

# **Study on agricultural interbranch organisations (IBOs) in the EU**

**AGRI-2015-EVAL-13**

## **National Legislation and Actions concerning IBOs**

### **PORTUGAL**

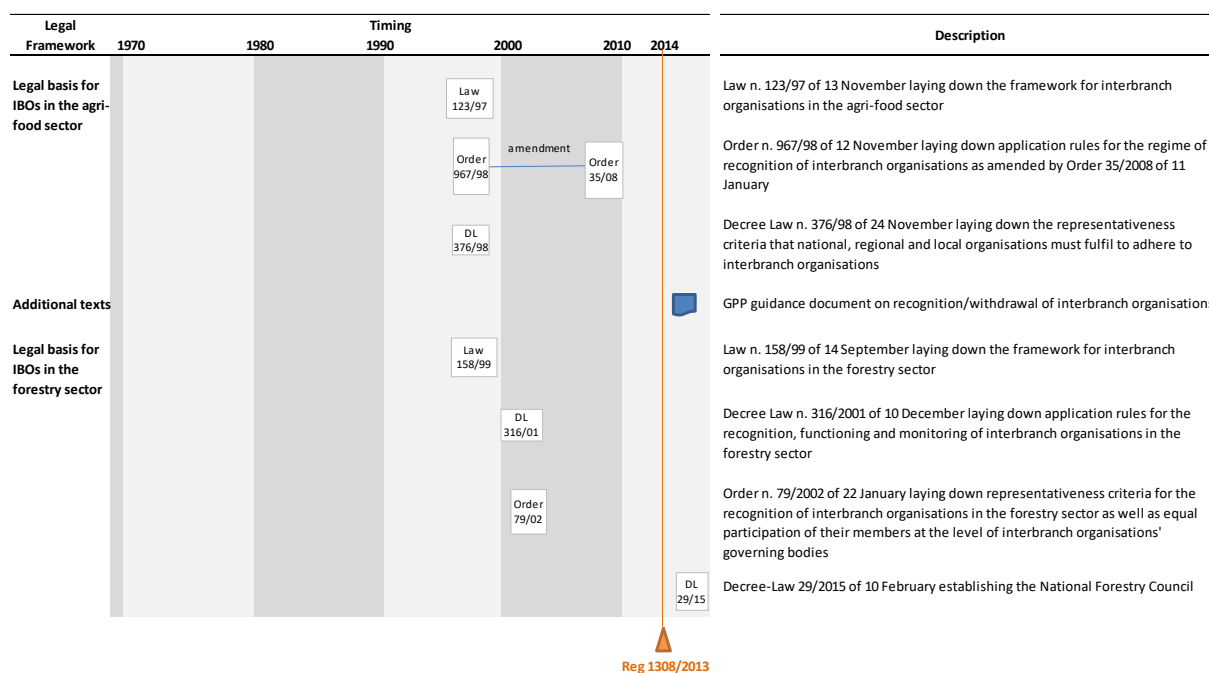
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[Section 1: National legislation pursuant to Articles 157- IBOs, 158- Recognition of IBOs, 159 and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation](#)

Figure 1: Legal basis for the recognition of IBOs in Portugal



Source: Compiled by Arcadia International E.E.I.G.

**Summary of national legislation on IBOs**

In Portugal the establishment of national rules governing interbranch organisations (IBOs) dates back to 1997-1998. The Portuguese Parliament passed the first legislative act in relation to IBOs in November 1997 by adopting **Law n.123/97**. The latter laid down the **general framework** for the setting, the recognition and the functioning of IBOs in the **agri-food sector** at national level. Other legislative acts – notably, **Order n. 967/98** and **Decree-Law n.376/98**, both containing implementing rules - have subsequently supplemented the existing framework.

It should be noted that Portugal has also adopted a specific set of rules for the establishment and the functioning of IBOs in the **forestry sector**. More precisely, **Law n.158/99** designed a **general framework** applicable to IBOs in that sector, whereas **Decree-Law n.316/2001** laid down specific requirements, respectively, for the recognition of IBOs and supervision of IBOs by competent authorities. Finally, **Order n. 79/2002** laid down minimum representativeness criteria for IBOs recognition as well as for the composition of their governing bodies. Overall, whereas the national framework for IBOs in the forestry sector largely mirrors the regime applying to IBOs in the agri-food sector, the former presents some specificities that will be highlighted as appropriate in this summary.

