

AREPO ANALYSIS ON THE PROPOSAL FOR A REGULATION ON GEOGRAPHICAL INDICATIONS PROTECTION FOR CRAFT AND INDUSTRIAL PRODUCTS

Attention: this document does not express an AREPO political position. It simply is a first technical analysis by AREPO services.

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USEFUL LINKS

[The text of the legislative proposal and the annexes can be downloaded here](#) (Scroll down to Commission adoption)

[The EC Press Release](#)

[The EC page dedicated to GIs for craft and industrial products](#)

CONTEXT

The stakeholders' consultation process concluded, on 13 April 2022, the European Commission published a proposal for a regulation on the creation of an EU-wide protection system for Geographical Indications for craft and industrial products (CI GIs).

Drawing on the success of the GI system for wine, spirit drinks and agricultural products, the EC intends to establish a protection system for CI products at EU level, in order to improve the position of producers against counterfeiting, improve the visibility of CI products on the markets and guarantee consumers the authenticity of these products.

Through this legislative proposal the EC is addressing the lack of a common EU legal framework concerning CI GIs, resulted in the heterogeneity of national specific protection systems for CI GIs with different characteristics.

Furthermore, following EU adhesion to the Geneva Act of the Lisbon Agreement on Appellations of Origins and Geographical Indications, a treaty administered by the World Intellectual Property Organization (WIPO), the proposal aims to ensure that producers can fully benefit from the international framework for the registration and protection of GIs ('Lisbon system'). EU producers of CI products cannot currently claim protection under the Geneva Act and the EU has to reject requests for such protection from members of the Geneva Act, due to the lack of common legal EU framework. In the same vein, EU producers cannot benefit from the protection granted by EU trade agreements that currently only cover agricultural GI products.

1. GENERAL PROVISIONS AND DEFINITIONS

The proposal for an EU regulation aims to establish a specific GI protection scheme for CI products. It would build on the existing GI regime for agricultural products but adapt it further to CI products. CI GIs would be protected by an EU title in all Member States (MS).

General provisions define the scope of the proposal. Also, they contain a list of definitions (Article 3). However, the text **does not provide for a definition of Geographical Indication nor for a set of objectives** pursued by the regulation on CI GIs. In addition, the definition of craft and industrial products provided does not correspond to the reality in different countries.

The EU regulation **covers mainly Protected Geographical Indications** (PGI). It is clear that the link between the product and the territory cannot be conceived in the same way as for agricultural

products, nonetheless some protected designations of origin are currently protected in some MS but it is not clear at this stage whether DOs are really integrated in this EU system or are subject to differentiated treatment. Clarification is needed on this point.

2. MANAGEMENT AND FUNCTIONING OF THE SYSTEM

The legislative proposal aims to create an independent **two-stage protection system**, involving the national level and **then the EU level through EUIPO**.

The EUIPO will manage and fund the registration process at the EU and international level out of its budget. It will be a **fully digitalised EU application and registration procedure**, with the purpose of reducing administrative burden.

Member States will be allowed to charge **fees for the registration** but they have to be proportionate, while the EUIPO stage will be free of charge.

In case a MS chooses to not designate a competent national authority to manage the CI GIs applications at national level, article 15 provides for a **“direct registration” procedure, during which EUIPO will be directly involved** with the possibility to request MS assistance to examine specific aspects of the applications lodged by the applicant with the Office. In this case, **registration fees may apply and be paid to the Office**.

Member States that opt for this exceptional registration scheme **must designate a contact point** for the registration procedure under EUIPO, and a competent authority for the controls and enforcement and to take the necessary actions to enforce the rights in this Regulation.

Therefore, the system envisages two types of registration system: a two-stage protection (with a first phase at national level and then at EU level before the EUIPO) and a one direct procedure before EUIPO, especially for countries that do not have legal framework on GIs.

A publicly accessible electronic register of GIs (Union register of geographical indications for craft and industrial products, Article 26) should be maintained to provide direct and fast access to information on all registered GIs.

Title II establishes a **domain name information and alert system** (Article 31) against the abusive use of CI GIs in the domain name system. This system should inform applicants, on the one hand, about the availability of the GI as a domain name and, on the other hand, provide them with information once a domain name that is conflicting with their GI is registered.

Title II also defines the applicant, which will be the **producer group of a product**. As in the agri-food GIs scheme, regional or local public entities may help in the preparation of the application and in the related procedure. Furthermore, should producers concerned not be able to form a group, an authority designated by a MS may be deemed to be an applicant producer group for the purposes of registration.

The concept of *“authority designated by a MS”*, taken from the agri-food GIs scheme, **should be further clarified by integrating local/regional authorities as applicants** for and managers of CI GIs, since some producers are not able to organise themselves or do not have the means to manage their GI.

To conclude, the **EU logo established for PGIs** under Commission Delegated Regulation (EU) 664/2014 shall be applicable to CI products. Hence, CI GIs will use the same logo of agri-food PGIs but it will be **voluntary**.

The proposal for a regulation does not clarify whether existing national GI logos will be dismissed.

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Article 40 deals with **producer groups**. It entirely mirrors Article 32 of the proposal for a regulation on the revision of the agri-food GI system and in line with it, including the possibility for producer groups to agree on **sustainability undertakings**.

It must be pointed out that this regulation will create a completely new system requiring operators to get familiar with its functioning at EU level. Furthermore, the CI GIs sector does not have the same history of agricultural GIs and some producers are starting from scratch. As a result, flexibility on skills integration and structuring is required.

Concerning sustainability, this clearly is a positive integration in the CI GIs system. Nevertheless, it must be recalled that CI producers are not on the same stage as agricultural GI producers on the issue and it is ever more important to keep a **voluntary and flexible approach**, avoiding a standardisation of sustainability or a unique approach to it, since **each value chain has its own specificities and the diversity of the products and organizations for CI GIs will have to be taken into account**.

3. PROTECTION

The envisaged system seems to provide for a strong set of rules on protection, inspired to the type of protection accorded to agricultural product.

Title 3 sets out rules for GIs when used as parts or components in manufactured products, clarifies generic terms and registration of homonymous GIs, as well as the relationship with trademarks. The relationship with the use of protected terms in internet domain names is defined.

The definition of **evocation** raises some doubts. There is no definition of evocation in the current EU regulations on GIs. This has allowed the European Court of Justice, to provide an extensive interpretation of evocation which is not reflected in the proposed article. This aspect should be left to the Courts to continue assessing the issue of evocation on a case-by-case basis. Therefore, **the definition of evocation should be removed from the proposal for a regulation**.

4. CONTROLS AND ENFORCEMENT

The rules on the controls and enforcement are set out in Title 4, including both verification that a product designated by a GI has been produced in conformity with the corresponding product specification, and monitoring of the use of GIs in the marketplace. For both verification and monitoring, **this Title provides for two procedures regarding the control of producers**.

MS are required to designate the competent authority responsible for the official controls to verify compliance with this Regulation and they also can introduce either a third-party certification procedure operated by competent authorities or delegated product certification bodies to carry out random inspections, or a procedure based on the **producer's self-declaration** followed by the verification by national competent authorities.

In addition, this title aims to **prevent the misuse of GIs on online platforms** in line with EU Regulation on a Single Market for Digital Services (DSA).

The title also governs **mutual assistance between Member States' authorities**.