



Council of the
European Union

Brussels, 13 September 2022
(OR. en)

12234/22

LIMITE

AGRI 418
AGRISTR 56
AGRIORG 87
AGRILEG 123
CODEC 1272
IA 130

Interinstitutional File:
2022/0089(COD)

WORKING DOCUMENT

From:	Presidency
To:	Delegations
Subject:	Regulation on geographical indications and quality schemes - Presidency background note and drafting suggestions on the Articles related to EUIPO

With a view to the meeting of the Working Party on Horizontal Agricultural Questions (Geographical indications and designations of origin) on 20 September 2022, delegations will find attached a Presidency background note in Annex including drafting suggestions on the Articles related to EUIPO (Articles 17(5), 19(10), 23(7), 25(10), 26(6), 34(3), 35(2), 46-47 and 82) of the abovementioned proposal.

Presidency background note to provisions on the Articles related to EUIPO**Introduction**

The delegation of tasks to the European Union Intellectual Property Office (EUIPO) proposed by the Commission in the Regulation on Geographical indications was discussed by the delegations at technical level (WP on Horizontal Agricultural Questions – Geographical indications and Designations of Origin) on 10 and 11 May 2022. At this meeting, the Commission presented the scope of the current cooperation between DG AGRI and EUIPO. Some delegations presented their position on including EUIPO in the GIs' application procedure by referring to a Common declaration of the group "Friends of GIs" presented at the AGRIFISH Council on 21 March 2022.

The comments (oral or written) received on this issue concerned three topics:

1. whether or not to delegate tasks to EUIPO;
2. financial considerations;
3. the excessive broadness of delegation of powers to the Commission to transfer tasks to EUIPO.

According to the information provided by the Commission in the WP (WK 6799/2022 ADD1), DG AGRI already cooperates regularly with EUIPO. The Proposal for a Regulation on Geographical indications expands the tasks to be delegated to EUIPO.

Some information on EUIPO budget can be found on the EUIPO [website](#). EUIPO presents its budget for the forthcoming year for approval to the EUIPO Budget Committee, which is composed of the representatives of EU Member States, the European Commission and the European Parliament.

Following the exchanges of views (oral and written), the Presidency prepared the attached drafting suggestions on the provisions related to EUIPO. Considering the existing cooperation between the Commission and EUIPO, the Presidency suggests to continue and specify this collaboration in the Regulation. By specifying the precise tasks that could be delegated to EUIPO the Presidency wants to frame the content of delegated acts.

When examining the Presidency drafting suggestions, delegations are kindly invited to take account of the following questions:

Questions for discussion:

Keeping in mind the existing cooperation between EUIPO and DG AGRI, to which extent are the Member States comfortable with entrusting the tasks to EUIPO?

Could the delegations specify the exact tasks that are acceptable to be delegated?

To help steer the discussion, the delegations can hereby find the list of tasks intended to be delegated to EUIPO and some explanations of the changes in the text:

Assignment of tasks to EUIPO related to the examination and publication for opposition proceedings (Article 17 paragraph 5)

- check applications for registration against the criteria set out in paragraph 1
- inform the applicant in writing, where applicable, of the reasons for not meeting the deadline set out in paragraph 2
- seek additional information from the applicant if necessary to complete the examination
- after verification by the Commission services, publish the single document and the reference to the publication of the product specification in the Union Register of geographical indications.

Assignment of tasks to EUIPO relating to the Union opposition procedure (Article 19 paragraph 10)

- receive the objections and notices of observations referred to in paragraph 1
- check the admissibility of oppositions
- invite the opposing authority or person and the authority or applicant producer group that filed the application to appropriate consultations, if the opposition is admissible
- extend the time limit for the consultations referred to in paragraph 4
- receive the notification on the outcome of consultation and of the opponent's position at the end of the consultation,
- re-examine and republish the application in the cases referred to in paragraph 7
- provide an assessment of the application for Union registration.

Assignment of tasks to EUIPO concerning the EU Register of Geographical Indications (Article 23 paragraph 7)

- maintain the Union register of geographical indications for the purpose of updating it as regards applications for geographical indications, their publication, registration, amendment and deletion and any other information required.

Assignment of tasks to EUIPO relating to changes to the product specification (Article 25 paragraph 10)

A provision has been added to the text that entrusts to EUIPO the tasks corresponding to those referred to in Article 17(5) and Article 19(10) as regards Union amendments and the task of publishing the standard amendments referred to in paragraph 9. This seeks to prevent text repetition and ensure coherence between articles.

Assignment of tasks to EUIPO relating to the cancellation of the registration (Article 26 paragraph 6)

Analogically to Article 25(10) tasks delegated to EUIPO corresponding to those set out in Articles 17(5) and 19(10) and those set out in paragraph 5 regarding the cancellation of the registration have been added to the text.

Amendments relating to the protection of rights in geographical indications in domain names (Article 34 paragraph 3)

After the discussion with the Commission the removal of the phrase "country code" is suggested, which means all top-level domain names established in the Union fall under this provision.

Amendment concerning conflicting trade marks (Article 35 paragraph 2)

The title of Article 35 has been changed to "Relationship between geographical indications and trade marks" to make the content of the article more clear. Provisions on EUIPO were deemed adequate in the first round of drafting suggestions.

Amendments relating to the scrutiny of third country geographical indications (Article 46)

Taking into account the content and title of the Article 23, it is suggested to move paragraph 5, which entrusts EUIPO the publication of the list of the international agreements in GI view (which is not the same as Union register of geographical indication within the meaning of the Article 23), to Article 46, which was chosen because of its focus on third countries, which is in line with the objective of paragraph 5. The text of the paragraph was deemed adequate.

