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2022/0115 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on geographical indication protection for craft and industrial products and amending  
Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the  
Council and Council Decision (EU) 2019/1754**

(Text with EEA relevance)

{SEC(2022) 193 final} - {SWD(2022) 114 final} - {SWD(2022) 115 final} -  
{SWD(2022) 116 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

Union law protects geographical indications (GIs) for agricultural products and foodstuffs, wines and spirit drinks. However, there is currently no EU-wide mechanism to protect the names of products such as Murano glass, Solingen cutlery, Donegal tweed, Halas lace or Gablonz jewellery. While over half Member States have established national specific (*sui generis*) protection systems for craft and industrial (CI) products with different characteristics, the others use only trade marks and/or rules on unfair competition to protect their intangible assets. In addition, within the internal market, there is no cross-border system mutually recognising national protection systems. At Union level, producers can register individual trade marks, collective trade marks and certification trade marks. However, using trade mark protection does not enable producers of industrial and handicraft products to certify at Union level the link between quality and geographical origin that signals qualities attributed to specific local skills and traditions.

Due to legal uncertainty resulting from the fragmentation, producers face challenges protecting geographically-linked CI products. They have less of an incentive to invest in such products, to cooperate to create niche markets, and to retain unique local skills and traditions. In particular, small producers (SMEs and micro-businesses) may lose market opportunities.

The proposal aims therefore at establishing a directly applicable GI protection for CI products at Union level. It aims at improving the position of producers to protect their CI products throughout the Union against counterfeiting and to give them incentives to invest into these products. The proposal also aims to improve the visibility of authentic CI products on the markets and therefore benefit consumers. The regions, in which producers operate, should benefit from the protection of typical products and be able to develop the potential for tourism, to keep and attract qualified work force as well as to safeguard their cultural heritage. The proposal is based on the specific GI protection, which implies that producers as well as public authorities collaborate on developing product specifications. This approach aims to help in particular micro, small or medium-sized enterprises (MSMEs) that lack resources for devising new product specifications

The proposal aims to ensure that producers can fully benefit from the international framework for the registration and protection of GIs ('Lisbon system'). In November 2019, the EU acceded 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). 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. In the same vein, EU producers cannot benefit from the protection granted by EU trade agreements that currently only cover agricultural GI products. The proposal aims to close this gap.

#### • **Consistency with existing policy provisions in the policy area**

The proposal complements existing EU protection system for GIs in the agricultural domain. Given the different nature of CI products, it follows similar approaches taken on the eligibility conditions and the protection of GIs for agricultural products and foodstuffs, wines and spirits as set out in:

- Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs,

- Regulation (EU) 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks,
- and Regulation (EU) No 1308/2013 of the European Parliament establishing a common organisation of the markets in agricultural products.

The proposal follows a similar approach as the ongoing reform of the current GI regime. The reform will repeal the first Regulation and amend the other two Regulations listed above.

The proposal amends Regulation (EU) 2017/1001 of the European Parliament and of the Council on the European Union trade mark, concerning the provisions governing possible conflicts between GIs and trade marks as well as the additional tasks set out for the European Union Intellectual Property Office ('EUIPO' or 'the Office').

The proposal is also consistent with Directive 2004/48/EC of the European Parliament and of the Council on the enforcement of intellectual property rights, which, under its Article 2(1), is applicable to all intellectual property rights protected under Union law and under Member States' national laws.

The proposal establishes the connection between the EU GI protection system for CI products and the Lisbon system. It does this by proposing an amendment to Council Decision (EU) 2019/1754 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.

- **Consistency with other Union policies**

The proposal is consistent with the EU industrial policy as set out in the Commission Communication "Updating the 2020 new industrial strategy: Building a stronger single market for Europe's recovery"<sup>1</sup>. The updated industrial strategy highlights that the tourism sector has been strongly hit by the COVID-19 pandemic and that, in the wake of the pandemic, smaller businesses continue to be more vulnerable, with some 60% reporting a drop in turnover in the second half of 2020. For these reasons, the proposal aims to boost the tourism sector, particularly in poorer regions and help MSMEs developing new geographically-linked products.

The proposal also shares specific objectives with the Commission's forthcoming EU strategy on sustainable textiles, which aims to create a better business and regulatory environment for sustainable and circular textiles within the Union. MSMEs in the textiles ecosystem find it hard to develop intellectual property strategies to protect their research & development investments and raise growth capital. The establishment of an Union wide GI protection for CI products should therefore help MSMEs in this context.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 118(1) on intellectual property and Article 207(2) of the TFEU on the common commercial policy. It aims to create for craft and industrial products a unitary European intellectual property right to provide the same protection across the Union, and set up centralised Union-wide authorisation, coordination and supervision arrangements. In addition, the proposal aims to establish a link between an EU protection system for craft and industrial products and the Lisbon system, giving effect to an international agreement administered by WIPO.

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<sup>1</sup> COM(2021) 350 final

- **Subsidiarity (for non-exclusive competence)**

Apart from its objective to meet the obligation under the EU accession to the Geneva Act of the Lisbon Agreement, which falls under the common commercial policy and is an exclusive competence of the Union, this proposal aims to create a well-functioning internal market for CI geographically-linked products. In this regard, it provides for a common legal framework for CI GIs, whose protection falls under the shared competence of the EU and its Member States. Member States alone cannot achieve this objective due to a patchwork of divergent rules, which have been developed at national level and are not mutually recognised. Addressing this issues at national level will only result in legal uncertainty for producers seeking protection, prevent market transparency for consumers, affect intra-Union trade, and pave the way for uneven competition in marketing GI protected CI products. A solid European legal framework could provide equal protection conditions in all Member States, therefore creating legal certainty, incentives for investment in greater market opportunities for geographically-rooted CI products. This objective can therefore be better achieved at Union level.

- **Proportionality**

The proposal has been designed to minimise the administrative burden and compliance costs for producers and public authorities, while ensuring equal treatment across the Union. As highlighted in the impact assessment report, the scope of the chosen policy option which is the adoption of a self-standing EU Regulation establishing a specific system based on an EU title to protect GIs for CI products, does not go beyond what is necessary to achieve the identified objectives. It is limited to the aspects that Member States cannot achieve satisfactory on their own and where the Union can act more effectively, efficient and generate greater added value.

- **Choice of the instrument**

The instrument choice is a self-standing EU regulation establishing a specific system based on an EU title to protect GIs for CI products. This choice favours a legal regime that is simple and coherent with the objective to enable the effective fulfilment of international obligations by establishing a system at Union level that allows for the protection of CI GIs of third country members of the Geneva Act within the Union and the protection of EU CI GIs of the Lisbon system' contracting states.

Alternative regulatory methods such as extending the existing protection schemes for agricultural products to CI products and reforming the trade mark system are not considered appropriate.

First, agricultural and foodstuff products have specific characteristics governed by harmonised EU health and safety rules under the common agricultural policy and common fisheries policy that are not necessarily relevant for craft and industrial products.

Second, incorporation into existing agricultural products scheme bears the risk for CI products and their producers, to be marginalised among schemes focused on agricultural products and producers under the common agricultural policy. This would prevent the possibility of introducing a flexible and cost-effective GI regime tailored-made for CI products and their producers.

Furthermore, given that protected trade marks can become generic and be revoked, a reform of the trade mark rules risks failing to meet the international requirements under the Geneva Act. Modifying these trade mark properties to protect GIs would in turn affect the overall coherence of the trade mark system. Moreover, two different protection systems would be in place: one for agricultural GIs (specific protection) and the other (a trade mark based) for CI GIs. This could create confusion and appear inconsistent at international level, particularly taking into account the EU's traditional role in supporting GIs in WIPO and its stance on GIs in the context of bilateral trade negotiations with third countries.

Other instruments like the adoption of recommendations or an EU Directive aiming at the approximation of national laws would not satisfactorily address the fragmented national regulatory framework for CI GIs and the necessity of having a single EU title due to international obligations.

### 3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

#### • Ex-post evaluations/fitness checks of existing legislation

No European Union legislation has until now focused on GIs protection for CI products. However, this proposal is linked to the ongoing reform of the system of GIs for agricultural products and builds on the results of the evaluation report of the EU GIs protection schemes for agricultural products. It also aims at achieving the greatest possible synergies with the ongoing reform of the existing GI schemes which is looking at ways to strengthen, modernise, streamline and better enforce GI rights for agricultural products, foodstuffs, wines and spirits.

#### • Stakeholder consultations

- The Commission has put in place a broad **consultation strategy gathering the views of all relevant stakeholders**. Consultations started in 2013 and have intensified in 2020 and 2021.
- From a geographical point of view, the consultation strategy covered the EU-28 and after BREXIT, the EU-27.

The consultation included a **series of broad and targeted consultations**, in particular:

- **Public consultations:** in the context of an [external study run in 2013](#), a survey was conducted on stakeholders' needs and expectations for a possible legal protection of indications of authentic geographically-rooted products at the Union level. Results of the [public consultation organised in 2014](#) were presented at a public conference on 19 January 2015 and [published](#) in June 2015. During the Roadmap consultation (30 November 2020 – 18 January 2021), stakeholders provided feedback about the Commission's plan to assess the impact of an EU-wide initiative on GIs for CI products. The public consultation on 'EU-wide protection of geographical indications for non-agricultural products' was open for 12 weeks between 29 April 2021 and 22 July 2021.
- **Face-to-face interviews:** in the context of the study on controlling and enforcement rules for GIs for non-agricultural products face-to-face interviews were carried out with selected stakeholders.
- **Workshops:** in October 2016, a workshop on the 'contribution of non-agricultural geographically rooted products to regional inclusive economic development'" was organised in the context of the European week of regions and cities 2016. On 18

November 2019, the results of the 'Study on economic aspects of geographical indication protection for non-agricultural products at EU level' were presented and discussed in a workshop. On 13 July 2021, the preliminary findings of the 'Study on control and enforcement rules for geographical indication (GI) protection for non-agricultural products in the EU' were also presented and discussed in a workshop.

- **Targeted meetings with Member States' representatives ('GIPP expert group):** in April 2021 and January 2022, followed by a **targeted written consultation with intellectual property offices** of Member States in June 2021 based on two targeted questionnaires.

**Overall, the responses have shown that producers of CI GIs, the European Parliament, the European Committee of the Regions, the European Economic and Social Committee, nine Member States and academia strongly support the establishment of a specific GI scheme.** These responses form the basis for the Commission's proposal as submitted. **Four Member States support the baseline option of maintaining the status quo** and consider that trade mark protection is sufficient. The impact assessment, however, points to both the shortcomings of the existing trade mark protection alternatives to sufficiently protect CI product names and the issues implied by taking the trade mark reform route, including the lack of coherence with specific GI system for agricultural products.

On the more detailed **feedback received from the 2021 Public consultation**, the most preferred policy option (rated 5) in the opinion of most respondents is a specific system establishing an EU title to protect GIs for CI products. The least preferred policy option (rated 1) in the opinion of most respondents is the baseline scenario of no action taken at Union level. More than 80% of respondents on this option are decisively against maintaining the current situation.

- **Collection and use of expertise**

The Commission has relied on **two major sources** of external expertise:

1. Studies prepared by external contractors as commissioned, namely:
  - [Study on GI protection for non-agricultural products in the Internal Market](#) (Insight Consulting/REDD/OriGIIn, 2013)
  - [Study on the economic aspects of GI protection at EU level for non-agricultural products](#) (VVA/ECORYS/ConPolicy, 2019)
  - [Study on control and enforcement rules for GI protection for non-agricultural products in the EU](#) (VVA/AND International, 2021)
2. **Technical cooperation with EUIPO** focusing on various process models to enable a sound assessment of sub-options on the EU entity in charge of registering CI GIs and of handling international applications under the Geneva Act of the Lisbon Agreement, as well as concerning the role of national authorities in the registration procedure. The outcome of such cooperation, based on the EUIPO's contribution, is in Annex 9 of the impact assessment.

- **Impact assessment**

The following **policy options** were examined in the impact assessment:

- **Policy option 1 – Extending the GI protection system for agricultural products to GIs for CI products:** under this option, a GI protection system for CI products would be integrated into the existing GI protection schemes that cover agricultural products and foodstuffs. Under the ongoing reform of the system of GIs for

agricultural products, Member States should continue to apply a preliminary examination procedure at the national level. At the Union level, the proposal for a revision of the GI system for agricultural products should give powers to the Commission to outsource the examination of applications and oppositions to an agency (most likely EUIPO). Under this option, the ongoing proposal for a revision in the agri-food sector would harmonise the current monitoring and enforcement system and extend it to cover also CI GIs.

- **Policy option 2 – Self-standing EU regulation creating specific GI protection:** this option would consist of adopting an EU regulation 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. Under this **policy option 2**, the following **sub-options** would be possible:
  - **2.1. Territorial link:**
    - **2.1.A.** Protected designations of origins (PDO): under PDO protection, the quality or characteristics of a product are essentially or exclusively linked to the particular geographical environment of the place of origin; and all stages of production, processing or preparation must take place in the defined geographical area.
    - **2.1.B.** Protected geographical indications (PGI): under PGI protection, a particular quality, reputation or other characteristic of a product is essentially attributable to its geographical origin; at least one of the stages of production, processing or preparation takes place in the defined geographical area.
  - **2.2. Involvement of national authorities in the registration procedure:**
    - **2.2.A.** Two-stage system: the first stage would be at the level of Member States, where national or local authorities would play a first examination role over local producers' agreed product specifications and GI applications. The second stage would be at Union level, with an EU entity taking a decision on registration, where no fees would be charged.
    - **2.2.B.** One-stage system: National authorities would not participate in the examination and registration, and local producers would go directly to the EU level to have their GIs registered.
  - **2.3. EU entity in charge of registration at Union level and at international level:**
    - **2.3.A.** The Commission would be in charge of the Union level stage of registration and act also as the competent authority under the Geneva Act of WIPO's Lisbon Agreement.
    - **2.3.B.** The specialised intellectual property agency, EUIPO would be in charge of the Union level stage registration and would also act as competent authority under the Geneva Act.
  - **2.4. Control and enforcement:**
    - **2.4.A.** Replicating the control and enforcement model of the GI agricultural schemes.
    - **2.4.B.** Streamlining control through a robust enforcement model: this sub-option would introduce self-certification; random inspections by

national authorities (or delegated certification bodies), coupled with a deterrent system of fines; streamline reporting obligations by national authorities; and introduce the enforcement scheme under the currently revised agricultural GI system, with a domain names' alert system to fight online GI abuses.

- **2.5** Co-existence of EU and national titles and regimes:
  - **2.5.A.** CI GIs would be protected by an EU title that replaces the existing national GI regimes and absorbs national GI titles.
  - **2.5.B.** Introducing an EU GI title for CI products while keeping a parallel system for national GI applications.
- **Policy option 3 – Trade mark reform:** this option would consist of reforming the EU trade mark system, in particular the EU trade mark Regulation (EUTMR), so that producers of CI products could apply to register at Union level a name guaranteeing a specific product quality linked to a geographical region. This option could be based on the reform of either the EU collective mark or the EU certification mark. On the EU certification, this would require removing the current ban on certifying geographical origin. For the EU collective mark, this would require introducing the function of certifying the 'quality-geographical origin' link to the collective mark. In addition, both the EU collective mark and the EU certification mark would have to be adapted to comply the scope of protection under the Geneva Act.

The following options were also identified and discarded at an early stage:

- **Baseline – no change:** keeping the fragmented regulatory framework in the Union and the lack of recognised protection of CI GI products at international level.
- **Recommendation:** this option would consist of adopting a recommendation at Union level, encouraging Member States to establish national protection systems to certify the link between specific product qualities and the origin of CI products.
- **Approximation of national laws:** this option would consist of adopting an EU directive in order to approximate national laws on the protection of GIs for CI products. Through a directive, the EU would create obligations to achieve specific objectives to protect GIs. For example on the term and scope of protection, the territorial link, and procedural aspects. Producers could obtain national GI titles registered at national level. No EU GI title would be created.

**The preferred policy option is option 2: self-standing EU Regulation. The overall preferred option package is a combination of sub-options 2.1.B (Protected geographical indications (PGI)), 2.2.A (two-stage system), 2.3.B (EUIPO responsible for registration at Union and international level), 2.4.B (streamlining control through robust enforcement) and 2.5.A (EU scheme replaces national GI regimes and titles).**

When **comparing options 1, 2 and 3**, they all provide a single registration point at the Union level and uniform protection that will enable producers to protect and signal quality of their products due to geographical origin in the internal market.

However, by developing product specifications, policy option 1 (**PO1**) and policy option 2 (**PO2**) would rank particularly high in helping artisans and producers to work together in niche markets, enabling cooperation, and **promoting and protecting traditional know-how, at Union level**, in compliance with **EU competition rules**. These two options also benefit not only producers, but also related **sectors**, such as **tourism**, as **GIs raise the visibility of the product and the region**. With tourism being a sector particularly hard-hit by the COVID-19



pandemic, PO1 and PO2 can prove to be a major step in putting these regions, often underdeveloped, back on track towards **economic recovery** and help improve **attractiveness of EU regions** for tourism. PO1 and PO2 can therefore play a vital role in enabling recovery in the EU’s hard-hit regions.

PO1 and 2 comply with the Geneva Act of the Lisbon Agreement, whereas PO3 ranks lower also in relation to the EU Trade Mark policy. Moreover, **PO3** also ranks low on coherence with the **EU international GI protection** policy.

On the **impact on competition**, the initiative is unlikely to have any negative effects.

- GIs certify the quality due to geographical origin. Furthermore, there are very few eligible CI GI products (between 300 and 800 in the Union), with close non-GI covered functional substitutes being abundant. Competing producers are able to enter and produce GI covered substitutes, if only they fulfil the relevant criteria. For these reasons, **market power is very unlikely to be created or enhanced by the proposal.**
- CI GIs are credence upmarket products. They are based on tradition, convey information about their geographical origin, and address specific demand of consumers who attach value to such specific qualities (e.g., manual manufacturing techniques). Even if market rivalry would be muted if a previously non-GI product turns GI, the resulting quality signalling effects of the CI GI title would result in a possibly increase of consumers’ willingness to pay. Therefore **consumer surplus is unlikely to be affected.**

On the **impact on innovation**, CI GIs are not rooted in ‘hard core’ product or process innovation such as patents. In that sense, following Oslo Innovation Manual they constitute marketing and/or organisational innovation. **The specific system would, at the margin, incentivise investment in craftsmanship** and could improve excellence in the production of niche products. Also, to the extent that the CI GI system would allow for higher wages and job creation, younger workers would remain in their regions rather than be drawn to urban areas.

