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From:	European Economic and Social Committee
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To:	General Secretariat of the Council
Subject:	Opinion of the European Economic and Social Committee on 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 [COM(2022) 174 final- 2022/0115 (COD)]

Delegations will find attached the above mentioned document.

Encl.: INT 992 Geographical indication protection for craft and industrial products.



OPINION

European Economic and Social Committee

Geographical indication protection for craft and industrial products

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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
[COM(2022) 174 final- 2022/0115 (COD)]

INT/992

Rapporteur: **Paulo BARROS VALE**

1. **Conclusions and recommendations**

1.1 The European Economic and Social Committee (EESC) welcomes the Commission's initiative on the protection of geographical indications (GIs) for industrial and craft products at EU level, which fills the gap in legislation on these types of products. Regional identity and traditional know-how should be protected and legislation in this area is an important tool for regions' development, as the protection provided by geographical indication protects both producers and consumers.

1.2 The EESC believes that GI protection promotes the development of regions, especially the less developed regions, encouraging producers by ensuring that their products are recognised and protected against imitations, attracting communities and maintaining them by providing more skilled and better paid job opportunities, and boosting sustainable tourism, especially niche tourism based on the region's reputation.

1.3 The Commission is putting forward a proposal for a regulation on the protection of GIs for craft and industrial products. The EESC is not convinced that this option is preferable to that of extending the existing framework for agricultural products and foodstuffs, wines and spirits to cover industrial and craft products. This second option could avoid the further expansion of legislation, procedures and authorities by creating a single system of protection per geographical indication, applicable to any product type.

1.4 The EESC considers it essential that the geographical indication symbol to be used should be attractive and suitable for all new forms of communication, from traditional labels to more advanced digital communication. It should convey to the consumer the perception of quality and trust and assist producers in their communication. The EESC believes that thought could be given to updating the current protected geographical indication symbol contained in the Annex to Commission Delegated Regulation (EU) No 664/2014 of 18 December 2013[1] and to creating a trademark handbook.

1.5 The EESC deems it essential that the transition from geographical indication protection at national level to EU level be swift and straightforward. It is important that the two systems should not be used in parallel for too long, as this would confuse both consumers and producers. Furthermore, Member States already using geographical protection under the Lisbon Agreement should soon be able to display the EU symbol and thereby add a perception of quality to their products.

Referral	Council of the European Union, 11/05/2022
Legal basis	Articles 118 (1) and 207 (2) of the Treaty on the Functioning of the European Union
Section responsible	Single Market, Production and Consumption
Adopted in section	08/09/2022
Adopted at plenary	21/09/2022
Plenary session No	572
Outcome of vote (for/against/abstentions)	227/2/2

[1] OJ L 179, 19.6.2014, p. 17.

1.6 The EESC recommends that the Commission closely monitor any disputes that may arise in the certification processes, in particular with non-EU countries, and exercise its negotiating power. The decision to award certification should undoubtedly be taken by the European Union Intellectual Property Office (EUIPO), a body recognised as competent in matters of industrial property, but a channel of communication between that body and the Commission should be established to examine cases in which there is doubt and which may give rise to disputes. Cross-border regions (both within and outside the EU) can be a particular challenge for building the consensus that is essential to protect producers and consumers.

2. General comments

2.1 The aim of the Commission proposal is to ensure the protection of geographical indications (GIs[2]) for craft and industrial products at EU level. Craft and industrial products are excluded from the scope of the current GI protection mechanism, which only covers agricultural products and foodstuffs, wines and spirits. There are many craft and industrial products in the EU, with unique characteristics linked to their region of origin, which are repeatedly imitated and counterfeited and must be protected as a matter of urgency.

2.2 The absence of an EU-wide protection mechanism and the legal uncertainty arising from divergent or non-existent national legislation makes it difficult to protect craft and industrial products with unique characteristics linked to their region of origin. These gaps may result in the disappearance of products and the skills associated with them. Products with a regional identity, with unique characteristics and which are part of the tradition and identity of the regions should be preserved and used to boost regional development, pass on local know-how and attract and maintain communities.

2.3 In November 2019, the EU signed up to the Geneva Act of the Lisbon Agreement on Designations of Origin and Geographical Indications[3]. A legislative framework should now be created to enable the Union to submit a list of its geographical indications to be placed under the protection of the system, allowing European producers to benefit from this protection.

2.4 As it has previously stated[4], the EESC considers GI protection to be a valuable resource for European producers and supports the creation of a harmonised system to protect geographical indications for non-agricultural products. The EESC argues that this system helps producers to present their quality products more effectively in a globalised, liberalised and competitive market, having an even more marked positive impact on less developed regions.

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2 Geographical indication (GI) means any indication referring to a product originating in a specific geographical area whose specific quality, reputation or other characteristic is essentially related to its geographical origin.

3 The Geneva Act of the Lisbon Agreement, administered by the World Intellectual Property Organization (WIPO), enables contracting parties to receive rapid high-level and indefinite protection for GIs. The Geneva Act updates the Lisbon Agreement and extends its scope to cover all GIs.

4 OJ C 286, 16.7.2021, p. 59.

2.5 This position had already been put forward by the EESC in 2015 in its opinion on EU geographical indications/non-agricultural products[5]. In addition to expressing its support for extending GI protection to non-agricultural products through regulation at EU level, the EESC recommends that the new system could be modelled, as far as possible, on the existing framework for agricultural products and foodstuffs, wines and spirits.