## **IBOs: definition, objectives and legal status**

### **A) Agri-food sector**

Law n.123/97 defines IBOs as entities consisting of organisation representing producers, processors and/or distributors of a specific agri-food product or group of products as well as consumers (Article 1 par. 1). As a rule, national legislation allows for the **recognition of only one IBO for each agri-food product/product category**; however, products protected under EU quality schemes are considered as different from those that, of a similar nature, stem from conventional agricultural production and/or processing (Article 1 par. 2 and 3). In terms of geographical scope, Portuguese legislation allows for the establishment of **national regional or local** IBOs.

Among the **objectives** that IBOs may pursue, Article 3 par. 1 Law n.123/97 lists the following:

- a) Contributing towards an improved knowledge and transparency of markets, namely through the production of statistical information and analysis of trends, as well as towards the establishment of contractual relations between the relevant economic operators;
- b) Promotion of research and development programmes in cooperation with competent authorities responsible for research with a view to innovating and introducing the necessary adjustments that markets may require;
- c) Organisation of campaigns aimed at the promotion of agri-food products in national or external markets, namely with a view to boosting consumer confidence and entering new markets;
- d) Ensuring quality control at the stage of production, processing and storage of the final product;
- e) Encouraging the performance of safety and quality controls;
- f) Contributing towards the protection of the environment, notably by designing and implementing solutions that take into account economic as well as environmental sustainability;
- g) Organisation of actions aimed at ensuring an adequate balance between the offer and the demand in the sector of relevance;
- h) Contributing towards the certification of the final product.

With specific regard to the attainment of the objective listed under a), Law n.123/97 sets out that IBOs must collaborate with the national Observatory of Agricultural Markets and Agri-food Imports. In addition to that, said law requires competent authorities to cooperate with IBOs so that the goals pursued by these organisations can be ultimately achieved (Art. 3 par.2).

In Portugal, organisations with a national outreach that are formally recognised as IBOs pursuant to Law n.123/97 enjoy the status of **legal person of public utility** under national civil law (Article 2).

### **B) Forestry sector**

As regards national legislation on IBOs in the **forestry** sector, Law n.158/99 defines IBOs as entities consisting of organisations representing producers, processors, **service providers** and distributors of products of the sector in question (Article 1. par.1).

In terms of **objectives**, national law foresees that IBOs in the forestry sector may pursue the same objectives as their counterparts in the agri-food sector in addition to the following ones:

a) Contributing and encouraging the implementation of training programmes aimed at upgrading professional qualifications of staff working in the forestry sector;

b) Encouraging reutilisation of forestry products for energy production with a view to ensuring an optimal management of energy sources as well as environmental protection (Article 2 points c) and h)).

### **IBOs' recognition and monitoring**

#### **A) Agri-food sector**

Article 4 Law n.123/97 stipulates that the **Minister of Agriculture, Forests and Rural Development** (formerly, the Minister of Agriculture, Rural Development and Fisheries) is the public authority responsible for granting recognition to IBOs. In order to obtain formal recognition IBOs must:

- a) Qualify as **non-profit organisations**;
- b) Ensure a **minimum level of representativeness** as regards the sector or the product(s) concerned;
- c) Pursue **the objectives set by law** (i.e. Article 3 Law n.123/97);
- d) Have **in their statutes provisions** that
  - I. Guarantee the **access to the IBO** by any relevant national, regional or local organisation in accordance with the representativeness criteria to be defined by national law (i.e. Decree Law n. 376/98);
  - II. Ensure **equal participation** of each professional branch taking part in the IBO at the level of its governing bodies.

IBOs that are recognised in accordance with Law n.123/97 are then included in a **public register**, which is established within the Ministry of Agriculture, Forests and Rural Development (formerly, Ministry of Agriculture, Rural Development and Fisheries) (Article 5 par. 1). In order to allow for an appropriate supervision of their activities, IBOs must submit yearly to said Ministry the following documents: an activity report, a budget and an activity plan (Article 6). Should any of the conditions listed in Article 4 Law n.123/97 cease to exist, the recognition is revoked (Article 4 par. 2).

Article 2 Order n.967/98 clarifies, and further elaborates on, the requirements listed in Article 4 Law n.123/97 that organisations must comply with in order to be formally recognised as IBOs at national or regional level. More precisely, this provision requires IBOs to:

- a) Have the legal form of **associations**;
- b) Gather, at least, **20% of the economic operators** involved in the production, processing and/or distribution, whilst covering, at least, **20% of the volume of the production, processing and/or distribution of the product(s) in question** in the region where they perform their activity;
- c) Pursue, at least, one of the objectives listed in Article 3 Law n.123/97;
- d) Have in their statutes provisions that guarantee the right to join the IBO to any interested party and set fees for their members;
- e) **Do not pursue** themselves **any production, processing and/or distribution activity**.

