Revision of the EU legislation on geographical indications of agricultural and food products

This briefing is one in a series of ‘implementation appraisals’, produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each briefing focuses on a specific EU law which is likely to be amended or reviewed, as foreseen in the European Commission’s annual work programme. ‘Implementation appraisals’ aim at providing a succinct overview of publicly available material on the implementation, application and effectiveness to date of specific EU law, drawing on input from EU institutions and bodies, as well as external organisations. They are provided by the Ex-Post Evaluation Unit of EPRS, to assist parliamentary committees in their consideration of new European Commission proposals, once tabled.

SUMMARY

The EU implements a quality policy (quality schemes) aimed at protecting the names of certain agricultural and food products. The objective is to promote the unique features of these products linked to their geographical origin (geographical indication) as well as the traditional know-how behind their production (traditional speciality guaranteed).

The EU rules on quality schemes have been established by a number of regulations adopted by the European Parliament and the Council of the EU. Recently published studies show that, although the implementation of the EU legislative framework is assessed positively, certain shortages need to be addressed so that the quality schemes can deliver to their full potential and support the achievement of the objectives of the ‘farm to fork’ strategy adopted by the European Commission in May 2020 as a cornerstone of the European Green Deal. The Commission work programme for 2021 therefore envisages the submission of a proposal for a revision of the legislative framework in the fourth quarter of the year.

This briefing presents the findings of publicly accessible sources on the implementation of the EU legislative framework that will be revised.

Background

Trade in geographical indications (GIs) and in traditional speciality guaranteed (TSGs) is an important sector of the EU economy. In 2017, the share of GI/TSG products reached 7.0% in the EU-28, which is an estimated sales value of €77.15 billion.¹

The EU’s GI quality schemes give intellectual property rights (IPRs) to certain products that have features specifically linked to the area where they have been produced. GIs are not trademarks. While trademarks guarantee exclusive private rights to their holder, GIs create a collective right for all producers in the geographical area who wish to produce according to specific rules. GIs fall into three categories:
Protected Designation of Origin (PDO) – applied to wine and food, this indication guarantees that all stages of the production, processing and preparation process have taken place in the specific region. An example is Kalamata olive oil PDO, which is entirely produced in the region of Kalamata in Greece, using olive varieties from that area. For wine, the grapes used for its production have to come exclusively from the geographical area where the wine is made.

Protected Geographical Indication (PGI) – applied to wine and food, this indication implies, for most products, that at least one of the stages of production, processing or preparation takes place in the region. An example is the Westfälischer Knochenschinken PGI ham, which is produced in Westphalia using age-old techniques, while the meat used does not originate exclusively from animals born and reared in that specific region of Germany. For wine, at least 85% of the grapes used have to come exclusively from the geographical area where the wine is produced.

Geographical Indication of spirit drinks and aromatised wines. In this GI type, for most products, at least one of the stages of distillation or preparation takes place in the region. However, raw products do not need to come from the region. An example is Irish Whiskey GI, which has been distilled and matured in Ireland since the sixth century, but the raw materials do not exclusively come from Ireland.

Products with GI recognition (or whose GI-application is under examination) are listed in quality product registers. They contain information on each product’s production and geographical specificities. Non-European product names can also register as GIs provided their country of origin has a bilateral or regional agreement with the EU that includes the mutual protection of such names.² The fact that GIs involve IPRs make them a factor of growing importance in the trade negotiations of the EU with third parties.

In contrast to GIs, TSGs are not linked to a specific geographical area but relate to traditional aspects of the products, i.e. the way the product is made or its composition. A TSG-labelled product is protected against misuse and falsification. TSGs apply to food and agricultural products. An example of a TSG product is the traditional beer Gueuze, obtained by spontaneous fermentation produced mainly in and around Brussels (Belgium). As a TSG-marked product, its production method is protected but could be produced in other geographical areas too.

The relevant GI/TSG logos are presented in Figure 1 below.

