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PhD Topic:

Control and traceability of geographical indications in law: a comparative study between France, Ivory Coast and Thailand

Under the guidance of:



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# Controls of Geographical Indications in law and in practice: coexistence of contrasted systems

# Introduction

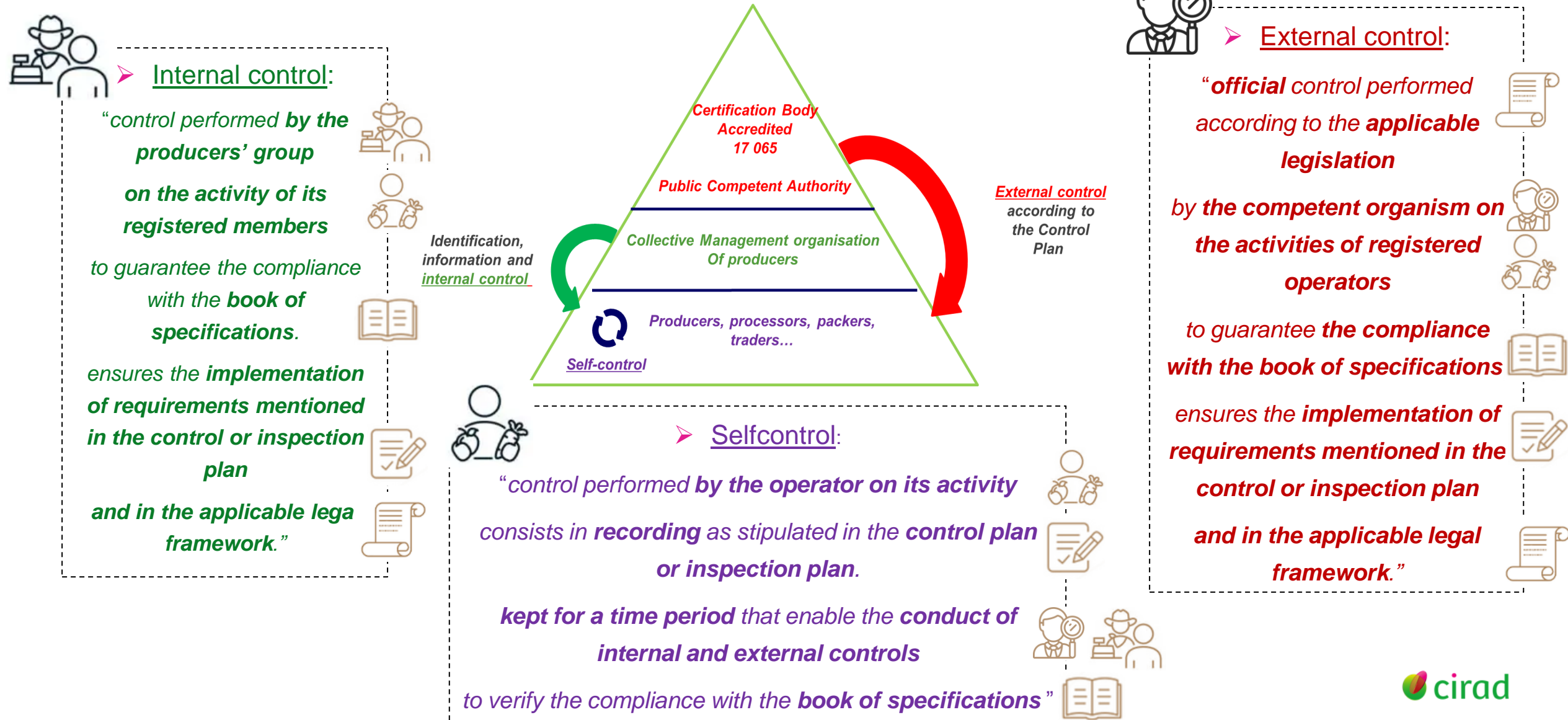
Mix of mandatory requirements in the legislation + particular rules in BoS and control plan  
GI product = unique control

- Our approach: legal perspective
    - Intellectual property rights
      - 1883 Paris Convention
      - 1958 Lisbon Agreement administered by WIPO
      - 1977 Bangui Agreement of the African Intellectual Property Organisation
      - 1994 TRIPS agreement of the WTO
      - 2019 Geneva Act on the Lisbon Agreement by the EU
    - Protection of the name (designation)
    - Granted to registered GIs
    - Not owned by a right-holder
- = Any producer who **complies with GI rules** has the **right to use the name and sign**  
= **controls are at the heart of GIs**
- Our scope: controls of the **compliance with the GI rules**
    - Included: **Before** entering the market
      - **Mandatory** requirements – legal framework (national, regional)
      - **Particular** rules – control plan, BoS (GI relevant stakeholders)
    - Excluded: **After** entering the market (ex: frauds); controls about product safety, human health, consumers protection, etc.



