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From:	European Committee of the Regions
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

Subject:	Opinion of the European Committee of the Regions on Protecting Industrial and Craft Geographical Indications in the European Union
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Delegations will find attached the above-mentioned document.

Encl.: ECON VII/016, 146th plenary session, 12-14 October 2021



**European Committee
of the Regions**

ECON-VII/016

146th plenary session, 12-14 October 2021

OPINION

Protecting Industrial and Craft Geographical Indications in the European Union

THE EUROPEAN COMMITTEE OF THE REGIONS

- points out that the WTO (in the Agreement on Trade-related Aspects of Intellectual Property Rights, or TRIPS) and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, which the EU has recently signed, do not distinguish between GIs according to type of product; also considers that the EU's signing of the Geneva Act gives it an obligation to address the issue of protecting ICGIs;
- believes that recognition of ICGIs is relevant to the priorities of EU programmes being developed, including those of the industrial strategy, the Green Deal and the review of trade policy, and also the future of rural areas and development of short supply chains;
- thus favours extending protection of GIs to include industrial and craft products under an EU Regulation based on the first paragraph of Article 118 TFEU;
- believes that local and regional authorities in Europe have a wealth of industrial and craft products that are made using knowledge that has often been passed down through the generations, and that promoting and protecting these products in the right way could help to maintain value added and jobs that cannot be outsourced, especially in rural areas, and to protect local heritage;
- points out that under a common system for all GIs it will be necessary as far as possible to draw on the experience with agriculture and foodstuffs, and to opt for a harmonised approach combining aspects of the different regimes;
- believes that a transition period will be needed for Member States that already have a system of protection so as to allow GIs previously registered at national level to be adapted and incorporated into the new EU system;
- considers it essential to use a mandatory European logo so that consumers or customers can recognise or identify these products;
- notes that an EU Regulation for ICGIs would allow them to be included in the list of products covered by EU trade agreements with third countries, and thus guarantee their protection in key markets.

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Rapporteur

Martine Pinville (FR/PES), Member of the Regional Council of Nouvelle-Aquitaine

Reference document

N/A

**Opinion of the European Committee of the Regions –
Protecting industrial and craft geographical indications in the European Union**

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

General comments

1. welcomes the European Commission's announcement in its *Intellectual property action plan* of November 2020 that it would look into the feasibility of introducing a scheme to protect EU geographical indications (GIs) for non-agricultural products, and notes that the CoR had already called for this idea to be explored in February 2015¹;
2. notes that Article 3 of the Treaty on European Union (TEU) includes safeguarding and enhancing Europe's cultural heritage as one of the objectives to be considered in relation to developing the internal market; that Article 118 of the Treaty on the Functioning of the European Union (TFEU) is intended to provide uniform protection of intellectual property rights throughout the Union within the internal market; and that Article 169 TFEU provides for protection of consumer rights (including promoting consumers' right to information);
3. considers "industrial and craft geographical indications" (ICGIs) to be clearer and more specific than "geographical indications (GIs) for non-agricultural products", and would prefer to use this term;
4. welcomes the very broad support for an EU initiative introducing a protection scheme for ICGIs, whether in the context of the public consultation on the initial impact assessment launched by the European Commission at the end of 2020 or of the stakeholder consultation held on 19 May 2021 prior to drawing up the current opinion. Calls, therefore, on its members and on the stakeholders on the ground to confirm this support by actively participating in the "Public consultation on GIs for non-agricultural products" launched by the European Commission on 29 April 2021 and open until 22 July 2021 inclusive²;
5. regrets that the lack of harmonisation at EU level with respect to ICGIs is resulting in a patchwork of national legal instruments, weakening the protection of products and businesses;
6. notes that at EU level different types of IG are currently still subject to different legal regimes, with protected designations of origin (PDOs) and GIs only applied by the EU to wines, aromatised wines, spirit drinks and agricultural products/foodstuffs;
7. points out that the WTO (in the Agreement on Trade-related Aspects of Intellectual Property Rights, or TRIPS) and the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, which the EU has recently signed, do not distinguish between GIs according to type of product; also considers that the EU's signing of the Geneva Act gives it an obligation to address the issue of protecting ICGIs;

¹ CoR opinion ECOS-V-064 COR-2014-05386-00-00-AC-TRA on *Extending geographical indication protection to non-agricultural products*,.