From a procedural point of view, organisations seeking recognition as an IBO must **submit a request** to that effect to the **Directorate for Planning, Policy and General Administration (GPP)** (formerly Directorate for Planning and Agri-food Policy) within the Ministry of Agriculture, Forests and Rural Development. The request must be accompanied by the following documents:

- a) The **activity plan** of the applicant, which should include the address and a description of the premises and of the other facilities in use to achieve the mission that the organisation pursues;
- b) The **statutes** establishing the organisation and its **internal regulation(s)**;
- c) The **full list of the members** that form the organisation/association as well as **of their individual associates**, specifying their address, the geographical area(s) where they operate, production volumes and distribution area(s).

GPP may solicit the submission of additional documents where necessary (Articles 3 and 4 Order n.967/98). The granting of recognition is an exclusive prerogative of the Minister of Agriculture, Forests and Rural Development, as set by Law n.123/97 (Article 5). On the other hand, GPP is responsible for the management of the register where recognised IBOs must appear pursuant to Article 5 Law n.123/97 (Article 6).

Originally, Order n. 967/98 foresaw the involvement of the National Council for Agriculture, Rural Development and Fisheries, which GPP had the obligation to consult on any request for recognition received (Article 2, first sentence). Following that, however, the involvement of that body was no longer justified and therefore its consultation eliminated from the recognition procedure through the adoption of Order n. 35/2008. According to the latter, it is now GPP's responsibility to issue a **technical opinion** on any request submitted by organisations interested in being recognised as an IBO (Article 1).

## **B) Forestry sector**

With regard to the **forestry sector**, the Minister of Agriculture, Rural Development and Forests is the competent authority responsible for granting recognition to IBOs pursuant to Article 3 Law n.158/99. This provision also sets out the conditions for recognition and is supplemented by the requirements laid down in Article 3 Decree Law n.316/2001. In this regard, it is worth noting that, unlike IBOs in the agri-food sector, national legislation requires IBOs operating in the forestry sector to pursue a **minimum set of objectives** and notably:

- a) Contributing towards the improvement of the knowledge and the transparency of the relevant market through the production of statistical data and analysis of market trends;
- b) Contributing to the upgrading of professional qualifications of staff working in the sector by organising trainings;
- c) Carrying out actions aimed at promoting products of the forestry sector and of the areas concerned;
- d) Contributing towards better quality control across the forestry products' chain;
- e) Promoting action aiming at guaranteeing sustainable development of forests and the protection of the ecosystems associated with them;
- f) Encouraging the reutilisation of forestry products for energy production purposes.

Notwithstanding this, IBOs are free to choose the specific activities to be performed and implemented each year in accordance with their activity plan (Article 3 point d) Decree Law n.316/2001).

National law in this area also foresees a **minimum level of representativeness** that an organisation must have in order to be recognised as an IBO. In this regard, Article 1 par. 1 and 2 Order n.79/2002 stipulates that the entity seeking recognition must consist of national or regional organisations representing **at least two stages of the forestry products' chain**, one of which must be the production sector.

From a procedural point of view, organisation of the forestry sector seeking recognition must lodge a request with the **Institute of Conservation, Nature and Forests (ICNF)** (formerly, the Directorate General for Forests), which is part of the Ministry of Agriculture, Rural Development and Forests (Article 4 Decree Law n.316/2001). ICNF

manages and keeps up-to-date a **public register** of IBOs in the forestry sector where all relevant information – i.e. recognition, withdrawal, approval of agreements, extension of rules etc. – is duly recorded (Articles 4 Law n.158/99 and 7 Decree Law n.316/2001).

The granting and withdrawal of recognition is in this case as well a sole prerogative of the Minister competent for this policy area. The relevant decisions are taken by the Minister following the opinion of the **National Forestry Council**, which has replaced the Council of the IBOs in the forestry sector established by Law n. 158/99 (Article 11 par. 2 point a) Decree Law n.29/2015). The Council consists of representatives of forestry stakeholders, including one representative for each recognised IBO (Article 4).

Finally, ICNF is responsible for the **monitoring of recognised IBOs** in the forestry sector in accordance with the reporting requirements set by Article 5 Law n.158/99 (i.e. annual submission of activity report, budget and activity plan) and Article 8 Decree Law n.316/2001 (e.g. dissolution of the IBO, changes affecting statutes or composition of the membership).

It is worth noting, finally, that national law sets out a few **obligations** and **rights** for **IBOs** as a consequence of their recognition. Accordingly, they must cooperate with public authorities in the implementation of projects or actions that aim at the sustainable development of forests. On the other hand, they are entitled to receive support from public authorities insofar as access to relevant information is concerned and free-of-charge administrative services. Finally, they must be given access to media to the same extent that this right is guaranteed to professional associations (Article 10).