2.6 The EESC believes that GI protection for craft and industrial products has the potential to generate a number of positive impacts: on product quality, which is required to meet the criteria for GI protection, giving consumers confidence; on attracting people and keeping them in the region by creating more skilled and better-paid jobs, and on the pride and good reputation gained from the sense of belonging to a region with unique characteristics; on the development of sustainable tourism; and on protection against the damage caused by imitation and counterfeiting.

3. Specific comments

3.1 The Commission proposal is based on the provisions of the Treaty on the Functioning of the European Union (TFEU) concerning intellectual property and common trade policy[6]. It aims to establish a common protection system for craft and industrial products (a unitary European intellectual property right) and to set up centralised mechanisms for authorisation, coordination and supervision, in line with the Lisbon system, implementing the agreement concluded with the signing of the Geneva Act. The selected instrument is a self-standing regulation, in line with the existing regulation for agricultural products and foodstuffs, wines and spirits. Stakeholders, who broadly support the creation of a specific GI scheme, were consulted.

3.2 In the impact assessment, three policy options were analysed in addition to maintaining the current regulatory framework (fragmented and with weak protection at international level) – Option 1: extending the GI protection system for agricultural products to GIs for craft and industrial products; Option 2: a self-standing EU regulation creating specific GI protection: to create a *sui generis* GI protection; Option 3: reform of the trademark system.

3.3 Option 2 was selected, with a proposal for a regulation on the protection of GIs for craft and industrial products. The EESC is not sure that this is the best option as, if the proposal is to adopt a system identical to the existing one for agricultural products and foodstuffs, wines and spirits, it might be simpler to extend the existing framework to craft and industrial products (Option 1). As part of the ongoing review of the agri-food sector, this new class of products would be included, harmonising procedures for recognising GIs without any further expansion of legislation, procedures and authorities.

3.4 As regards the territorial link, the EESC supports the choice of a protected geographical indication (PGI) instead of the protected designation of origin (PDO). We do not believe it is actually essential for protection of this type of product to be limited to those where all stages of production, processing or preparation originate in the region that has been defined. The identity

5 OJ C 251, 31.7.2015, p. 39.

6 Articles 118 and 207 TFEU.

of a craft or industrial product may remain, even if one of these stages originates in another region, as its identity stems from the history or method of production.

3.5 The EESC believes that the option of having a two-stage system, first at national and then at EU level, is the most appropriate one. The Member States are best placed to know the characteristics of their territory and of the products that can benefit from the geographical indication protection system, and, furthermore, there is no language barrier. The EESC merely draws attention to the need for the national system to be flexible and straightforward and to ensure a level playing field for all producers, regardless of their origin.

3.6 The EESC supports the choice of EUIPO[7] to be in charge of registration for the EU-level stage. EUIPO is an institution with extensive experience in industrial property matters, with proven capacity and competence in fulfilling its responsibilities, and has the necessary tools to process these registrations. This choice is all the more important as it will make it possible to check for incompatibilities in GI registrations with the registration of trademarks and patents.

3.7 The EESC supports the possibility of applications for registration, cancellation or amendment of the product specifications of geographical indications being submitted by a producer group directly to EUIPO, when originating from a Member State requesting an exemption from designating a competent authority to manage the national registration stage and other procedures relating to this category of products. No producer should be excluded from the GI protection system when they can be included in it, even where their country of origin does not recognise the importance of investing in this instrument.

3.8 The EESC is pleased to note the self-declaration option for verifying compliance with the GI product specifications. For these cases, provision is made for random checks to be carried out by the Member States. The EESC draws attention to the difficulty of such checks and even to conflicts of jurisdiction, which may arise where the boundaries of the GI covers more than one Member State or, in particular, a non-EU country.

3.9 The EESC is in favour of craft and industrial products being protected by a European title replacing existing national schemes. This option avoids the co-existence of two systems (European and national) and provides a uniform approach. It is particularly important in facilitating the protection procedure in cross-border regions, standardising procedures.

3.10 The EESC stresses the importance of defining what is a craft and industrial product, as stated in Article 3 of the proposal for a regulation. This definition should enjoy broad consensus among stakeholders so that there is no doubt about which products can be protected by GIs.

7 EUIPO - European Union Intellectual Property Office.

3.11 The EESC believes that the innovation factor should be included in the product specification as it can contribute to safeguarding and developing cultural heritage. A change in a production method that is due to innovation, whether technological or process-related, which does not call into question a product's quality, authenticity, reputation or characteristics attributable to its geographical origin, should not lead to withdrawal of protection or to a new application process.

3.12 The EESC is concerned that there may be conflicts surrounding the choice and/or use of a region's name, as well as in post-certification checks, between Member States and, in particular, with non-EU countries. A cross-border GI may lack consensus on the nomenclature to be adopted and prevent some producers from accessing this protection, and the Commission should have the political authority to negotiate a consensus. This power of the Commission is of particular importance when it comes to post-certification monitoring to set fair compliance assessment criteria on both sides of the border.

Brussels, 21 September 2022.

Christa SCHWENG
The president of the European Economic and Social Committee