Figure 1 – Common logos for EU products

<table>
<thead>
<tr>
<th>Protected Designation of Origin (PDO) – food, agricultural products and wines</th>
<th>Protected Geographical Indication (PGI) – food, agricultural products and wines</th>
<th>Protected indication (GI) of spirit drinks and aromatised wines</th>
<th>Traditional Specialty Guaranteed (TSG) – food and agricultural products</th>
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<tbody>
<tr>
<td><img src="image1.png" alt="PDO Logo" /></td>
<td><img src="image2.png" alt="PGI Logo" /></td>
<td><img src="image3.png" alt="GI Logo" /></td>
<td><img src="image4.png" alt="TSG Logo" /></td>
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For all of the above EU quality schemes, the national competent authorities (NCAs) are obliged to take the necessary measures to protect the registered names in the territory of the respective EU Member State. NCAs should also prevent and stop the illegal production or placing on the market of products using such a name.
Legislative framework

The legislative framework, which currently regulates GIs and TSGs at EU level, includes the following legislative acts of the Parliament and the Council:

- **GIs/TSGs quality schemes for agricultural products and foodstuffs**: Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs;
- **GIs quality schemes for wines**: Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products (the CMO Regulation);
- **GIs quality schemes for aromatised wine products**: Regulation (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products;
- **GIs quality schemes for spirit drinks**: Regulation (EC) No 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks as repealed by the larger in scope Regulation (EU) 2019/787 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages.

Since 2018, some of the above legal acts – namely, Regulation (EU) No 1151/2012, Regulation (EU) No 251/2014 and Regulation (EU) No 1308/2013 – have been subject to an amendment aimed at aligning the EU's GI policy with the objectives and structure of the reformed common agricultural policy (CAP), which will cover the period between 2023 and 2027. After months of negotiations, Parliament and Council reached a provisional agreement on 25 June 2021, which is awaiting the formal approval of the two institutions by the end of 2021.

In parallel and as a follow-up to the European Green Deal and its pivotal 'farm to fork' strategy, the 2021 Commission work programme foresees a revision of the GI legislative framework, and a Commission proposal is expected in the fourth quarter of 2021. Following the Commission inception impact assessment published in October 2020, the revision will aim, among other things, to strengthen the legislative framework of GI schemes and the positions of the farmers and producer groups of GIs. Yet another aim will be to improve the quality schemes’ contributions to sustainable production – all of which are commitments undertaken as part of the 'farm to fork' strategy. The next sections of this briefing present some of the findings on the implementation of the legislative framework scheduled for revision.

Commission reports and consultation activities

Implementation of the EU legislation on GIs: An ex-post evaluation

In March 2021, the Commission published an externally prepared study aimed at supporting its ex-post evaluation of the implementation of the EU legislative framework. The results of the ex-post evaluation were due in the fourth quarter of 2020 but, at the time the content of this briefing was completed (14 October 2021), they had not been published yet. The study covered the implementation period between 2008 (i.e. the entry into force of Regulation 110/2008) and 2020 (when the study was finalised). The analysis followed the standard set of criteria for ex-post evaluations prescribed by the EU Better Regulation agenda: relevance, effectiveness, efficiency, coherence and EU added value. Its main findings are presented below.

The objectives of the GIs/TSG schemes have been assessed as relevant to the needs of stakeholders such as producer groups, national authorities and consumers; the study notes, however, low awareness and understanding of the schemes in some Member States, which might diminish the positive assessment of relevance as regards consumers. The study shows that the GIs/TSGs schemes are also relevant for rural areas (including those faced with natural or other specific constraints) and...
are even considered a ‘strong asset’. The GIs/TSGs schemes are also seen as a vehicle promoting regional identity particularly in Member States with traditions in GI protection. However, the study finds that the preservation and promotion of local living cultural heritage can be further developed. It also warns that environmental sustainability and animal welfare are currently not among the objectives set in the EU legislation on GIs/TSGs, even though there is a growing demand for the food and drinks value chains to consider these aspects. Practice shows that in recent years, GIs/TSGs schemes have been trying to integrate these two aspects into product specifications although at a slow pace.

As regards effectiveness, the study finds that, broadly, the objectives of the EU legislation on GIs/TSGs have been achieved, although some limitations have also been identified. When assessing how effectively the EU legislation has been implemented, the study looked in particular at the following aspects:

- **Fair competition for farmers and producers** – in particular, the legislation seeks to ensure fair competition for farmers and producers who are part of the GIs/TSGs value chains. On the one hand, this is achieved via an EU level scrutiny of applications, which ensures that the applications are treated in a homogenous way by the different Member States. On the other hand, fair competition is achieved through the implementation of official controls at all stages of the supply chain; the study notes though that certain weaknesses have been identified at the market stage and on export markets, namely – the frequency of controls seems to be lower at these stages and their effectiveness is perceived as lower than at the production stage.

- **Protection of IPRs** – the study finds that official controls and enforcement of IPRs afford a good level of protection against the misuse of GI names at EU level. In particular, the assessment has shown that controls at the market stage are more effective in the Member States of production than on intra- and extra-EU markets. However, the use of GI names in the domain name on the internet remains an issue in terms of IPR enforcement because GIs are not considered as a valid IPR title in the context of the uniform domain-name dispute-resolution policy.