On the **impact on the environment**, the scale of production generated by the handful of CI GI products is likely de minimis or limited. Also, CI GIs generate more durable good compared to cheaper non-CI GI mass production alternatives and is more likely to be produced in the Union where environmental standards are more stringent. Consumers who express a preference for such credence goods are likely to be the environmentally aware and therefore expect CI GI producers to join them in meaningful applying environmental values. For all those reasons, **the environmental effect – however small – is likely to be positive.**

On the **costs of the preferred option**, an EU entity will have to manage the GI registration system for CI products and obtain the operational experience and specialised skills that it is currently missing in the field. Member States will also have to create a framework. Even if experience shows that in agriculture this burden can be light, an entirely private-public system of control and enforcement is by definition less costly for public authorities. The possibility for producers to self-declare compliance over time, for example, once the GI title is granted can also lower the costs.

An **estimation of annual costs in euro for one GI** is shown below:

Action	Producers (group)	Authorities		Total
		National	EU	
<b>Annual Cost of one GI (EUR)</b>				

Registration*	15 000	7 500	17 000	39 500
Verification/control*	5 700	100	0	5 800
Enforcement & management**	3 000	3 900	0	6 900
Total	23 700	11 500	17 000	52 200

\* *one-off cost*

\*\* *recurrent cost*

Source: Own calculations based on VVA & AND International (2021).

- **Regulatory fitness and simplification**

The proposal will be mainly used by micro, small or medium-sized enterprises (MSMEs) and it is designed taking into account the specific needs and challenges MSMEs face. Therefore, the proposal envisages moderate registration costs for GIs. Member States will be allowed to charge fees for the registration but they have to be proportionate. The level of the fees has to be set taking into account the situation of specific businesses such as MSMEs, for example in the form of lower fees. At Union level, in the second phase of the registration procedure, the EUIPO will not charge fees to register GIs, unless the ‘direct registration’ procedure provided for in Article 15. This will allow MSMEs to have access to this intellectual property title at moderate cost.

MSMEs consider legal complexity as a major obstacle for their businesses. Therefore, the proposal creates simple procedures to register and manage new GIs, not requiring at any stage of the procedure the involvement of legal representatives and keeps the administrative burden for MSMEs to the minimum.

The proposal provides for a fully digitalised EU application and registration procedure, which is managed by EUIPO. This should also reduce the administrative burden. The e-filing system should also apply to direct registrations in the exceptional cases where eligible Member States opt-out from the obligation to designate a national authority to manage the GI applications for CI products at national level.

The new domain name information and alert system for CI GIs to be established by EUIPO must provide applicants with an additional digital tool as part of the application process to better protect and enforce their GIs rights.

In view of simplification, a publicly accessible electronic register of GIs (Union register of geographical indications for craft and industrial products) should be maintained to provide direct and fast access to information on all registered GIs. Any person must be able to easily download an official extract from the Union register of geographical indications for craft and industrial products that provides proof of registration of the GI, and relevant data including the date of application of the GI or other priority date. This official extract might be used as an authentic certificate in legal proceedings, in a court of law, or in a court of arbitration or a similar body

- **Fundamental rights**

The proposal will improve the intellectual property protection in the Union for geographically linked CI products. It should therefore have a positive impact on the fundamental right to intellectual property according to Article 17(2) of the Charter on the fundamental rights in the EU (the ‘Charter’). In certain instances, and in line with the international obligations resulting from the Geneva Act of the Lisbon Agreement on appellations of origin and geographical indications, the protection of geographical indications will need to be balanced with the right

in trade marks, in particular with regard to renowned trade marks (see Article 39 of this regulation) or prior trade marks registered in good faith (see Article 42 of this regulation).

Also, it should improve the possibilities for producers of CI products to protect their intellectual property in the Union, in particular in cross-border contexts. Therefore, the proposal should also have a positive impact on the right to remedy in line with Article 47 of the Charter.

#### **4. BUDGETARY IMPLICATIONS**

The proposal has no implications on the EU budget. The EUIPO, which is entirely self-financing, will manage and fund the registration process at the EU and international level out of its budget (including IT system, setting up and managing the Union register of geographical indications for craft and industrial products, the EU alert system against the abusive use of CI GI in the internet, etc.). On national administrations, 16 Member States (Belgium, Bulgaria, Croatia, Czechia, Estonia, France, Germany, Hungary, Italy, Latvia, Poland, Portugal, Romania, Spain, Slovakia and Slovenia) where national CI GI schemes operate already should see no additional costs in terms of administration. The remaining Member States should commit resources for the initial verification process. All Member State will have to commit resources to enforcement of CI GI.

Based on the analysis by external experts (studies) the registration cost at national level are estimated on average at around EUR 7 500 per GI. The cost of random controls for Member States are estimated at around EUR 100 per GI. And the cost of enforcement at around EUR 3 900.

However, due to low number of potential EU CI GI candidates (expected around 300 registrations in 10 years) both costs at national and EUIPO level do not seem substantial. They are estimated at around EUR 860,000 annually for the EU as a whole (under assumption that 30 CI GI are registered annually). Enforcement of CI GI of third countries that should be protected in the Union is going to add to the cost. The number of these registrations is uncertain. At the moment the number of national CI GIs registered in China and India alone is estimated at between 400 and 800 altogether.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Providing for a robust monitoring and evaluation mechanism is crucial to ensure that the proposal will be effective in achieving its specific objectives. After the entry into force of the Regulation, the Commission will assess whether the specific objectives of the Regulation are met. The Commission has established a list of monitoring indicators in its impact assessment, against which the effect of the Regulation will be assessed. To inform this assessment, producers and public authorities will be required to inform the Commission.

The Commission will publish a report evaluating and reviewing the Regulation no less than five years following the date of application. The evaluation will be conducted according to the Commission's Better Regulation guidelines.

In addition, Member States and/or their national authorities will be required to report every four years to the Commission on the strategy and results of all the GI controls. The controls will be carried out to verify compliance with the legal requirements related to the protection

scheme established by this Regulation and on the enforcement of GIs in the market place, including online.

- **Detailed explanation of the specific provisions of the proposal**

The proposal consists of a set of rules designed to put in place a self-standing, coherent system for GIs for CI products. Producers are empowered to protect their GI products at Union level through the establishment of a uniform EU specific GI scheme. In addition, the proposal links the new EU protection scheme to the Lisbon system. The registration procedures provided by the new EU protection scheme are administered at Union level by EUIPO and at national level by Member States' public authorities.

The proposal includes the following provisions:

### **Title 1: General provisions**

General provisions define the objectives as well as the scope of the proposal. Also, the general provisions contain a list of definitions (Article 3). They furthermore provide for rules governing the protection of personal data processed in the course of the procedures for registration, approval of amendments, cancellation, opposition, granting of transitional period and control.

### **Title 2: Registration of geographical indications**

The chapter on registration provides for the uniform rules for registration, both at national and Union's level including the opposition procedure; defines the applicant and lists requirements for the applicant; specifies the content of application documents, and defines the role of the register. It lays down the transitional protection and transitional measures. The title also provides the possibility to consult the Advisory Board, which is composed of experts appointed by Member States and the Commission. The Advisory Board, when necessary, will examine and provide opinions, at the request of the Office or the Commission, on specific GI applications and technical problems relating to the application of this Regulation. The Advisory Board must be consulted with regards to applications submitted through the direction procedure referred to in Article 15. Title 2 also includes provisions on the amendments to the product specification and on the cancellation of the registered GIs as well as on the appeals procedure. It also establishes a domain name information and alert system and contains provisions on administrative fees.

The proposal establishes an exceptional scheme for direct procedures before the Office for applicants from a Member State that meets certain conditions on the date of adoption of this Regulation, and do not therefore designate a national authority for the management of the procedures for registration, amendments to the product specification and cancellation of the registration in respect of GIs. 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.

Member States may charge a fee to cover their costs of managing the GI system for CI products. However, the Office will not charge a fee, except for the direct application procedure set out in Article 15. EU fees must be set out in an implementing act (Article 291 of the TFEU) in line with Regulation (EU) No 182/2011 of the European Parliament and of the Council within six months after the entry into force of this Regulation.

This Title also establishes a prerogative for the Commission to take over the decision-making power from the Office that may affect the Union's trade and external affairs policy, or the

public interest. This prerogative was designed to be used only when policy considerations may override technical aspects of intellectual property, also considering that geographical indications play an important role in the Union's trade and external policy and are collective rights performing also public functions.

### **Title 3: Protection of geographical indications**

The level of protection of CI GIs is set out in Title 3. Title 3 also 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 trade marks. It provides rules for producer groups. The relationship with the use of protected terms in internet domain names is defined. This title includes the rules for the use of Union symbols, indications and abbreviations on the labelling and advertising material of the product concerned.

### **Title 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. While Member States are required to designate the competent authority responsible for the official controls to verify compliance with this Regulation, they are free to introduce a third-party certification procedure operated by competent authorities or delegated product certification bodies, or a procedure based on the producer's self-declaration. Besides producer controls, the title also sets out rules for Member States on how to prevent or stop any other misuse of GIs in their territory. In addition, it aims to prevent the misuse of GIs on online platforms<sup>2</sup> in line with Regulation (EU) No xxxx/2022. The title also governs mutual assistance between Member States' authorities. It requires that enforcement authorities should provide proof of certification on a producer's request.

### **Title 5: Geographical indications entered in the International Register and amendments to other acts**

Title 5 provides for the necessary amendments to Council Decision (EU) 2019/1754 and Regulation (EU) 2019/1753 of the European Parliament and of the Council, the EU legislation adopted following the EU's accession to the Geneva Act on 26 November 2019.

The amendments are needed to adjust existing rules to the changed reality of a new EU CI GI scheme emerging after such rules were created. For example, there is currently no provision to clarify that unlike in the case of agricultural GIs, it is the EUIPO to play the role of competent authority under the Lisbon system. Similarly, provisions are needed to ensure that international applications relating to CI products can be filed and processed by the EU's competent authority.

Further amendments are introduced on the Trade Mark Regulation (EU) 2017/1001 to add in the catalogue of the Office's tasks contained in Article 151, the tasks conferred to the Office for the administration and promotion of CI geographical indications. In addition, there is another amendment to the Trade Mark Regulation (EU) 2017/1001 to establish a domain name information and alert system for EU trade marks replicating the alert system established under this Regulation.

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<sup>2</sup> Regulation of the European Parliament and of the Council on a Single Market For Digital Services (DSA) and amending Directive 2000/31/EC.

## **Title 6: Technical assistance**

Title 6 sets out the Commission's empowerment to adopt delegated acts in line with Article 290 of the TFEU to entrust EUIPO with the examination and other administrative tasks concerning third country geographical indications, other than geographical indications under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, proposed for protection pursuant to international negotiations or international agreements. By this Title the Commission ensures that administrative tasks related to geographical indications in the context of international negotiations and international agreements which are devoid of any trade or external policy considerations may be outsourced to the Office.

## **Title 7: Supplementary provisions**

Title 7 sets out the Commission's empowerment to adopt delegated acts in line with Article 290 of the TFEU to supplement or amend the Regulation as regards detailed rules on procedures and form of the cancellation process and the presentation of the requests referred to in Article 29. This includes the requirements or listing additional items of the accompanying documentation referred to in Article 9, defining procedures and conditions applicable to the preparation and submission of Union applications for registration referred to in Article 17, rules on entrusting EUIPO to operate the Union register of geographical indications for craft and industrial products referred to in Article 26, the formal content of the notice of appeal, the procedure for the filing and the examination of an appeal as well as the formal content and the form of the Boards of Appeal's decisions referred to in Article 30, the information and requirements identified in the self-declaration referred to in Article 49 and the corresponding Annex 1 and technical assistance of the Office referred to in Article 62. It also identifies the implementing acts that the Commission must undertake to ensure uniform conditions to implement this Regulation.

## **Title 8: Transitional and final provisions**

Title 8 sets out that transitional national geographical indications protection for craft and industrial products should cease to exist by one year after the date of entry into force of this Regulation. Member States should inform the Commission and the Office which of their legally protected or which of their names established by usage they wish to register and protect pursuant to this Regulation.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on geographical indication protection for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the Council and Council Decision (EU) 2019/1754**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 118(1), as well as Article 207(2), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 10 November 2020, the Council adopted conclusions<sup>5</sup> on intellectual property policy indicating that it was ready to consider the introduction of a system for specific protection of non-agricultural products, based on a thorough impact assessment of its potential costs and benefits.
- (2) In its Communication of 25 November 2020 entitled ‘Making the most of the EU’s innovative potential – An intellectual property action plan to support the EU’s recovery and resilience’, the Commission committed itself to considering, based on an impact assessment, whether to propose a Union system of geographical indications (GIs) protection for non-agricultural products.
- (3) For many years, geographical indication protection has been established at Union level for wines, spirit drinks<sup>6</sup>, aromatised wines<sup>7</sup>, as defined at Union level, as well as

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<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> Council conclusions on intellectual property policy and the revision of the industrial designs system in the Union, 10 November 2020.

<sup>6</sup> Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 (OJ L 130, 17.5.2019, p. 1).

<sup>7</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations

agricultural products and foodstuffs<sup>8</sup>, as protected at Union level. It is appropriate to provide Union-wide geographical indication protection in respect of products falling outside the scope of existing regulations, while ensuring convergence, and aiming at encompassing a large variety of craft and industrial products, such as natural stones, jewellery, textiles, lace, cutlery, glass and porcelain.

- (4) Several Member States have national regimes for the protection of national geographical indications for craft and industrial products. These regimes differ in terms of protection, administration and fees, and do not offer protection beyond the national territory. Other Member States do not provide for geographical indication protection at national level for such products. That complex landscape of various protection regimes at Member States level may result in increased costs and legal uncertainty for producers and be a disincentive to investment in the traditional crafts in the Union.
- (5) Unitary protection throughout the Union for the intellectual property rights related to geographical indications can contribute to incentives for the production of quality products, the wide availability of such products for consumers and the creation of valuable and sustainable jobs including in rural and less-developed regions. In particular in view of the potential of geographical indications to contribute to sustainable and highly skilled jobs in rural and less developed regions, producers should aim at creating a substantial proportion of the value of the product designated by a geographical indication within the defined geographical area.
- (6) On 26 November 2019, the Union acceded to the 2015 Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications<sup>9</sup> ('Geneva Act') which is administered by the World Intellectual Property Organization. The Geneva Act offers a means to obtain protection of geographical indications regardless of the nature of the goods to which they apply, including handicrafts and industrial products.
- (7) Making geographically linked products is often based on local know-how and follows local production methods that are rooted in the cultural and social heritage of the home region of such products. Efficient intellectual property protection has the potential to contribute to increased profitability and attractiveness of the traditional craft professions. Specific geographical indication protection is acknowledged so as to safeguard and develop cultural heritage both in the agricultural and the craft and industrial areas. Efficient procedures should be established for the registration of Union geographical indications protecting the names of craft and industrial products, which take into account regional and local specificities. The geographical indication system for craft and industrial products should ensure that the production and marketing traditions are maintained and enhanced.
- (8) It is therefore necessary to firstly, ensure fair competition for producers of craft and industrial products in the internal market; secondly, guarantee the availability to consumers of reliable information pertaining to such products; thirdly, safeguard and develop cultural heritage and traditional know-how; fourthly ensure an efficient registration of geographical indications for craft and industrial products both for the

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(EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347 20.12.2013, p. 671).

<sup>8</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

<sup>9</sup> OJ L 271, 24.10.2019, p. 15.



Union and at international level; fifthly provide for an effective enforcement of intellectual property rights throughout the Union and in electronic commerce within the internal market, and lastly, ensure the link with the international registration and protection system based on the Geneva Act.

- (9) To provide for a full coverage of craft and industrial products eligible for GI protection (i.e. those having characteristics, attributes or reputation linked to their place of production or manufacturing), the scope of this Regulation needs to be determined in line with the relevant international framework, namely, the World Trade Organization. Hence, the use of the Combined Nomenclature should be established through direct reference to Annex I to Council Regulation No 2658/87<sup>10</sup>. This approach ensures coherence with the scope of the revised GI Regulation for agricultural products, foodstuff, wine and spirits.
- (10) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles including the right to protection of personal data, the freedom to conduct a business and the right to property, including intellectual property.
- (11) The tasks assigned by this Regulation to Member States' authorities, the Commission and the European Union Intellectual Property Office, hereinafter the 'Office', may require the processing of personal data, in particular where this is needed to identify applicants in a registration amendment or cancellation procedure, opponents in an opposition procedure or beneficiaries of transitional period granted to derogate from the protection of a registered name.. Processing of such personal data is therefore necessary for the performance of a task carried out in the public interest. Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter and it is essential that Member States comply with Regulation (EU) 2016/679<sup>11</sup> of the European Parliament and of the Council and Directive 2002/58/EC<sup>12</sup>, and the Commission and the Office with Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>13</sup>.
- (12) Where applicable, the information included in the single document shall be made available through the Digital Product Passport as set out by the Regulation establishing a framework for ecodesign requirements for sustainable products and repealing Directive 2009/125/EC.
- (13) Member States should have the possibility to charge a registration fee to cover their costs of managing the geographical indication system for craft and industrial products.

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<sup>10</sup> Council Regulation (EEC) No 2685/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff Regulation (OJ L 256, 7.9.1987 p.1).

<sup>11</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

<sup>12</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31. 7.2002, p. 37).

<sup>13</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

Member States should charge lower fees for micro, small or medium-sized enterprises (MSMEs). The Office should not charge a fee for the management of the Union application process. However, the Office should have the possibility to charge a fee for the direct registration. In that case, the fees charged by the Office should be laid down by an implementing act in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>14</sup>.

