

## ANALYSIS OF COMMISSION LEGISLATIVE PROPOSAL ON THE REVISION OF EU GI SYSTEM

***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](#)

[The EC Press Release](#)

[The EC page dedicated to EU Quality Schemes](#)

## INTRODUCTION

The following analysis will focus on the proposal for a regulation revising EU GIs system.

The first part presents the EU context and AREPO actions, as well as the conclusions of the Impact Assessment and the coherence with the EU regulatory framework. The second part contains a more **in-depth analysis of the legislative proposal**, identifying both the positive elements and the measures in the proposal that risk to weaken the system.

### 1. CONTEXT

The process of the evaluation of EU Quality Policy began in April 2019 with the EC Roadmap on EU quality schemes ([click here to consult the feedback presented by AREPO](#)). This has been followed by a public consultation run from November 2019 to February 2020, with the aim to get feedback on the understanding and opinion of these EU quality schemes. AREPO replied to the open consultation joining a **position paper**, elaborated after the internal consultation of its members and the scientific committee ([click here to read the position paper](#) - abstract also available in [ES](#), [FR](#), [IT](#)).

On January 16th 2020, **AREPO position paper has been presented to the European Commission** in occasion of the Strength2food project engagement event with DG AGRI (GI Unit as well as R&I representatives both from DG AGRI and the Research Executive Agency).

The evaluation of EU Quality Policy completed, the European Commission officially launched in November 2020, during the **EC virtual conference “Strengthening geographical indications”**, the **process of revision of the EU GIs system**.

AREPO took part in this conference. **AREPO Secretary General was invited as speaker in the Closing Plenary of the online event** (as there was no interpretation available for the President), where he presented AREPO position on Strengthening EU GIs. Additionally, AREPO participated in various sessions also taking the floor during the stakeholder debate in the panel dedicated to increasing the attractiveness of GIs.

The process of revision began with the **Roadmap for the revision of the EU GIs system** (click here to read AREPO [position](#)), followed by the opening of a **Public consultation on the Revision of EU geographical indications scheme**, in January 2021. AREPO replied to the public consultation and submitted a [position paper](#) addressing the proposals and objectives of the consultation.

Monitoring the progress of the work of the European Commission (EC), in February 2021, AREPO, together with AREV, EFOR and oriGI in EU, presented an [open letter to the EU Institutions](#), expressing concern about the EC's intention to transfer competences over the management of product specifications (registration of new GIs and modifications of product specifications) to the European Union Intellectual Property Office (EUIPO).

Furthermore, with the aim to understand and discuss the competences that EUIPO has developed on GIs as well as its relation with DG Agri of the European Commission, AREPO set up a technical group which met EUIPO on March 18<sup>th</sup> 2022 during a Zoom webinar.

To conclude, on March 31<sup>st</sup>, AREPO President, Ms Begoña García Bernal, had a meeting with EUIPO Executive Director, Mr Christian Archambeau, to discuss the concerns raised by AREPO on the involvement of EUIPO in the management of the EU GI system.

### 2. IMPACT ASSESSMENT AND REGULATORY FRAMEWORK

#### 2.1 IMPACT ASSESSMENT

EC proposal for a regulation revising rules governing GIs was published on 31 March 2022, together with an impact assessment.

It intends to address the following **general objectives**:

- Ensuring effective protection of Intellectual Property Rights (IPR) in the EU, including efficient registration processes, to fairly reward producers for their efforts;
- Increasing the uptake of GIs across the EU to benefit the rural economy.

These two general objectives are detailed in **six specific objectives**:

1. Improve enforcement of GI rules to better protect IPR and better protect GIs on the internet, including against bad faith registrations and uses in the domain name system, and combat counterfeiting;
2. Streamline and clarify the legal framework to simplify and harmonise the procedures for application for registration of new names and amendments to product specifications;
3. Contribute to making the Union food system more sustainable by integrating specific sustainability criteria;
4. Empower producers and producer groups to better manage their GI assets and encourage the development of structures and partnerships within the food supply chain;
5. Increase correct market perception and consumer awareness of GI policy and Union symbols to enable consumers to make informed purchasing choices;
6. Safeguard the protection of traditional food names to better valorise and preserve traditional products and production methods.