- **Integrity of the EU market** – GI and TSG schemes were found to have a positive effect on the EU single market by providing common reference for trade in the different Member States, as the same schemes are used in each Member State and for the protection of names at EU level. Intra-EU sales outside the producing Member State are significant. However, these positive developments are somewhat outweighed by the registered low awareness and understanding of GIs/TSGs schemes in many Member States, which restricts their role of serving as common standards on the EU market.

- **Clear and reliable information to the consumers** – the study assessed that a wide range of information on the GI and TSG schemes is available to consumers; this information, among others, includes the updated list of registered names on the EU GI register and several websites with detailed information on GIs and TSGs in a few Member States. Indications such as ‘protected designation of origin’, acronyms such as ‘PDO’ and symbols (specific logos) – see Figure 1 above – also contribute to the provision of clear and reliable information to the consumers although the rates of awareness and understanding vary from one Member State to another. The study also warns that while the use of the EU symbols is compulsory for agricultural products and foodstuffs, this is not the case for wines, spirit drinks and aromatised wine products. Controls at all stages of the value chain, surveillance of the protected names on the market and IPRs enforcement aimed at ensuring that the available information is reliable are found to be broadly effective, although some limitations have also been observed.

- **Fair return for farmers and producers** – the study notes that farmers and producers can get a price premium and better income for the value-adding characteristics of their products. However, these benefits could not be taken for granted across the board,
because they are not systematic. The fair return is highly dependent on the economic environment in which the product is made and marketed, and on the governance and strategy implemented by operators.

Impact in rural areas – the study suggests that GIs and TSGs have had a positive impact on employment in a few cases. This impact is due to the stronger development of GI and TSG sales value compared to the whole food and drink sector’s higher labour-to-production ratio for many GIs as compared to similar non-GI products. Furthermore, synergies with tourism could benefit GIs, and therefore the networks between GI and TSG stakeholders and tourism need to be developed further.

Impact on third countries – the study finds that when stakeholders from third countries register a GI at EU level through direct application, their main motivation is to get access to improved IPRs protection. In particular, the benefit for stakeholders from third countries is twofold – on the one hand, EU GI schemes are viewed as a guarantee of quality for consumers and, on the other, they protect producers against unfair competition. It should be noted though that, following the EU registration, no significant economic impact has been observed in the value chains of third countries, because the share of the EU market in the total sales of GI products made in third countries is low.

The study found that the costs made by producers and national authorities are justified when compared to the benefits received, and hence the implementation of the EU legal framework could be assessed as efficient. More specifically, the costs incurred by producer groups are calculated to be 0.5% of the sales value under the GIs/TSGs schemes, while the costs made by public authorities for management and control amount to 0.12% of the total sales value under the GI/TSGs schemes (and 0.24% of the value premium of GIs/TSGs products compared to non-GIs/TSGs products).

Coherence was largely confirmed. In particular, the study notes that there are no major cases of incoherence between:

- **EU GIs and EU TSGs schemes** – although serving different purposes, these two quality schemes are broadly coherent. The study notes that, as per January 2020, only a very small number of TSGs (62) had been registered as compared to GIs (1,377), which is mainly due to the low attractiveness of TSGs – they do not guarantee IPRs protection, are less recognisable to consumers, and do not prevent stakeholders from other geographical areas using the TSG.

- **EU GIs and EU trademarks** – the level of protection offered by the EU legislation on GIs and trademarks is assessed as compatible and comparable. However, the study also notes that there is a difference of treatment between EU GIs (PDOs/PGIs) and EU trademarks used in the sales name of final products, which results from the fact that, as explained, trademarks confer exclusive private rights on their holder, whereas GIs give a collective right to all producers in the geographical territory who are willing to produce according to the defined production rules. The GIs producers may thus have difficulties in preventing others from using a PDO/PGI name as they do not have an exclusive IPR on the PGO/PGI-registered product.