- (14) To qualify for protection in the Member States, geographical indications should be registered only at Union level. However, with effect from the date of application for such registration at Union level, Member States should be able to grant temporary protection at national level without affecting the internal market of the Union or international trade. The protection afforded by this Regulation upon registration should be equally available to geographical indications of third countries that meet the corresponding criteria and that are protected in their country of origin. The Office should carry out the corresponding procedures for geographical indications originating in third countries.
- (15) The procedures for registration, amendments to the product specification and cancellation of the registration in respect of geographical indications originating in the Union under this Regulation should be carried out by the Member States and the Office. The Member States and the Office should be responsible for distinct stages of the procedures. Member States should be responsible for the first stage, which consists of receiving the application from the applicants, assessing it, running the national opposition procedure, and, following the positive results of the assessment, submitting the Union application to the Office. The Office should be responsible for examining the applications in the second stage of the procedure, running the worldwide opposition procedure and taking a decision on granting or refusing the protection to the geographical indication. The Office should also carry out the corresponding procedures for geographical indications originating in third countries, without prejudice to the direct registration procedure.
- (16) In order to facilitate the management of GI applications by national authorities, it should be possible for two or more Member States to: (i) cooperate in the management of the national phase of the procedures, including those procedures for registration, examination, national opposition, submission of the Union application to the Office, amendments to the product specification and cancellation of the registration, and (ii) decide that one of them manages these procedures also on behalf of the other Member State or Member States concerned. In those cases, all the Member States concerned should inform the Commission without delay, providing the necessary information.
- (17) It is possible for certain Member States to obtain a derogation from the Member States' obligation to designate a national authority in respect of geographical indications for craft and industrial products to take charge of the procedures for registration, national opposition, amendments to the product specification and cancellation of the registration under certain circumstances specified in this Regulation. That derogation, that should take the form of a Commission Decision, takes into account the fact that certain Member States do not have a specific national system for the management of geographical indications for craft and industrial

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<sup>14</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

products and that the local interest in these countries to protect these geographical indications is minimal. Under these circumstances, it would not be justified to oblige the respective Member State to set up an infrastructure, employ the necessary personnel and purchase facilities for the management of these geographical indications. It is more effective and economical to provide an alternative procedure for the producer groups from these Member States to protect their products by a geographical indication. The “direct registration procedure” has cost advantages reaped by Member States. Pursuant to this derogation, procedures for registration, amendments to the product specification and cancellation should be managed directly by the Office. In this regard the Office should receive the effective assistance of the administrative authorities of that Member State when required by the Office, through designation of a contact point, as regards in particular aspects related to the examination of the application. In those cases, the Office should be entitled to charge a registration fee, considering that this procedure generates more work for the Office than the management of Union applications. However, the application of the “direct registration procedure” should not exempt Member States from the obligation to designate a competent authority for the controls and enforcement and to take the necessary actions to enforce the rights set out in this Regulation. The competent authority maintained or designated for the management of the geographical indications and the competent authority designated for the controls and enforcement may differ, when a Member State so decides.

- (18) The Commission, after reviewing the information provided by the Member State, should adopt a Commission Decision establishing the right of the Member State to opt for the exceptional direct registration procedure. Accordingly, the Commission should retain the right to modify and withdraw a Decision allowing a Member State to opt for the “direct registration procedure”, should the conditions not be met by the Member State concerned. This is, for example, the case should the number of direct applications submitted by applicants from that Member State exceed the original number estimated by that Member State in a recurrent manner over time.
- (19) To ensure coherent decision-making as regards applications for protection and judicial challenges against them, submitted in the national procedure, the Office should be informed in a timely and regular manner when procedures are launched before national courts or other bodies concerning an application for registration forwarded by the Member State to the Office and of their final results. For the same reason, where a Member State considers that a national decision on which the application for protection is based is likely to be invalidated as a result of national judicial proceedings, it should inform the Office of that assessment. If the Member State requests the suspension of the examination of an application at Union level, the Office should be exempted from the obligation to meet the deadline for examination established therein. In order to protect the applicant from vexatious legal actions and to preserve the applicant’s right to secure the protection of a name within a reasonable time, the exemption should be limited to cases in which the application for registration has been invalidated at national level by an immediately applicable but not final judicial decision or in which the Member State considers that the action to challenge the validity of the application is based on valid grounds.
- (20) To allow operators, whose interests are affected by the registration of a name, to continue to use that name for a limited period of time, while contravening the protection regime, specific derogations for the use of the names in the form of transitional periods should be granted. Such periods can also be allowed to overcome

temporary difficulties and with the long-term objective of ensuring that all producers comply with the product specification. Without prejudice to the rules governing conflicts between geographical indications and trademarks, names, which would otherwise contravene the protection of geographical indication, may continue to be used under certain conditions and for a transitional period.

- (21) The Commission should have the right to take over from the Office the power to decide concerning individual applications for registration, amendments to the product specification or cancellation. The Office should remain responsible for the examination of the file, the opposition procedure, when needed, and based on technical considerations, it shall submit a proposal for an implementing act to the Commission. Any Member State or the Office may request the Commission to exercise this prerogative. The Commission may also act on its own initiative.
- (22) To ensure transparency and uniformity across Member States, it is necessary to establish and maintain an electronic Union register of geographical indications for craft and industrial products. The register should be an electronic database stored within an information system, and should be accessible to the public. The Union register of geographical indications for craft and industrial products should be developed, kept and maintained by the Office and also the personnel for its operation should be provided by the Office.
- (23) The Union negotiates international agreements, including those concerning the protection geographical indications, with its trade partners. Protection of geographical indications for craft and industrial products throughout the Union can also stem from those agreements, irrespective of the international registrations provided under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications or the application and registration system set out in this Regulation. In order to facilitate the provision to the public of information about the geographical indications protected in the Union either by virtue of the international registrations provided under the Geneva Act or by virtue of the international agreements with the Union trade partners, and in particular to ensure protection and control of the use to which those geographical indications are put, those geographical indications should be entered in the Union register of geographical indications for craft and industrial products.
- (24) For the optimal functioning of the internal market, it is important that producers and other operators concerned, authorities and consumers may quickly and easily have access to the relevant information concerning a registered protected geographical indication.
- (25) It is necessary to ensure that parties that are affected by decisions made by the Office are protected by the law. To that end, provision should be made to allow for an appeal of decisions of the Office, taken in proceedings under this Regulation, before an appeal body of the Office. A Boards of Appeal of the Office should decide on the appeal. Decisions of the Boards of Appeal should, in turn, be amenable to actions before the General Court, which has jurisdiction to annul or to alter the contested decision.
- (26) The Office should establish an information and alert system against the abusive use of craft and industrial geographical indications in the domain name system. This system should inform applicants, on the one hand, about the availability of the geographical indication as a domain name and, on the other hand, provide them with information once a domain name that is conflicting with their geographical indication is registered.

Receiving such alerts would allow producers to take appropriate action more quickly and effectively. Registries of country-code top-level domain names, established in the Union, should provide the Office with all the information and data in their possession necessary to run the system as a task carried out in public interest, namely information on the availability of the geographical indication as a domain name and, as far as the alerts are concerned, the particulars of conflicting domain names, the dates of its application and registration. The information and data should be provided in a machine readable format. Making the information and data available to the Office is proportionate as it serves the legitimate purpose of ensuring better protection and enforcement of geographical indications as intellectual property in the online environment. This is even more so as regarding the alerts the transfer of domain name registration data is explicitly limited to those domain names that are identical or similar and therefore potentially capable of infringing the geographical indication concerned.

- (27) It is necessary to establish an Advisory Board, which is a pool of experts, composed of representatives from Member States and the Commission. The purpose of the Advisory Board is to provide the necessary local knowledge and expertise concerning certain products and knowledge about the local circumstances that may influence the outcome of the procedures laid down in this Regulation. In order to support the Office on its assessment of individual applications at any stage of the examination, opposition, appeal or other procedures with specific technical knowledge, the Geographical Indications Division or the Boards of Appeal, at its own initiative or at the request of the Commission, should have the possibility to consult the Advisory Board. The consultation, when necessary, should also include a general opinion on assessing quality criteria, establishing reputation and renown, determining generic nature of a name, and assessing fair competition in commercial transactions and the risk of confusing consumers. The opinion of the Advisory Board should not be binding. The appointment procedure of the experts and the operation of the Advisory Board should be specified in the rules of procedure of the Advisory Board approved by the Management Board.
- (28) Protection should be granted to names included in the Union register of geographical indications for craft and industrial products to ensure that they are used fairly and in order to prevent practices liable to mislead consumers. In order to strengthen geographical indication protection and to combat more effectively counterfeiting, the protection of geographical indications should also apply to domain names on the internet. Concerning the protection of geographical indications, it is also important to have due regard to the Agreement on Trade-Related Aspects of Intellectual Property Rights, and in particular Articles 22 and 23 thereof, and to the General Agreement on Tariffs and Trade including Article V thereof on freedom of transit, which were approved by Council Decision 94/800/EC<sup>15</sup>. Within such legal framework, in order to strengthen geographical indication protection and to combat counterfeiting more effectively, such protection should also apply with regard to goods entering the

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<sup>15</sup> Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

customs territory of the Union without being released for free circulation, and placed under special customs procedures such as those relating to transit, storage, specific use or processing.

- (29) Clarity is required on the use of a geographical indication in the sale name of a manufactured product of which the product designated by the geographical indication is a part or component. It should be ensured that such use is made in accordance with fair commercial practices and does not weaken, does not dilute, or is not detrimental to the reputation of the product designated by the geographical indication. The consent of the producers group or the individual producer of the geographical indication concerned should be required to allow such use.
- (30) Generic terms that are similar to, or form part of, a name or term that is protected by a geographical indication should retain their generic status.
- (31) The protection of geographical indications needs to balance with the protection of homonymous names registered as geographical indications as well as renowned trademarks, in particular in light of the fundamental right to property as set out in Article 17 of the Charter of Fundamental Rights of the European Union as well as obligations resulting from international law.
- (32) Producer groups play an essential role in the application process for the registration of geographical indications, as well as in the amendment of specifications and cancellation requests. They should be equipped with the necessary means to better identify and market the specific characteristics of their products. The role of the producer group should therefore be clarified.
- (33) The relationship between internet domain names and geographical indications should be clarified as regards the scope of the application of the remedy measures, the recognition of geographical indications in dispute resolution, and the fair use of domain names. Persons having a legitimate interest in a registered geographical indication should be empowered to request for the revocation or the transfer of the domain name in case the conflicting domain name has been registered by its holder without rights or legitimate interest in the geographical indication or if it has been registered or is being used in bad faith and its use contravenes the protection of a geographical indication. Alternative dispute resolution procedures should not prejudice the possibility of bringing domain name disputes before a national court.
- (34) The relationship between trade marks and geographical indications should also be clarified in relation to criteria for the rejection of trade mark applications, the invalidation of trade marks and the coexistence between trade marks and geographical indications.
- (35) In order to avoid creating unfair conditions for competition, any producer, including a third-country producer, should be able to use a registered geographical indication, provided that the product concerned complies with the requirements of the relevant product specification, or single document or equivalent to the latter i.e. a complete summary of the product specification. The system set up by the Member States should also guarantee that producers complying with the rules are covered by the verification of compliance of the product specification.
- (36) As it is the first time that an Union-wide geographical indication protection system for craft and industrial product is implemented, it is important to raise awareness among consumers, producers, especially MSMEs and public authorities at national, regional and local level about the initiative.

- (37) The symbols, indications and abbreviations identifying a registered geographical indication, and the rights therein pertaining to the Union, should be protected in the Union as well as in third countries with the aim of ensuring that they are used on genuine products and that consumers are not misled as to the qualities of products.
- (38) The use of Union symbols and indications on the packaging of craft and industrial products designated by a geographical indication should be recommended in order to make this category of products, and the guarantees attached to them, better known to consumers and to permit easier identification of these products on the market, thereby facilitating checks. The use of such symbols or indications should remain voluntary for third-country geographical indications.
- (39) For the sake of clarity for consumers and to maximise coherence with the revised Regulation for protection of geographical indications for agricultural products, foodstuff, wine and spirits, the Union symbol used on the packaging of craft and industrial products designated by a geographical indication should be identical to the one used on the packaging of agricultural products and foodstuffs, wines and spirit drinks designated by a geographical indication established under Commission Delegated Regulation (EU) 664/2014<sup>16</sup>.
- (40) The added value of geographical indications is based on consumer trust. Such trust can only be well-founded if the registration of geographical indications is accompanied by effective verification and controls, including the producer's due diligence.
- (41) In order to guarantee consumers of the specific characteristics of craft and industrial products protected by geographical indications, producers should be subject to a system that verifies compliance with the product specification before the product is put on the market. Member States should be free to establish a third-party verification system operated by the competent authorities, and the product certification bodies, to which those authorities delegate certain official control tasks or a verification system based on a producer's self-declaration. The self-declaration should be submitted to the competent authorities assuring conformity with the product specification.
- (42) To guarantee compliance with the product specification after the product has been put on the market, competent authorities should perform official controls in the marketplace on a risk analysis and with appropriate frequency considering the likelihood of non-compliances including fraudulent or deceptive practices.
- (43) Enforcement of geographical indications in the marketplace is important to prevent fraudulent and deceptive practices thus ensuring that the producers of products designated by a geographical indication are properly rewarded for the added value of their products bearing a geographical indication and that illegal users of those geographical indications are prevented from selling their products. Therefore, apart from controls concerning the producers, Member States should also take appropriate administrative and judicial steps to prevent or stop the use of names on products or services that contravene the protected geographical indications, where such products are produced, marketed or such services are marketed, in their territory. For the

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<sup>16</sup> Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules (OJ L 179, 19.6.2014, p. 17).

purposes of enforcing geographical indications, measures, procedures and remedies set out in Directive 2004/48/EC<sup>17</sup> of the European Parliament and of the Council are available as they are applicable to any infringement of intellectual property rights.

- (44) Member States should have the possibility to allow producers to fulfil their obligation to perform due diligence by submitting a self-declaration to the competent authorities every three years, demonstrating their continued compliance. Producers should be required to renew their self-declaration immediately where there is an amendment to the product specification or a change affecting the concerned product. The use of self-declaration should not prevent producers from having their conformity fully or partially certified by eligible third parties. A third-party certification should be able to supplement a self-declaration but not replace it.
- (45) The self-declaration should provide competent authorities with all necessary information on the product and on its compliance with the product specification. To ensure that the information provided in the self-declaration is comprehensive, a harmonised structure for such declarations should be laid down in Annex. It is important to ensure that the self-declaration is filled in truthfully and accurately. Therefore, the producer should take full responsibility for the information provided in the self-declaration, and should be able to provide the necessary evidence to allow for the verification of that information.
- (46) Where a self-declaration certification procedure is in place, competent authorities should carry out random controls.
- (47) In the event of non-compliance with the product specification, the competent authorities should take appropriate measures to ensure that the producers concerned remedy the situation and to prevent further non-compliances. In addition, Member States should provide for a set of effective, proportionate and dissuasive penalties aimed at deterring possible fraudulent behaviour by producers.
- (48) Control and verification fees or charges should cover, but not exceed, the costs, including overhead costs, incurred by the competent authorities to perform official controls. Overhead costs could include the costs of the organisation and support necessary for planning and carrying out the official controls. Such costs should be calculated on the basis of each individual official control or on the basis of all official controls performed over a given period of time. Where fees or charges are applied on the basis of the actual cost of individual official controls, producers with a good record of compliance should bear lower overall charges than non-compliant ones, as such producers with a good record of compliance should be subject to less frequent official controls. In order to promote compliance with Union legislation by all producers irrespective of the method (based on actual costs or on a flat rate) that each Member State has chosen for the calculation of the fees or charges, where fees or charges are calculated on the basis of overall costs incurred by the competent authorities over a given period of time, and imposed on all producers irrespective of whether they are subject to an official control during the reference period, those fees or charges should be calculated so as to reward producers with a consistently good record of compliance. No fee should be charged for the submission of the self-declaration and its processing.

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<sup>17</sup> Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.



- (49) To ensure impartiality and effectiveness, the competent authorities designated to perform the verification of the compliance with the product specification should meet a number of operational criteria. To facilitate the task of controls and to make the system more effective competent authorities should be able to delegate competences regarding the performance of specific control tasks to a legal person which certifies that products designated by geographical indications comply with the product specification ('product certification body'). A delegation of such competences to natural persons should also be envisaged.
- (50) Information on the competent authorities and on product certification bodies should be made public by Member States and the Office to ensure the transparency and allow interested parties to contact them.
- (51) European standards (EN standards) developed by the European Committee for Standardisation (CEN) and international standards developed by the International Organization for Standardization (ISO) should be used for the accreditation of product certification bodies as well as by those bodies for their operations. The accreditation of those bodies should take place in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council<sup>18</sup>. Natural persons should have the expertise, equipment and infrastructure required to perform those official control tasks delegated to them; should be suitably qualified and experienced, and act impartially and free from any conflict of interest as regards the exercise of those official control tasks delegated to them. Product certification bodies established outside the Union should demonstrate their compatibility with Union or internationally recognised standards based on a certificate issued by a body that is a signatory of a multilateral recognition agreement under the auspices of the International Accreditation Forum.
- (52) In order to strengthen geographical indication protection and to combat counterfeiting more effectively, the protection of geographical indications should apply to both, the offline and online environment including domain names on the internet. Intermediary services, in particular online platforms have become increasingly used for the sale of products, including those designated by geographical indications, and in some cases online platforms might represent an important space as regards preventing fraud. In this regard, information related to the advertising, promotion and sale of goods that contravenes the protection of geographical indications provided for in Article 35, should be considered illegal content within the meaning of Article 2 (g) of Regulation (EU) No xxxx/2022<sup>19</sup> of the European Parliament and of the Council and be subject of obligations and measures under that Regulation.
- (53) Taking into account that a product designated by the geographical indication produced in one Member State might be sold in another Member State, administrative assistance between Member States should be ensured to allow effective controls and its practicalities should be laid down.
- (54) For the optimal functioning of the internal market, it is important that producers quickly and easily demonstrate in several contexts that they are authorised to use a protected name, such as at customs controls, market inspections or on demand by trade

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<sup>18</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and repealing Regulation (EEC) No 339/93 (OJ L 218 13.8.2008, p. 30).

<sup>19</sup> Regulation of the European Parliament and of the Council on a Single Market For Digital Services (DSA) and amending Directive 2000/31/EC.

operators. To this end, an official certificate, or other proof of certification, of entitlement to produce the product designated by the geographical indication should be put at the disposal of the producer.