### **IBOs' agreements: approval and extension of rules**

#### **A) Agri-food sector**

Law n.123/97 allows IBOs to promote the conclusion of agreements between their members that pursue one or more of the objectives listed in Article 3 (Article 7 par. 1). Upon request of the concerned IBO, the Minister for Agriculture, Forests and Rural Development may **approve certain agreements** that have the form of:

- a) Standard contracts; or
- b) Joint actions designed, among others, to ensure product quality, environmental protection or the promotion of a certain product or sector (Article 7 par. 2).

Prior to granting its endorsement, the Minister must seek the opinion of the National Council for Agriculture, Rural Development and Fisheries (Article 13).

Agreements that have been approved are subject to official publication in *Diário da República* (i.e. the national official journal), whilst formal complaints may be addressed directly to the Minister within the 20 days that follow the publication of the agreement in question (Article 7 par. 3). Infringements of agreements approved pursuant to national law regulating IBOs are subject to **pecuniary sanctions** in accordance with Decree Law n. 433/82 as amended by Decree Law n. 244/95 (Article 10).

Finally, agreements may be subject to extension, in full or in part, to all economic operators of the product/sector concerned in accordance with the requirements set by national law in this respect (i.e. Order n.967/98) (Article 7 par. 4). In accordance with Article 8 Order n.967/98, requests for approval of agreements promoted by IBOs or for the extension of their rules must be submitted to GPP. They must be accompanied by the following supporting documents:

- a) The decision of the IBO's general assembly that approved the agreement;
- b) The agreement, written and signed by the relevant IBO's representatives, which must clearly specify scope, duration as well as the fees to be imposed to economic operators that are non-members, whenever such an extension applies.

Following the submission of the request, GPP issues a **technical opinion**. However, with regard to the **extension of the rules** of IBOs' agreements to non-members (see above Article 7 par. 4 Law n.123/97 and article 7 Order n.967/98), such an extension may be granted following the verification of the following conditions:

- a) The extension has been requested by an IBO gathering, at least, **2/3 of the economic operators** involved in the production, processing and/or distribution of the product(s) in question in the region where they perform their activity and the **respective rules** have been **adopted by qualified majority** of the professional branches that are represented within the IBO;
- b) The rules for which the extension is sought for must apply, at least, **to one marketing campaign**; and
- c) The same rules **do not** i) give rise to any market compartmentalisation or practices involving fixing of prices; ii) entail discriminations or eliminate competition with regard to a substantial part of the product(s) in question (Article 7 Order n 967/98).

Once the extension of the rules of an IBO agreement is approved in accordance with the procedure outlined above, the rules in question are **binding on all economic operators** of the sector in question that, acting individually or collectively, conduct their activity in the region(s) concerned by the agreement and that are not members of the IBO (Article 9).

## **B) Forestry sector**

National legislation on IBOs on the forestry sector also provides for **similar rules** with regard to **certain agreements** promoted by IBO, their approval by the Minister competent for this policy area and their extension to non-members (Article 7 Law n. 158/99). Such rules are further elaborated by implementing legislation, notably Decree Law 316/2001.

With regard to the granting of the extension of rules to non-members, the latter appears to be subject to the fulfilment of **more stringent conditions**, as opposed to those applying to IBOs of the agri-food sector, since the rules in question must:

- a) have been approved by **unanimity** of all member organisations forming the IBO;
- b) apply for at least for **three consecutive years** with no interruption (Article 9 par 1. Point a) and b) Decree Law n.316/2011).

The violation of rules of IBOs' agreements that have been extended may be subject to **pecuniary sanctions**. These may range from a minimum of 125 EUR up to a maximum of 1,870 EUR, if the perpetrator is a natural person, or 22,445 EUR in case the conduct is attributable to a legal person (Articles 12 Law n.158/99 and 11 Decree Law n.316/2001).

## **Rules on financing**

### **A) Agri-food sector**

Law n.123/97 sets out the general principle whereby the establishment of IBOs and their activities are to be promoted in accordance with the applicable legislation (Article 8 par. 1). In line with that, recognised IBOs may benefit from **financial aid, fiscal incentives** or **other public subsidies** that national law may foresee as a means to support the establishment, the functioning and the modernisation of associations and the pursuit of the objectives for which they have been created (Article 8 par.2) (see also Section 2).