- **EU GIs/TSGs and national/regional schemes** – the study notes that existing quality schemes regulated at national and/or regional level may have common objectives with the GIs/TSGs schemes regulated at EU level. Such objectives may include promoting traditional and/or regional products or ensuring better traceability. Furthermore, national/regional quality schemes covering environment and animal welfare aspects (which, as mentioned, are not yet regulated at EU level) could usefully complement the EU GIs/TSGs schemes. However, the study also notes that the abundance on the market of quality labels having objectives that consumers are not always clear about may be confusing for them.
EU GIs/TSGs and other CAP instruments and measures – the EU GIs/TSGs quality schemes are found to share similar objectives and are therefore coherent with the direct payments and common market organisation (CMO) policy (under the first CAP pillar) and the rural development policy (under the second CAP pillar). Furthermore, the GIs/TSGs quality schemes complement each of these policies in specific areas and contribute to the achievement of their objectives, in particular by: ensuring a fair income for agricultural primary producers, in the case of direct payments; strengthening the bargaining power in the value chain for agricultural primary producers and increasing their returns from the market, in the case of the CMO; stimulating vibrant rural areas in the EU by contributing to viable farms, job creation and diversification of income streams, in the case of the rural development policy.

EU GIs/TSGs and other EU policies – the GIs/TSGs quality schemes are assessed as coherent with EU policies in areas such as trade and EU internal market, food safety and information to consumers. However, the study identified specific issues in terms of the food safety policy (there is no consistency in the definition of the term ‘traditional’ between the EU GI/TSG regulatory framework and the EU’s health regulations) and the EU internal market (with regard to the enforcement of IPRs, the protection of internet domain names, including GI names, still remains to be solved).

The EU added value of the GIs/TSGs schemes has been confirmed by the study. In particular, the EU legislative framework has been instrumental in establishing homogenous GIs/TSGs schemes in all Member States, which also allows for EU scrutiny of the schemes implemented at national level.

The study came up with a number of detailed recommendations on the way forward. These concern the following aspects: control and enforcement of IPRs on the internal market and on exports; communication to consumers; research on GIs/TSGs; promotion of the links between tourism and GIs/TSGs; structuring of the value chains under GIs/TSGs quality schemes; regulation of supply for GIs value chains; simplification of the procedures; economic assessment of applications for GIs/TSGs; environment and animal welfare features; evolution of the TSGs quality scheme; expansion of the GI scope to prepared meals; identification of all producers covered by the TSGs scheme in all Member States; rules for GIs as ingredients; alignment of the definitions of ‘traditional’ in the various pieces of EU law; better contribution of GI and TSGs products to a healthy and balanced diet; origin of primary ingredients in Regulation (EU) No 1169/2011 on food information to consumers.

Study on the economic value of the EU quality schemes, geographical indications and traditional speciality guaranteed

As mentioned, trade in GIs/TSGs is an important sector of the EU economy, more particularly of the food and drinks sector. A 2019 study prepared at the request of the Commission shows that in 2017 the share of GIs/TSGs in the EU’s food and drink sector was 7%, or a total sales value of around €77 billion in the EU-28. GI-marked products accounted for the largest share of the total sales value with 74.8 billion in 2017, while TSGs generated a sales value of only around €2.35 billion.

The study estimates that GIs/TSGs trade picked up by 42% between 2010 and 2017. In 2017 alone, wine accounted for the largest share of GIs/TSGs with 51% (€39.42 billion), followed by 35% for agricultural products and foodstuffs (€27.34 billion), 13% for spirit drinks (€10.35 billion) and 0.1% for aromatised wines (€43.4 million).

France is the EU’s top producer of GIs/TSGs with a total sales value of €26.9 billion due primarily to its wine sector, which holds 72% of its total sales value, followed by agricultural products and foodstuffs (15%) and spirit drinks (13%). Italy comes second, with €15.8 billion of total sales value but with a different balance between the products registered in the various quality schemes, namely 55% for wines, 44% for agricultural products and foodstuffs and 1% for spirit drinks. Germany ranks third with €8.7 billion of total sales value generated in agricultural products and foodstuffs (61%), wines (37%) and spirit drinks (2%).
GI/TSG exports in 2017 amounted to €32.10 billion, which is a share of 42% in the total sales value. Intra-EU sales were 20%, while extra-EU exports were 22% of the total sales in 2017. Wines were the most important product in terms of both total sales value (51%) and extra-EU trade (50%), followed by agricultural products and foodstuffs with 35% of the total sales value for GI/TSG products and 10% of extra-EU trade. Spirit drinks represented 13% of the total sales value and 39% of extra-EU trade.

The value premium of GI products for 2017 was estimated at 2.07, which means that GI products were sold at a price 2.07 times higher than the price of comparable non-GI products. However, such a price premium does not necessarily mean that producers’ income is also higher, because producing GIs generally involves additional costs. Nevertheless, the results of a survey with producer groups (run in the context of the Commission study discussed here) show that in more than half of the cases, the registration of a product as a GI/TSG has had a positive impact on farmers’ income (for 52% of producer groups) and processors’ income (for 54% of producers’ groups). Furthermore, the analysis of the wine sector of seven Member States (where samples for both GI and non-GI farms were available) shows that GI farmers get higher income compared to non-GI farmers at EU level, although some differences among Member Stats have been observed.

