contested geographical indication, have in mind directly, as a reference image, the goods benefiting from the protected designation of origin (PDO) already registered.

Consequently, the applicants are not entitled to claim that the contested order infringes Article 13(1)(b) of Regulation (EC) No 1151/2012 of 21 November 2012, which provides that ‘1. Registered names shall be protected against: / (...) / 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; / (...)’.