- (55) The action of the Union following its accession to the Geneva Act is governed by Regulation (EU) 2019/1753 of the European Parliament and of the Council<sup>20</sup>. Certain provisions of that Regulation should be amended to ensure coherence with the introduction of geographical indication protection for craft and industrial products at the Union level, in accordance with this Regulation. In this context, the Office should play the role of the Union's competent authority in respect of geographical indications for craft and industrial products under the Geneva Act. Provisions of Regulation (EU) 2019/1753 applicable to geographical indications falling outside the scope of regulations on the EU's protection schemes for agricultural geographical indications should be aligned with this Regulation.
- (56) Regulation (EU) 2017/1001 of the European Parliament and of the Council<sup>21</sup> should be amended. Article 151 of that Regulation sets out the tasks of the Office. The administration and promotion of geographical indications, in particular the tasks conferred on the Office under this Regulation should be added to Article 151 of that Regulation. In addition, in order to ensure coherence with this Regulation, a provision on the establishment of a domain name information and alert system for EU trade marks should also be inserted in that Regulation.
- (57) For the tasks conferred on the Office under this Regulation, the languages of the Office should be all the official languages of the Union. The Office may accept verified translations into one of the official languages of the Union of documents and information with respect to applications for registration, amendment for product specification and cancellation procedures submitted from third countries. The Office may, if appropriate, use verified machine translations.
- (58) The digital system should include a front and back office and allow for smooth connection, interface with and integration to IT systems of national authorities, the Union GI register of geographical indications for craft and industrial products and the IT system of the World Intellectual Property Office for the protection through the Geneva Act of the Lisbon Agreement. The Union register of geographical indications designed by the Office for craft and industrial products should be similar in appearance and have at least those functionalities to the Register of geographical indications for wines, foodstuff and agricultural products.
- (59) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards: (i) laying down rules which limit the information contained in the product specification, where such a limitation is necessary to avoid excessively voluminous applications for registration; (ii) laying down rules on the form of the product specification; (iii) specifying the format and online presentation of the relevant single document; (iv) specifying the format and online presentation of the accompanying documentation; (v) determining the amounts of the fees and the ways in which they are to be paid; (vi) specifying further details on the criteria to lodge direct applications and on the

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<sup>20</sup> Regulation (EU) 2019/1753 of the European Parliament and of the Council of 23 October 2019 on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (OJ L 271, 24.10.2019, p. 1).

<sup>21</sup> Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ L 154, 16.6.2017, p. 1).

procedures for the preparation and submission of the direct applications; (vii) specifying the procedures, and criteria for preparation and submission of the applications, and their form and presentation, in order to facilitate the application process, including for applications concerning more than one national territory; (viii) laying down the necessary rules to provide for the submission of official comments by national authorities and persons with a legitimate interest in order to facilitate the official submission of comments and to improve management of the opposition process; (ix) specifying the format and online presentation of oppositions and any comments procedure; (x) specifying rules on the protection of the geographical indication; (xi) deciding on the protection of geographical indications pertaining to products of third countries that are protected in the Union under an international agreement to which the Union is a contracting party; (xii) specifying the content and presentation of the Union register of geographical indications; (xiii) specifying the format and online presentation of extracts from the Union register of geographical indications for craft and industrial products; (xiv) laying down detailed rules on procedures, form and presentation of an amendment application for Union amendment and on procedures, form and communication of standard amendments to the Office; (xv) laying down detailed rules on procedures and form of the cancellation process, as well as on the presentation of the requests; (xvi) setting out the technical characteristics of the Union symbol and indications as well as the rules of their use on the products marketed under a registered geographical indication, including rules concerning the appropriate linguistic versions to be used; (xvii) specifying the nature and the type of the information to be exchanged and the methods for exchanging information under mutual assistance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>22</sup>.

- (60) In order to amend or supplement certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the requirements or listing additional items of the accompanying documentation, defining procedures and conditions applicable to the preparation and submission of Union applications for registration, rules on entrusting the Office to operate the Union register of geographical indications for craft and industrial products; the formal content of the notice of appeal, the procedure for the filing and the examination of an appeal as well as the formal content and the form of the Board of Appeal's decisions; the information and requirements of the self-declaration and the technical assistance of the Office. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>23</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>22</sup> OJ L 55, 28.2.2011, p. 13.

<sup>23</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

- (61) The current protection of geographical indications at national level is based on various regulatory approaches. Having two parallel systems at Union and national levels might carry the risk of confusing consumers and producers. The replacement of national specific geographical indication protection systems by the Union wide regulatory framework will create legal certainty, reduce administrative burden for national authorities, ensure fair competition between the producers of the products bearing such indications as well as predictable and relatively low costs and enhance the credibility of the products in the consumers' eyes. To this end, the national specific protection for geographical indications for craft and industrial products will cease to exist one year after the entry into force of this Regulation. The protection may be extended in time until the registration process is finalised for those national GIs identified by interested Member States. Some Member States that are party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration have registered geographical indications for craft and industrial products and protected geographical indications for craft and industrial products originating from third countries under that Agreement. Regulation (EU) 2019/1753 should therefore be amended so as to allow for the continued protection of those geographical indications for craft and industrial products.
- (62) Since a period of time is required to ensure that the framework for the proper functioning of this Regulation is in place to create a Union and international registration system (including IT system, setting up and managing the Union register of geographical indications for craft and industrial products, the EU alert system against the abusive use of geographical indications for craft and industrial products in the internet, etc.), this Regulation should start to apply [XX] months following the date of its entry into force.
- (63) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on (...),

HAVE ADOPTED THIS REGULATION:

# TITLE I

## GENERAL PROVISIONS

### *Article 1*

#### **Subject matter**

This Regulation lays down rules on:

- (a) the registration, protection, control and enforcement of certain names that identify craft and industrial products with given quality, reputation or other characteristics linked to their geographical origin and,
- (b) geographical indications entered in the international register established under the international registration and protection system based on the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications administered by the World Intellectual Property Organisation (WIPO).

### *Article 2*

#### **Scope**

1. This Regulation applies to craft and industrial products listed under the combined nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87<sup>24</sup>
2. This Regulation does not apply to spirit drinks as referred in Regulation (EU) 2019/787 of the European Parliament and of the Council<sup>25</sup>, wines as defined in Regulation (EU) No 1308/2013 of the European Parliament and of the Council<sup>26</sup>, nor to agricultural products and foodstuffs as protected by Regulation (EU) No 1151/2012 of the European Parliament and of the Council<sup>27</sup>.
3. Registrations and protection of geographical indications are without prejudice to the obligation of producers to comply with other Union rules, in particular relating to the placing of products on the market and, in particular, to product labelling requirements, to product safety, consumer protection and market surveillance.

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<sup>24</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff Regulation (OJ L 256, 7.9.1987 p.1)

<sup>25</sup> Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008 (OJ L 130, 17.5.2019, p. 1).

<sup>26</sup> Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347 20.12.2013, p. 671).

<sup>27</sup> Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, p. 1).

4. The geographical indications system laid down in this Regulation shall apply notwithstanding Directive (EU) No 2015/1535 of the European Parliament and of the Council<sup>28</sup>.

### *Article 3*

#### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (a) ‘craft products’ means products produced either totally by hand or with the aid of manual tools or by mechanical means, whenever the direct manual contribution is the most important component of the finished product;
- (b) ‘industrial products’ means products produced in a standardised way, typically on mass scale and through the use of machines;
- (c) ‘combined nomenclature’ means combined nomenclature as established in Article 1 of Regulation (EEC) No 2658/87;
- (d) ‘producer group’ means any association, irrespective of its legal form, mainly composed of producers or processors working with the same product;
- (e) ‘production step’ means any stage of production, processing or preparation, up to the point, where the product is in a form to be placed on the internal market;
- (f) ‘traditional’ and ‘tradition’, when associated with a product originating in a geographical area, means proven historical usage by producers in a community for a period that allows transmission between generations;
- (g) ‘producer’ means an operator engaged in any production step of a product the name of which is protected as a geographical indication, including processing activities, covered by the product specification;
- (h) ‘generic terms’ means:
  - (i) the names of products which, although relating to the place, region or country where the product was originally produced or marketed, have become the common name of a product in the Union or
  - (ii) a common term descriptive of the type of product, product attributes or other terms that do not refer to specific product;
- (i) ‘product certification body’ means a legal person which certifies that products designated by geographical indications comply with the product specification, whether in performance of a delegated official control task or any other mandate;
- (j) ‘self-declaration’ means a document in which a producer, or an authorised representative, indicates on his or her sole responsibility that the product is compliant with the corresponding product specification and that all necessary controls and checks for the proper determination of conformity have been carried out in order to demonstrate the lawful use of the geographical indication to the competent authorities of Member States.

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<sup>28</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

- (k) ‘notice of comment’ means a written observation lodged with the European Union Intellectual Property Office (‘the Office’) indicating inaccuracies in the application without triggering the opposition procedure.

#### *Article 4*

##### **Data protection**

1. The Commission and the Office shall be considered controllers within the meaning of Article 3, point (9), of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>29</sup> in relation to the processing of personal data in the procedure it is competent for in accordance with this Regulation.
2. The competent authorities of Member States shall be considered controllers within the meaning of Article 4, point (7), of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>30</sup> in relation to the processing of personal data in the procedures for which they are competent in accordance with this Regulation.

#### *Article 5*

##### **Requirements for a geographical indication**

For the name of a craft and industrial product to qualify for “geographical indication” protection, the product shall comply with the following requirements:

- (a) The product originates in a specific place, region or country;
- (b) Its given quality, reputation or other characteristic is essentially attributable to its geographical origin; and
- (c) at least one of the production steps of the product takes place in the defined geographical area.

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<sup>29</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>30</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, *OJ L 119, 4.5.2016, p. 1–88*.

# TITLE II

## REGISTRATION OF GEOGRAPHICAL INDICATIONS

### Chapter 1

#### General Provisions

##### *Article 6*

##### **Applicant**

1. Applications for the registration of geographical indications shall only be submitted by a producer group of a product ('applicant producer group'), the name of which is proposed for registration. Regional or local public entities may help in the preparation of the application and in the related procedure.
2. An authority designated by a Member State may be deemed to be an applicant producer group for the purposes of this Title, if it is not feasible for the producers concerned to form a group by reason of their number, geographical location or organisational characteristics. Where such representation takes place, the application referred to in Article 11(3) shall state these reasons for such representation.
3. A single producer may be deemed to be an applicant producer group for the purposes of this Title, where both of the following conditions are fulfilled:
  - (a) the person concerned is the only producer willing to submit an application for the registration of a geographical indication;
  - (b) the geographical area concerned is defined by natural features without reference to property boundaries and has characteristics which differ appreciably from those of neighbouring areas or the characteristics of the product are different from those produced in neighbouring areas.
4. In the case of a geographical indication that designates a cross-border geographical area, producer groups from different Member States may lodge a joint application for the registration of a geographical indication from either Member State. When the cross-border geographical area concerns a Member State and a third country, they may lodge a joint application for registration with the national authority of the Member State concerned. When the cross-border geographical area concerns several third countries, several producer groups may lodge a joint application with the Office.

##### *Article 7*

##### **Product specification**

1. Craft and industrial products the names of which are registered as a geographical indication shall comply with a product specification, which shall include at least:
  - (a) the name to be protected as geographical indication which may be either a geographical name of the place of production of a specific product, or a name used in trade or in common language to describe the specific product in the defined geographical area;
  - (b) a description of the product, including, if appropriate, the raw materials;



- (c) the specification of the defined geographical area creating the link referred to in point (g),
  - (d) evidence that the product originates in the defined geographical area specified in Article 5, point (c);
  - (e) a description of the method of producing or obtaining the product and, where appropriate, the traditional methods and specific practices used;
  - (f) information concerning packaging, where the applicant producer group so determines and gives sufficient product-specific justification as to why the packaging must take place in the defined geographical area to safeguard quality, to ensure the origin or to ensure control, taking into account Union law, in particular that on the free movement of goods and the free movement of services;
  - (g) details establishing the link between a given quality, the reputation or other characteristic of the product and the geographical origin as referred to in Article 5, point (b);
  - (h) any specific labelling rule for the product in question;
  - (i) other applicable requirements where provided for by Member States or by a producer group, if applicable, having regard to the fact that such requirements must be objective, non-discriminatory and compatible with Union law.
2. The Commission may adopt implementing acts laying down rules, which limit the information contained in the product specification referred to in paragraph 1, where such a limitation is necessary to avoid excessively voluminous applications for registration and rules on the form of the product specification. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

## *Article 8*

### **Single document**

1. The single document shall comprise:
- (a) the following main points of the product specification:
    - (i) the name;
    - (ii) a description of the product, including, where appropriate, specific rules concerning packaging and labelling,
    - (iii) a concise definition of the geographical area;
  - (b) a description of the link between the product and the geographical origin referred to in Article 7(1), point (g), including, where appropriate, the specific elements of the product description or production method justifying that link.
2. The Commission may adopt implementing acts setting out the format and online presentation of the single document provided for in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

## Article 9

### **Documentation accompanying the application for registration**

1. The documentation accompanying the application for registration ('accompanying documentation') shall comprise:
  - (a) information concerning any proposed limitations on the use or protection of the geographical indication, as well as any transitional measures proposed by the applicant producer group or by the national authorities notably following the national examination and opposition procedure;
  - (b) the name and contact details of the applicant producer group;
  - (c) the name and contact details of the competent authority and/or product certification body verifying compliance with the provisions of the product specification;
  - (d) a statement as to whether the applicant wants to receive domain name alerts within the meaning of Article 31;
  - (e) any other information deemed appropriate by the Member State, or by the applicant.
2. The Commission shall be empowered to adopt delegated acts supplementing this Regulation by provisions clarifying the requirements or listing additional items of the accompanying documentation to be supplied.
3. The Commission may adopt implementing acts defining the format and online presentation of the accompanying documentation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

## Article 10

### **Registration fees**

1. Member States may charge a fee to cover the costs of managing the geographical indication system for craft and industrial products provided for in this Regulation, including those incurred in processing applications, statements of opposition, applications for amendments and requests for cancellations.
2. Where a Member State charges a fee, the level of the fees shall be reasonable, foster the competitiveness of the producers of the geographical indications and shall take into account the situation of micro, small and medium-sized enterprises.
3. The Office shall not charge any fee for any procedure under this Regulation.
4. By way of derogation to paragraph 3 of this Article, the Office shall charge a fee in the direct registration procedure referred to in Article 15, in the procedure referred to in Article 17(3) and for the appeals before the Boards of Appeal referred to in Article 30. Fees may be charged also for the amendment of the product specification and cancellation if the procedure concerns a name that was registered under Article 15 or Article 17(3).
5. The Commission shall adopt implementing acts to determine the amounts of the fees charged by the Office and the ways in which they are to be paid or, in case of the fee for appeals before the Boards of Appeal, reimbursed. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

## **Chapter 2**

### **National stage of the registration**

#### *Article 11*

##### **Designation of competent authority and procedure for national application**

1. Without prejudice to paragraph 4 of this Article and Article 15, each Member State shall maintain or designate a competent authority for the management of the national phase of the registration and other procedures for geographical indications for craft and industrial products.
2. Without prejudice to paragraph 4 of this Article and Article 15, an application for registration of a geographical indication originating in the Union shall be addressed to the competent authorities of the Member State in which the product concerned originates.
3. Applications shall comprise:
  - (a) the product specification referred to in Article 7,
  - (b) the single document referred to in Article 8
  - (c) the accompanying documentation referred to in Article 9.
4. Two or more Member States may agree that the competent authority of one Member State is in charge of the national phase of the registration and other procedures, including the submission of the Union application to the Office, also on behalf of the other Member State, or Member States.

#### *Article 12*

##### **Examination by competent authorities**

The competent authority shall examine the application and shall check that the product complies with the requirements for geographical indications referred to in Article 5 and provides the necessary information for registration referred to in Articles 7, 8 and 9.

#### *Article 13*

##### **National opposition procedure**

1. After the conclusion of the examination referred to in Article 12, the competent authority shall conduct a national opposition procedure. That procedure shall ensure publication of the application and provide for a period of at least 60 days from the date of publication within which any person having a legitimate interest and established or resident on the territory of the Member State in charge of the national phase of the registration or of the Member States in which the product concerned originates ('national opponent') may lodge an opposition to the application with the competent authority of the Member State in charge of the national phase of the registration.
2. The competent authority shall establish the detailed arrangements of the opposition procedure. Those detailed arrangements may include criteria for the admissibility of an opposition, a period of consultation between the applicant and each national

opponent, and submission of a report from the applicant on the outcome of the consultations including any changes the applicant has made to the application.

#### *Article 14*

##### **Decision on national application**

1. If the competent authority, after the examination of the application and the assessment of the results of any oppositions received, and any changes to the application agreed with the applicant, finds that the requirements of this Regulation are met, it shall take a favourable decision and lodge a Union application for registration in accordance with Article 17.
2. The competent authority shall ensure that its decision is made public and that any person having a legitimate interest has an opportunity to lodge an appeal. The competent authority shall ensure that the product specification on which its favourable decision is based is published, and shall provide electronic access to the product specification.

#### *Article 15*

##### **Direct registration**

1. By way of derogation from Article 11, the Commission shall be empowered to exempt a Member State from the obligation to designate a competent authority in accordance with Article 11(1) and to handle the management of the applications of geographical indications for craft and industrial products at national level, if the Member State, by 6 months from the date of entry into force of this Regulation, provides the Commission with evidence that shows that the following conditions are met:
  - (a) the Member State concerned does not have a national *sui generis* system in place for the management of geographical indications for craft and industrial products; and
  - (b) the Member State concerned submits a request for an opt-out accompanied by an assessment to the Commission demonstrating that the local interest for protecting craft and industrial products by a geographical indication is low.
2. The Commission may request further information from the Member State before adopting a Commission Decision on the derogation referred in paragraph 1.
3. When a Member State makes use of the derogation in accordance with paragraph 1, the application from a producer group of that Member State for registration, cancellation or amendment of the product specification of a geographical indication originating in the Union shall be addressed directly to the Office.
4. A Member State that has applied the derogation in accordance with paragraph 1, may decide to withdraw its opt-out and designate a competent authority for the management of the applications of geographical indications for craft and industrial products. Such decision shall not affect any ongoing registration procedures. The Member State shall inform in writing the Commission of its decision to withdraw the opt-out.
5. If the number of direct applications submitted by applicants from a Member State that has opted out substantially exceeds the estimate given in the assessment

submitted by the Member State pursuant to paragraph 1, the Commission may withdraw its decision referred to in paragraph 2.