In order to meet these objectives, **the Commission assessed 3 policy options for the revision of EU GIs**:

- **The first option — Improve and support**: It aims at improving the instruments already in place and providing further support to producers, Member States' authorities and other stakeholders. Main focus is on guidance (e.g. linked to enforcement, the assessment of files and legal interpretation/clarification), re-enforced cooperation among Member States and capacity building activities, including on sustainability issues. Procedures will be improved by aligning them across the sectors. A more flexible approach towards the Union logos is targeting their increased use by producers.

The TSG scheme is replaced by an official recognition of traditional agricultural products and foodstuffs by Member States' authorities.

- **The second option — Better define and reinforce**: it reinforces the protection of GIs and improves the level playing field amongst operators through a single set of control procedures for all sectors and the development of detailed rules on the respect of GIs in relation to internet sales. It also defines the role GI producer groups can play, on a voluntary basis, in contributing to addressing the societal concerns on sustainability through inclusion of sustainability criteria in product specifications, and in strengthening the management and enforcement of their GI assets. The specific roles of GI producer groups, recognised by Member States' authorities, would be extended to all sectors. The use of the logo on the product label is not obligatory and producers can decide on its size and place on the label. Legislation will benefit from clarifications of the legal terminology, built-in flexibilities regarding the production process and the creation of a single set of simplified procedural rules.

As part of this option, Union management structures for assessing GIs are to be reinforced through involvement of an existing agency in the registration procedure. While the national level assessment would remain with Member States, an agency would provide technical assistance to the Commission during the EU-level scrutiny of applications and oppositions. While the Impact Assessment Report implicitly foresees decisions also taken by an agency, for reasons of retaining close legislative control, the Commission shall take all legal decisions.

- **The third option — Harmonise and upgrade:** it ensures full harmonisation through the creation of a single Regulation containing unified enforcement and control rules. Similarly, provisions related to protection and procedural rules will be streamlined into one single basic act. Use of the prescribed logos is obligatory across all sectors. However, harmonisation will not affect GI definitions and will maintain the specificities of particular sectors. Sustainability criteria for GI production would be defined in the Union legislation and enforced via their integration in the product specification, making them subject to official controls. In addition to the actions provided under the previous policy option, specific guidelines on the functioning of the GI producer groups will strengthen their position in the GI value chains and allow for better management of their GI assets.

This option envisages to fully outsource the registration process to an existing agency, and provides the possibility of an appeal to an appellate body. It allows for various degrees of involvement of Member States: initial national level assessment as under current rules, consultation of Member States or no involvement of Member States.

The TSG scheme would be abandoned.

**The impact assessment has concluded that the second option was to be preferred.**

## 2.2 THE REGULATORY FRAMEWORK

The legislative proposal falls within the regulatory framework defined by the new CAP, the EU Green Deal, the Farm to Fork strategy and the Intellectual Property Action Plan.

Particularly, significant improvements to the EU GI system have been achieved within the **CAP reform**, both in the [Regulation on Strategic Plans](#) and in the [Amending Regulation](#) (which proposed amendments to CMO Reg. 1308/13, Reg. 1151/12 on quality schemes for agricultural products and foodstuffs, Reg. 251/14 on GIs for aromatized wine, among other):

