Geographical indications protection for craft and industrial products

EU lawmakers have drafted and negotiated a regulation on geographical indications for non-agricultural products, to enable the registration of names of craft and industrial products as geographical indications and to enhance their protection within the EU and in third-countries. The European Parliament is expected to vote on the final text resulting from the trilogue negotiations during its September plenary session.

Background

Geographical indications (GIs) for craft and industrial (CI) products establish intellectual property rights protection for registered names of products whose quality, reputation or other characteristic are essentially attributable to their geographical origin. Examples include Murano glass, Donegal tweed, Solingen cutlery, and Bolesławiec ceramics. Although the EU is party to international protection schemes, experts consider that they provide little effective protection for products other than wine and spirit products. Fragmented protection at national level, with only sixteen Member States providing for a dedicated GIs scheme, leads to legal uncertainty and uneven protection. Consequently, artisans and producers can be put off seeking protection or investing in traditional crafts in the EU.

European Commission proposal

In 2015, Parliament adopted an own-initiative report calling on the Commission to table legislation on GIs to protect CI products. In April 2022, the Commission put forward a proposal for a regulation stipulating uniform registration rules, a common level of protection for CI GIs against imitation and misuse, and enforcement and monitoring rules. Its aim is to create a functioning internal market for geographically linked CI products and to fulfil EU obligations under the Geneva Act.

European Parliament position

Parliament’s negotiators reached a provisional agreement with the Council at the second trilogue meeting, on 2 May 2023. The compromise provides for the following main elements: Parliament conceded that for the name of a product to be eligible for a geographical indication one production step (as opposed to the main production step) would need to take place in the defined geographical area. The co-legislators agreed that Member States should provide for ‘efficient, predictable and expeditious’ application procedures. The national opposition procedure would be open for 2 months and the consultation between opponent and applicant should not exceed 3 months (save for a joint request for an extension). Following Parliament’s request, the text prescribes that Member State authorities and (as regards direct applications) the European Union Intellectual Property Office, must endeavour to assist micro-, small and medium-sized enterprises (MSMEs) in the preparation of the single document. Fees would have to be reasonable and proportionate, taking into account the situation of MSMEs and not exceeding the actual costs incurred by the administration dealing with requests. In line with the Council’s general approach, the co-legislators agreed that the producer’s self-declaration would be the default mechanism for verifying that the geographically linked product complies with the product specification. Member States would retain the option to provide for the verification of compliance by a competent authority or a designated third party.