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Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Public consultation on the implementation of Regulation (EU) 2023/2411 on the protection of geographical indications for craft and industrial products

Intellectual Property Unit
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A. Overview

1. Subject of the Public Consultation

The Department of Enterprise, Trade and Employment is seeking the views of stakeholders on the implementation of the regulation on geographical indication protection for craft and industrial products (EU) 2023/2411.

Stakeholders and interested parties are invited to submit written contributions on the implementation of the system for the protection of geographical indications for craft and industrial products as provided for in Regulation (EU) 2023/2411 by **5pm on 17 May 2024**. The responses to the consultation will help inform the work to be undertaken by the Department in relation to how Ireland should implement the regulation.

2. Background

Geographical indications (GIs) establish intellectual property rights for products whose qualities are specifically linked to the area of production. They identify products that originate in a country, region or locality where a particular quality, reputation or other characteristic of the product is essentially attributable to its geographical origin. These indications, supported by labelling and specific logos, help consumers identify authentic, original products of a particular quality.

Geographical indication protection will enable producers to protect and promote the names of their craft and industrial products. It will incentivise the production and preserve traditional, high-quality products and know-how and the jobs related to them, strengthening the competitiveness of small and medium-sized businesses and manufacturers. This in turn will have a positive impact on employment leading to the creation and retention of valuable jobs and bring development and tourism to rural and less-developed regions. It will also contribute to the fight against counterfeit products and bring benefits to consumers by improving their awareness of authentic quality craft and industrial products, their origin and method of production.

On 13 April 2022, the European Commission published a proposal for a regulation on geographical indication protection for craft and industrial products. Following negotiations between the European Commission and EU Member States on the proposal, a revised regulation was formally adopted and signed by the European Parliament and the Council on 18 October 2023 and was published in the Official Journal of the EU on 27 October 2023. The regulation entered into force on 16 November 2023 and all EU member states have two years to implement the regulation into their national legislation and put in place a legal framework for the protection of GIs for craft and industrial products.

The text of [Regulation \(EU\) 2023/2411](#) can be found on the European Union website.

3. The new geographical indication protection system for craft and industrial products in the EU

The regulation establishes a new intellectual property right for geographical indication protection for craft and industrial products that will complement the existing geographical indication protection system for agricultural products that has been in existence for many years.

A geographical indication title can be granted to producers of craft and industrial products that originate from specific places or regions, possessing qualities, reputation, or characteristics essentially linked to their geographical origin, where at least one of the production steps takes place in the geographical area. Geographical indications are granted for an unlimited duration.

The regulation defines craft and industrial products as products that are “*produced either entirely by hand, or with the aid of manual or digital tools, or by mechanical means, whenever the manual contribution is an important component of the finished product or produced in a standardised way, including serial production and by using machines*” (Article 4). The system will apply to a large variety of craft and industrial products, such as natural stones, woodwork, jewellery, textiles, lace, cutlery, glass, porcelain, and hides and skins.

The new Union system will enable EU producers to seek international protection for their GI products and non-EU applicants will be able to obtain protection for their products in the EU (subject to meeting the necessary criteria). The system would also facilitate access to third-country markets through trade agreements with the EU which would achieve the full potential of GIs for craft and industrial products.

The European Union Intellectual Property Office (EUIPO) is the EU authority with responsibility for managing the registration of geographical indications for craft and industrial products at EU level. The EUIPO will also establish and manage a Union register of geographical indications for craft and industrial products.

From 1 December 2025, it will be possible to apply for the geographical indication protection for the names of craft and industrial products through a single application process covering all EU Member States.

4. Overview of the regulation

The regulation contains 8 titles and 73 articles. The following is a broad overview of what the various titles and articles provide for. This overview serves as a general guide to Regulation (EU) 2023/2411 and is provided for informational purposes only. It is not intended to be a substitute for the actual text of the legislation, and individuals should refer to the official document for accurate and legally binding information.

TITLE 1: GENERAL PROVISIONS - ARTICLES 1 TO 6

General provisions define the objectives and the scope of the regulation. It also contains a list of definitions, provides for rules governing the processing of personal data and the requirements for a GI to qualify for protection.