- **The extension of the instrument of supply regulation** (already existing for PDO/PGI cheese, ham and wine) **to all PDO and PGI products;**
- The scope of Regulation (EU) No 1151/2012 was extended to include aromatised wines;
- The **human factor** was reintroduced as a mandatory feature for defining a PDO, both for wine and foodstuffs. Furthermore, concerning the PDO and PGI product specifications, it was introduced the possibility, where relevant, of limiting the details concerning human factors as link of the quality to a particular geographical environment to a description of the soil and landscape management, cultivation practices or any other relevant human contribution to the maintenance of the natural factors of the geographical environment;
- The possibility to **voluntarily include elements of sustainability in the specifications;**
- The alignment of the definition of designation of origin and geographical indication with that given at international level in the Lisbon Agreement. In addition, the definition of geographical indication is harmonised with the definition of designation of origin, clarifying the position of PGI whose name is not linked to the name of the region;
- **The extension of the scope of protection for all GI products**, including goods in transit and sold through means of **electronic commerce**, namely against the abuse of their reputation;
- The **simplification of the procedure for approval of amendments**. The legislative text introduces a distinction between Union amendments and standard amendments.

## PROPOSAL FOR A REGULATION ON EUROPEAN UNION GEOGRAPHICAL INDICATIONS FOR WINE, SPIRIT DRINKS AND AGRICULTURAL PRODUCTS

***Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on European Union geographical indications for wine, spirit drinks and agricultural products, amending Regulations (EU) No 1308/2013, (EU) 2017/1001 and (EU) 2019/787 and repealing Regulation (EU) No 1151/2012***

Click here to consult the text in [EN](#); [EL](#) ; [ES](#); [FR](#); [IT](#)

Overall, the structure and the organisation of the legislative proposal aims to create a **unitary system of EU GIs**, by harmonising provisions concerning agricultural products and foodstuffs, wines and spirit drinks, currently covered by three different regulations.

Consequently, **Geographical Indications will be covered by Title II, while Quality Schemes are dealt with under Title III**. It should be pointed out that, according to the new formulation of the text, **Quality Schemes seems to cover only Traditional Specialities Guaranteed (TSG) and the Optional Quality Terms (OQT)**.

The purpose of harmonisation is achieved through the establishment of **a single set of procedural rules for all sectors**, with the aim to ensure coherence and make the system of GIs more understandable.

The first set of rules concerns the **procedures** to register a name, to amend product specifications and to cancel registered GIs (Chapter 2). Additionally, procedures will increasingly make use **of electronic and digital tools**. The second set provides for the **harmonisation of protection provisions** for all sectors (Chapter 3). Last, a **common set of rules is proposed for controls and enforcement for spirit drinks and agricultural products** (Chapter 4).

With the intention to reduce the administrative burden, the EC proposes to rely on **EUIPO's technical assistance in the registration procedures** (as well as for the amendment of product specifications and in opposition procedures).

Among the main novelties that will be further discussed in this analysis:

- the possibility to **include sustainability undertakings in product specifications**, following the agreement of the producer group;
- the clarification of the legal framework for **GIs used as ingredients**;
- the introduction of **recognised producer groups**.

### 1. HARMONISATION OF THE EU GI SYSTEM

### TITLE II

#### 1.1 GENERAL PROVISIONS

Looking at the objectives of the proposed regulation (*Article 4*) and comparing them with the formulation of Art. 1, par. 1, of EU Reg. 1151/2012<sup>1</sup>, we observe that the Regulation does not mention anymore the contribution of these measures to the “*achievement of rural development policy objectives*”.

**EU GIs play a major role in maintaining economic and social activity in rural areas and are therefore crucial in preserving the territorial balance at regional level.** As the Commission itself recognised GIs

<sup>1</sup> *The measures set out in this Regulation are intended to support agricultural and processing activities and the farming systems associated with high quality products, thereby contributing to the achievement of rural development policy objectives.*

as a “*key vehicle for delivering rural growth*”, **it should be reintroduced a reference of GIs as tools contributing to rural development.**

Defining the scope of the title dedicated to GIs (*Article 5*), the regulation introduces the **combined nomenclature classification** as reference of list of products covered by GIs. The products covered are explicitly mentioned in the three Annexes of the proposed regulation.

As AREPO pointed out in its contribution to the public consultation on the revision of the EU GI system, providing GI products with specific Combined Nomenclature codes would facilitate the understanding of the trade flux for these products and would allow for more efficient promotional campaigns to be implemented.