Amendments of Article 47 and Article 82

No changes are suggested to neither Article 47 nor Article 82.

Complementary information:

Amendments relating to the publication in the Official Journal of the European Union

Some tasks, which are delegated to EUIPO in the text, consist of publication in the Official Journal. EUIPO cannot make documents public in the Official Journal, only the Commission can. That is the reason why it is suggested to replace publication in the Official Journal by publication in the Union register of geographical indications in every Article of Title II except in Article 22 paragraph 5. This means only the Regulations of registration and decisions on rejection will be published in the Official Journal by the Commission, the rest of the documents shall be in the Union register of geographical indications. This suggestion will harmonise the work of the Commission and EUIPO until delegation of tasks is effected and it can also speed up the procedure.

The replacement of OJ by the Union register is not yet published in this document. The delegations will receive additional suggestions soon to be discussed in the future. For the time being this is just complementary information.

Article 17

Scrutiny by the Commission and publication for opposition

(...)

5. The Commission shall be empowered to adopt delegated acts in accordance with Article [84](#) supplementing this Regulation by rules on entrusting EUIPO with the tasks **of scrutinising applications for registration following the criteria listed in paragraph 1, informing, where applicable, the applicant in writing of the reasons for not meeting the deadline set out in paragraph 2, seeking supplementary information from the applicant if necessary to complete the assessment and, after verification by the Commission services, publishing the single document and the reference to the publication of the product specification in the Union Register of geographical indications.**

~~set out in this Article.~~

(...)

Article 19

Union opposition procedure

(...)

10. The Commission shall be empowered to adopt delegated acts, in accordance with Article [84](#) supplementing this Regulation by detailed procedures and deadlines for the opposition procedure, for the official submission of comments by national authorities and persons with a legitimate interest, which will not trigger the opposition procedure, ~~and by rules on entrusting its tasks set out in this Article to EUIPO.~~

The Commission shall be also empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by rules on entrusting EUIPO with the tasks of receiving the oppositions and notices of comments referred to in paragraph 1, checking the admissibility of the oppositions, inviting the authority or the person that lodged the opposition and the authority or the applicant producer group that lodged the application to engage in appropriate consultations if the opposition is admissible, extending the deadline for the consultation referred to in paragraph 4, receiving the notification of the result of consultation and of the opponent's position at the end of the consultation, repeating the scrutiny and publishing once more the application in the cases referred to in paragraph 7 and providing an assessment of the Union application for registration.

(...)

Article 23

Union register of geographical indications

(...)

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 84 supplementing this Regulation by rules on entrusting EUIPO to operate the Union register of geographical indications **in order to keep it updated as regards applications for and publication, registration, amendment and cancellation of geographical indications and any other required information.**

(...)

Article 25

Amendments to a product specification

(...)

10. The Commission shall be empowered to adopt delegated acts in accordance with Article [84](#) supplementing this Regulation by provisions entrusting EUIPO with the **tasks corresponding to the tasks referred to in Articles 17(5) and 19(10) when dealing with Union amendments, and with the task of making** publication of **the** standard amendments referred to in paragraph [\(9\)](#).

(...)

Article 26

Cancellation of the registration

(...)

6. The Commission shall be empowered to adopt delegated acts in accordance with Article [84](#) supplementing this Regulation by rules entrusting EUIPO with the **tasks corresponding to the tasks referred to in Articles 17(5) and 19(10) and with the** tasks set out in paragraph [\(5\)](#).

(...)

Article 34

Protection of geographical indication rights in domain names

(...)

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 84, supplementing this Regulation by provisions entrusting EUIPO to establish and manage a domain name information and alert system that would provide the applicant, upon the submission of an application for a geographical indication, with information about the availability of the geographical indication as a domain name and, on optional basis, the registration of a domain name identical to their geographical indication. That delegated act shall also include the obligation for registries of ~~country-code~~ top-level domain names, established in the Union, to provide EUIPO with the relevant information and data.

Article 35

Conflicting Relationship between geographical indications and trade marks

(...)

2. Trade marks registered in breach of paragraph (1) shall be invalidated by EUIPO and, when applicable, the competent national authorities.

(...)

Article 46

~~Scrutiny of~~ **Third country geographical indications**

1. The Commission shall be empowered to adopt delegated acts in accordance with Article [84](#) supplementing this Regulation by rules on entrusting EUIPO with the **technical** scrutiny of 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.
 - 1a. On the basis of information received from the Commission, EUIPO shall make public and regularly update the list of the international agreements protecting geographical indications to which the Union is a contracting party as well as the list of geographical indications protected under those agreements.**

[paragraph 1a has been moved from Art. 23]

(...)

Article 47

Monitoring and reporting

1. Where the Commission exercises any of the empowerments provided for in this Regulation to entrust tasks to EUIPO, it shall also be empowered to adopt delegated acts in accordance with Article [84](#) to supplement this Regulation by criteria for monitoring performance in the execution of such tasks. Such criteria may include:
 - (a) the extent of integration of agricultural factors in the scrutiny process;

- (b) quality of assessments;
- (c) coherence of assessments of geographical indications from different sources;
- (d) efficiency of tasks; and
- (e) user satisfaction.

2. No later than 5 years after the first delegation of any tasks to EUIPO, the Commission shall prepare and submit a report to the European Parliament and to the Council on the results and experience of the exercise of these tasks by EUIPO.

(...)

Article 82

Amendments to Regulation (EU) 2017/1001

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

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

‘(f) administration of geographical indications, notably the tasks conferred on it by means of Commission delegated acts adopted in accordance with Article [...] of Regulation (EU) .../... of the European Parliament and of the Council[Regulation on GIs]*

* Regulation (EU) .../... of the European Parliament and of the Council of [...] [...] (OJ L [..., p....]).’.