



Geographical indications: Danish feta cheese exports condemned

24 October 2022

Geographical indications and appellation of origin protect the designations of products originating from specific regions and which have specific qualities or a reputation linked to the territory of production. They also aim to promote the unique characteristics of products linked to their geographical origin and traditional know-how.

Products with a Protected Designation of Origin (PDO) are those which have the closest ties to their place of production. **Each step of the production, processing and preparation process must occur in the area concerned.**

Feta cheese was registered at the European Commission in 1994 and has been a protected designation in the European Union since 2002. This means that the name "feta" cannot be used to designate any other cheese than that which is produced in specific regions of Greece, namely Macedonia, Thrace, Epirus, Thessaly, mainland Greece, Peloponnese and the *nome* of Lesbos. Furthermore, the milk used in the production of feta cheese must come from one of these regions.

The registration of the name "feta" as a PDO has encountered many difficulties, more particularly due to Denmark and Germany which opposed the registration of the name as was agreed to by the European Commission in 2002. They claimed that the name "feta" had become generic, i.e. *"the name of an agricultural product or a foodstuff which, although it refers to the place or the region where this agricultural product or this foodstuff was initially produced or marketed, has become the common name of an agricultural product or a foodstuff in the Community"*.

The Court of Justice of the European Union (CJEU) finally ruled on 25 October 2005, in affair C-465/02 and C-466/02, Germany and Denmark v. Commission, that Feta was indeed a valid PDO following its registration as such in 2002, and that it should not be considered as a generic term.

Despite the CJEU ruling, Denmark allowed several Danish producers and companies to export cheese to

third countries under the names "Feta", "Danish Feta" and "Danish Feta Cheese" even though these products did not meet the specifications of the Feta PDO of the European Union on 14 Ju. This non-respect of the ruling was the subject of the decision rendered by the Court of Justice in 2022 (CJEU, July 14, 2022, aff. C-159/20, European Commission v. Kingdom of Denmark)(1).

Indeed, despite the requests of the Greek authorities, the Danish authorities refused to put an end to this practice, considering that it was not contrary to European Union law, as they claimed that Regulation No. 1151/2012 on the measures of quality for agricultural products and foodstuffs applied only to products sold in the European Union and, therefore, did not on the territory prohibit Danish companies from using the name "Feta" to designate Danish cheese exported to third countries where the name of the cheese is not protected.

Denmark, had in fact taken advantage of a loophole in the regulation where it was not explicitly stated whether the rules applied to exports outside the European Union or not.

This latest case submitted to the CJEU therefore dealt with the subject related to the export of Greek cheese to third countries that are not members of the European Union or where the European Union has not yet concluded an international agreement guaranteeing the protection of the name Feta. Indeed, the measures in place concerning PDOs could be strengthened by bilateral agreements between the European Union and non-EU countries, introducing the same regulations for them.

(1) [CURIA - Documents \(europa.eu\)](https://eur-lex.europa.eu/curia/doclist/curia/doclist.do?method=detailDoc&docid=864823)

The CJEU issued its decision on 14 July 2022, concluding that Denmark had failed to comply with its obligations under EU Regulation No. 1151/2012 by not ceasing to use the designation "Feta" for cheeses intended for export to third countries.

The Court ruled that: *"the use of a PDO or PGI to designate a product produced in the territory of the European Union which does not comply with the applicable product specification impairs, within the European Union, the intellectual property right constituted by that PDO or PGI, even if that product is intended for export to third countries"*.

This decision therefore clarifies Regulation No. 1151/2012 by recalling that its provisions also apply in the context of exports to non-EU countries.

Denmark now has the obligation to comply with the judgment as soon as possible and risks facing financial penalties should the European Commission consider that it has not taken the necessary measures promptly enough.

Nowadays, French, and European consumers more generally, attach particular importance to adopting a more responsible consumer behavior, buying more

sustainable and local products while respecting the environment, but they are also interested in **traceability, transparency and the quality of the products they are exposed to on the market.**

Consumer habits are undergoing significant changes in the current context, which raises questions about the impact of designations, labels and certification marks in the consumer purchasing process.

The use of labels and certification marks is becoming a powerful tool in brand strategy.

An article dealing with this very topical subject will be published soon!

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