## 1.2 REGISTRATION OF GEOGRAPHICAL INDICATIONS

As mentioned above, rules concerning procedures have been harmonised for wines, spirit drinks and agricultural products.

The proposal for regulation defines the **applicant** (*Article 8*), clarifying who can apply for registration. In particular, it specifies that **the application for registration may only be submitted by one producer group** (and not several groups as stated in *Art.49, par.1, Reg. 1152/2012*).

The article also adds the **possibility for regional or local public bodies to help in the preparation of the application and in the related procedure.**

AREPO believes that this is a positive addition to the text since it formalises the **contribution of regions** in the preparation and the preliminary steps of the process for registration of a new GI.

Furthermore, a **single producer** may be deemed to be an applicant producer group for the purpose of registration, if this person is the only producer willing to register a GI and if the geographical area or the products characteristics are different from those of neighbouring area.

Further clarification may be needed, clearly stating that **should other producers wish to use the GI, the single producer shall become a producer group.**

Concerning the steps of the registration procedure, new requirements with regard to the documents to submit at the **national level** (Art. 9, par. 2) are introduced:

- the product specification;
- the single document;
- the accompanying documents.

Member States (MS) shall conduct a **national opposition procedure**, providing for at least 2 months from the publication of the application for registration for any natural or legal person to lodge an opposition.

The 2 months requirement has been extended from the wine sector to all other GI products.

Additionally, **it is up to the MS to establish the modalities of the opposition procedure.**

This goes further than EU GI regulations currently provide for, as it leaves to MS to define how to deal with the opposition at national level.

At the EU level, an application for the registration of a GI shall be submitted to the European Commission (EC) **electronically, via a digital system** (*art. 16*). EC scrutiny will focus especially on the single document and it will consist of a check that there are **no manifest errors** and that the information provided is complete. Scrutiny should not exceed a period of 6 months, but if it exceeds or is likely to exceed 6 months the Commission shall inform the applicant of the reasons for the delay in writing.



Furthermore, **through delegated acts, EC could entrust EUIPO** with the task of examining the application for registration submitted (*Art. 17*). Through the same means, EC might entrust its tasks in the **opposition procedure** to EUIPO as well (*Art. 19, par.10*).

By using delegated acts<sup>2</sup>, **the EC would be able to define the tasks given to EUIPO without the involvement of the co-legislators** (European Parliament and the Council of the European Union), which will only be able to adopt or refuse the act. Further comments on EUIPO involvement in the dedicated subparagraph below (1.2.1 Technical Assistance from EUIPO).

The proposal for regulation gives to the EC the power to establish and maintain the **Union register of geographical indications**, a publicly accessible electronic register of GIs protected in the EU under the new regulation. It will consist of three parts corresponding to wines, spirit drinks and agricultural products respectively.

It should be clearly stated **if either a new register will be created or, given the existence of two EU GIs databases, E-Ambrosia and Giview, which one will fulfil this role of Union register.**

Since *Art. 23, par. 7*, introduces the possibility to entrust EUIPO to operate this register, always through delegated acts, this would suggest that Giview (currently managed by EUIPO) might become the Union register mentioned.

Concerning **amendments to product specifications**, the proposal for a regulation incorporates the change introduced in the CAP, with the **distinction between Union amendments and standard amendments.**

To conclude, **temporary amendments** are allowed also when determined in reason of a **natural disaster or adverse weather conditions** recognised by competent authorities and will be treated as standard amendments.

#### 1.2.1 Technical Assistance from EUIPO (Chapter 5)

The legislative proposal intends to formalise **EUIPO's support to Dg Agri in the management of procedures concerning registration, opposition and amendments of product specifications.**

**EC will be able to entrust these tasks to EUIPO via delegated acts.**

Furthermore, EUIPO will be entrusted with the scrutiny of third country GIs in the framework of international agreements.

EC will also have to define criteria to assess EUIPO performance in the execution of these tasks and it will have to present a report on the results of EUIPO's involvement to EP and the Council.

