

GIs are very important and strategic assets for the territories and have a very significant value for communities. As mentioned in the explanatory memorandum for the CE regulation proposal, “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 human resources as well as to safeguard their cultural heritage”.

Ahead, whereas, recital 5 states that “considering 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”.

Lastly, recital 7 underlines that “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”.

If only one of the production steps should occur locally and the rest can be displaced to another region, even worse, to another MS, or even worse, to another country outside the EU, all this logic will be subverted and this will discourage the territories to join the register.

This scenario is worrying for craft producers and for local and regional authorities, who are fighting for the added value of this traditional knowledge to remain in the territory and serve, among others, its touristic and economic development.

That’s why we advocate that all production steps or substantial steps of production must take place in the defined geographical area. In our opinion, this should be mandatory.

3. On GI protection

GI protection shall be considered horizontally, not introducing differences on the type of products.

- The Council withdrew the prerogatives of enforcement (implementation of protection) although these exist for agri GIs and are part of the general system of GIs. This approach is not necessarily consistent because some provisions refer to enforcement authorities (e.g. customs). Consistency is requested. We require the same guarantees as for agri GIs on this point.

- The Council withdrew the provisions relating to the **protection of GIs vis-à-vis domain names**, because its implementation will be too complex. However, this new provision and new system is maintained for agricultural GIs. Why then would this new mechanism be complicated to implement for CI GIs and not for agricultural GIs? **The Council introduces discrimination in terms of legal protection vis-à-vis CI GIs, which is not acceptable.**

- On evocation, we ask, like the agricultural organizations, that **the concept of evocation not be defined in this way, being understood that judges have a very broad approach and grant strong protection to GIs.** This trend must be maintained and the provisions must be identical for CI GIs and agricultural GIs.

Position paper on Craft & Industrial GIs Regulation Draft

To the attention of the EU Council

Bordeaux, 28/11/2022

AFIGIA, CEARTE and Pierres et Marbres de Wallonie have been defending the need for a specific European GI regulation for industrial & crafts products for several years. **Our GI products on craft & industrial sectors are real assets for our territories, enabling the international enhancement of the excellence of our countries’ know-how and products.**

Our structures regularly discuss the issue of **GI protection for industrial and craft products**. We have therefore very positively welcomed the legislative proposal which has been presented by the European Commission and which intends to extend the protection of geographical indications for industrial and craft products. This proposal is a real hope for our manufacturers and our territories. We sincerely wish all the institutions will provide some efforts to grant consistency to the content of the regulation.

However, we regret that the work undertook within the Council so far does not present the relevant progress on elements that are of high importance for us.

1. On definitions:

If the definition of ‘craft products’ is maintained, we suggest **keeping the EC wording, with the following change:**

(a) *‘craft products’ means products produced either totally by hand or with the aid of manual tools or by mechanical means, whenever the ~~direct~~ ~~essential~~ ~~principal~~ ~~main~~ ~~dominant~~ ~~principal~~ ~~main~~ ~~dominant~~ crafts producer’s contribution is the most important component of the finished product;*

We believe this wording is more open and covers the various craft product concepts that exist in the EU. On the other hand, it continues to distinguish between craft and industrial products.

2. On the importance of the requirements and steps of production to be considered for GIs products

We disagree with the possibility of taking into account “only one of the production steps”, taking place in the defined geographical area as it could weaken the GI scheme.

4. On the “supporting” documents

- We requested all the “supporting” documents to be **aligned as possible with the agricultural GI system (mostly single document and specifications)**.
- We believe that the **single document is redundant and unnecessary** as all the information contained is already part of the specification provided in article 7. In line with the administrative simplification of procedures, the presentation of a single document should not be required.
- **If maintained, the content of the single document shall be modified.** This document is the reference document for the EUJPO, the opponents and which is the subject of an official publication. To date, it does not contain all of the elements necessary for the assessment of the eligibility of a GI application, which must be, on the one hand, investigated and, on the other hand, enforceable. It is necessary that the content of this document be modified to be legally consistent and not subject to criticism.
- On the single document, we wonder why could the Commission not take a delegated act to modify its content as it is possible for the specifications? It seems essential for the Commission to be able to make changes if there are problems in practice.
- **The producer must know and strictly comply with all the product specifications, and not a summary or any other simplified document.** This is the only way to guarantee the authenticity of the product to the consumer and to promote the reliability of the system.

5. On controls

The proposal made by the Council presents **several deficiencies** to our point of view:

Official controls have been deleted; however, MS will delegate some controls to other bodies. We wonder the legal basis of such delegation if no official controls are established for GI GIs.

As a consequence, there is a **lack of consistency of the title** concerning controls that deserves to be reworded.

We realize that control by way of “self-declaration” is set up as a principle and not as an option. We refuse the self-declaration to be the only possible control for GI GIs and that certification is perceived as a derogation. **If self-declaration was to be maintained, it should be an option and not an obligation.**

We maintain that the system set up in France or Portugal for external control by way of certification is effective and independent. For our point of view, certification should only be able to be ensured by the competent authorities and by delegated product certification bodies, complying with all the requirements established in this Regulation, namely being themselves accredited in accordance with the ISO/IEC 17065 standard.

In addition, external controls, public or private, must be put in place based on a risk analysis. If the latter indicates that there is no risk, there will therefore be no control.... This position is not acceptable because it opens the way to cheating and misleading practices.

The Council’s proposal, aimed at having a “lighter” control, constitutes a real danger for our GIs, both for the companies that have committed themselves to the system and for the consumers who will not be able to understand a drift in the system and will accuse all the actors.

We suggest deleting the self-declaration process as it does not provide any guarantee.

Finally, allowing the producer to certify himself is a risky simplification of processes, which will create consumer distrust and will encourage the abusive and fraudulent use of GIs. It should be noted that, in the case of agricultural GIs, Regulation (EU) 1151/2012 this type of “certification” is not provided. This strategy should also be followed for industrial and craft GIs.

For all these reasons, we request the MS and the Council to adopt a more consistent and secure approach in the content of the GI GIs regulation.

Please do not hesitate to contact us should you have any questions. We would be delighted to further exchange with you on this topic.

We thank you for your attention!

Yours sincerely,

On behalf of the following organisations:

AFIGIA – Association Française des IG Industrielles et Artisanales

CEARTE - Centro de Formação Profissional para o Artesanato e Património

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