IBOs have the right to determine the fees that can be requested to their members. In addition to that, national law also foresees the possibility to extend their application to economic operators that are not members of the IBO. However, under such circumstances, the fees imposed to non-members must be **proportionate** to the costs of

the services provided in the context of joint actions that form part of an agreement that has been subject to approval and extension (Article 8 par. 3 and 4).

### **B) Forestry sector**

National law governing IBOs in the forestry sector provides for rules similar to those laid down by legislation applying to IBOs in the agri-food chain (Article 8 and 7 par. 4 Law n. 158/99) (see also Section 2).

### **Representativeness**

#### **A) Agri-food sector**

Decree-Law n.376/98 lays down implementing rules with regard to the **representativeness criteria** that national, regional and local organisations must fulfil in order to be granted access *ex lege* to established and recognised IBOs that are relevant to their activities. The Decree Law has its legal basis in Article 4 par. 1 d) point i) Law n. 123/97.

**Annex I** to the Decree-Law lays down the minimum number of producers and other operators, i.e. processors and distributors, that is required by law for an organisation to be granted access to the IBO of its interest.

<b>Stage of the food chain</b>	<b>Minimum number of producers and operators (in %)</b>
<b>Production</b>	(a) 15%(b) 25%(c) 35%
<b>Processing</b>	(a) 25%(b) 20%(c) 10%
<b>Trading</b>	(a) 30%(b) 20%(c) 15%

(a) At national level. (b) At regional level. (c) At local level.

Requests aiming at securing access to an IBO by an organisation must be addressed to the IBO of interest. They must be accompanied by the following supporting documents:

- a) The decision of the organisation's general assembly that voted in favour of the adhesion to the IBO;
- b) The statutes of the organisation;
- c) The full list of the organisation's members (Article 4).

#### **B) Forestry sector**

In the forestry sector, aspects associated with representativeness of and within IBOs are regulated under Order n.79/2002. Besides establishing a minimum level of representativeness for organisations interested in obtaining recognition as IBO, this legal act stipulates that the management positions at the level of an IBO must be equally or proportionally distributed between the organisations forming the IBO. Whenever the number of positions does not allow the simultaneous participation of all organisations in the management of the IBO, those who have been excluded must be given priority over any other member organisation in the following mandate (Article 2).



*Section 2: Other national legislation relevant to activities and operation of IBOs pursuant to Articles 157 –IBOs, 158 – Recognition of IBOs, 159 (b) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation*

As referred above, national legislation foresees that IBOs in the agri-food and forestry sectors may be promoted, for instance, by means of fiscal incentives and public subsidies.

With regard to **fiscal incentives**, Article 9 Law n.158/99 governing IBOs in the forestry sector sets out that those entities enjoy the same fiscal exemptions and privileges that national law recognises to legal persons of public utility. Exemplifying, in accordance to Article 10 Decree Law n.460/77 as modified by Decree Law n.371/2007, IBOs are:

- a) exempted from taxes concerning radio and TV;
- b) subject to fees applicable to household for electricity consumption;
- c) exempted from the payment of any fee for the publication of their statutes in the national official journal.

Although specific provisions of the kind described above are foreseen explicitly only in relation to IBOs in the forestry sector, they are considered of general application to all IBOs as legal persons of public utility.

In spite of a relatively old national legislation in the area of IBOs, Portugal has not foreseen any **economic subsidies** for the promotion of these entities until recently. In the context of the management of economic incentives within the European Agriculture Fund for Rural Development (EAFRD), Portugal has designed a support programme for its mainland area, known as **Programme for Rural Development 2020 (PDR 2020)**, which the European Commission approved at the end of 2014. The programme envisages a specific area of action that is direct relevant to IBOs (i.e. Action 5.2).

Based on that and through the adoption of **Order n.381/2015**, the national legislature has established a dedicated **budget line** for the co-financing of certain IBOs' activities as well as the conditions under which financial support can be granted. Overall, funds are destined to support initiatives, operations and actions by IBOs that aim at:

- a) Promoting greater cooperation, fairness and transparency in the relations between the actors of the agri-food and forestry chain and a higher degree of self-regulation in the respective market segment;
- b) Adding value to the relevant production chain and contributing towards the improvement of food safety, product quality, market access as well as towards a more efficient and sustainable management of resources (Article 2).

All IBOs recognised pursuant to national law in the agri-food and forestry sectors are identified as potential beneficiaries provided that they comply with the eligibility criteria set in the Order (Articles 5 and 6). Such criteria require IBOs' eligible initiatives to:

- a) Be based on an **action plan** of a **three-year duration** approved by the general assembly of the IBO;
- b) Aim at implementing any of the **specific activities** listed in Annex II to the Order within three major generic areas, i.e. initiatives i) adding value to the product chain, ii) improving food safety and quality, and iii) ensuring market access (Article 7 par. 1 point a) and b)).