6. The Member State shall provide the Commission and the Office with the details of a point of contact, independent from the applicant, for any technical issues relating to the product and the application.
7. The Office shall communicate with both the applicant and the point of contact referred to in paragraph 6 on any technical issues relating to the application.
8. Upon request by the Office, within 60 days from such request, the Member State, through the contact point, shall provide assistance in particular for the examination process. Upon request by the Member State, the time limit may be extended by 60 days. Such assistance shall include examining certain specific aspects of the applications lodged by the applicant with the Office, verifying certain information in the applications, issuing declarations concerning such information and replying to other requests for clarifications made by the Office in relation to the applications.
9. If the Member State, through the contact point, does not provide assistance within the time limit referred to in paragraph 8, the application shall be deemed not to be filed.
10. Registration fees may be applicable and paid to the Office. Such fees shall be laid down according to the procedure referred to in Article 10(5).
11. Articles 6 to 9, Articles 11 to 14 and Articles 16 to 30 shall apply to the direct registration procedure referred to in this Article *mutatis mutandis*, with the exception of any examination periods referred to in Article 19(2) and the obligation to conduct a national opposition procedure referred to in Article 13, which shall not apply.
12. For the applications seeking direct registration, consulting the Advisory Board referred to in Article 33 shall be required.
13. In the direct registration procedure, any person having a legitimate interest may lodge an opposition with the Office in accordance with Article 21.
14. This article shall not apply to applications for registration from third countries.
15. Member States applying the procedure set out in this Article shall not be exempted from the obligations laid down in Articles 45 to 58 as regards checks and enforcement.
16. The Commission may adopt implementing acts setting out further details on the criteria for the application of direct registration and on the procedures for the preparation and submission of the direct applications. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 16*

##### **Temporary national protection**

1. A Member State may, on a temporary basis, grant transitional protection to the geographical indications at national level, with effect from the date on which an application for registration is lodged with the Office.
2. The temporary national protection shall cease on the date on which either a decision on the application for registration is adopted or the application is withdrawn.

3. Where a geographical indication is not registered under this Regulation, the consequences of the temporary national protection shall be the sole responsibility of the Member State concerned.
4. The measures taken by Member States in accordance with this Article shall produce effects at national level only, and they shall have no effect on the internal market of the Union or international trade.

## **Chapter 3**

### **Union stage of the registration**

#### *SECTION 1*

#### *PROCEDURE AT THE UNION STAGE*

#### *Article 17*

#### **Union application**

1. For geographical indications concerning products originating in the Union, the Union application for registration submitted by a Member State to the Office, shall comprise:
  - (a) the single document referred to in Article 8;
  - (b) the accompanying documentation referred to in Article 9;
  - (c) declaration by the Member State to which the application was initially addressed, confirming that the application meets the conditions for registration under this Regulation;
  - (d) the electronic publication reference of the product specification referred to in Article 7.
2. The electronic publication referred to in paragraph 1, point (d), shall be kept up to date.
3. For geographical indications concerning products originating in a third country or countries the application for registration is submitted to the Office, such application for registration shall comprise:
  - (a) the product specification referred to in Article 7 together with its publication reference;
  - (b) the single document referred to in Article 8;
  - (c) the accompanying documentation referred to in Article 9;
  - (d) legal proof of protection of the geographical indication in its country of origin;
  - (e) a power of attorney where the applicant is represented by an agent.
4. A joint application for registration referred to in Article 6(4) shall be submitted to the Office by one of the Member States concerned or by the applicant producer group in a third country, directly or by the competent authority of that third country. If the cross-border area concerns any Member State and a third country, the joint application shall be submitted by the Member State concerned.
5. The joint application referred to in Article 6(4) shall include, where relevant, the documents listed in paragraphs 1 and 2 of this Article, from the Member States or

third countries concerned. The related national procedure for application, the examination and opposition procedure referred to in Articles 11, 12 and 13 shall be carried out in all the Member States and third countries concerned.

6. The Commission shall be empowered to adopt delegated acts defining procedures and conditions applicable to the preparation and submission of Union applications for registration.
7. The Commission may adopt implementing acts laying down detailed rules on procedures, the form and presentation of Union applications for registration, including for applications concerning more than one national territory. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 18*

##### **Submission of the Union application**

1. A Union application for the registration of a geographical indication, including the direct registration referred to in Article 15, shall be submitted to the Office electronically, through a digital system by the competent authority of the Member State or where Article 15 applies, by the producer group concerned. The digital system shall have the capacity to allow the submission of applications to competent authorities of a Member State, and to be used by the Member State in its national procedure.
2. Where the application for registration relates to a geographical area in a third country, the application shall be submitted to the Office, either directly by the applicant producer group or by the competent authority of the third country concerned. The digital system, referred to in paragraph 1, shall have capacity to allow the submission of those applications by an applicant producer group established in a third country and by the competent authorities in the third country concerned. The applicant producer group and the competent authorities of the third country concerned shall be considered a party to the procedure.
3. Upon submission, the Office shall publish the Union application in the Union register of geographical indications for craft and industrial products.

#### *Article 19*

##### **Examination and publication for opposition**

1. The Office shall examine any application for registration that it receives under Article 17(1). Such examination shall consist of a check that:
  - (a) there are no manifest errors;
  - (b) the information provided in accordance with Article 17 is complete; and
  - (c) the single document is precise and technical in nature and in accordance with Article 8.
2. The examination shall take into account the outcome of the preliminary national procedure carried out by the Member State concerned, unless Article 15 is applied.

3. The examination carried out pursuant to paragraph 1 shall not exceed a period of 6 months. Where the examination period exceeds or is likely to exceed 6 months, the Office shall inform the applicant of the reasons for the delay in writing.
4. The Office may seek supplementary information from the Member State concerned. If the application is lodged by a producer group from a third country or by the competent authority of a third country, such producer group or competent authority shall provide supplementary information where requested to do so by the Office.
5. When the Office consults the Advisory Board as referred to in Article 33, the applicant shall be notified thereof and the period referred to in paragraph 2 of this Article shall be suspended.
6. Where, based on the examination carried out pursuant to paragraph 1, the Office finds that the application is incomplete or incorrect, the Office shall send its observations to the Member State or in case of third country applications, to the relevant producer group or competent authority that has submitted the Union application, from where that application originates and request to complete or to correct the application within 60 days. If the Member State, or in case of third country applications, the relevant producer group or competent authority, does not complete the application within the deadline, the application shall be considered to be withdrawn, or if not corrected, it shall be rejected pursuant to Article 24(2).
7. Where, based on the examination carried out pursuant to paragraph 1, the Office considers that the conditions laid down in this Regulation are fulfilled, it shall publish for the purposes of opposition in the Union register of geographical indications for craft and industrial products the single document and the reference to the product specification on the webpage of the Member State concerned. The single document shall be published in the official languages of the Union.

#### *Article 20*

##### **National challenge to an application**

1. Member States shall keep the Office informed of any national administrative and judicial proceedings that may affect the registration of a geographical indication.
2. The Office shall be exempted from the obligation to meet the deadline to perform the examination laid down in Article 19(2) and to inform the applicant of the reasons for the delay, where it receives a communication from a Member State, concerning an application for registration in accordance with Article 14(1), which:
  - (a) informs the Office that the decision referred to in Article 14(1) has been invalidated at national level by an immediately applicable, but not final, judicial decision; or
  - (b) requests the Office to suspend the examination because national administrative or judicial proceedings have been initiated to challenge the validity of the application and the Member State considers that those proceedings are based on valid grounds.
3. The exemption set out in paragraph 2 shall have effect until the Office is informed by the Member State that the original application has been restored or that the Member State withdraws its request for suspension.



4. If the judicial decision referred to in paragraph 2 has acquired the force of *res judicata*, the Member State shall, as necessary, withdraw or modify the application.

#### Article 21

##### **Opposition and comments procedure**

1. Within 3 months from the date of publication of the single document and the reference to the product specification referred to in Article 7 in the Union register of geographical indications for craft and industrial products an opponent may lodge an opposition or notice of comment with the Office. The applicant and the opponent shall be considered a party to the procedure.
2. An opponent may be the competent authorities of a Member State, or of a third country, or a natural or legal person having legitimate interest and established or resident in a third country or in another Member State that does not qualify as a national opponent pursuant to Article 13(1).
3. The Office shall check the admissibility of the opposition. If the Office considers that the opposition is admissible, it shall, within 60 days after the receipt of that opposition, invite the opponent and the applicant to engage in consultations for a reasonable period not exceeding 3 months. At any time during that period, the Office may, at the request of either party, extend the time limit for the consultations by a maximum of 3 months. The Office may offer mediation for the consultations between the applicant and the opponent pursuant to Article 170 of Regulation (EU) 2017(1001).
4. The applicant and the opponent shall provide each other during the consultation with the relevant information to assess whether the application for registration complies with the conditions set out in this Regulation.
5. The Office may at any stage of the opposition procedure consult the Advisory Board as referred to in Article 33, in which case the parties shall be notified and the period referred to in paragraph 2 shall be suspended.
6. Within 1 month from the end of the consultations referred to in paragraph 2, the applicant established in the third country or the competent authority of the Member State or of the third country from which the application for Union registration was lodged shall notify the Office of the result of the consultations, whether an agreement was reached with one or all of the opponents, and of any consequent changes to the application made by that applicant. The opponent may also notify the Office of its position at the end of the consultations.
7. Where, following the end of the consultations, the data published in accordance with Article 19(6) have been modified, the Office shall carry out a new examination of the modified application. Where the application for registration has been modified in a substantial manner, and the Office considers that the modified application meets the conditions for registration, it shall publish the modified application in accordance with that paragraph.
8. The authorities and persons that may act as an opponent may lodge a notice of comment with the Office. The competent authority or person that lodged a notice of comment shall not be considered to be a party to the procedure.
9. The Office may share the notice of comment with the applicant and the opponent.

10. In order to facilitate the official submission of comments and to improve management of the opposition procedure, the Commission may adopt implementing acts laying down the necessary rules to provide for the submission of such official comments and specifying the format and online presentation of oppositions and any comments procedure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 22*

##### **Admissibility and grounds for opposition**

1. An opposition lodged in accordance with Article 21 shall be admissible only if it contains a declaration that the application could infringe the conditions laid down in paragraph 2 of this Article and give justification in a reasoned statement of opposition drawn up in accordance with the form set out in Annex 3. An opposition that does not contain the reasoned statement of opposition shall be void.
2. Upon opposition, the name for which there has been an application for registration shall not be registered, if:
  - (a) the proposed geographical indication does not comply with the requirements for protection laid down in this Regulation;
  - (b) the registration of the proposed geographical indication would be contrary to Articles 37, 38 or 39;
  - (c) the registration of the proposed geographical indication would jeopardise the existence of, an entirely, or partly identical name or of a trade mark, or the existence of products which have been legally on the market for at least 5 years preceding the date of the publication provided for in Article 18(3).
3. The admissibility and the grounds of an opposition shall be assessed by the Office in relation to the territory of the Union.

#### *Article 23*

##### **Transitional period for the use of geographical indications**

1. Without prejudice to Article 42, at the time of registration, the Office may decide to grant a transitional period of up to 5 years to enable, for products originating in a Member State or a third country the designation of which consists of or contains a name that contravenes Article 35, the continued use of that designation, under which they were marketed, provided that an admissible and grounded opposition, under Article 13 or Article 21, to the application for registration of the geographical indication whose protection is contravened shows that:
  - (a) the registration of the geographical indication would jeopardise the existence of the entirely or partially identical name in the product designation;
  - (b) such products have been legally marketed with that name in the product designation in the territory concerned for at least 5 years preceding the date of the publication provided for in Article 18(3);
2. The Office may decide to extend the transitional period granted under paragraph 1 up to 15 years, or allowing continued use for up to 15 years, provided it is additionally shown that:

- (a) the name in the designation referred to in paragraph 1 has been in legal use consistently and fairly for at least 25 years before the application for registration of the concerned geographical indication was submitted to the Office;
  - (b) the purpose of using the name in the designation referred to in paragraph (1) has not, at any time, been to profit from the reputation of the name of the product that has been registered as geographical indication; and
  - (c) the consumer has not been or could not have been misled as to the true origin of the product.
3. The decision granting a transitional period referred to in paragraph 1 shall be published in the Union register of geographical indications for craft and industrial products.
4. When using a designation referred to in paragraph 1, the indication of the country of origin shall clearly and visibly appear on the labelling.
5. To overcome temporary difficulties with the long-term objective of ensuring that all producers of a product designated under a geographical indication in the area concerned comply with the related product specification, a Member State may grant a transitional period for compliance, of up to 10 years, with effect from the date on which the application is lodged with the Office, provided that the operators concerned have legally marketed the products in question, using the names concerned continuously for at least 5 years preceding the lodging of the application to the authorities of that Member State and have referred to that fact in the national opposition procedure referred to in Article 13.
6. Paragraph 5 shall apply *mutatis mutandis* to a geographical indication referring to a geographical area situated in a third country, with the exception of the opposition procedure.

#### *Article 24*

##### **Decisions by the Office on the application for registration**

1. After completion of the opposition and notice of comments procedure, the Office shall finalise its examination, taking into account any provisional periods, the outcome of any opposition procedure, any notice of comments received and any other matters that come to light in the course of the examination that may give rise to a change in the single document.
2. Where, on the basis of the information available to the Office from the examination carried out pursuant to Article 19, the Office considers that any of the requirements referred to in that Article is not fulfilled, it shall adopt a decision rejecting the application for registration.
3. Where the application meets the requirements laid down in Article 17 and the Office receives no admissible and grounded opposition, the Office shall adopt a decision registering the name.
4. Where the Office receives an admissible and grounded opposition, and following the consultations referred to in Article 21(3) an agreement has been reached, the Office, after checking that the agreement complies with Union law, shall adopt a decision registering the name. If necessary, in case of standard amendments referred to in

Article 28(2), point (b), the Office shall adopt a decision amending the information published pursuant to Article 19(6).

5. Where an admissible and grounded opposition had been received but no agreement has been reached following the consultations referred to in Article 21(3), the Office shall adopt a decision on registration.
6. Decisions on registration made pursuant to paragraphs 3 to 5 adopted by the Office shall provide, where appropriate, for any conditions applicable to the registration and for the republication for information purposes of the information published for opposition pursuant to Article 19(7) in the Union register of geographical indications, in case of any necessary amendments that are not substantial.
7. Decisions adopted by the Office shall be published in the Union register of geographical indications for craft and industrial products in all the official languages of the Union. The reference to the name of the product, class of the product, indications of the country or countries of origin and the reference to the decision published in the Union register of geographical indications for craft and industrial products shall be published in the *Official Journal of the European Union*.

#### *Article 25*

##### **Decision by the Commission**

1. Concerning applications for registration referred to in Article 17, the Commission may take over from the Office, at any time before the end of the procedure, on its own initiative, on the initiative of a Member State or the Office, the power to decide on the application for registration of the proposed geographical indication where such decision may jeopardise the public interest or the Union's trade or external relations. The Office shall submit a proposal to the Commission for a decision pursuant to Article 24(2) to 24(6). The Commission shall adopt the final act on the application for registration. This paragraph shall apply *mutatis mutandis* to the cancellation and the amendment of the product specification.
2. In situations referred to in paragraph 1 of this Article, the Commission shall adopt implementing acts on the protection of the geographical indication. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2) and shall be published in the *Official Journal of the European Union* and in the Union register of geographical indications for craft and industrial products.
3. The Office shall ensure that the Commission has access to the documents concerning the applications for registration, any amendment of the product specification and cancellation through the digital system referred to in Article 18(1) and Article 26(1).

#### *Article 26*

##### **The Union register of geographical indications for craft and industrial products**

1. A publicly accessible electronic Union register of geographical indications for craft and industrial products shall be developed, kept and maintained by the Office for the management of geographical indications for craft and industrial products.
2. Each geographical indication of craft and industrial products shall be identified in the Union register of geographical indications for craft and industrial products as a 'protected geographical indication'.

3. Upon the entry into force of a decision registering a protected geographical indication, the Office shall record the following data in the Union register of geographical indications for craft and industrial products:
  - (a) the registered name of the product;
  - (b) the class of the product;
  - (c) the reference to the instrument registering the name;
  - (d) indication of the country or countries of origin.
4. Geographical indications concerning products from third countries that are protected in the Union under an international agreement to which the Union is a contracting party shall be entered in the Union register of geographical indications for craft and industrial products. Geographical indications other than those protected in the Union pursuant to Article 7 Regulation EU 2019/5713 shall be registered by means of implementing acts adopted by the Commission in accordance with the examination procedure referred to in Article 65(2).
5. Each geographical indication shall be entered in the Union register of geographical indications for craft and industrial products in its original script. Where the original script is not in Latin characters, the geographical indication shall be transcribed in Latin characters and both versions of the geographical indication shall be entered in the Union register of geographical indications for craft and industrial products and shall have equal status.
6. The Commission shall make public and regularly update both the list of the international agreements referred to in paragraph 2 and the list of geographical indications protected under those agreements.
7. The Office shall retain documentation related to the registration of a geographical indication in digital or paper form for the period of validity of the geographical indication, and in case of cancellation for 10 years thereafter.
8. The Commission may adopt implementing acts defining the content and presentation of the Union register of geographical indications for craft and industrial products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 27*

#### **Extracts from the Union register of geographical indications for craft and industrial products**

1. The Office shall ensure that any person is able to download an official extract from the Union register of geographical indications for craft and industrial products that provides proof of registration of the geographical indication, and the relevant data including the date of application for the registration of the geographical indication or other priority date. The official extract may be used as an authentic certificate in legal proceedings, in a court of law, in a court of arbitration or similar body.
2. The applicant producer group or where Article 6(3) applies, the single producer shall be identified as the holder of the registration in the Union register of geographical indications for craft and industrial products and in the official extract referred to in paragraph (1) of this Article.