Another benefit from the implementation of the EU quality schemes identified by the study is the evolution of sales. A larger increase of the GI/TSG sales value compared to the evolution of sales of the whole food and drinks sector between 2010 and 2017 has been observed. In particular, this increase has been 1.7 times higher for GI/TSG-marked products. However, each GI and TSG evolve differently. Between 2010 and 2017, 64% of the GIs rose in terms of sales value and 46% of GIs increased in terms of sales quantities.

According to the study, additional benefits from the implementation of the EU GI/TSG quality scheme include: improved quality management (mentioned by 87% of the producer groups), better access to the market (76% of the producer groups), stability of price and market (51% of the producer groups) and management of the volume marketed (50% of the producer groups).

Consultations held by the Commission

In the context of the expected evaluation, the Commission launched an open public consultation with the aim to collect stakeholders’ views and reflect them in the above-mentioned ongoing ex-post evaluation. Stakeholders were able to submit their opinions between 4 November 2019 and 3 February 2020. Producer organisations and consumers were the most active in submitting answers to the evaluation questions. An overall majority of respondents considered that the EU quality schemes meet their main objectives as defined by the legislative framework. In terms of efficiency, the majority of respondents agreed that the EU quality schemes provide good value for money for both producers and consumers. As regards relevance, the majority of respondents agreed that the objectives of the EU quality schemes are relevant to the needs of the main actors in the supply chain i.e. producers, processors, traders, wholesalers, and retailers, and also meet consumers’ expectations. In terms of coherence, a majority of respondents agreed that EU quality schemes contribute to and complement other CAP policy instruments and measures but there is not such a majority when it comes to consistency between EU quality schemes and private labels and certification schemes. Drawing conclusions about respondents’ views on the EU added value of the legislation – i.e. the additional benefits of the EU quality schemes in comparison to what the national and regional quality schemes could already have provided – is difficult, because the majority of respondents were neutral about it.

In the context of the upcoming revision of the EU legislation on quality schemes, the Commission also launched an open public consultation that will inform its ex-ante impact assessment. Stakeholders were able to submit their opinions between 15 January and 9 April 2021. The consultation aimed to collect stakeholders’ views on the main challenges faced by the EU GI system that need to be addressed by the upcoming revision and identify policy options that could address these challenges. Respondents agreed that preventing fraud and counterfeit labelling of fake GIs
(especially on the internet), on the one hand, and increasing consumer awareness of the GI logos, on the other, are the two major challenges for the EU quality schemes and should therefore be definite priorities of the legislative revision. These are followed by challenges such as giving GI producer groups more powers and responsibilities as well as increasing GI products’ sustainability. Possible policy options addressing these challenges include: improved protection and enforcement, reinforced sustainable production of GI-designated products, improved position of GI producers and producer groups in the value chain, improved consumer recognition of the EU logos, less burdensome GI schemes and replacement of the TSG scheme.

**European Parliament positions, written questions, petitions**

**Resolutions of the European Parliament**

On 20 October 2021, the European Parliament adopted a [resolution](#) on a ‘farm to fork’ strategy for a fair, health and environmentally friendly food system. The resolution is based on a joint report by the Committee on the Environment, Public Health and Food Safety (ENVI) and the Committee on Agriculture and Rural Development (AGRI). In its opinion on the report, the Committee on Internal Market and Consumer Protection (IMCO) suggested that more flexible criteria should be integrated into green and sustainable public procurement (particularly by adopting the zero-kilometre) that would allow the introduction of products, among them GIs and TSGs, particularly by adopting the zero-kilometre principle in school canteens. The Committee on International Trade (INTA) stressed in its opinion on the joint ENVI/AGRI report that EU quality schemes and geographical indications, together with an ambitious, market-oriented and comprehensive EU promotion policy, should be considered an asset with regard to the objective of fostering sustainable trade. The INTA committee also urged the Commission to enhance the protection of IPRs, notably geographical indications. It also asked the Commission to explore the necessity of applying specific conditions to and exemptions for certain food categories or foodstuffs, such as olive oil, and for those covered by geographical indications, for the assessment of harmonised nutritional labelling, in view of their key role in EU trade agreements and in protecting local value at a global level.