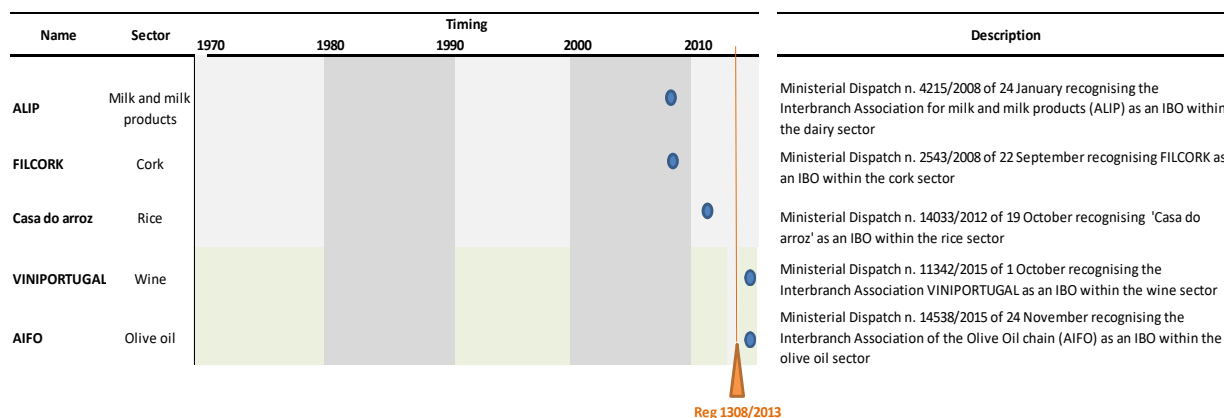
IBOs' proposals for obtaining co-financing are subject to evaluation against specific criteria, which gives consideration, among the others, to the geographical scope and the level of representativeness of the applicant organisation, in addition to the degree of self-

regulation that the each proposal intends to foster (Article 9 par. 1). Proposals that are selected are eligible for **50% co-financing** with respect to the budget foreseen for the execution of the relevant action plan. Public co-financing, in any event, cannot exceed the threshold of 125,000 EUR for each year and of 200,000 EUR for each period of three years (Article 11 par. 2).

Finally, in the area of competition law, it should be noted that there are no specific exemptions from applicable rules foreseen at national level with regard to agreements, decisions and practices promoted by recognised IBOs.

[Section 3: History and list of IBOs pursuant to Articles 157 –IBOs, 158 – Recognition of IBOs, 159 \(b\) and 162 – Recognition of IBOs in the olive oil, table olives and tobacco sectors and 163- Recognition of IBOs in the milk and milk products sector of the CMO Regulation](#)

Figure 2: List of recognised IBOs in Portugal



Source: Compiled by Arcadia International E.E.I.G.

[Section 4: Use of the available legal framework for IBOs and other forms of cooperation between producers and other stages of the food supply chain established in the context of CMO Regulation](#)

Together with France, Spain and Italy, Portugal is one of the first Member States that adopted legislation on IBOs at national level. The passing of national legislation in Portugal regarding the establishment of IBOs in the agri-food sector in 1997 was prompted by the adoption at European level of Regulation (EC) No 2200/96 on the common organisation of the fruits and vegetables market. At the same time, professional associations in the milk sector had started discussions on possible ways of structuring their cooperation in a more efficient manner, thereby laying down the foundations of ALIP, the current national IBO for milk and milk products as we know it today.

The adoption of Regulation (EU) No 1308/2013 on the common organisation of agricultural markets, on the other hand, has not led to the development of any new national legislation or any amendment of the legal framework currently in force. The Portuguese competent authorities refer that national provisions on IBOs have been

subject to review in light of the new European framework introduced by the aforementioned regulation and, overall, deemed fully compliant with it.

Despite national legislation on IBOs in the agri-food and forestry sector was adopted primarily over the period 1997-2002, the first IBOs' recognitions were granted only in 2008 (ALIP, FILCORK and Casa do Arroz). According to the national competent authorities, this delay is due to the steps that are normally involved in the establishment of IBOs. In fact, the **setting of an IBO** is often a relatively **lengthy process**, whose advancement depends, firstly and mostly, on the level of consensus and willingness within a given sector to constitute such an entity. Time needed to ensure full compliance with the requirements set by national law in this regard is relatively low as long as consensus is reached among and within the constituents of the future IBO. For instance, VINI PORTUGAL, one of most recent IBOs recognised in Portugal, has existed as a trade association for quite a long time having been founded in 1996. Request for recognition as an IBO, however, was formally introduced only in July 2015 and recognition granted two months later.