3. The Commission may adopt implementing acts defining the format and online presentation of extracts from the Union register of geographical indications for craft and industrial products. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 28*

##### **Amendments to a product specification**

1. A producer group having a legitimate interest may apply for the approval of an amendment to the product specification of a registered geographical indication.
2. Amendments to a product specification shall be classified into two categories:
  - (a) Union amendments, requiring an opposition procedure at the Union level, and
  - (b) standard amendments to be dealt with at Member State or third country level.
3. An amendment shall be considered a Union amendment if it concerns a revision of the single document and if any of the following conditions are met:
  - (a) the amendment includes a change in the name, or in the use of the name,
  - (b) the amendment risks voiding the link to the geographical area referred to in the single document,
  - (c) the amendment entails further restrictions on the marketing of the product.
4. Union amendments shall be approved by the Office or, where Article 25 applies, the Commission. The approval procedure shall follow *mutatis mutandis* the procedure and publication requirements laid down in Articles 6 to 25.
5. Any other amendment to the product specification of a registered geographical indication that is not a Union amendment in accordance with paragraph 3, shall be considered as a standard amendment.
6. Applications for amendments referred to in paragraph 2 submitted by a third country or by producers established in a third country shall contain proof that the requested amendment complies with the laws on the protection of geographical indications in force in that third country.
7. If an application for a Union amendment concerning a geographical indication of a Member State also relates to standard amendments, the Office shall examine the Union amendments only. Any standard amendments shall be deemed as not having been submitted. The examination of such applications shall focus on the proposed Union amendments. Where appropriate, the Member State concerned or the Office may invite the applicant to modify other elements of the product specifications.
8. Standard amendments shall be approved by Member States or third countries in whose territory the geographical area of the product concerned is located. Such amendments shall be communicated to the Office. Where Article 25 applies, the Office shall approve the standard amendments. The Office shall make those amendments public in the Union register of geographical indications for craft and industrial products.
9. The Commission may adopt implementing acts laying down detailed rules on procedures, form and presentation of an amendment application for Union amendment and on procedures, form and communication of standard amendments to

the Office. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 29*

##### **Cancellation of the registration**

1. The Office may, on its own initiative or on a duly substantiated request by a Member State, a third country or any natural or legal person having a legitimate interest, decide to cancel the registration of a geographical indication in the following cases:
  - (a) where compliance with the requirements for the product specification can no longer be ensured;
  - (b) where no product has been placed on the market under the geographical indication for at least a consecutive period of 7 years.
2. The Office may, at the request of the producer group of the product marketed under the registered name, decide to cancel the corresponding registration.
3. Article 6 and Articles 19 to 25 shall apply *mutatis mutandis* to the cancellation procedure.
4. Before deciding to cancel the registration of a geographical indication, the Office shall consult the competent authority of the Member State, the competent authorities of the third country or, where possible, the third country producer group which had applied for the registration of the geographical indication concerned, unless the cancellation is directly requested by the original applicants. If the geographical indication was registered pursuant to Article 15, the Office shall consult the Advisory Board referred to in Article 33.
5. The Commission may adopt implementing acts laying down detailed rules on procedures and form of the cancellation process, as well as on the presentation of the requests referred to in paragraphs 1 and 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).

#### *Article 30*

##### **Appeal**

1. Any party to a procedure regulated in this Regulation that is adversely affected by the decision taken by the Office in that procedure may lodge an appeal to the Boards of Appeal referred to in Article 34 against the decision. The appealed decisions of the Office shall take effect only as from the date of expiration of the appeal period referred to in paragraph 3. The filing of the appeal shall have suspensive effect. Member States shall also have the right to join the procedure.
2. A decision which does not terminate proceedings as regards one of the parties shall only be appealed together with the final decision.
3. Notice of appeal shall be filed in writing at the Office within 2 months of the date of publication of the decision. The notice shall be deemed to have been filed only when the fee for appeal has been paid. In case of an appeal, a written statement setting out the grounds of appeal shall be filed within 4 months of the date of publication of the decision.

4. The Boards of Appeal shall examine whether the appeal is admissible.
5. Following an examination of admissibility of the appeal, the Boards of Appeal shall decide on the appeal. The Boards of Appeal shall either exercise any power within the competence of the geographical indications division which was responsible for the decision appealed or remit the case to that geographical indication division for further prosecution. The Boards of Appeal may, on its own initiative or upon the written, reasoned request of a party, consult the Advisory Board as referred to in Article 33. The Office may offer mediation services pursuant to Article 170 of Regulation (EU) 2017/1001, with a view of assisting the parties reach an amicable settlement.
6. Actions may be brought before the General Court against decisions of the Boards of Appeal in relation to appeals, within two months of the date of publication of the decision of the Boards of Appeal, on grounds of infringement of an essential procedural requirement, infringement of the TFEU, infringement of this Regulation or of any rule of law relating to their application or misuse of power. The action shall be open to any party to proceedings before the Boards of Appeal adversely affected by its decision and to any Member State. The General Court shall have jurisdiction to annul or to alter the contested decision.
7. The decisions of the Boards of Appeal shall take effect only as from the date of expiry of the appeal period or, if an action has been brought before the General Court within that period, as from the date of dismissal of such action or of any appeal filed with the Court of Justice against the decision of the General Court.
8. The Commission is empowered to adopt delegated acts in accordance with Article 66 to supplement this Regulation by specifying:
  - (a) the content of the notice of appeal referred to in paragraph 3 and the procedure for the filing and the examination of an appeal and
  - (b) the content and the form of the Board of Appeal's decisions as referred to in paragraph 5.

### *Article 31*

#### **Establishment of a domain name information and alert system**

1. For domain names registered under a country-code top-level domain name, administered or managed by a registry established in the Union, the Office shall provide a domain name information and alert system. Upon submission of an application for a geographical indication, the information and alert system shall inform applicants for a geographical indication about the availability of their geographical indication as a domain name, and on an optional basis once a domain name containing an identical or similar name with their geographical indication is registered (domain name alerts).
2. For the purposes of paragraph 1, country-code top-level domain name registries, established in the Union, shall provide the Office with all information and data in their possession necessary to run the domain name information and alert system.



**SECTION 2**  
**ORGANISATION AND TASKS OF THE OFFICE IN RELATION TO THE GEOGRAPHICAL INDICATIONS**

*Article 32*

**Geographical Indications Division**

1. A Geographical Indications Division, as a department of the Office, shall be responsible for taking decisions on behalf of the Office in relation to:
  - (a) an application for registration of a geographical indication;
  - (b) an application for amendment of a geographical indication;
  - (c) an opposition to an application to register or amend a geographical indication;
  - (d) entries in the Union register of geographical indication for craft and industrial products;
  - (e) requests for cancellation of a geographical indication.
2. Opposition and cancellation decisions shall be taken by a panel of three members. At least one member shall be legally qualified. All other decisions of paragraph 1 shall be taken by a single member.

*Article 33*

**Geographical Indications Advisory Board**

1. An Advisory Board is set up to deliver an opinion where provided for in this Regulation.
2. The Geographical Indications Division and the Boards of Appeal as referred to in Article 32 and 34 may, and, at the request of the Commission shall, consult the Advisory Board concerning individual applications at any stage of the examination, opposition or the appeal procedure as referred to in Articles 19, 21 and 30 as well as concerning the following matters:
  - (a) the assessment of the quality criteria;
  - (b) the establishment of reputation and renown;
  - (c) the determination of the generic nature of the name;
  - (d) the assessment of fair competition in commercial transactions and the risk of confusing consumers in cases of conflict between geographical indications and trade marks, homonyms or existing products which are legally marketed.
3. The Geographical Indications Division and the Boards of Appeal shall consult the Advisory Board concerning the possible registration of all individual applications submitted through the direct registration procedure referred to in Article 15.
4. The opinions of the Advisory Board shall not be binding on the Geographical Indications Division and the Boards of Appeal.
5. The Advisory Board shall be composed of one representative of each Member State and one representatives of the Commission and their respective alternates.
6. The opinion of the Advisory Board shall be delivered in a panel of three members.

7. The Office shall make public the list of members of the Advisory Board on its website and shall keep that list up-to-date.
8. Procedures concerning the appointment of the members of the Advisory Board and its operation shall be specified in its rules of procedures as approved by the Management Board and shall be made public.
9. The mandates of members of the Advisory Board shall be up to 5 years. Those mandates may be renewable.
10. The Office shall provide the logistic support necessary for the Advisory Board and provide a secretariat for its meetings.

#### *Article 34*

#### **Boards of Appeal**

In addition to the powers conferred upon it by Article 165 of Regulation (EU) 2017/1001, the Boards of Appeal instituted by that Regulation shall be responsible for deciding on appeals from decisions of the Geographical Indications Division as regards their decisions concerning geographical indications subject to Article 28 of this Regulation.

### TITLE III PROTECTION OF GEOGRAPHICAL INDICATIONS

#### *Article 35*

#### **Protection of geographical indications**

1. Geographical indications entered in the Union register of geographical indications for craft and industrial products shall be protected against:
  - (a) any direct or indirect commercial use of the geographical indication in respect of products not covered by the registration, where those products are identical or similar to the products registered under that geographical indication or where use of the name exploits, weakens, dilutes, or is detrimental to the reputation of, the protected geographical indication;
  - (b) any misuse, imitation or evocation, even if the true origin of the products or services is indicated or if the protected geographical indication is translated or accompanied by an expression such as ‘style’, ‘type’, ‘method’, ‘as produced in’, ‘imitation’, ‘flavour’, ‘like’ or similar;
  - (c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product that is used on the inner or outer packaging, advertising material, documents or information provided on websites relating to the products, and the packing of the products in a container liable to convey a false impression as to their origin;
  - (d) any other practice liable to mislead the consumer as to the true origin of the products.
2. For the purposes of paragraph 1, point (b), the evocation of a geographical indication shall be deemed to arise, in particular, where a term, sign, or other labelling or packaging device presents a direct and clear link with the product covered by the registered geographical indication in the mind of the reasonably circumspect consumer, thereby exploiting, weakening, diluting or being detrimental to the reputation of the registered name.
3. Paragraph 1 shall also apply to a domain name containing or consisting of the registered geographical indication.
4. The protection referred to in paragraph 1 shall also apply to:
  - (a) goods entering the customs territory of the Union without being released for free circulation within that territory; and
  - (b) goods sold by means of distance selling, such as electronic commerce.
5. The producer group or any producer that is entitled to use the protected geographical indication shall be entitled to prevent all third parties from bringing goods, in the course of trade, into the Union without being released for free circulation there, where such goods, including packaging, come from third countries and are contrary to paragraph 1.
6. Geographical indications protected under this Regulation shall not become generic within the Union.

7. Where a geographical indication is a compound name which contains a term which is considered to be generic, the use of that term shall not constitute a conduct referred to in paragraph 1, points (a) and (b).

#### *Article 36*

#### **Parts or components in manufactured products**

1. Article 35 is without prejudice to the use of a geographical indication by producers in conformity with Article 43 to indicate that a manufactured product contains, as a part or component, a product designated by that geographical indication 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 geographical indication.
2. The geographical indication designating a product's part or component shall not be used in the sales designation of the manufactured product, except in cases of agreement with a producer group or, in situations referred to in Article 6(3), a single producer.

#### *Article 37*

#### **Generic terms**

1. Generic terms shall not be registered as a geographical indication.
2. To establish whether or not a term has become generic, account shall be taken of all relevant factors, in particular:
  - (a) the existing situation in areas of consumption;
  - (b) the relevant Union or national legal acts.

#### *Article 38*

#### **Homonymous geographical indications**

1. A geographical indication that has been applied for after a wholly or partly homonymous geographical indication had been applied for or protected in the Union shall not be registered unless there is sufficient distinction in practice between the conditions of local and traditional usage and the presentation of the two homonymous indications, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled as to the true identity or geographical origin of the products.
2. A wholly or partly homonymous name which misleads the consumer into believing that products come from another territory shall not be registered even if the name for the actual territory, region or place of origin of the products in question is accurate.
3. For the purpose of this Article, a geographical indication applied for or protected in the Union refers to:
  - (a) geographical indications that are entered in the Union register of geographical indications for craft and industrial products;
  - (b) geographical indications that have been applied for provided that they are subsequently entered in the Union register of geographical indications for craft and industrial products;

- (c) appellations of origin and geographical indications protected in the Union pursuant to the Regulation (EU) 2019/1753<sup>31</sup>; and
  - (d) geographical indications, names of origin and equivalent terms protected pursuant to an international agreement between the Union and one or more third countries.
4. The Office shall cancel the geographical indications registered in breach of paragraphs 1 and 2.

#### *Article 39*

#### **Trade marks**

A name shall not be registered as a geographical indication where, in the light of a trade mark's reputation and renown, registration of the name proposed as a geographical indication could mislead the consumer as to the true identity of the product.

#### *Article 40*

#### **Producer groups**

1. Member States shall verify that the producer group operates in a transparent and democratic manner and that all producers of the product designated by the geographical indication enjoy right of membership in the group. Member States may provide that public officials, and other stakeholders such as consumer groups, retailers and suppliers, also participate in the work of the producer group.
2. A producer group may, in particular, exercise the following powers and responsibilities:
  - (a) develop the product specification and manage internal controls that ensure compliance of production steps of product designated by the geographical indication with that specification;
  - (b) take legal action to ensure the protection of the geographical indication and of the intellectual property rights that are directly connected with it;
  - (c) agree sustainability undertakings, whether or not included in the product specification or as a separate initiative, including arrangements for verification of compliance with these undertakings and assuring adequate publicity for them in particular in an information system provided by the Commission;
  - (d) take action to improve the performance of the geographical indication, including:
    - (i) development, organisation and conduct of collective marketing and advertising campaigns;
    - (ii) dissemination of information and promotion activities aiming at communicating the attributes of the product designated by a geographical indication to consumers;

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<sup>31</sup> Regulation (EU) 2019/1753 of the European Parliament and of the Council of 23 October 2019 on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (OJ L 271, 24.10.2019, p. 1–11)

- (iii) carrying out analyses into the economic performance, sustainability of production, technical characteristics of the product designated by the geographical indication;
  - (iv) dissemination of information on the geographical indication and the relevant Union symbol; and
  - (v) providing advice and training to current and future producers, including on gender mainstreaming and equality; and
- (e) combat counterfeiting and suspected fraudulent uses on the internal market of a geographical indication that is not in compliance with the product specification by monitoring the use of the geographical indication across the internal market and on third countries' markets where the geographical indications are protected, including on the internet, and, as necessary, informing enforcement authorities using confidential systems available.

#### *Article 41*

##### **Protection of geographical indication rights in domain names**

1. Country-code top-level domain name registries established in the Union may, upon request of a natural or legal person having a legitimate interest or rights, revoke or transfer a domain name registered under such country-code top-level domain to the producer group of the products with the geographical indication concerned, following an appropriate alternative-dispute-resolution procedure or judicial procedure, if such domain name has been registered by its holder without rights or legitimate interest in the geographical indication or if it has been registered or is being used in bad faith and its use contravenes Article 35.
2. Country-code top-level domain name registries established in the Union shall ensure that any alternative dispute resolution procedure established to solve disputes relating to the registration of domain names referred to in paragraph 1, shall recognise geographical indications as rights that may prevent a domain name from being registered or used in bad faith.

#### *Article 42*

##### **Conflicting trade marks**

1. The registration of a trade mark the use of which would contravene Article 35 shall be rejected if the application for registration of the trade mark is submitted after the date of submission to the Office of the application for the registration of the geographical indication.
2. The Office and, when applicable, the competent national authorities shall invalidate trade marks registered in breach of paragraph 1.
3. For the purposes of paragraphs 1 and 4 of this Article, for geographical indications registered further to the procedure set up in Article 67, the first day of protection, following the one year transitional period since [the date entry into force of this Regulation], shall be deemed to be the day on which the Member States have informed the Office and the Commission.
4. Without prejudice to paragraph 2 of this Article, a trade mark the use of which contravenes Article 35, which has been applied for, registered, or established by use

in good faith within the territory of the Union, if that possibility is provided for by the legislation concerned, before the date on which the application for registration of the geographical indication is submitted to the Office, may continue to be used and renewed notwithstanding the registration of a geographical indication, provided that no grounds for invalidity or revocation of the trade mark exist under Directive (EU) 2015/2436<sup>32</sup> of the European Parliament and of the Council or Regulation (EU) 2017/1001. In such cases, the use of the geographical indication and that of the relevant trade mark shall be permitted.

5. Guarantee or certification marks referred to in Article 28(4) of Directive (EU) 2015/2436 and collective marks referred to in Article 29(3) of that Directive may be used on labels, together with the geographical indication.

#### *Article 43*

##### **Right to use**

1. A registered geographical indication may be used by any producer marketing a product conforming to the corresponding product specification or to a single document or an equivalent to the latter.
2. Member States shall ensure that any producer complying with the rules set out in this Title is entitled to be covered by the verification of compliance established pursuant to Article 46. Member States may charge a fee to cover their costs of managing the controls system.

#### *Article 44*

##### **Union symbol, indication, abbreviation**

1. The Union symbol established for ‘protected geographical indications’ under Commission Delegated Regulation (EU) 664/2014<sup>33</sup> shall be applicable to geographical indications for craft and industrial products.
2. In the case of craft and industrial products originating in the Union that are marketed under a geographical indication, the Union symbol referred to in paragraph 1 may appear on the labelling and advertising material. The geographical indication shall be in the same field of vision as the Union symbol.
3. The abbreviation ‘PGI’ corresponding to the indication ‘protected geographical indication’ may appear on the labelling of products designated by a geographical indication of craft and industrial products.
4. Indications, abbreviations and Union symbols may be used in the labelling and advertising materials of manufactured products when the geographical indication refers to a part or component thereof. In that case, the indication, abbreviation or

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<sup>32</sup> Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1).

<sup>33</sup> Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules (OJ L 179, 19.6.2014, p. 17).

Union symbol shall be placed next to the name of the part or component that is clearly identified as a part or component. The Union symbol shall not be placed in a manner that suggests to the consumer that the manufactured product rather than the part or component is the object of registration.

5. After the submission of a Union application for the registration of a geographical indication, producers may indicate on the labelling, and in the presentation, of the product that an application has been filed in compliance with Union law.
6. The Union symbol indicating the protected geographical indication and the Union indication 'protected geographical indication' and the abbreviation 'PGI' as relevant, may appear on the labelling only after the publication of the decision on registration in accordance with Articles 24 and 25.
7. Where an application is rejected, any products labelled in accordance with paragraph 4 may be marketed until the stocks are exhausted.
8. The following may also appear on the labelling:
  - (a) depictions of the geographical area of origin, as referred to in the product specification; and
  - (b) text, graphics or symbols referring to the Member State or the region in which that geographical area of origin is located.
9. The Union symbol associated with a geographical indication entered in the Union Register of geographical indications for craft and industrial products designating craft and industrial product originating in third countries, may appear on the product labelling and advertising material, in which case the symbol shall be used in conformity with paragraph 2.
10. The Commission may adopt implementing acts specifying the technical characteristics of the Union symbol and indication as well as the rules concerning their use on the products marketed under a registered geographical indication, including rules concerning the appropriate linguistic versions to be used. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).



