Recognition of GIs and Enforcement

San José, Costa Rica
5-6 December 2019
Recognition and Enforcement of GIs in the EU

1. Procedures for the recognition of GIs
   a) International Agreements
   b) Direct Registration

2. Protection of GIs / Enforcement
Procedures for the recognition of GIs

a) International Agreements

EU – Central America Association Agreement

Article 247 - Addition of New Geographical Indications
1. The Parties agree on the possibility of adding additional geographical indications for wines, spirits, agricultural products and foodstuffs to be protected on the basis of the rules and procedures established in this Title, as applicable.

Such geographical indications, following their successful examination by the competent national or regional authorities, shall be included in Annex XVIII (Protected Geographical Indications) in accordance with the relevant rules and procedures for the Association Council.

2. The date of application for protection shall be the date of the transmission of a request to the other Party to protect a geographical indication provided that the formal requirements for such applications are fulfilled.

Article 242 – General Provisions
2. ... geographical indications are indications which identify a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

Article 244 – System of protection
1. The Parties shall maintain or have established systems ... by the entry into force... register, administrative process verifying, product specifications, control provisions, right of use, public opposition, ...
Procedures for the recognition of GIs

a) International Agreements

EU – Central America Association Agreement

In the EU:

• Examination
  (internal examination, consultation of EU Member States’ Intellectual Property Offices and EUIPO)

• Publication for opposition EU’s Official Journal

No fees required, no power of attorney/legal representative for GIs from Central America
Procedures for the recognition of GIs

a) International Agreements

EU – Central America Association Agreement

Discussion on a common procedure for the recognition of new GIs

• Minimum set of documents (summary specifications, reference proof of protection, ...)
• Exchange of information
• Requirements
• Timing
Procedures for the recognition of GIs

b) Direct registration

*Regulation (EU) No 1151/2012*

**Producer groups** Art. 49, R. (EU) No 1151/2012

**Product specification** (name, description, geographical area, method for obtaining, link, authorities for control, labelling, ...) – Art. 7, R. (EU) No 1151/2012

**Single document** (main points of the product specification incl. link description) – Art. 8, R. (EU) No 1151/2012

**Application of registration to EU Member State** (scrutiny incl. national opposition process) – Art. 49, R. (EU) No 1151/2012

**EU Member State to the European Commission** (scrutiny incl. EU opposition process) – Art. 49, 50, R. (EU) No 1151/2012

(non-EU products to be registered, producers send their applications directly, or via their national authorities, to the European Commission.) – Art. 49, R. 1151/2012
Procedures for the recognition of GIs

b) Direct registration

Quality products registers

Registers

The product names that have either applied to become a geographical indication (GI) or originates from the traditional specialty guaranteed (TSG), or that are now registered as a GI or TSG are listed on the following registers:


**New wine applications**

Available languages:

Related links

Registration of the name of a quality product

Protection of GIs / Enforcement
EU GIs – controls / enforcement

- **EU Official Controls**
  - EU Member States Competent Authorities – possibility to delegate to accredited control bodies

- **Prior to placing on the market**
  - Verification that a product complies with the corresponding product specification – any operator that uses the name is part of the control system

- **Market Controls**
  - Surveillance based on risk analysis
Scope

- Valuable intellectual property right (collective right)
- Protection against any:
  - **direct or indirect** use by comparable products or exploitation of reputation
  - **misuse, imitation or evocation** or any other false or misleading indication or any practice misleading consumers
- **Right to use**: applies to any operator within the geographical area respecting product specification
- **Protection unlimited in time** (but possibility of cancellation if compliance with the product specification is no longer ensured or product not in the market)
Why?

Consumers – Producers - Society

GI premium

Frauds can occur
How?
A) Verification of compliance with the specification

to verify if operators fulfil all specific product’s criteria described in the specification (only in the specification)

Shall be carried out by:

➢ one or more of the competent authorities and/or
➢ one or more of the control bodies... operating as a product certification body*

*accredited in accordance with ISO/ IEC 17065
How?

EU Member States Competent Authorities / Control Bodies

• National Control Plan (MANCP – Multi-annual Control Plans)
• Handbook – Guidelines
• Checklists – specific for each product
EU Legislation requires Member States to control GIs from all EU Member States + non EU countries placed on the market

- Risk based approach

- Mainly controls on the labelling / traceability

New EU Legislative Framework applicable in 2019 - Regulation EU (No) 2017/625:

- A new key element to strengthen the fight against frauds is the requirement for Competent Authorities to take into account the likelihood of fraudulent and deceptive behaviours when deciding the appropriate frequency of controls.
- Integrated approach to import controls
- Strengthened mechanism for administrative assistance and cooperation
- Possibility to apply penalties on fraudulent behaviours reflecting the economic advantage...

https://ec.europa.eu/food/safety/official_controls/legislation_en
How?

• **Audits on EU Member States controls carried out by the Commission**

Verification of national official controls carried out by the competent authority

- Reports on findings
- Recommendations to address identified shortcomings
- Follow up on the recommendations and corrective actions

https://ec.europa.eu/food/audits_analysis_en
Thank you!

Miltiades Krimizis
European Commission
Directorate-General for Agriculture & Rural Development
Unit in charge of international relations – The Americas