**EUIPO should intervene in the initial assessment of applications, while EC should continue to register names.**

EUIPO has been providing support on GIs to DG Agri for about four years. The cooperation started in September 2018 and it is disciplined by a Memorandum of Understanding.

EUIPO has set up a team working on GIs, called **G-ICE**. It is made up of **12 people** (trademarks lawyers) who are trained by DG AGRI on all aspects concerning GIs. Training is also addressed to officers not belonging to the G-ICE team to have more support in case of a high influx of applications to be examined.

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<sup>2</sup> Delegated acts are non-legislative acts adopted by the EC to amend or supplement the non-essential elements of the legislation. The EC consults experts from the EU MS before adopting delegated acts. They can be adopted by the Commission only if no objection is raised by the Council or the Parliament, within the deadline set in the basic act, which is usually 2 months. Either the European Parliament or the Council of the European Union may revoke the delegation of power to the Commission.

DG Agri also provides *peer reviews* on all GI dossiers.

The G-ICE unit usually dedicates 2/3 days per week to discuss exclusively the files coming from Dg Agri. The examination period last on average **one month** and considers the whole context for each evaluation.

EUIPO reported that, since the start of the collaboration, 1,239 files have been examined (352 files in 2021).

EUIPO examination applies the existing legislative framework provided by the European Commission which remains in charge of the policy itself.

Besides its involvement in examining applications, EUIPO is also in charge of integrating GIView.

AREPO expressed its concern on the delegation of competences to EUIPO.

Firstly, **GIs are much more than mere intellectual property rights (IPRs)** and have an **autonomous regime different from trademarks and other IPRs**.

Activities on **EU GIs would have been funded through a budget surplus generated by fees collected on other IP rights**. Therefore, the major concern was how to justify the use of trademark funds while insisting on and defending the difference between trademarks and GIs, with the risk in the long run that trademarks would have somehow put pressure on GIs.

Although the role of EUIPO seems to have been scaled down in the proposal compared to previous discussions, **there is still a need to clarify certain aspects**:

a) The choice of defining which competences to assign to EUIPO **by means of delegated acts does not currently provide a clear picture of the procedures and their implementation. It risks overloading procedures instead of simplifying and streamlining them.**

On the other hand, it is worth bearing in mind that on amendments of product specifications, simplification and streamlining of procedures is expected to result from the distinction between Union amendments and standard amendments, achieved in the CAP framework, and that will enter into force as of 8 June 2022.

b) In terms of **competences of the EUIPO team dealing with GIs**, it will be important that the approach on the examination of applications is multidisciplinary. GIs specifications increasingly include provisions that go beyond the protection of the name (sustainability, link with the geographical area, quality, human factor, production methods...). Thus, **G-ICE members should not only be trademark lawyers**. The priority is to ensure an objective, competent and impartial examination of the applications received.

c) An **organigramme** should be made public, also to ensure contact details for producers aiming to exchange information and elements useful for understanding the dossiers.

d) Transparency on the sharing of tasks with DG Agri and the carrying out of procedures should be guaranteed.

e) Finally, the EUIPO will assume responsibility for non-agricultural GIs. It will be necessary to clarify the specific tasks assigned to EUIPO on agricultural and non-agricultural GIs.

### 1.2.2 Sustainability

*Article 12* covers sustainability undertakings, which remain **voluntary**. Such undertakings shall aim to apply a sustainability standard higher than mandated by Union or national law and go beyond good practice in significant respects in terms of social, environmental or economic undertakings. They shall be specific, shall take account of existing sustainable practices employed for GIs, and may refer to existing sustainability schemes.



EC goes a little further than what has been introduced with CMO. In fact, **when producers agree on sustainability undertakings, they will have to be included in product specifications**, thus producers will have to comply with them.

**The legislative proposal does not set out a definition of sustainability or sustainability criteria, this might be made through delegated acts.** EC is opting for this approach because sustainability requirements *per se* are not part of requirements to register GIs under TRIPS Agreement and it does not want to interfere with the proposal on sustainable food labelling, expected in 2024.