# TITLE IV

## CONTROLS AND ENFORCEMENT

### *Article 45*

#### **Designation of competent authorities**

1. Member States shall designate the competent authorities responsible for official controls to verify compliance with this Regulation. Those controls shall include the following:
  - (a) verification that a product designated by a geographical indication has been produced in conformity with the corresponding product specification;
  - (b) monitoring of the use of geographical indications in the marketplace.
2. Competent authorities referred to in paragraph 1 shall be objective and impartial, and shall have at their disposal the qualified staff and resources necessary to carry out their functions.

### *Article 46*

#### **Verification of compliance with the product specifications**

1. Member States shall draw up and keep up to date a list of producers of products designated by a geographical indication entered in the Union register of geographical indications for craft and industrial products originating in their territory.
2. Producers shall be responsible for internal controls that ensure compliance with the product specification of products designated by geographical indications before the product is placed on the market.
3. Without prejudice to Article 49, prior to placing on the market a product designated by a geographical indication and originating in the Union, third party verification of compliance with the product specification shall be carried out by :
  - (a) one or more competent authorities as referred to in Article 45 ; or
  - (b) one or more delegated product certification bodies including natural persons to which responsibilities have been delegated in accordance with Article 50.
4. In respect of geographical indications that designate products originating in a third country, the verification of compliance with the specifications before placing the product on the market shall be carried out by :
  - (a) a public competent authority designated by the third country; or
  - (b) one or more product certification bodies.
5. Where, in accordance with the product specification, a production step is carried out by one or more producers in a country other than the country of origin of the geographical indication, provisions for verification of compliance of those producers shall be set out in the product specification. If the relevant production step takes place in the Union, the producers shall be notified to the competent authorities of the Member State where the production step takes place and be subject to verification as a producer of the product designated by a geographical indication.

6. The costs of verification of compliance with the product specification may be borne by the producers, which are subject to those controls. Member States may also contribute to those costs.

#### *Article 47*

#### **Due diligence**

Producers using the geographical indication shall ensure the continuous compliance of the use of the name and symbol in the marketplace with the relevant product specification. They may:

- (a) monitor the commercial use of the geographical indication in the marketplace;
- (b) develop activities related to ensuring compliance of a product designated by a geographical indication with its product specification;
- (c) take action to ensure adequate legal protection of the geographical indication, including, where appropriate, informing the competent authorities as referred to in Article 45(1).

#### *Article 48*

#### **Controls and enforcement of geographical indications rights in the marketplace**

1. Member States shall designate one or more enforcement authorities, which may be the same as the competent authorities referred to in Article 46(3) responsible for controls in the marketplace and enforcement of geographical indications after the craft and industrial product designated by a geographical indication has completed all production steps, whether it is in storage, transit, distribution, or offered for sale at wholesale or retail level, including in electronic commerce.
2. The enforcement authority shall carry out controls, based on a risk analysis and notifications of interested producers of products designated by geographical indications, to ensure conformity with the product specification or the single document or an equivalent to the latter.
3. Member States shall take appropriate administrative and judicial steps to prevent or stop the use of names on products or services that are produced, operated or marketed in their territory and that contravenes the protection of geographical indications provided for in Articles 35 and 36.
4. The authority designated in accordance with paragraph 1 shall coordinate enforcement of geographical indications among relevant departments, agencies and bodies, including police, anti-counterfeiting agencies, customs, intellectual property offices, market surveillance and consumer protection authorities and retail inspectors.
5. Member States may collect fees or charges to cover the costs of official controls in the marketplace.

#### *Article 49*

#### **Self-declaration certification procedure**

1. Without prejudice to Article 46, Member States may allow a self-declaration for the verification of compliance with the product specification. The producer shall submit such self-declaration to the competent authorities referred to in Article 45(1).

2. Member States may allow producers to submit a self-declaration once every 3 years to the competent authorities to ensure their continuous conformity with the product specification in the marketplace. Where the product specification is amended or changed in a way that affects the concerned product, the self-declaration shall be renewed immediately.
3. Where self-declarations are used competent authorities shall carry out random controls. In the event of breaches, Member States shall take all necessary measures to remedy the situation.
4. The self-declaration shall follow the structure set out in Annex 1 and shall contain all the information and requirements specified in that Annex.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 66, amending this Regulation and introducing, where relevant, modifications to the information and requirements specified in Annex 1.

#### *Article 50*

##### **Delegation by the competent authorities of official control tasks**

1. Competent authorities may delegate official control tasks to one or more product certification bodies including natural persons. The competent authority shall ensure that the delegated product certification body or natural person, to which such tasks have been delegated, have the powers needed to effectively perform these tasks.
2. The delegation of official control tasks shall be in writing and shall comply with the following conditions:
  - (a) the delegation is to contain a precise description of the official control tasks that the delegated body or the natural person may perform, and the conditions under which it may perform those tasks;
  - (b) the delegated product certification body:
    - (i) is to have the expertise, equipment and infrastructure required to perform the official control tasks delegated to it;
    - (ii) is to have a sufficient number of suitably qualified and experienced staff;
    - (iii) is to be impartial and free from any conflict of interest and in particular is not to be in a situation which may, directly or indirectly, affect the impartiality of its professional conduct as regards the performance of those official control tasks delegated to it; and
    - (iv) is to have sufficient powers to perform the official control tasks delegated to it; and
  - (c) where the official control task are delegated to natural persons, those natural persons:
    - (i) are to have the expertise, equipment and infrastructure required to perform those official control tasks delegated to them;
    - (ii) are to be suitably qualified and experienced;
    - (iii) are to act impartially and are to be free from any conflict of interest as regards the exercise of those official control tasks delegated to them; and

- (d) there are to be arrangements in place ensuring efficient and effective coordination between the delegating competent authorities and the delegated product certification bodies, including natural persons.

#### *Article 51*

#### **Obligations of the delegated product certification bodies and natural persons**

The product certification bodies or natural persons to which certain official control tasks have been delegated in accordance with Article 50, shall:

- (a) communicate the outcome of the official controls and related activities performed by them to the delegating competent authorities on a regular basis and whenever those authorities so request;
- (b) immediately inform the delegating competent authorities whenever the outcome of the official controls indicate non-compliance or point to the likelihood of non-compliance, unless specific arrangements as established between the competent authority and the delegated product certification body or the natural person concerned provides otherwise; and
- (c) give to the competent authorities access to their premises and facilities, cooperate and provide assistance.

#### *Article 52*

#### **Obligations of the delegating competent authorities**

1. Competent authorities that have delegated certain official control tasks to delegated product certification bodies or natural persons in accordance with Article 50, shall:
  - (a) organise audits or inspections of such bodies or persons, as necessary;
  - (b) fully or partly withdraw the delegation without delay where:
    - (i) there is evidence that such a delegated product certification body or natural person is failing to properly perform the tasks delegated to it;
    - (ii) the delegated product certification body or natural person fails to take appropriate and timely action to remedy the shortcomings identified; or
    - (iii) the independence or impartiality of the delegated product certification body or natural person has been compromised.
2. The competent authorities may also withdraw the delegation for reasons other than those referred to in this Regulation.

#### *Article 53*

#### **Public information on competent authorities and product certification bodies**

1. Member States shall make public the names and addresses of the designated competent authorities and delegated product certification bodies including natural persons referred to in Article 46(3) and keep that information up-to-date.
2. The Office shall make public the names and addresses of the competent authorities and product certification bodies referred to in Article 46(4) and update that information periodically.

3. The Office may establish a digital portal where the names and addresses of the competent authorities and delegated product certification bodies including natural persons referred to in paragraphs 1 and 2 are made public.

#### *Article 54*

#### **Accreditation of product certification bodies**

1. The product certification bodies referred to in Article 46 (3), point (b) and Article 46 (4), point (b) shall comply with and be accredited in accordance with :
  - (a) European standard ISO/IEC 17065:2012 ‘Conformity assessment — Requirements for bodies certifying products, processes and services’, including European standard ISO/IEC 17020:2012 ‘Conformity assessment — Requirements for the operation of various types of bodies performing inspection’; or
  - (b) other suitable, internationally recognised standards, including any revisions or amended versions of the European Standards referred to in point (a).
2. Accreditation referred to in paragraph 1 shall be performed by an accreditation body recognised in accordance with Regulation (EC) No 765/2008, that is a member of European Accreditation, or by an accreditation body outside the Union that is a member of International Accreditation Forum.

#### *Article 55*

#### **Orders to act against illegal content**

Where provided by national law and in compliance with Union law, competent authorities of the Member States may issue an order to act as referred to in Article 8 of Regulation (EU) No xxxx/2022<sup>34</sup> against illegal content that contravenes Article 35 of this Regulation .

#### *Article 56*

#### **Penalties**

Member States shall lay down the rules on penalties applicable to non-compliance with, and infringements of, this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by the entry into force of this Regulation, notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.

#### *Article 57*

#### **Mutual assistance and resources**

1. Member States shall assist each other for the purposes of carrying out the controls and enforcement provided for in this Title.

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<sup>34</sup> Regulation of the European Parliament and of the Council on a Single Market For Digital Services (DSA) and amending Directive 2000/31/EC.

2. The Commission may adopt implementing acts specifying the nature and the type of the information to be exchanged and the methods for exchanging information for the purposes of controls and enforcement under this Title. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 65(2).
3. Administrative assistance may include, where appropriate, and, by agreement between the competent authorities concerned, participation by the competent authorities of a Member State in on-the-spot checks that the competent authorities of another Member State perform.
4. In case of a possible violation of the protection conferred to a geographical indication, Member States shall take measures to facilitate the transmission, from law enforcement authorities, public prosecutors and judicial authorities within the Member State, to the competent authorities referred in Article 45(1), of information on such possible violation.

#### *Article 58*

#### **Certificates of authorisation to produce**

1. A producer whose product, following the verification of compliance referred to in Article 46, is found to comply with the product specification of a geographical indication protected under this Regulation or that has, if applicable in the Member State concerned, properly submitted a self-declaration to the competent authority, shall be entitled to an official certificate, or other proof of certification, of eligibility to produce the product designated by the geographical indication concerned in respect of the production steps performed by the said producer.
2. The proof of certification referred to in paragraph 1 shall be made available on request to enforcement authorities, customs or other authorities in the Union engaged in verifying the use of geographical indications on goods declared for free circulation or placed on the internal market. The producer may make the proof of certification available to the public or to any person who requests such proof in the course of business.

#### **TITLE V**

### **GEOGRAPHICAL INDICATIONS ENTERED IN THE INTERNATIONAL REGISTER AND AMENDMENTS TO OTHER ACTS**

#### *Article 59*

#### **Amendments to Council Decision (EU) 2019/1754**

In Article 4(1) of Council Decision (EU) 2019/1754<sup>35</sup> the following subparagraph is added:

“In respect of geographical indications protecting craft and industrial products within the meaning of Regulation (EU) 2022/... of the European Parliament and of the Council of ... concerning geographical indication protection for craft and industrial products, the European Intellectual Property Office shall be designated as the Competent Authority referred to in

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<sup>35</sup> Council Decision (EU) 2019/1754 of 7 October 2019 on the accession of the European Union to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications (OJ L 271, 24.10.2019, p. 12).

Article 3 of the Geneva Act, and be responsible for the administration of the Geneva Act in the territory of the Union and for notifications and communications with the International Bureau of the WIPO under the Geneva Act and the Common Regulations.”

*Article 60*

**Amendments to Regulation (EU) 2019/1753**

Regulation (EU) 2019/1753 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 2 is replaced by the following:

“2. For the purposes of this Regulation, the term ‘geographical indications’ covers appellations of origin within the meaning of the Geneva Act, including designations of origin within the meaning of Regulations (EU) No 1151/2012 and (EU) No 1308/2013, as well as geographical indications within the meaning of Regulations (EU) No 1151/2012, (EU) No 1308/2013, (EU) No 251/2014, (EU) 2019/787 and Regulation (EU) 2022/... of the European Parliament and of the Council of ... concerning geographical indication protection for craft and industrial products. In respect of appellations of origin relating to craft and industrial products which are subject to an international registration, protection in the EU shall be construed as specified in Articles 5 and 35 of that Regulation”;

(b) the following paragraph 3 is added:

“3. For the purposes of this Regulation, “Office” means the European Union Intellectual Property Office.”

(2) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

“Upon the accession of the Union to the Geneva Act and thereafter on a regular basis, the Commission or the Office shall, in their respective capacity as Competent Authority within the meaning of Article 3 of the Geneva Act as specified in Article 4(1) of Council Decision (EU) 2019/1754, file applications for the international registration of geographical indications protected and registered under Union law and pertaining to products originating in the Union pursuant to Article 5(1) and Article (2) of the Geneva Act with the International Bureau of the World Intellectual Property Organization (‘the International Bureau’).”;

(b) in paragraph 2, the first sentence is replaced by the following:

“For the purposes of paragraph 1, Member States may request the Commission or, in respect of geographical indications protecting craft and industrial products (“craft and industrial geographical indications”), the Office, to register in the International Register geographical indications that originate in the territory of Member States and that are protected and registered under Union law;”

(c) the following paragraph 4 is added:

“4. In respect of requests to register craft and industrial geographical indications in the International Register, the Office shall, in its capacity of

Competent Authority referred to in Article 3 of the Geneva Act as specified in Article 4(1) of Council Decision (EU) 2019/1754, proceed on the basis of its own decision on granting protection in accordance with the procedure referred to in Articles 17 to 34 of Regulation (EU) 2022/...”;

- (3) In Article 3, the following paragraph 4 is added:

“4. In respect of craft and industrial geographical indications, the Office shall request the International Bureau to cancel a registration in the International Register of a geographical indication originating in a Member State if circumstances of paragraph 1 are fulfilled.”;

- (4) Article 4 is replaced by the following:

*“Article 4*

**Publication of third country geographical indications registered in the International Register**

1. The Commission or, in respect of craft and industrial geographical indications, the Office shall publish any international registration notified by the International Bureau pursuant to Article 6(4) of the Geneva Act, which concerns geographical indications registered in the International Register in respect of which the Contracting Party of Origin, as defined in point (xv) of Article 1 of the Geneva Act, is not a Member State.

2. The international registration referred to in paragraph 1 shall be published in the C series of the *Official Journal of the European Union* or, in respect of international registrations relating to craft of industrial geographical indications, by the Office. The publication shall include a reference to the product type and country of origin.”;

- (5) In Article 5, paragraph 1 is replaced by the following:

“1. The Commission or, in respect of craft and industrial geographical indications, the Office shall assess any international registration notified by the International Bureau pursuant to Article 6(4) of the Geneva Act concerning the geographical indications registered in the International Register and in respect of which the Contracting Party of Origin, as defined in point (xv) of Article 1 of the Geneva Act, is not a Member State, in order to determine whether it includes the mandatory contents laid down in Rule 5(2) of the Common Regulations under the Lisbon Agreement and the Geneva Act (the ‘Common Regulations’), and the particulars concerning the quality, reputation or characteristics as laid down in Rule 5(3) of the Common Regulations.”;

- (6) Article 6 is amended as follows:

- (a) paragraph 1 is replaced by the following:

“1. Within four months from the date of publication of the international registration in accordance with Article 4, the competent authorities of a Member State or of a third country other than the Contracting Party of Origin as defined in point (xv) of Article 1 of the Geneva Act, or a natural or legal person having a legitimate interest and established in the Union or in a third country other than the Contracting Party of Origin, may lodge an opposition with the Commission or, in respect of craft and industrial geographical



indications, the Office. The opposition shall be in one of the official languages of the Union.”;

(b) in paragraph 2, point (e) is deleted.

(c) paragraph 3 is replaced by the following:

“3. The grounds for opposition set out in paragraph 2 shall be assessed by the Commission or, in respect of craft and industrial geographical indications, the Office, in relation to the territory of the Union or part thereof.”

(7) Article 7 is amended as follows:

(a) in paragraph 1, the following sentence is added:

“In respect of craft and industrial geographical indications, the Office shall reject any inadmissible opposition and decide to grant protection of the geographical indication.”;

(b) in paragraph 2, the last sentence is replaced by the following:

“In respect of craft and industrial geographical indications, the decision whether to grant protection shall be adopted by the Office, or, in cases referred to in Article 25 of Regulation (EU) 2022/..., by the Commission.. The related implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).”

(c) paragraph 4 is replaced by the following:

“4. In accordance with Article 15(1) of the Geneva Act, the Commission or, in respect of craft and industrial geographical indications, the Office shall notify the International Bureau of the refusal of the effects of the international registration concerned in the territory of the Union, within one year from the receipt of the notification of international registration in accordance with Article 6(4) of the Geneva Act[, or, in the cases referred to in the first paragraph of Article 5 of Decision (EU) 2019/1754, within two years from the receipt of that notification].”;

(d) in paragraph 5, the last sentence is deleted;

(e) the following paragraphs 5a and 5b are added:

“5a. In respect of craft and industrial geographical indications concerning the protection of which a previous refusal has been notified by the Office, the Office may, on its own initiative or following a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, withdraw, in whole or in part, a refusal previously notified to the International Bureau.;

5b. The Commission or, in respect of craft and industrial geographical indications, the Office shall notify the International Bureau of such withdrawal without delay.”;

(8) In Article 8(1) the following sentence is added:

“In respect of craft and industrial geographical indications, the same shall apply to the decision of the Office.;;”

(9) Article 9 is replaced by the following:

*“Article 9*

## **Invalidation of effects in the Union of a third country geographical indication registered in the International Register**

- 1. The Commission or, in respect of craft and industrial geographical indications, the Office may, on its own initiative or following a duly substantiated request by a Member State, a third country or a natural or legal person having a legitimate interest, invalidate, in whole or in part the effects of protection in the Union of a geographical indication, in one or more of the following circumstances:
  - a. the geographical indication is no longer protected in the Contracting Party of Origin;
  - b. the geographical indication is no longer registered in the International Register;
  - c. compliance with the mandatory contents laid down in rule 5(2) of the Common Regulations or with the particulars concerning the quality, reputation or characteristics as laid down in Rule 5(3) of the Common Regulations is no longer ensured.
- 2. The Commission shall adopt implementing acts for the purpose of paragraph 1. The implementing acts in question shall be adopted in accordance with the examination procedure referred to in Article 15(2) and only after the natural persons or legal entities as referred to in point (ii) of Article 5(2) of the Geneva Act or the beneficiaries as defined in point (xvii) of Article 1 of the Geneva Act have been given an opportunity to defend their rights.;
- 3. Where the invalidation is no longer subject to appeal, the Commission, or in respect of craft and industrial indications, the Office shall notify the International Bureau without delay of the invalidation of the effects in the territory of the Union of the international registration of the geographical indication in accordance with point (a) or (c) of paragraph 1.”;

(10) In Article 11, paragraph 3 is replaced by the following:

“3. In respect of each appellation of origin originating in a Member State which is party to the Lisbon Agreement, for a product falling within the scope of Regulation (EU) 2022/..., but not yet protected under that Regulation, the Member State concerned shall, on the basis of a request by a natural person or legal entity referred to in point (ii) of Article 5(2) of the Geneva Act or a beneficiary as defined in point (xvii) of Article 1 of the Geneva Act, or on its own initiative, choose to request either:

- the registration of that appellation of origin under Regulation (EU) 2022/...; or
- the cancellation of the registration of that appellation of origin in the International Register.