TITLE 2: REGISTRATION OF GEOGRAPHICAL INDICATIONS - ARTICLES 7-39

Articles 7 to 11 set out the rules for the registration procedures, who can apply for a GI, the requirements of the GI product specification, details on the elements of the single document and the other documentation that must accompany a GI application. Articles 12 to 18 relate to the national registration procedures and the designation of a competent authority. Articles 19 and 20 provide that under certain circumstances, EU Member States may obtain a derogation from the obligation to put in place a national registration phase. Articles 21 to 33 provide for the procedures at Union level (second phase) to be carried out by the EUIPO, such as, the submission and examination of applications, managing the opposition procedure, granting or refusing registration and managing the cancellation and the appeals process. Articles 34 to 39 relate to the organisation and tasks of the EUIPO, the establishment of a Geographical Indications Division, an Advisory Board and a Boards of Appeal and their various roles and responsibilities and the establishment of a Union register for geographical indication for craft and industrial products.

TITLE 3: PROTECTION OF GEOGRAPHICAL INDICATIONS - ARTICLES 40-48

Articles 40 to 44 provide for the rules relating to the protection of craft and industrial product GIs; the rules regarding GIs when used as parts or components in manufactured products; the rules regarding GI applications with a homonymous name; clarifies that generic terms shall not be registered as GIs; clarifies matters relating to the relationship between GIs and trade marks. Articles 45 to 48 set out the tasks of the producer groups; the protection of GI rights in domain names; the rights of the producer of a registered GI; the use of the Union GI symbol, indication and abbreviation on the labelling, advertising or communication material relating to craft and industrial GI products.

TITLE 4: CONTROLS AND ENFORCEMENT - ARTICLES 49-62

Articles 49 to 53 set out the rules on the controls and enforcement measures for craft and industrial GI products; producer self-declaration that a product designated by a GI has been produced in conformity with the corresponding product specification; alternative procedures for verification of compliance by a competent authority, product certification bodies or natural persons; the rules on verification of GIs originating in a third country. Articles 54 to 59 relate to the monitoring and control of the use of GIs in the market; the delegation of control tasks from the competent authority to product certification bodies or natural person; the requirements and obligations of product

certification bodies or natural persons; the rules regarding the accreditation of product certification bodies. Article 60 provides for the issuing of orders to act against illegal online content that contravene the protection of GIs. Article 61 requires EU Member States to lay down effective, proportionate and dissuasive penalties aimed at deterring possible fraudulent behaviour and infringement of GIs. Article 62 provides for mutual assistance and cooperation between the competent authorities of EU Member States for the purpose of carrying out controls and enforcement of GIs.

TITLE 5: AMENDMENTS TO OTHER ACTS - ARTICLES 63-64

Articles 63 to 64 provides for the necessary amendments to Regulation (EU) 2017/1001 of the European Parliament and of the Council on the European Union Trade Mark and of Regulation (EU) 2019/1753 of the European Parliament and of the Council on the action of the Union following its accession to the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.

TITLE 6: FEES - ARTICLES 65

Article 65 sets out that the competent authority designated for the national registration phase may charge fees for the registration procedure. The EUIPO may charge fees for the direct registration procedures, for GIs applications from third countries and for appeals before the Boards of Appeal. The Commission may determine the amounts of the fees to be charged by the EUIPO.

TITLE 7: SUPPLEMENTARY PROVISIONS - ARTICLES 66-69

Articles 66 to 69 set out that the rules in relation to the procedural languages to be used by the EUIPO, the IT systems to be put in place by the EUIPO, the Committee procedures and the power of the Commission to adopt delegated acts subject to the conditions laid down under the regulation.

TITLE 8: TRANSITIONAL AND FINAL PROVISIONS - ARTICLES 70-73

Articles 70 to 73 set out the transitional provisions regarding existing craft and industrial GIs, the rules relating to Member States reporting obligations under the regulation and an obligation on the Commission to prepare a report on the implementation of the regulation 5 years after the date of application of the regulation.

B. Information on Consultation Process

1. Submissions

The Department seeks the views of stakeholders, interested parties and in particular producers of craft and industrial products who may seek GI protection for their products.

We ask that respondents structure their responses according to the 8 titles as outlined above. We would also appreciate any view you may have on the specific questions posed by the Department in section C.

Respondents are requested to make their submissions by email to the Intellectual Property Unit at trademarks@enterprise.gov.ie. Submissions should be marked, ***'Response to Public Consultation on the implementation of Regulation (EU) 2023/2411 on the protection of geographical indications for craft and industrial products'***.

The closing date for receipt of submissions is 5pm on 17 May 2024.