It is important to remember that sustainability should not be imposed on GI producers, but **encouraged and accompanied**. The existing practices in relation to sustainability are to be acknowledged and promoted. As AREPO pointed out in its contribution to the public consultation, there is a **need for more financial support** (e.g. for sustainability certification, relevant investments) and other forms of incentives (e.g. priority in funding) as well as information and promotion actions.

Specifically, AREPO recommended to:

- Financially support producers groups in carrying out ex-ante evaluations of the impact of registering a new GIs, as well as strategic diagnostics concerning the application process and GI products characterisation;
- Financially support ex-post evaluation of the impact of a registered GI in order to update product specifications addressing eventual sustainability issues and taking into account consumers expectations, developments in scientific and technical knowledge, evolution in market and marketing standards, as well as climate change adaptation and risk management;
- Introduce training for GIs producers and producer groups in order to accompany them through a sustainability assessment.

On the possibility for EC of defining sustainability standards and criteria for the recognition of existing sustainability standards to which producers may adhere through delegated acts, care must be taken. As a matter of fact, in line with the Farm to Fork strategy and the Europe Beating Cancer Plan, when it comes to sustainability, **the EC also looks at health-related issues and nutrition. The risk is that EC may in the future encourage to reformulate GI products.**

### 1.3 PROTECTION AND MANAGEMENT OF GEOGRAPHICAL INDICATIONS

The legislative proposal meets the intention of increasing GIs protection, especially concerning online commerce, domain name system and GIs used as ingredients.

All GI products shall be protected against any direct or indirect commercial use of the geographical indication, when the use of the name **exploits, weakens, dilutes, or is detrimental to the reputation of the protected name.**

The regulation will cover also situations where the use of the name is detrimental to the reputation of the GI. This is a positive addition to the formulation of the article.

Protection covers as well **any misuse, imitation or evocation**, even if the true origin of the products or services is indicated or **if the protected name is translated** or accompanied by an expression such as 'style', 'type', 'method', 'as produced in', 'imitation', 'flavour', 'like' or similar, including where those products are used as an ingredient.

This formulation is based on the provisions applicable under GI regulations for spirits and agri-food products, it does not include the following elements from the GI wine rules: "transcribed or transliterated". In order to guarantee the harmonisation among the three regulations, this should be taken into account.

*Article 27* extends protection also to any other false or misleading indication used on the inner or outer packaging, advertising material, documents or **information provided on websites** relating to the product concerned.

This is a positive addition to the formulation of the article.

Protection, as presented so far, **shall also apply to a domain name** containing or consisting of the registered GIs. Additionally, protection of GIs in domain names is dealt with in *Article 34*. The Country-code-top-level domain name (ccTLD) registries established in the Union may, at the request of a natural or legal person having a legitimate interest or rights, **revoke or transfer to the producer group a registered domain name when that domain name has been registered by its holder without rights or where it has been registered or is being used in bad faith**. It is also established that the ccTLD Registries shall ensure that in dispute resolution procedures, **GIs are recognised as rights that may prevent a domain name from being registered or used in bad faith**.

Nevertheless, questions arose concerning protection against **evocation** (*Art. 27 par. 2*). The definition provided in the proposal does not cover the existing jurisprudence of the European Court of Justice (ECJ).

It should be emphasised that ECJ jurisprudence has evolved in the right way in recent years and may continue to grant further rights to GI producers. It is therefore important to ensure that this definition does not limit this evolution.

Concerning generic terms, *article 29* reiterates that they shall not be registered as GIs. However, the definition of generic term provided in *article 2, par. 1 (g)* of the proposal brings up questions concerning the addition of the sentence (ii) *“a common term descriptive of types of products, product attributes or other terms that do not refer to specific product”*.

As a matter of fact, this further specification could be problematic for some GI products as it goes beyond the existing definition at international level.

On a broader level, the chapter on protection offers the opportunity to address recent situations occurred to Prosecco PDO and Aceto Balsamico di Modena PGI, faced with actions implemented by other MS and public authorities, formally kept within the boundaries of legality that exploited the popularity of these successful GIs.

