

New EU Regulation on the Protection of Geographical Indications for craft and industrial products

1st November 2023

The European Council and the Parliament formally adopted on 18th October 2023 a new regulation on the **protection of geographical indications for craft and industrial products** (the 'Regulation') which was published in the Official Journal of the EU on 27th October 2023.

The European Union has obligations emanating from the WTO TRIPS Agreement of 26 November 2019 as well as from the exclusive competence it has in relation to the common commercial policy. These obligations have led to its accession to the Geneva Act of the Lisbon Agreement, which is administered by WIPO. The Geneva Act offers a means of obtaining protection for geographical indications *in general*, irrespective of the nature of the goods to which it relates.

Up to now protection of geographical indications ('GIs') at Union level has existed only in relation to wines, spirit drinks, agricultural products and foodstuffs, including aromatized wines. In view of the legal obligations borne by the Union as well as the patchy protection of GIs across different EU Member States which depend on the nature of the goods in question, there was a need to adopt additional legal rules for the protection of a GIs in the form of craft and industrial products, which would apply in a harmonized manner across the Union. Under this new umbrella of protection a large variety of craft and industrial products may be encompassed, such as natural stones, woodwork, jewellery, textiles, lace, cutlery, glass, porcelain, hides and skins. Think for example, Murano glass and Donegal tweed.

The introduction of a uniform set of rules for the protection of GIs for craft and industrial products is expected to lead to reduced costs and bring about legal certainty for producers who would now have an incentive to invest in traditional crafts in the Union. Moreover, a harmonized system of protection would create legal certainty for all stakeholders and lead to the prevention of infringement of IP rights connected to crafts and industrial products. This would strengthen the products protected as GIs, both within and outside the EU.

Consumers are also expected to benefit from the fortified GI system of protection as their awareness regarding authenticity of products would be heightened, whilst micro and small and medium-sized enterprises are expected to benefit from increased competitiveness and a wider positive impact on employment, development and tourism in rural and less- developed regions. In addition, this wider system of protection of GIs would facilitate access to third-country markets through trade agreements with the Union and would help GIs for craft and industrial products to reach their full potential.

Per the Regulation, the **name of a product** would be eligible for protection as a GI if the product fulfills the following cumulative criteria:

- (1) the product should be rooted in or originate in a specific place, region or country;
- (2) a given quality, the reputation or other characteristic of the product should be essentially attributable to its geographical origin; and,
- (3) at least one of the production steps should take place in that geographical area.

It is evident from the language of the Regulation that in order for the requirements to be met, it must be demonstrated that the geographical origin is an essential factor bestowing upon the product a quality, reputation or other characteristic. In other words, there must be a link or a tie of a feature of the product to its place of production. This principle follows the existing rules for the protection of GIs covering agricultural products, foodstuffs, wines and spirit drinks.

The Regulation defines 'craft and industrial products' as products which are:

- (a) 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,
- (b) produced in a standardized way, including serial production and by using machines.

This broad definition clearly captures both hand-made products, as well as machine-produced articles, even ones produced on a mass scale. The essential element which would determine whether a craft or industrial product may be protected as a GI would be its link to a particular geographical area which would determine a particular feature of the product, be it its quality or other characteristic.

An application for a GI for a craft or industrial product may be submitted only by a 'producer group'. A 'producer group' is defined as 'any association, irrespective of its legal form, mainly composed of producers working with the same product'. Producer groups would thus be instrumental to the securing of GI protection, including in the procedures to amend any product specification as well as a cancellation of a GI. Applications would have to be filed first with their respective national/ local authority which would determine whether the criteria for GI protection are met. If so, the application would then be sent to the EUIPO as a second step, for evaluation and approval. In the event that no national evaluation procedure would be available, producers would have the right to apply directly to the EUIPO.

The Regulation will apply as of **1 December 2025**, however, a handful of provisions shall apply from 16 November 2023.

At the moment, there are a number of Cypriot spirits, agricultural products, foodstuffs and wines protected as GIs, which demonstrates the importance local producers place on this type of legal protection as a way of preserving a product's unique features stemming from its geographical origin as well as its economic value which non-genuine products should not be permitted to profit from. It also shows the richness of local produce that Cyprus has to offer which should be preserved and showcased.

Presently, the following Cypriot products are protected as GIs under applicable EU legislation:

Spirits:

- Zivania
- Ouzo

Agricultural Products and foodstuffs:

- Makaronia tis smilas
- Halloumi
- Loukaniko Pitsilias
- Lountza Pitsilias
- Hiromeri Pitsilias
- Kolokasi Sotiras- Poulles Sotiras
- Glyko Triantafyllo Agrou
- Pafitiko Loukaniko
- Koufeta Amygdalou Geroskipou
- Loukoumi

Wines:

- Wine Pafos
- Wine Larnaca
- Wine Lefkosia
- Wine Limassol
- Wine Krasochoria Lemesou
- Wine Pitsilia
- Wine Laona Akama
- Wine Krasochoria Lemesou- Laona
- Wine Krasochoria Lemesou- Afamis
- Wine Vouni Panayias- Ampelitis
- Koumandaria

With the onset of this new Regulation, one may wonder which traditional Cypriot crafts and other industrial products could come under this particular umbrella of GIs. Some examples which immediately pop to mind include Lefkaritika, Omodos/ Koilani lace- pipilla, Fithkiotika and Foini clay pottery. It remains to be seen whether local craftsmen and artisans will embrace this new form of protection with enthusiasm and seek to protect the craftwork!