COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.03.2001
COM(2001) 155 final

Proposal for a

COUNCIL REGULATION

supplementing the Annex to Commission Regulation (EC) No 1107/96 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 14 July 1992 the Council adopted Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

By virtue of Article 13 of Regulation (EEC) No 2081/92, registered names are protected against any direct or indirect commercial use, any misuse, imitation or evocation, any false or misleading indication as to provenance, origin, nature or essential qualities of the product and any other practice liable to mislead the public as to the true origin of the product.

Regulation (EEC) No 2081/92 replaces national systems for the protection of designations of origin and geographical indications. Article 17 of the Regulation provides for a simplified registration procedure for designations which, at national level, are already legally protected or established by usage. Decisions on registration are adopted under the regulatory committee procedure.

Under the Regulation, in view of the economic consequences of registration, producers who would otherwise no longer be entitled to use a registered name may, subject to certain conditions, continue to use that name for up to five years after the date of publication of registration.

Member States have notified about 1 500 names to the Commission under the simplified procedure. Those notified by Italy included 'Cacciatore', subsequently corrected by the Italian Government to 'Salamini italiani alla cacciatora'. The correction of the application was accepted since it mirrored the situation obtaining in Italy when the Regulation entered into force (i.e. the name that was protected under bilateral agreements between Italy and Germany, Austria, Spain and France).

The Commission examined the application for registration for conformity with Articles 2 and 4 of the Regulation. After asking the Italian Government for additional information, the Commission submitted the application for registration to the Scientific Committee for Designations of Origin, Geographical Indications and Certificates of Specific Character on two occasions for an opinion. In both cases the Committee issued a favourable opinion on registration of the name, for the reasons set out in point (a) below.

The Commission, adopting the Scientific Committee's arguments, submitted the designation for the registration procedure laid down by the Regulation.

On 23 January 2001 a draft Commission Regulation providing for the registration of this designation as a PDO was therefore presented to the Regulatory Committee on Geographical Indications and Designations of Origin for an opinion.

The result was: 30 votes for, 12 against and 45 abstentions. This constituted an absence of opinion.

The voting was as follows:

For: Germany, Italy, United Kingdom.

Against: Austria, Denmark, Portugal.

Abstention: Belgium, Spain, Finland, France, Greece, Ireland, Luxembourg, Netherlands, Sweden.

Grounds on which delegations voted against or abstained:

(a) The specification did not sufficiently demonstrate the existence of an essential or exclusive link between the defined geographical area and the designation of the product in question (Spain, France, Greece, Portugal).

(b) The designation comprised two generic names: 'salamini' and 'cacciatora' (Denmark, Spain, Portugal).

(c) The level of protection provided for in Article 13 of the Regulation for protected designations, and the fact that the designation in question could be translated into other languages without necessarily wishing to refer to the product 'Salamini italiani alla cacciatora', did not provide sufficient guarantees that similar traditional designations (Landjäger, cazador, chasseur, etc.) could still be used in other languages in compliance with the Regulation (Austria, Belgium, Finland, Ireland, Luxembourg, Netherlands, Sweden).

(d) The defined production, processing and preparation area for 'Salamini italiani alla cacciatora' was too extensive.

The Commission does not share these views, for the following reasons:

(a) The Commission bases its view on the two favourable opinions issued by the Scientific Committee for Designations of Origin, Geographical Indications and Certificates of Specific Character. The Scientific Committee responded favourably to the registration of the designation for two main reasons: (1) the raw material came from the same pigs as those used in the manufacture of two existing PDOs, '*Prosciutto di Parma*' and '*Prosciutto S. Daniele*'; these pigs belonged to the category of Italian heavy pigs, were raised in the production area and received a particular type of feed based on local cereals and the by-products of local cheesemaking; (2) since this was a traditional name (Article 2(3) of the Regulation), the traditional production area had to be accepted even if it was extensive.