Overall, the national competent authorities are particularly **supportive** of the establishment of IBOs, which are seen as an effective means to ensure higher degree of self-regulation as well as to encourage associationism, a reality that is not yet fully developed and rooted in the country.

Also, the Portuguese competent authorities recognise the added value of IBOs for their members and for the sector as a whole. Exemplifying, the conclusion of IBOs agreements concerning **standard contracts for rice purchase** and proposals on **marketing standards for rice varieties** promoted by Casa do Arroz are regarded as major achievements and **good practices** at the same time. Other examples are:

- the collective brand 'Wines of Portugal' created before recognition as an IBO and still managed by VINI PORTUGAL as a trademark for promotion of Portuguese wines abroad;
- the sustainable management certification run by FILCORK; and
- ALIP making the first steps in the area of promotion of milk and milk products, thus diversifying its activities that have mainly consisted in milk quality (under PDR 2020, action 5.2, see previous reference).

It is in line with this spirit that in 2015 **economic incentives** for activities promoted by recognised IBOs were foreseen for the very first time in Portugal through the adoption of Order, n.381/2015 (see previous reference to PDR 2020) under and **guidelines on IBOs' recognition** published by GPP. In particular, the planning of economic incentives seem to have attracted a certain interest from various agri-food sectors and, in certain instances, accelerated the ongoing process of establishment/recognition (AIFO).

The national competent authorities envisage that the number of IBOs in Portugal may further increase in the near future as other sectors that are key to the national economy (e.g. **pig meat** and **fruits and vegetables**) have shown/are showing interest in the establishment of a cross-sectoral organisation in accordance with national legislation regulating IBOs. Moreover, they would expect, at some stage, **IBOs with a regional scope** to be set up, a possibility that is foreseen by the national legislation in force though never implemented in practice. There is however no certain or set timeline for the recognition of new IBOs at national and/or regional level.

Experience in the negotiation and conclusion of IBOs' agreements seems somehow limited in Portugal with **no agreements approved and/or extended by national competent authorities** to date. Indeed, whilst some IBOs are too recent to have developed initiatives in this area (e.g. VINI PORTUGAL, AIFO), other IBOs (e.g. ALIP) appear to have focussed their activities primarily on technical aspects relevant to their sector (e.g. laboratory analysis for quality of milk and milk products). In fact, only Casa

do Arroz has taken steps in this direction, by elaborating a standard contract for rice purchase within the IBO in 2015.

As regards other forms of cooperation that Regulation (EU) No 1308/2013 foresees in relation to specific products (e.g. sugar, milk, wine, ham and cheese under EU quality schemes, arable crops, olive oil, live cattle), none of them has been implemented at national level to date. This seems attributable, according to the circumstances, to the lack of willingness or need by the actors of the relevant sectors to establish such a cooperation.

Similarly, as already referred above, there are yet no specific rules laid down by national law based on which IBOs may benefit from derogations from applicable competition rules. Before legislating on this specific issue, the Portuguese authorities are in fact waiting that further experience is gained at EU level as regards the application of competition law in the context of the common market of agricultural products, notably through:

- the practical implementation of the Commission's guidelines of 27 November 2015 regarding the implementation of the new rules on joint sales by producers of olive oil, beef and veal and arable crops; and
- the adoption of implementing acts pursuant to Article 210 par. 7 of Regulation (EU) No 1308/2013 and of relevant delegated acts under Article 173 of the same regulation.

#### *Section 5: National practice concerning Article 210 CMO Regulation and decisions of competition authorities/national courts on the compatibility of IBOs activities/practices with national competition law*

To date there have been neither competition cases involving recognised IBOs at national level nor formal complaints lodged against them with competent authorities for alleged breaches of competition law. This can be explained also if one considers the nature of the activities performed by certain IBOs (e.g. laboratory tests and promotion in the case of ALIP) and the lack of IBOs' agreements in other sectors so far (e.g. wine, olive oil).