The Member State concerned shall notify the Office of the choice referred to in the first subparagraph, and lodge the respective request within one year following the adoption of Regulation (EU) 2022/....The registration procedure foreseen in Article 67 (3) of Regulation (EU) 2022/... applies *mutatis mutandi*.

In the situations referred to in point (a) of the first subparagraph, the Member State concerned shall request the international registration of that appellation of origin under the Geneva Act, if that Member State has ratified or acceded to

the Geneva Act pursuant to the authorisation referred to in Article 3 of Decision (EU) 2019/1754, within six months from the date of registration of the geographical indication under Regulation (EU) 2022/...

The Member State concerned shall, in coordination with the Office, verify with the International Bureau whether there are any modifications to be made under Rule 7(4) of the Common Regulations for the purpose of registration under the Geneva Act. The Office shall authorise the Member State concerned to provide for the necessary modifications and to notify the International Bureau.

If the request for registration under Regulation (EU) 2022/... is refused and related administrative and judicial remedies have been exhausted, or if the request for registration under the Geneva Act has not been made pursuant to the third subparagraph of this paragraph, the Member State concerned shall, without delay, request the cancellation of the registration of that appellation of origin in the International Register.”

(11) in Article 15(1) the following point (e) is added:

“(e) for craft and industrial products falling within the scope of Article 2(1) of Regulation (EU) 2022/..., by the Craft and Industrial Geographical Indication Committee established by Article 65 of that Regulation.”

#### *Article 61*

### **Amendments to Regulation (EU) 2017/1001**

Regulation (EU) 2017/1001 is amended as follows:

(1) in Article 151(1), the following point (ba) is inserted after point (b):

“(ba) administration and promotion of geographical indications, in particular the tasks conferred on it under the Regulation (EU) No 2022/[this regulation] of the European Parliament and of the Council and promotion of the geographical indications system.”

(2) the following Article 170a is inserted:

“Article 170a

#### **Establishment of a domain name information and alert system**

1. For domain names registered under a country-code top-level domain name, administered or managed by a registry established in the Union, the Office shall provide a domain name information and alert system. Upon submission of an application for an EU trade mark, that information and alert system shall inform applicants for an EU trade mark about the availability of their mark as a domain name, and applicants for and proprietors of an EU trade mark on an optional basis once a domain name containing an identical or similar name with their mark is registered (domain name alerts).
2. For the purpose of paragraph 1, country-code top-level domain name registries, established in the Union, shall provide the Office with all information and data in their possession necessary to run the domain name information and alert system.”

# **TITLE VI**

## **TECHNICAL ASSISTANCE**

### *Article 62*

#### **Technical assistance of the Office**

The Commission shall be empowered to adopt delegated acts supplementing this Regulation by rules on entrusting the Office with the examination and other administrative tasks concerning third country geographical indications for craft and industrial products, other than geographical indications under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, proposed for protection pursuant to international negotiations or international agreements.

## **TITLE VII**

# **SUPPLEMENTARY PROVISIONS**

### *Article 63*

#### **Procedural languages**

1. All documents and information sent to the Office in respect of the procedures under this Regulation, shall be in one of the official languages of the Union.
2. For the tasks conferred on the Office under this Regulation, the languages of the Office shall be all the official languages of the Union in accordance with Regulation 1<sup>36</sup>.

### *Article 64*

#### **IT system**

The digital system referred to in Article 18(1) and the Union register of geographical indications for craft and industrial products referred to in Article 26 shall be developed, kept and maintained by the Office.

### *Article 65*

#### **Committee procedure**

1. The Commission shall be assisted by the Craft and Industrial Geographical Indications Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

### *Article 66*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 29, 30 and 49 shall be conferred on the Commission for a period of seven years from [OJ: date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 29, 30 and 49 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of power specified in that decision. It shall take effect the day

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<sup>36</sup> Council Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to the Articles 29, 30 and 49 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

# TITLE VIII

## TRANSITIONAL AND FINAL PROVISIONS

### *Article 67*

#### **Transitional Geographical Indication protection**

1. National specific protection for geographical indications for craft and industrial products shall cease to exist by [one year after the date of entry into force of this Regulation].
2. By [six months after the date of entry into force of this Regulation], interested Member States shall inform the Commission and the Office, which of their legally protected names or in the Member States where there is no protection system, which of their names established by usage they wish to register and protect pursuant to this Regulation.
3. In accordance with the procedure laid down in Articles 17 to 25, the Office or, in cases referred to in Article 25, the Commission shall register the names referred to in paragraph 2 of this Article, which comply with Articles 2, 5, 7 and 8. Article 21 and 22 shall not apply. However, generic terms shall not be registered.
4. Without prejudice to paragraph 1, national protection of the names communicated in accordance with paragraph 2 shall be maintained until such time as a decision on registration has been taken. The decision may be subject of appeal referred to in Article 30.

### *Article 68*

#### **Member States reporting obligation**

1. Member States or their national authorities shall report every four years to the Commission on the strategy and results of all the geographical indication controls carried out to verify compliance with the legal requirements related to the protection scheme established by this Regulation and of the enforcement of geographical indications for craft and industrial products in the market place including online as referred to in Article 45 on designation of competent authority, Article 46 on verification of compliance with the product specifications, Article 47 on due diligence, Article 48 on enforcement of geographical indications in the marketplace, and Article 55 on online platforms.
2. Eligible Member States shall provide the Commission by [six months after the date of entry into force of this Regulation] with the information requested in Article 15 in order to opt for the “direct registration” procedure. On the basis of the information received, the Commission shall adopt a Decision on the right of the concerned Member State to opt for the “direct registration” procedure and hence, to not designate a national authority for the management at national level of the procedures for the application, amendment of the product specification and cancellation as referred to in Article 15.
3. Member States shall inform the Commission by [six months after the date of the entry into force of this Regulation] if they decide to cooperate with each other for the management of the national procedures foreseen in Chapter II of Title II as laid down in Article 6(4).

*Article 69*

**Review clause**

By [five years after the date of entry into force of this Regulation], the Commission shall draw up a report on the implementation of this Regulation, accompanied by any proposals for revision that it may deem appropriate.

*Article 70*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*. It shall apply from 1 January 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*





Brussels, 13.4.2022  
COM(2022) 174 final

ANNEXES 1 to 3

## **ANNEXES**

**to the Proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on geographical indication protection for craft and industrial products and amending  
Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the  
Council and Council Decision (EU) 2019/1754**

{SEC(2022) 193 final} - {SWD(2022) 114 final} - {SWD(2022) 115 final} -  
{SWD(2022) 116 final}

## ANNEX 1

### Self-declaration referred to Article 49

**1. Name and address of the economic operator: ...**

[Note: insert the name and address of the company or individual producer as well as the name and address of the signatory of the self-declaration, if deviating from the economic operator: authorised representative of the company or producer]

**2. Name of the product and type of goods: ...**

[Note: insert the full name with all appositions under which the product designated by the geographical indication is marketed or is envisaged to be marketed and the type of goods to which the product belongs]

**3. Status of the product: ...**

[Note: insert whether the product concerned is already on the market or not]

**4. Production sites: ...**

[Note: insert all production sites, address, contact and activity (step of production pursuant to product specification) carried out there]

**5. Producer group: ...**

[Note: insert name and address of the producer group in which the producer is a member]

**6. Name, file number and registration date of the used geographical indication: ...**

[Note: The requirement can be met by referring to the corresponding electronic excerpt from the register, which is to be attached to the self-declaration.]

**7. Main points of the product specification and its electronic publication reference: ...**

[Note: The insertion shall follow the indications made in the single document: the name, a description of the product, including, where appropriate, specific rules concerning packaging and labelling, and a concise definition of the geographical area]

**8. Description of the measures undertaken by the producer to ensure its conformity with the product specification: ...**

[Note: insert all measures (controls and checks) with a summarised description undertaken whether by the producer himself/herself, the producer association or assigned third parties since the last declaration has been submitted]

Control point <sup>1</sup>	Target Value <sup>2</sup> (Tests)	Autocontrol (AC) Internal Control (IC) or external	Frequency <sup>4</sup>	Responsible for the control	Description of the method	Reference document
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<sup>1</sup> Control point: the checkpoint within the production process where the control measure is applied.

<sup>2</sup> Target value, if any, to be reached at the control point.

		Control (EC) <sup>3</sup>				

**9. Additional information: ...**

[Note: insert any further information considered relevant to an assessment of whether the product is compliant, e.g. samples of the labelling if there is a labelling rule in the product specification in question]

**10. Declaration of compliance with the requirements of the product specification:**

The above-mentioned product, including its characteristics and components, complies with the rules of the corresponding product specification. All necessary controls and checks for the proper determination of conformity have been carried out.

[The signatory is aware that in case of false statements sanctions may be imposed.]

*Signed for and on behalf of:*

(place and date):

(name, function) (signature):

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<sup>4</sup> Frequency: The time interval at which the control is performed.

<sup>3</sup> AC: Control performed by the producer himself; IC: Control performed by the producer group; AC: Control performed by an external certification body.

## ANNEX 2

### Single document referred to in Article 8

[Insert name, as in 1 below:] ‘...’

EU No: [for EU use only]

#### **1. Name(s) [of PGI] ...**

[Insert the name proposed for registration or, in the case of an application for approval of an amendment to a product specification, the registered name]

#### **2. Member State or Third Country ...**

#### **3. Description of the craft and industrial product**

##### *3.1. Type of product ...*

##### *3.2. Description of the product to which the name in (1) applies...*

[Main points referred to in Article 8(1), point (b). To identify the product use definitions and standards commonly used for that product. In the description of the product, focus on its specificity, using measurement units and common or technical terms of comparison, without including technical characteristics inherent to all products of that type and related mandatory legal requirements applicable to all products of that type (Article 8(2)).]

##### *3.3. Raw materials (for processed products only)...*

State any quality requirements, or restrictions on origin of raw materials. State justifications for any such restrictions. Such restrictions must be justified in relation to the link referred to in point (f) of Article 7(1)].

##### *3.4. Specific steps in production that must take place in the identified geographical area ...*

[State justifications for any restrictions or derogations.]

##### *3.5. Specific rules concerning packaging, etc. of the product the registered name refers to ...*

[If none, leave blank. State product-specific justifications for any restrictions.]

##### *3.6. Specific rules concerning labelling of the product the registered name refers to ...*

[If none, leave blank. State justifications for any restrictions.]

#### **4. Concise definition of the geographical area ...**

[Where appropriate, insert a map of the area]

#### **5. Link with the geographical area ...**

Causal link between the geographical origin and, where appropriate, a given quality, the reputation or other characteristics of the product.

[State explicitly on which ones of the given factors (reputation, given quality, other characteristic of the product) the causal link is based and give information only with respect to the relevant factors, including, where appropriate, elements of the product description or production method justifying the link.]

#### **Reference to publication of the product specification**

## ANNEX 3

### Reasoned statement of opposition referred to in Article 22

**1. Name of product: ...**  
[as given in the e-Register]

**2. Official reference: ...**  
[as given in the e-Register]

**Reference number: ...**

**Date of publication: ...**

**3. Contact details**

Contact person:	Title (Mr, Ms...): ...	Name: ...
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**Group/organisation/individual: ...**

*Or national authority:*

**Department: ...**

**Address: ...**

**Telephone + ...**

**e-mail address: ...**

**4. Reason for the opposition:**

- Non-compliance with the definition of geographical indication for craft and industrial products of this Regulation as laid down in Article 5;
- Registration proposed for registration is generic as laid down in Article 37;
- Registration of the name would be contrary to Article 38 (name wholly or partially homonymous);
- Registration of the name would be contrary to Article 39 (existing trademark);
- Registration would jeopardise the existence of names, trademarks or products as specified in Article 12(1), point (b)

**5. Detail of opposition**

Provide duly substantiated reasons and justification for the opposition.

Provide also a statement explaining the legitimate interest of the opposition, unless the opposition is lodged by the national authorities, in which case no statement of legitimate interest is required. The statement of opposition should be signed and dated.

## **Com 174 (2022)**

### **Information Note**

#### **1. Proposal**

*Proposal for a Regulation of the European Parliament and of the Council on geographical indication protection for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the Council and Council Decision (EU) 2019/1754.*

#### **2. Date of Commission document**

*13/04/2022*

#### **3. Number of Commission document**

*COM (2022) 174*

#### **4. Number of Council document:**

*8205/22*

#### **5. Dealt with in Brussels by**

*Commission Expert Group on Industrial Property Policy (GIPP)  
Competitiveness (Internal Market and Industry) Council*

#### **6. Department with primary responsibility**

*Department of Enterprise, Trade and Employment (DETE).*

#### **7. Other Departments involved**

*None.*

#### **8. Background to, Short summary and aim of the proposal**

*Geographical indications (GIs) establish intellectual property rights for products whose qualities are specifically linked to the area of production. They identify goods as originating in a country, region or locality where a particular quality, reputation or other characteristic of the product is essentially attributable to its geographical origin. The protection that GIs give helps to preserve traditional, high-quality products and know-how, and jobs related to them. CI products typically stem from the following sectors: porcelain, ceramics and glassware, apparel, natural stones, lace, jewellery, textiles, furniture and cutlery.*

*In November 2019, the EU acceded to the Geneva Act of the Lisbon Agreement on Appellations of Origins and Geographical indications which is a treaty administered by the World Intellectual Property Organisation (WIPO). EU producers of craft and industrial products (CI) cannot currently claim protection under the Geneva Act, nor can EU producers benefit from protection granted by EU trade agreements, which currently cover only agriculture GI products.*

*There is currently no EU-wide mechanism to protect the names of CI products. Over half of Member States have established national specific (sui generis) protection systems for CI products with different characteristics, while Member States like Ireland use only trade marks and/or rules on unfair competition to protect this kind of intellectual property. Although*

*producers can register individual trade marks, collective trade marks and certification trade marks at Union level, using trade mark protection does not enable producers of CI products to certify at Union level the link between quality and geographical origin that signals quality attributed to specific local skills and traditions. This fragmentation causes legal uncertainty and therefore challenges for producers trying to protect their CI products. In particular, small businesses may lose market opportunities. The proposal aims to establish a directly applicable geographical indication (GI) protection for CI products at Union level. There are proposed benefits for producers including protection against counterfeiting and providing them with incentive to invest in their CI products. The proposal will also aim to improve the visibility of authentic CI products and therefore benefit consumers.*

*In 2014, EU Commission published a Green Paper ‘Making the most out of Europe’s traditional know-how: a possible extension of geographical indication protection of the European Union to non-agricultural products’. The EU Commission then published an inception impact assessment in November 2020. From April-July 2021, the Commission carried out a public consultation on EU-wide protection of geographical indications for non-agricultural products to gather feedback on essential policy issues from all the relevant stakeholders with a view to finalising its impact assessment on the GI for CIs and in March 2022, published a study on GI and traditional specialities guaranteed (TSG) protected in the EU.*

## **9. Legal basis of the proposal**

*Article 118(1) and Article 207 (2) of the Treaty on the Functioning of the EU (TFEU).*

## **10. Voting Method**

*QMV*

## **11. Role of the EP**

*Co-decision*

## **12. Category of proposal**

*Some significance*

## **13. Implications for Ireland & Ireland's Initial View**

*Ireland broadly welcomes the proposal to provide a regulatory framework for GI protection for CI products at EU level, however, the proposed regulation has yet to be discussed and agreed at EU level.*

*As Ireland currently has a small number of CI producers compared with other EU Member States, it may be open to policy option 2.2.B which consists of a one-stage registration system with the European Union Intellectual Property Organisation (EUIPO). Under this ‘direct procedure’ system, Ireland would not be required to designate a competent authority and would need to provide a contact point at national level to assist the EUIPO with the registration procedures. Further, national authorities would not participate in the examination and registration process, and local producers would go directly to the EU level to have their CI GIs registered. However, it may be necessary to designate a competent authority in Ireland for the controls and enforcement mechanisms.*

*Member States are also free to introduce a third-party certification procedure operated by competent authorities or delegated product certification bodies, or a procedure based on the producer's self-declaration.*

**14. Impact on the public**

*Given the comparatively small number of CI GIs, the impact on the public in Ireland is anticipated to be low.*

**15. Have any consultations with Stakeholders taken place or are there any plans to do so?**

*No formal consultations with Irish stakeholders by DETE have taken place yet. The EU Commission carried out a public consultation on EU-wide protection of geographical indications for non-agricultural products from April to July 2021.*

**16. Are there any subsidiarity issues for Ireland?**

*No.*

**17. Anticipated negotiating period**

*Not yet known*

**18. Proposed implementation date**

*Not yet known*

**19. Consequences for national legislation**

*As the proposed measure is a Regulation, it is directly applicable in Irish law.*

**20. Method of Transposition into Irish law**

*EU Regulation*

**21. Anticipated Transposition date**

*N/A. As the proposed measure is a Regulation, it is directly applicable in Irish law.*

**22. Consequences for the EU budget in Euros annually**

*None*

**23. Contact name, telephone number and e-mail address of official in Department with primary responsibility**

**Name & Address:**

*Jill Colquhoun*

*Intellectual Property Unit*

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**087 686 9720**

**Date:** 29 April 2022