² https://ec.europa.eu/growth/content/commission-seeks-public-opinion-protection-industrial-designs-and-eu-wide-geographical_en

8. draws attention to the fact that the companies engaging in GI strategies and procedures are primarily microenterprises and SMEs, including in rural areas, which are firmly rooted in a specific region and have a real fund of local expertise and which form genuine sectoral clusters; some of these businesses have become global market leaders, and are particularly important for the European economy and for increasing the EU's independence from global markets;
9. notes that GIs also respond to changing consumer demand: people want greater traceability, transparency about a product's origin and manufacturing process, and locally-made products, and this trend has only increased with the impact of the COVID-19 crisis;
10. believes that recognition of ICGIs is relevant to the priorities of EU programmes being developed, including those of the industrial strategy, the Green Deal and the review of trade policy, and also the future of rural areas and development of short supply chains.

Need for a uniform EU framework with a territorial dimension

11. believes that a *sui generis* system for protecting ICGIs would, in particular, allow: strengthening of the legal protection for products covered by GIs, including on the internet; development of tools to help combat counterfeiting and unfair competition; creation and maintaining of jobs and training in a region; greater transparency for consumers; and real recognition of what is in some cases an exceptional level of expertise;
12. recognises that the trademark system does not allow effective protection of product names and is quite costly for trademark holders;
13. thus favours extending protection of GIs to include industrial and craft products under an EU Regulation based on the first paragraph of Article 118 TFEU. This would accord with the division of powers between the European Union and the Member States, and would fully comply with the subsidiarity principle, not least because it would create the conditions for equivalent and uniform protection of ICGIs throughout the internal market while avoiding distortions of competition;
14. believes that local and regional authorities in Europe have a wealth of industrial and craft products that are made using knowledge that has often been passed down through the generations, and that promoting and protecting these products in the right way could help to maintain value added and jobs that cannot be outsourced, especially in rural areas, and to protect local heritage;
15. points out that strengthening the position of businesses whose product has been recognised as an ICGI would allow parts of their production chains to be brought back to a region, helping to revive local industry and increase EU independence from global markets;
16. points out that the impact assessments on GIs for agri-food products have shown that GIs have also brought about an increase in producers' incomes, often in rural or peripheral areas. Establishing a European ICGI system should also help to increase incomes, as well as benefiting territorial cohesion. According to a study published in 2020 by the European Commission on the economic aspects of GI protection for non-agricultural products³, GIs also increase producers' competitiveness by making their products stand out, enhancing their products'

³ European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, Economic aspects of geographical indication protection at EU level for non-agricultural products in the EU, study conducted by ECORYS, VVA and ConPolicy, 2020.

- reputation and increasing consumers' willingness to pay for products that come with a guarantee regarding their features and origin;
17. adds that ICGIs help to shape and diversify local cultural and tourist amenities across a whole area, through industrial tourism for instance, based on sharing know-how and excellence-based activities;
 18. draws attention to the role that certain local and regional authorities can and already do play in supporting industries, both at the stage of designing ICGIs (consultation period) and in implementing (developing communication tools, support for certification, legal advice, etc.) and promoting them.

Practical aspects of registering, monitoring and protecting ICGIs

19. points out that under a common system for all GIs it will be necessary as far as possible to draw on the experience with agriculture and foodstuffs, and to opt for a harmonised approach combining aspects of the different regimes;
20. therefore recommends that, to ensure consistency between the two systems, a robust mechanism of coordination between the European Commission departments concerned be put in place, especially during the dossier examination phase, so as to avoid any conflicts over the use of names; also calls for ICGIs to be included in the European GIview database for agricultural GIs;
21. reiterates its view that protection of ICGIs should not be time-limited and that it should always be possible to withdraw protection subject to the same conditions that govern GIs for agricultural products⁴;
22. believes that a transition period will be needed for Member States that already have a system of protection so as to allow GIs previously registered at national level to be adapted and incorporated into the new EU system;
23. thinks that a coordination or recognition system should also be provided for, which would protect products that are already under a designation of origin in certain Member States;
24. considers it essential to use a mandatory European logo so that consumers or customers can recognise or identify these products;
25. favours application for ICGIs of the two-stage model of the agricultural registration procedure – first, national or regional registration in accordance with a country's internal arrangements, followed by registration at EU level;
26. recommends that the registration procedure be time-limited and managed by the European Union Intellectual Property Office, subject to it being given the relevant powers;
27. notes that the link between geographical region and product is fundamental and that a particular aspect of this is the paramount importance of the human factor and expertise for ICGIs. The fact that a raw material has disappeared or is no longer suitable in some regions has not prevented businesses and expertise from being maintained, or even developed to make high-quality products;
28. believes that ICGI specifications must be transparent and credible to guarantee consumer confidence. Specifications must state the stages of manufacture, their location, and even their verification, and information about their compliance with the SDGs;

⁴ Ibid.