#### *Section 6: Literature*

- National Legislation

Law n.123/97 of 13 November laying down the framework for interbranch organisations in the agri-food sector - <https://dre.pt/application/file/687548>

Order n.967/98 laying down application rules for the regime of interbranch organisations recognition (as amended by Order 35/2008 of 11 January) - <https://dre.pt/application/file/233985> and <https://dre.pt/application/file/386572>

Decree Law n.376/98 of 24 November laying down the representativeness criteria that national, regional and local organisations must fulfil to adhere to interbranch organisations - <https://dre.pt/application/file/216466>

Law n.158/99 of 14 September laying down the framework for interbranch organisations in the forestry sector <https://dre.pt/application/file/570597>

## Study on agricultural interbranch organisations (IBOs) in the EU

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Decree Law n.316/2001 of 10 December laying down application rules for the recognition, functioning and monitoring of interbranch organisations in the forestry sector  
<https://dre.pt/application/file/576212>

Order n.79/2002 of 22 January laying down representativeness criteria for the recognition of interbranch organisation in the forestry sector as well as equal participation of their members at the level of interbranch organisations' governing bodies  
<https://dre.pt/application/file/235239>

Decree Law n.371/2007 of 13 December laying down the regime for legal persons of public utility <https://dre.pt/application/dir/pdf1sdip/2007/12/24000/0889108895.pdf>

Ministerial Dispatch n.4215/2008 of 24 January recognising the Interbranch Association for milk and milk products (ALIP) as an IBO within the dairy sector - <https://dre.pt/application/file/2134721>

Ministerial Dispatch n.2543/2008 of 22 September recognising FILCORK as an IBO within the cork sector <https://dre.pt/application/file/2079723>

Ministerial Dispatch n.14033/2012 of 19 October recognising 'Casa do arroz' as an IBO within the rice sector - <https://dre.pt/application/file/2746031>

GPP guidance on the procedure for the recognition of IBOs within the agri-food sector (Janeiro 2015) - [http://www.gpp.pt/MA/OIs/OI\\_manual\\_procedim.pdf](http://www.gpp.pt/MA/OIs/OI_manual_procedim.pdf)

Decree Law n.29/2015 of 10 February establishing the National Forestry Council  
<https://dre.pt/application/file/66457148>

Ministerial Dispatch n.11342/2015 of 9 October recognising VINI PORTUGAL, the Interbranch Association for the promotion of Portuguese wine, as an IBO within the wine sector - <https://dre.pt/application/file/70496976>

Order n.381/2015 of 23 October laying down the application regime of the Action 5.2. in support of IBOs in the framework of the Rural Development Programme 2020 of the European Commission - <https://dre.pt/application/conteudo/70790243>

Ministerial Dispatch n.14538/2015 of 24 November recognising the Interbranch Association of the Olive Oil chain (AIFO) as an IBO within the olive oil sector  
<https://dre.pt/application/conteudo/72841062>

GPP explanatory document concerning the Rural Development Program for the continent for the period 2014-2020, Measure 5 'Organisation of the production', Action 5.2. 'Interbranch Organisations' -  
[http://www.gpp.pt/pdr2020/m/Medida5\\_Ac5.2\\_OrganizacoesInterprofissionais.pdf](http://www.gpp.pt/pdr2020/m/Medida5_Ac5.2_OrganizacoesInterprofissionais.pdf)

- National competent authorities

GPP official webpage on IBOs

<http://www.gpp.pt/MA/OIs/>

ICNF website

<http://www.icnf.pt/portal>

## Study on agricultural interbranch organisations (IBOs) in the EU

### National Legislation and Actions concerning IBOs - PORTUGAL

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- National IBOs

Article on the request of recognition as an IBO introduced by FILCORK, [http://www.hipersuper.pt/2006/11/22/Filcork\\_quer\\_ser\\_OIF/](http://www.hipersuper.pt/2006/11/22/Filcork_quer_ser_OIF/) (22/11/2006)

Article on the recognition of FILCORK as an IBO, <http://www.revista.portugalglobal.pt/AICEP/PortugalGlobal/Revista6/?Page=43>

Article on the recognition of Casa do Arroz as an IBO <http://www.agroportal.pt/x/agronoticias/2012/10/19f.htm> (19/10/2012)

Article concerning, among others, the role played by Casa do Arroz in the rice sector at national level <http://www.agronegocios.eu/noticias/arroz-defender-a-fileira-atraves-da-diferenciacao-do-produto/> (25/04/2015)

Article on the recognition of VINPORTUGAL as an IBO, <http://www.revistadevinhos.pt/artigos/show.aspx?seccao=noticias&artigo=18119&title=viniportugal-reconhecida-como-organizacao-interprofissional&idioma=pt> (01/10/2015)

Article on the recognition of AIFO as an IBO <http://www.flfrevista.pt/2015/12/interprofissional-olivicola-reconhecida-ao-fim-de-uma-decada/> (10/12/2015)

Article on the promotion campaign and export of Carolino rice by Casa do Arroz <http://www.vidarural.pt/a-exportacao-e-uma-saida-para-o-arroz-nacional/> (4 February 2016)

- Extension of rules

There are currently no extensions yet.