# Levels of controls: definitions (Directive n°INAO-DIR-CAC-6: Principes généraux du contrôle) and illustration (France)

Graph from D. MARIE-VIVIEN, 2023



# Legal and documentary basis for controls

## – Ex: Piment d'Espelette PDO

\* Official controls, definition from the European Union - R(UE) 2017/625 Art. 1

“official controls performed for the **verification of compliance with the rules**, whether established at **Union level** or by the **Member States**, to apply Union legislation, in the areas of” PGI and PDOs

 UE Regulations on agri GIs (2024/1143) and official controls (2017/625)



REGULATION (EU) 2017/625 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 15 March 2017



REGULATION (EU) 2024/1143 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 11 April 2024

 National French Law on agricultural GIs

 **Légifrance**  
RÉPUBLIQUE FRANÇAISE  
Le service public de la diffusion du droit  
Liberté  
Égalité  
Fraternité  
**Code rural et de la pêche maritime**  
Version en vigueur au 14 février 2025

 INAO subsidiary directive on controls

 **RÉPUBLIQUE FRANÇAISE**  
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Égalité  
Fraternité  
 INSTITUT NATIONAL DE L'ORIGINE ET DE LA QUALITÉ  
Suivi par le Service Contrôles  
Tél : 01.73.30.38.66  
Directive  
Conseil des Agréments et Contrôles  
INAO-DIR-CAC-6 rev5

 Unique Control Plan  
 Unique Book of Specifications

CAHIER DES CHARGES de L'APPELLATION D'ORIGINE PROTEGEE

"PIMENT D'ESPELETTE"  
OU  
"PIMENT D'ESPELETTE - EZPELETAKO BIPERRA"

 INSTITUT NATIONAL DE L'ORIGINE ET DE LA QUALITÉ  
Plan de contrôle  
de l'AOP PIMENT D'ESPELETTE



# Elements of the Control Plan: a mix of legal requirements and decisions made by the operators

➤ Rules on the control of GIs differ based on legal requirements and decisions made about:

The area of production  
(origin)

- EU legislation, national laws, etc. (ex: French or Italian GIs = UE + national laws)

The destination market

- If exported or if consumed on the domestic market (ex: GIs from non-EU countries)

The type of GI

- PDO or PGI wine or agricultural product, Craft and industrial PGI, spirit drinks PGI (ex: EU legislation, French legislation)



The characteristics of the  
product

- Plant varieties, origin of the meat, species, processes, size, shape, volumes etc. (ex: some established by law, some in the BoS / CPs)

Other control-related  
elements

- Some mandatory by law, some decided by the relevant stakeholders and included in the BoS and control plan (ex: frequency of controls, internal / selfcontrols, use of logo etc.)

# Elements of the Control Plan: a mix of legal requirements and decisions made by the operators

- Little unicity between controls from one GI product to another
- Some common rules for control are **established in the applicable legislation (regional or national)**
- Every GI follows a **unique control plan** based on its **unique book of specifications**
  - Control points that are not mandatory by law are **negotiated & elaborated** by relevant stakeholders
  - **Bottom-up, need for collective action**