As already explained, the Parliament is co-legislator for the revision of the EU legislative framework on GIs/TSGs aimed at aligning the EU quality schemes to the architecture of the reformed CAP, which will run from 2023 until 2027. Parliament’s mandate for the interinstitutional negotiations with the Council can be found here. A highlight in the mandate with relevance to quality schemes is Parliament’s proposal that the benefits of supply management rules (that, in Parliament’s view, have already been introduced successfully for quality cheeses and dried cured ham) are extended to all agricultural products with quality marks to guarantee the added value of these products. Parliament’s position has been confirmed as part of the deal on the new CAP reached with the Council on 25 June 2021.

**Written questions of Members of the European Parliament**

Since the beginning of the current legislature (2019-2024), several Members of the European Parliament (MEPs) have submitted (individually or in groups) written questions to the Commission related to various aspects of the EU GI quality policy. Such aspects include, among others, the implementation of the legal framework of GIs by EU Member States and by third countries, GIs in trade agreements between the EU and third countries, support for the relevant industries including in the context of the impacts of the corona virus pandemic, but also the potential recognition of GIs for non-agricultural products. Two written questions submitted in the current parliamentary legislature (2019-2024) and the relevant Commission answers are presented below. They have been selected for being of direct relevance to the implementation of the EU GI legislative framework, which is within the scope of this briefing.
Written question on the application for the protection of the term ‘prosěk’ submitted by a large group of MEPs, 16 15 July 2021

The question was asked in the context of a recent application submitted by Croatia for the protection of the traditional term ‘prosěk’ in accordance with Article 113 of the CMO Regulation. ‘Prosěk’ is the Slovenian translation of ‘prosecco’, which enjoys a PDO status under EU law. However, according to the authors of the written question, Article 103(2)(b) of the CMO Regulation states that PDOs ‘shall be protected against any misuse, imitation or evocation, even if... the protected name is translated.’ Furthermore, a potential approval of the application by the Commission might send the ‘dangerous’ message that the protection of PDOs and PGIs in the EU can easily be circumvented via parallel schemes such as traditional terms, which would weaken the EU’s negotiating position in key bilateral negotiations. Against this backdrop, the authors asked the following specific questions: 1. In the light of the above, does the Commission intend to publish the application for the protection of the traditional term ‘prosěk’ in the wine sector in the Official Journal of the EU? 2. Since the Commission is responsible for ensuring that EU legislation is correctly applied by Member States, how do its competent departments intend to guarantee compliance with EU law regarding PGIs?

Answer given by J. Wojciechowski on behalf of the European Commission, 13 September 2021

The Commission confirmed in its answer that it had assessed Croatia’s application for its compliance with the admissibility and validity requirements and will publish this assessment in the Official Journal of the EU. Following the publication, all stakeholders will have two months from the date of publication to submit their substantiated objections to the Commission’s assessment. As a follow-up, the Commission will analyse the received objections (if any) and will make a final decision on the application taking into account all elements at its disposal. The answer further notes that, as far as whole or partial homonymy with an already protected geographical indication would be raised as an objection ground, homonymy alone is not deemed a sufficient factor for the rejection of an application. More specifically, ‘Two homonymous terms may co-exist under certain conditions, in particular with due regard to local and traditional usage and the risk of confusion for the consumer’. Finally, the Commission emphasises that GIs benefit indeed from a high level of protection in the EU, including against evocation and misuse. This system of protection takes particular account of the rights of stakeholders, ‘including those who use varietal names of grapes, prior trademarks registered in good faith and, in this case, proposed traditional terms, that may conflict with GIs’. In the Commission’s view, the EU rules seek to ensure fairness and equity among all parties and to avoid labelling that is misleading for consumers.

Written question on quality systems for agricultural products and foodstuffs submitted by Eric Andrieu, 12 December 2019