2. Confidentiality of Submissions

Contributors are requested to note that it is the Department's policy to treat all submissions received as being in the public domain unless confidentiality is specifically requested. Respondents are therefore requested to clearly identify material they consider to be confidential and to place same in a separate annex to their response, labelled "confidential". Where responses are submitted by email, and those emails include automatically generated notices stating that the content of same should be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are to be treated as confidential.

3. Freedom of Information Act 2014 and Publication of Submissions

The Department may decide to make public on its website all submissions received under this consultation. Your attention is also drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Act 2014. Therefore, should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with you regarding information identified by you as sensitive before publishing or otherwise disclosing it.

4. *General Data Protection Regulation (GDPR)*

Respondents should note that the General Data Protection Regulation (GDPR) entered into force in Ireland on 25 May 2018 and it is intended to give individuals more control over their personal data. The Department of Enterprise, Trade and Employment is subject to the provisions of the regulation in relation to personal data collected by it from 25 May 2018. Any personal information which you volunteer to this Department, will be treated with the highest standards of security and confidentiality, strictly in accordance with the Data Protection Acts 1988 - 2018.

C. Questions

General

1. Name (and contact details if you wish)
2. Are you:
 - a producer of craft or industrial products,
 - an organisation/producer group representing producers of craft and industrial products,
 - other – please describe.
3. In which industry type/sector do you operate?

Article 8 Applicant

4. If you are a producer of craft and industrial products, do you intend to seek GI protection for your product?
5. Article 8 provides that a producer group or a single producer (that complies with certain conditions under Article 8.2), may submit an application for the registration of a GI. Do you intend to submit a GI application as a single producer or as part of a producer group?

Article 19 and 20 GI registration procedure

Articles 19 and 20 of the regulation provides for a two-step registration procedure, a first phase with the national competent authority of the Member State and a second phase with the EUIPO. Under certain circumstances, Member States may request an opt-out from the requirement to designate a competent authority to carry out the national phase of registration. Where there is no national registration phase, producers submit their GI applications directly to the EUIPO for the direct registration procedures.

This opt-out measure is intended to address situations where there is a low level of interest in GI protection in a Member State and therefore it would not be justified to oblige that Member State to set up a national registration system for a low number of applications. It would be more efficient and cost-effective to provide for an alternative approach whereby the producer uses the direct registration procedure with the EUIPO.

6. Do you have any views on the two-phase registration procedure, first phase with the national competent authority followed by second phase with the EUIPO or the alternative, which is the direct registration procedure with the EUIPO?

Article 45 Tasks of producer groups

7. Do you have any views on whether public bodies and other stakeholders such as consumer groups, retailers and suppliers should be allowed to participate in the work of the producer group?

Article 51 Verification of compliance based on self-declaration and Article 52 verification of compliance by a competent authority or a designated third-party

Article 51 provides that producers should be subject to a system based on a producer's self-declaration that verifies compliance with the product specification (as set out in Article 9) before and after the product is placed on the market. The self-declaration process is supplemented by control measures which are based on risk analysis and on notification by interested producers. The control measures are carried out by the competent authority or a designated third-party.

Article 52 provides for an alternative approach whereby the verification of compliance with the product specification is carried out by a competent authority or a designated third-party.

8. Do you have any views on the respective merits of (a) the self-declaration procedure in Article 51 whereby GI producers self-declare their compliance with the product specification and the competent authority or a designated third-party carry out controls based on risk analysis and on notification by interested producers, or (b) the verification procedure in Article 52, whereby there is no requirement for producers to self-declare their compliance with the product specification, verification of compliance is carried out by a competent authority or a designated third-party?

Article 54 Monitoring of the use of GIs in the market

In order to strengthen the protection of geographical indications for craft and industrial products and to combat counterfeiting and suspected fraudulent and deceptive practices, Article 54 provides for monitoring the use of the GIs across the internal market and in third-country markets where the GI is protected, including online. In the event of a detected misuse of a GI, the relevant competent authority should take appropriate administrative and judicial steps to prevent or stop the use of names of products or services that contravene a protected GI.

9. Do you have any concerns about counterfeit products in the craft and industrial sectors? Please provide any sector-specific evidence or experience you may have.

10. Do you have any views on what enforcement steps or actions could be put in place to help prevent or stop the use of counterfeit GI products in the market?

Other Articles in the regulation

11. The Department welcomes any other views you may have on any of the other articles in the regulation.