AREPO should recall the need to strengthen the protection against attempts by third parties to abuse and exploit, and to weaken and dilute GIs reputation, **even when MS or public authorities are involved**.

### 1.3.1 GIs used as ingredients

**Operators can indicate that a processed product contains a GI as an ingredient** provided that such use is made in accordance with honest commercial practices and does not weaken, dilute or is not detrimental to the reputation of the GI.

**The GI shall be used in the food name of the related processed product only in cases of an agreement with a producer group representing two thirds of the producers.**

Concerning labelling, **indications, abbreviations and Union symbols may be displayed in the labelling and advertising materials of processed products but they shall be placed next to the name of the GI ingredient that is clearly identified as an ingredient**. The Union symbol shall not be placed in association with the name of the food or in a manner that suggests to the consumer that the processed product rather than the ingredient is a GI.

These provisions are in line with the conclusion of AREPO study on GI's used as ingredients. However, it should be made clear that:

- a) GI producer groups who authorised the use of a GI as an ingredient **should be able to carry out control and supervision activities in all EU internal market;**
- b) GI producer groups can decide to **demand a financial contribution or reimbursement to the processor using their GI as ingredient**, in order to address the increase in operating and management costs of their ordinary activities;
- c) **Operators using a GI as ingredient shall be subject to all controls necessary to carry out supervision activities** (e.g. the possibility to access commercial documents in order to carry out control on mass balance sheets). Controls could be carried out by the producer group and/or by the national authorities, depending on the national system in place.

The Commission may adopt delegated acts for additional rules on the use of GIs as ingredients in processed products.

### 1.3.2 Producer groups

Chapter 3 also deals with the management of GIs, by identifying producer groups and recognised producer groups.

*Article 32* provides for the composition, powers and responsibilities of producer groups. Besides the powers already conferred by *art. 45* of reg. 1151/2012, producer groups may:

- agree on sustainability undertakings and on arrangements for verification of compliance with those undertakings and assuring adequate publicity for them in an information system provided by the Commission;
- take action to improve the performance of their GI, including the development, organisation and conduct of collective marketing and advertising campaigns. Additionally, they may carry out analyses into the economic performance, sustainability of production, nutritional profile, and organoleptic profile, of their GI as well as provide advice and training to current and future producers.

The doubts about the new article on producer groups mainly concern **the possibility for MS to allow public officials and other stakeholders (e.g. consumer groups) to participate in the work of producer groups.**

Furthermore, it should be explored further which kind of **financial support** would be available to groups to enable them to carry out these activities.

*Article 33* introduces the category of **recognised producer groups**. Upon request of a producer group, MS shall designate it as a recognised producer group. A producer group may be designated as recognised producer group **subject to a prior agreement concluded between at least two-thirds of the producers** of the product covered by a geographical indication, **accounting for at least two-thirds of the production** of that product in the geographical area referred to in the product specification.

A recognised producer group will have the same powers of producer groups plus the following:

- **to liaise with intellectual property enforcement and anti-counterfeit bodies** and participate in intellectual property enforcement networks as the geographical indication right holder;
- **to take enforcement actions**, including filing applications for actions with custom authorities, to prevent or counter any measures which are, or risk being, detrimental to the image of their products;
- to recommend to the national authorities binding rules to be adopted for the **regulation of the supply of GI products;**
- with a view to protecting the geographical indication in the internet domain name systems outside the jurisdiction of the Union, to register an individual, collective or certification trade mark depending on the trade mark system concerned, containing, as one of its prominent

elements, a geographical indication and restricted to product conforming to the corresponding product specification.

The distinction between producer groups and recognised producer groups **risks creating a two-speed system**, with increased powers for recognised producer groups.

### 1.3.3 Union logos

The proposal clarifies how the EU symbols can be used, notably on labelling and advertising material. Furthermore, it establishes the **mandatory use of EU logo for agricultural products and foodstuffs while it will remain voluntary for wine and spirit drinks**.