29. is particularly concerned about innovation and research, which must not be hampered by specifications: there are many innovative businesses (global approach, design, origin of raw materials, social innovation, use of bio-based or recycled materials, use of technologies, patents), creating regional dynamism and maintaining a human and professional community around the products concerned;
30. believes that since a GI is an official guarantee, reliable checks on the operators concerned must be put in place in order to ensure that specifications are adhered to by manufacturers, and to protect consumer safety and confidence;
31. recommends opting for certification as the best way to achieve this, since it will guarantee external, independent auditing at an acceptable cost;
32. recommends establishing the same level of protection as for agricultural GIs, with Member States taking appropriate legal or administrative measures to prevent or stop illegal use of ICGIs;
33. notes that the rules for protecting ICGIs should include protection on the internet;
34. believes that producer groups holding a GI are the mainstay of ICGIs because they deal with recognition of the GI and its day-to-day management; they must play a significant role in monitoring, protecting and promoting GIs;
35. reiterates its position that in specific and well-founded cases it would be reasonable to provide for registration of a GI to be granted to a single entity, provided that access to the GI is open to any new producer who complies with its rules⁵;
36. considers that the costs associated with the application and registration process should not be such as to deter producers, and that they should take the form of a one-off contribution such as a registration fee. In turn, the costs borne by the relevant national public authorities should be limited to those of ordering, promoting and, where necessary, supervising checks, and applying legal or administrative measures to stop the illegal use of ICGIs.

Trade and competition considerations

37. notes that products to which a GI applies are marketed via different channels, such as short supply chains, the internet, or purely business channels such as hotels and catering. The protection afforded by GIs would allow such markets to be developed, for example by including these collections of products in regional and/or national advertising campaigns, or when promoting industrial tourism;
38. calls on the European Commission to promote sustainable public procurement by clarifying to what extent the use of ICGIs can be made possible in procurement procedures under objective environmental criteria such as short supply chains and the internalisation of external costs;
39. points out that many ICGI products are exported and require protection within and outside Europe. Without broader protection, collective GI strategies and the businesses involved cannot be fully effective. This undermines the protection of their industrial property rights and perpetuates counterfeiting and unfair competition, which will weaken businesses that are often located in rural areas; this protection should be extended to cover imported products of non-EU origin marketed in the EU;

⁵ Ibid.

40. finally, notes that an EU Regulation for ICGIs would allow them to be included in the list of products covered by EU trade agreements with third countries, and thus guarantee their protection in key markets;
41. therefore calls on the European Commission to draw up a corresponding proposal for a regulation to protect geographical indications for industrial and craft products from the European Union and to submit it for consultation and deliberation; asks the European Commission to take into account the considerations and recommendations set out in the present opinion and pledges its own active involvement and support.

Brussels, 13 October 2021

The President
of the European Committee of the Regions

Apostolos Tzitzikostas

The Secretary-General
of the European Committee of the Regions

Petr Blížkovský

II. PROCEDURE

Title	Protecting Industrial and Craft Geographical Indications in the European Union
Legal basis	Article 307(4) TFEU
Procedural basis	Own-initiative opinion, Rule 41(b)(ii) RoP
Date of Council/EP referral/Date of Commission letter	Not applicable
Date of Bureau/President's decision	4 May 2021
Commission responsible	Commission for Economic Policy (ECON)
Rapporteur	Martine Pinville (FR/PES)
Analysis	5 May 2021
Date adopted by commission	Adopted at meeting of 24 June 2021
Result of the vote in commission	Unanimity
Date adopted in plenary	13 October 2021
Previous Committee opinions	– CoR opinion ECOS-V-064 on <i>Extending geographical indication protection to non-agricultural products</i> , rapporteur Maria Luisa Coppola (IT/EPP) COR-2014-05386-00-00-AC-TRA