The question was asked in the following context, as presented by its author: representatives of various professional organisations responsible for promoting and protecting a number of French foodstuffs with protected designations of origin had shared with the MEP their concern over a request by the French Republic for the registration of seven protected geographical indications for charcuterie products from the ‘île de Beauté’ in Corsica; at the time of submission of the written question, the French request was being examined by the Commission. The author of the written question believes that the above request raises several issues. In particular, the products for which protection is being sought are manufactured from raw materials that are not sourced in Corsica but through the application of methods that have nothing to do with the traditional methods in use in the area. Furthermore, the new products carrying the ‘île de Beauté’ name have never borne this name in the past and therefore risk not only damaging the reputation of the three PDOs already enjoyed by Corsican charcuterie but also causing confusion among consumers. In this context, the specific questions to the Commission were: 1. Can the Commission say whether the request for registration of the protected geographical indication ‘île de Beauté’ complies with Regulation (EU) No 1151/2012 on quality systems, and in particular Articles 5, 7, 8 and 10 thereof?; and 2. Similarly, is the use of the designation ‘île de Beauté’ compatible with current EU legislation?
The Commission informed in its answer that, in August 2018, France had submitted seven applications for registration of indications for charcuterie product including the term ‘Île de Beauté’, which were accompanied by a decision of the French national authorities in favour of the request. On 12 February 2019, the Commission sent letters (to the French authorities) indicating that, based on the examination done in accordance with Article 50 of Regulation (EU) No 1151/2012, the applications related to the candidate-indications ‘Coppa de l’Île de Beauté’, ‘Jambon sec de l’Île de Beauté’ et ‘Lonzo de l’Île de Beauté’ do not fulfil the conditions laid down in the latter regulation. Requests for additional information were sent as regards the four other candidate-indications. On 19 November 2019, the Commission received answers to its requests for additional information. As at 5 February 2020, when the Commission sent its answer to Mr Andrieu, the information submitted by the French authorities was being analysed by the relevant Commission services.

Petitions submitted to the European Parliament

GIs have been referred to in several petitions addressed to the European Parliament. Among others, they are frequently mentioned in the context of industrial projects that may have a negative impact (pollution) on GI-labelled products produced in the relevant geographical area.

Council of the European Union

In its conclusions on the ‘farm to fork’ strategy adopted in October 2020, the Council welcomed a better integration of sustainable development into the EU quality policy. Member States’ governments invited the Commission to reaffirm the relevance and importance of the EU quality schemes and to strengthen the legislative framework on geographical indications. National ministers also welcomed the fact that the Commission was seeking to enhance the contribution of the EU promotion programme for agricultural products to the sustainable production and consumption, including of organic products and products under quality schemes.

The common approach defended by the Council presidency in the interinstitutional negotiations with the Parliament on the CAP reform (beyond 2023), part of which is the revision of the EU legislative framework on GIs and TSGs, can be found in the Council register. A highlight of the Council’s position is a call for simplification of the GI registrations, especially as regards aromatised wines.

European Court of Auditors

The European Court of Auditors is working on a special report (due in the fourth quarter of 2021) on IPRs in the EU, which among other things will cover GIs. The scope of the upcoming special report could be consulted in this audit preview.

Court of Justice of the European Union

The Court of Justice of the European Union (CJEU) has delivered a few decisions on GIs. Two recent ones – delivered in the context of a preliminary ruling procedure and relevant to the focus of this briefing – are presented below.

In 2019, the CJEU made a landmark decision on quality schemes in the framework of a request for a preliminary ruling submitted by the Federal Court of Justice of Germany (FCJG) (Case C-432/18). The decision concerns ‘Aceto Balsamico di Modena (PGI)’ (balsamic vinegar from Modena, Italy), which was entered in the PDOs and PGIs register in 2019. The FCJG asked the CJEU to issue guidance on how EU law should be interpreted in the legal dispute between the German company Balema, which produces and markets vinegar-based products made from wines from the Baden region (Germany), and the Italian Consorzio Tutela Aceto Balsamico di Modena, a group of producers of products designated by the name ‘Aceto Balsamico di Modena (PGI)’. In particular, the Italian consortium
requested the German company to refrain from using the term ‘balsamico’ for their products. As a consequence, Balema brought an action before the German courts asking them to declare that it has the right to use the term ‘Balsamico’. In particular, the FCJG asked the CJEU to determine whether the protection of the name ‘Aceto Balsamico di Modena’, which is conferred by EU legislation on geographical indications and designations of origin for agricultural products and foodstuffs,¹ covers the entire name – ‘Aceto Balsamico di Modena’ – or it does extend to the use of the non-geographical terms of that name as well, i.e. to ‘aceto’, ‘balsamico’ and ‘aceto balsamico’. At the end of 2019, the CJEU ruled that the protection of the name ‘Aceto Balsamico di Modena’ does not extend to the use of the individual non-geographical terms of that name. The argument of the CJEU is that the registration of the PGI at stake and the protection stemming from it cover the name ‘Aceto Balsamico di Modena’ as a whole, because this is indeed the name that has an undeniable reputation on the national and international market. However, the non-geographical terms of this specific PGI, i.e. ‘aceto’, ‘balsamico’, ‘aceto balsamico’ and their use in translation, cannot benefit from this protection because the term ‘aceto’ is a common term (as has already been clarified in previous CJEU case law)² and the term ‘balsamico’ is an adjective commonly used to refer to a vinegar with a bitter-sweet flavour.