This could all prove the existence of an essential or exclusive link as required by the Regulation.

(b) The designation 'Salamini italiani alla cacciatora' does not include two generic names but two common nouns that could be translated into all languages ('salamini' = small sausages; 'alla cacciatora' = hunter's style). In Italian, however, the designation in its entirety defines a very specific product. It cannot be considered to be a generic name. For the purposes of the Regulation, a 'name that has become generic' means the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, has become the common name of an agricultural product or a foodstuff. It had not been shown that the name 'Salamini italiani alla cacciatora' has become the common name of an agricultural product or a foodstuff.

(c) It is clear that the traditional name in question (which was not generic) is composed inter alia of two common nouns that could, by definition, be translated into all languages. The translations of those common nouns are used in some Member States

to designate cold meats that are clearly different from ‘Salamini italiani alla cacciatora’.

Article 13 of Regulation (EEC) No 2081/92 protects registered names against any misuse, imitation or evocation, even if the protected designation is translated. In a specific case the competent national authorities must decide whether the use, including in translation, of a protected designation should be considered as misuse, imitation or evocation within the meaning of the above Regulation.

(d) Since this is a traditional production area, it must be accepted regardless of its size. Moreover, since the name in question is not geographical, there is no risk of misleading consumers as a result of differences between the geographical name and the actual production area.

Since the Committee has not delivered an opinion on this draft, the Commission is submitting the proposal to the Council pursuant to the fourth paragraph of Article 15 of Regulation (EEC) No 2081/92 and is notifying Parliament thereof.

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(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs[1], and in particular Article 17(2) thereof,

Whereas:

(1) Additional information was requested on a name notified by the Italian Government under Article 17 of Regulation (EEC) No 2081/92 in order to ensure that it complies with Articles 2 and 4 of that Regulation.

(2) After examining that additional information, the Commission twice submitted the application for registration to the Scientific Committee for Designations of Origin, Geographical Indications and Certificates of Specific Character, which issued a favourable opinion on registration of the name on both occasions.

(3) The raw material used in the product in question comes from pigs which belong to the category of Italian heavy pigs. They are raised in the production area and receive a particular type of feed based on local cereals and the by-products of local cheesemaking. Since this is a traditional name in accordance with Article 2(3) of Regulation (EEC) No 2081/92, the traditional production area must be accepted regardless of its size. It can therefore be asserted that the designation in question refers to an agricultural product originating in a specific region and that its quality or characteristics are essentially due to a geographical environment with its inherent natural and human factors, as laid down in Article 2(3) and the second indent of Article 2(2)(a) of the above Regulation.

(4) The name for which the application for registration has been made does not constitute the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or

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[1] OJ L 208, 24.7.1992, p. 1. Regulation as last amended by Regulation (EC) No 1068/97 (OJ L 156, 13.6.1997, p. 10).

marketed, has become the common name of an agricultural product or a foodstuff. It cannot therefore be considered as a name that has become generic within the meaning of Article [3(1)] of Regulation (EEC) No 2081/92.

(5) The name for which the application for registration has been made is protected under bilateral agreements between Italy and Germany, Austria, France and Spain respectively.

(6) The application for registration of this denomination therefore complies with the above Articles. It should therefore be registered and added to the Annex to Commission Regulation (EC) No 1107/96[2].

(7) The Committee provided for in Article 15 of Regulation (EEC) No 2081/92 failed to deliver an opinion in the time allowed by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

The name in the Annex to this Regulation is hereby added to the Annex to Regulation (EC) No 1107/96.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

[2] OJ C 148, 21.6.1996, p. 1. Regulation as last amended by Regulation (EC) No 813/2000 (OJ L 100, 20.4.2000, p. 5).

ANNEX

A. AGRICULTURAL PRODUCTS FOR USE IN FOODSTUFFS LISTED IN ANNEX I TO THE TREATY

Meat products

ITALY

Salamini italiani alla cacciatora (PDO)