## 1.4 CONTROLS AND ENFORCEMENT

Chapter on Controls and Enforcement controls includes the verification that a GI has been produced in compliance with the corresponding product specification and the monitoring of the use of GIs in the marketplace.

Firstly, it is established that MS shall draw up and keep up to date **a list of producers of GI products** entered in the Union register of geographical indications originating in their territory.

Already existing for spirit drinks and now extended to wines and agricultural products, this represents a positive improvement that could increase transparency. It is also in line with AREPO recommendations during the public consultation.

Additionally, the proposal lays down that MS have to designate one or more enforcement bodies responsible for controls on the marketplace, **including electronic commerce**, and adds **the obligation for MS of mutual assistance and of sharing information** to carry out controls and enforcement.

The last proposal could facilitate the enforcement of GI rights.

To conclude, the text dedicates a specific article to the **certificate of authorisation to produce**. This, already existing in spirit drinks regulation, has been extended to agricultural products and wines. It will be issued by national authorities and it will legitimate a producer to sell the GI especially in the next steps of the chain.

Thus, the certificate of authorisation to produce provide guarantees as to the ability for a producer to use the GI name.

## 1.5 GEOGRAPHICAL INDICATIONS OF AGRICULTURAL PRODUCTS

Chapter 6 exclusively concerns GIs for agricultural products, providing for definitions including the case where a product can be excluded from being subject of a PDO or a PGI.

This particular case refers to products **that by their nature cannot be traded within the internal market and can only be consumed in or near their place of manufacture, such as restaurants**, and to products that are contrary to public policy or to accepted principles of morality and may not be placed on the internal market.

Clarification is needed concerning provisions contained in *article 48, par. 3 (a)*. In fact, it is difficult to identify the type of products that fall within the scope of the article. Plus, it should be assessed whether this provision is likely to be discriminatory.

Furthermore, referring to *art. 48 par. 2* which gives the definition of “geographical indication”, it is specified that under “*other characteristics*” attributable to the geographical origin of the GI, it may be included traditional production practices, traditional product attributes and farming practices that protect environmental value including biodiversity, habitats, nationally recognised environmental zones and landscape.

Article 49 covers **plant varieties and animal breeds**. The draft regulation merges the provisions of *art. 6 par. 1 and 2 Reg. 1151/2012* with *art. 42 Reg. 1151/2012*, laying down **that a name may not be registered as a GI where it conflicts with a denomination of a plant variety or animal breed and is likely to mislead the consumer as to the true identity or origin of the GI product or cause confusion between the GI and the variety or breed in question**. These conditions shall be assessed in relation to the actual use of the names in conflict, including the use of the denomination of the plant variety or animal breed outside its area of origin and the use of the denomination of a plant variety protected by Community plant variety rights.

In the position submitted to the public consultation on the GI revision, AREPO raised the issue of protection of GIs containing, in part or in whole, names of breeds or varieties. Consequently, the possible implications of Article 49 will have to be further examined.

## 2. QUALITY SCHEMES

### TITLE III

The system of traditional specialities guaranteed (TSG) has been maintained and, together with the optional quality terms (OQT), is included in the title of the legislative proposal dedicated to quality schemes.

The wording regarding the TSG system has been improved and clarified. The eligibility criteria (*Article 55, par 2.*) set out that to be registered as TSG, a name shall **designate the traditional character of the product and no longer its specificity**.

As for GIs, the **submission** of the Union application for registration will be done **electronically, through a digital system**. Registered TSG will be recorded in the **Union register of traditional specialities guaranteed**, a publicly accessible electronic register.

Management of TSGs will remain entirely to the EC, with no competence for the EUIPO.

TSG logo shall be mandatory.

Concerning OQT, since the system is relatively new, the Commission has decided to keep the system as it is, including the possibility to establish a **digital system for the inclusion of the terms and schemes** with a view to fostering knowledge of the products and schemes across the Union.

If the mountain product was kept among the OQT, the product from island farming seems to have been deleted.