## Illustrations:

*PGI Linge Basque (craft and industrial)*

*PDO Piment d'Espelette (agri), PGI Riz de Camargue (agri)*

*PGI Genepi des Alpes / Genepi delle Alpi*

*PGI Pays d'Oc (wine)*

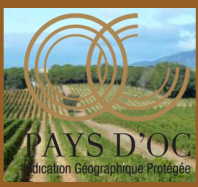


# A diversity of legal requirements for controls in Europe and France

Type	Control plan	Competent authority (CA)	External	Internal	Selfcontrol
PDO/PGI Agri, Wine, Spirits	<p>Each BoS must have a CP</p> <p>Content = selfcontrols + internal by PG + external + sanctions</p>	<p>CA designated by MS</p> <p>Delegate to CBs accredited EN ISO/CEI 17020 or 17065 or natural person</p> <ul style="list-style-type: none"> <li>• Non UE: Not natural person</li> </ul> <p>INAO (supervision) Approval of CPs</p> <p>Evaluation of CBs</p> <p>Establishment of C. provisions (common and specific)</p>	<p>Risk analysis, adequate frequency (results of previous controls, reliability and selfcontrols) (art 9, 2017)</p> <p>Evaluation of PG once per year</p> <p>Elaboration of CPs with PGs</p> <p>2 out 3 control modalities: random sample, targeted, based on results of previous controls</p> <ul style="list-style-type: none"> <li>• Wine: Analytical control (lab) + organoleptic</li> <li>• Spirit: organoleptic</li> </ul>	<p>Mandatory membership &amp; internal c.</p> <p>Record keeping by PG</p> <p>Written procedures</p>	<p>Operators responsible for selfcontrols (art 39)</p> <p>GP can support selfcontrols (art 32)</p> <p>Mandatory Recording according to CPs</p> <ul style="list-style-type: none"> <li>• Wine: Declaration of harvest, storage volume</li> <li>• Spirits: Declaration of volumes</li> </ul>
Craft or industrial PGI	<p>Included in the application for registration (modalities, frequency, types, CB)</p>	<p>CA or CBs accredited EN ISO/CEI 17020 or 17065 or relevant international norms or natural persons</p> <ul style="list-style-type: none"> <li>• Non-EU: CBs member of the IAF, not natural persons</li> </ul> <p>INPI (supervision), accredited CBs (implementation)</p>	<p>Option 1: Complete and consistent info of selfdeclaration + controls based on risk analysis</p> <p>Option 2: control of compliance with BoS</p> <ul style="list-style-type: none"> <li>• Non-EU: Only option 2</li> </ul>	<p>GP shall ensure that prod. comply with BoS, may set up internal compliance checks</p> <p>Mandatory membership</p>	<p>Option 1: Producers submit selfdeclaration to CA every 3 years</p> <ul style="list-style-type: none"> <li>• Not for non-EU countries</li> </ul>

# Unique controls?

Type	Examples of control choices (frequency, types, volume, ...)
PDO/PGI Agri, Wine, Spirits	<p><b>PDO Piment d'Espelette</b></p> <ul style="list-style-type: none"> <li>• External: documentary and on site 100% for new producers otherwise 20% per year, 50% of conditioners &amp; processors+ incl. 2 unplanned</li> <li>• External: quality (tasting) from sample of fresh, dried and powder</li> <li>• Internal: documentary is 100% but on site 5% of operators</li> </ul>
	<p><b>PGI Riz de Camargue:</b></p> <ul style="list-style-type: none"> <li>• External: 10% of producers, 100% of operators</li> <li>• Internal: 33% of producers /year, 3 analytical controls on pesticides, 100% of operators</li> <li>• Selfcontrols: specific records per operator</li> </ul>
	<p><b>PGI Vins Pays d'Oc:</b></p> <ul style="list-style-type: none"> <li>• External organoleptic: 100% of barrels tested, commission (7% consumers, 80% professionals, 13% operators); one sample tasted by 3 members;</li> <li>• Internal: 100% operators for documentary controls</li> </ul>
	<p><b>PGI G�n�pi des Alpes / Genepi delle Alpi :</b></p> <ul style="list-style-type: none"> <li>• Transborder: external by CB in France, by public authority in Italy</li> <li>• External: 10% for documentary, 100% of producers for organoleptic</li> <li>• Internal: 100% for documentary</li> </ul>
Craft or industrial PGI	<p><b>PGI Linge Basque:</b></p> <ul style="list-style-type: none"> <li>• External: 1 audit per production site (visual + documentary)</li> <li>• Selfcontrol: continuously, documentary and visual. Ex: natural fiber of linen or cotton, (invoices)</li> <li>• No internal</li> </ul>



# Conclusion

Mix of mandatory requirements in the legislation + particular rules in BoS and control plan  
GI product = unique control

- Important leeway, flexibility
- Like for registration, strong role of the producers
  - Collective action
  - Bottom-up
  - Training, capacity building: quality = skills
- BoS translated into control plan
  - Precise but not overwhelming

## Ongoing research

- Common principles: reliability, credibility, competency
  - ... impartiality? Craft and industrial GI selfdeclaration, ongoing research
- Importance of sanction? Strict, exhaustive, limited, frequent, rare controls vs. sanctions
- And abroad?
  - Thailand: one law for all GIs (craft + agri), use of the logo, export to EU
  - Ivory Coast: design of control *in itinere* and application of AIPO legislation (Bangui Agreement, 1977)