In a more recent decision from September 2021, the CJEU decided on a request for a preliminary ruling by a Spanish Appeal Court (Case C-783/19). The national court should decide on a case brought by the Comité Interprofessionnel du Vin de Champagne (CIVC), an organisation protecting the interests of champagne producers. In particular, the plaintiff is asking the Spanish courts to prohibit the use of ‘champanillo’ (meaning ‘little champagne’ in Spanish) by a chain of Spanish tapas bars because, in CIVC’s view, the use of that sign infringes the protected designation of origin (PDO) ‘champagne’. A key question was whether PDOs, such as champagne, also covered services (alongside products) as claimed by CIVC. The CJEU confirmed that, in accordance with Article 103(2)(b) of the CMO Regulation, PDOs must be interpreted as extending also to services (in this case bar services). It also added that PDOs are designed to give a guarantee of quality due to geographical origin and to prevent ‘improper use of those designations by third parties seeking to profit from the reputation which those products have acquired by their quality’. The Court notes further that Article 103(2)(b) of the CMO Regulation must be interpreted as meaning that the ‘evocation’ referred to in that provision, a) does not require, as a preliminary condition, that the product protected by a PDO and the product or service covered by the disputed sign be identical or similar; and b) is established where the use of a name creates, in the mind of an average European consumer who is reasonably well informed and reasonably observant and circumspect, a sufficiently clear and direct link between that name and the PDO.

ENDNOTES

¹ Study on economic value of EU quality schemes, geographical indications (GIs) and traditional specialities guaranteed (TSGs), final report, European Commission, 2019.
² EU GIs may be consulted on eAmbrosia (the official database of EU GI registers), while both EU and non-EU GIs protected under agreements can be consulted on the GIview portal.
⁷ Regulation (EU) 2019/787 of the European Parliament and of the Council of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirits, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008.
In particular, sales were estimated to reach 20% of the total sales value under GI/TSG in 2017. Taking account of the seven largest Member States in terms of sales value under the GI scheme, the share of export on the intra-EU market is comparable or higher for GIs than for the whole food and drink sector in five countries (namely, Italy, France, Spain, Portugal and the UK) and lower in two countries (Germany and the Netherlands). Furthermore, the results of a consumer survey (conducted in the context of the study) show that some protected names under the GI scheme benefit from a strong awareness among EU Member States other than the ones producing them. Such protected names include, for example, Parmigiano Reggiano, Gouda Holland, Champagne, Scotch Whisky and Prosecco and reach awareness of over 50% in several Member States.

Based on the results of the same electronic survey.


I.e. the quantity of work needed for the production of one tonne of product.

This finding is based on the analysis of 25 GI value chains, which shows that positive impacts have been observed in 80% of the cases.


Sales were stable or decreased for the remaining GIs.


The written question was submitted by the following MEPs: Alessandra Moretti (S&D), Paolo De Castro (S&D), Giuliano Pisapia (S&D), Salvatore De Meo (PPE), Patrizia Toia (S&D), Nicola Danti (Renew), Irène Tollerot (Renew), Rosanna Conte (ID), Elisabetta Gualmini (S&D), Brando Benifei (S&D), Jérémie Decerle (Renew), Carlo Fidanza (ECR), Olivier Chastel (Renew), Pina Piccierno (S&D), Pietro Bartolo (S&D), Daniela Rondinelli (NI), Tiziana Begrin (NI), Pietro Fiochi (ECR), Dino Giarrusso (NI), Raffaele Stancanelli (ECR), Massimiliano Salini (PPE), Vilija Blinkevičiūtė (S&D), Eric Andrieu (S&D), Herbert Dorfmann (PPE), and Maria da Graça Carvalho (PPE).

The answer is a translation from French (the language into which it was prepared by the Commission).

A recent Petition (No 0356/2021) referring to the EU PDO and PGI schemes was submitted by Fabrizio Garbarino (Italian), on behalf of the Italian Rural Association (Associazione Rurale Italiana – ARI), the Italian Organic Farming Association (Associazione Italiana Agricoltura Biologica – AIAIB) and the Federation of Trade Unions (Unione Sindacale di Base – USB) on the situation and regulation of novel GMOs in Italy. An example of a petition claiming negative effects of an industrial project on PDOs produced in an Italian region is Petition No 1265/2013 submitted by Edj Pollinelli (Italian), on behalf of the Comitato tutela del Bianzone committee, on the protection of the ‘Ranée’ agricultural area in Valtellina (Italy).

More specifically, the EU legislative act concerned is Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, which, as of 3 January 2013, was largely repealed and replaced by Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs.

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