

# Incorporating Cultural Heritage in the Proposal for a Regulation on Geographical Indications protection for Craft and Industrial products

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## ABSTRACT

The European Commission finally unveiled, in early April 2022, its Proposal for a Regulation on Geographical Indication protection for craft and industrial products. The new Regulation aims to fill the legislative gap that concerns this section of the Single Market. The adoption of the new Regulation will extend the current agricultural products *sui generis* Geographical Indication framework also to non-agricultural products.

This piece of legislation has been several years in the making, and during this time several references have been made to Geographical Indications as an instrument to be used for the protection of European Cultural Heritage and traditions.

This article, after giving a brief overview of the Proposal and its backdrop, tackles the need for defining what is to be regarded as European Cultural Heritage, before suggesting possible approaches to be followed in order to incorporate cultural heritage into the European Geographical Indications scheme.

## INTRODUCTION

The European Union's (EU's) Geographical Indication (GI) scheme, which is developed in several legislative instruments, provides the EU agri-food sector with protection and recognition of a *sui generis* intellectual property right. The GI system currently allows producers to protect those agricultural products that have a close and established link to a particular European region, through the registration of the GI name that identifies qualities and origin of the agri-food products.

GIs provide consumers with valuable controlled information regarding both the quality and the essential characteristics of the products they are purchasing. A direct reference to the place of origin is often present in the name of the product itself, forming an integral part of the sign, as it is the case, for example, for Prosciutto di Parma or Savon de Marseille. Whilst the first of the two products mentioned is recognized and safeguarded as a registered Protected Designation of Origin (PDO) for 'meat-based products' under EU law, the latter, for soap, although internationally renowned, cannot currently enjoy GI protection, unlike its foodstuff counterpart.<sup>1</sup> This disparity of

treatment is set to be changed by the ongoing legislative process at EU level<sup>2</sup>.

The Quality Schemes Regulation<sup>3</sup>, the Spirits Regulation<sup>4</sup>, Wines Regulation<sup>5</sup> and Aromatized Wines Regulation<sup>6</sup> are now to be joined by the proposed Regulation on geographical indication protection for craft and industrial

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<sup>1</sup> Commission Regulation (EC) No 1107/96 of 12 June 1996 on the registration of geographical indications and designations of origin under the procedure laid down in Article 17 of Council Regulation (EEC) No 2081/92 [1996] OJ L148/1, annex A.

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<sup>2</sup> This article is based on the European Commission's original Proposal and does not take into account the latest developments which have followed from the Trialogues held in 2023, nor the amendments proposed to the original text by the European Parliament.

<sup>3</sup> 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 [2012] OJ L343/1.

<sup>4</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 [2008] OJ L039/16.

<sup>5</sup> Commission Delegated Regulation (EU) 2019/33 of 17 October 2018 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards applications for protection of designations of origin, geographical indications and traditional terms in the wine sector, the objection procedure, restrictions of use, amendments to product specifications, cancellation of protection, and labelling and presentation [2018] OJ L009/2.

<sup>6</sup> Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation and labelling of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 [2014] OJ L84/14.

(C&I) products<sup>7</sup>, which will be concerned with the “registration, protection, control and enforcement of certain names that identify handicraft and industrial goods with given quality, reputation or other characteristics linked to their geographical origin”.<sup>8</sup> The proposed Regulation will encompass a large variety of craft and industrial products, such as natural stones, woodwork, jewellery, textiles, lace, cutlery, glass, porcelain, as well as hides and skins and raw cotton.

This expansion in scope of the GI system will allow C&I producers to obtain the means to valorise, through recognition, as well as to protect, the name under which their products are marketed. Quality Schemes, as they have been designed and implemented by the EU legislation on GIs, are “essentially communication tools” that perform functions of both a private and public nature.<sup>9</sup> It is from this public side especially that the connection to Cultural Heritage (CH) has risen. In the years that the European agricultural GI system has been in place, several references have been made in the literature to Quality Schemes as an instrument to be used to protect European Cultural Heritage and traditions.<sup>10</sup> It could be argued that, in the same way in which locally specific *savoir faire* became increasingly relevant to agricultural GIs, the same could be applied now to the production techniques and to the human factors that play a fundamental role for the realisation of traditional handicrafts and industrial local goods. Manufacturing geographically linked products is, indeed, often based on local know-how and follows production methods that are rooted in the cultural and social heritage of the home region of such goods, where they are passed down from generation to generation. Adopting a piece of legislation to bring these elements under a *sui generis* GI framework would be in line with the EU’s desire to support the tutelage and promotion of cultural heritage, which clearly emerged from a joint Decision from the European Parliament and the Council.<sup>11</sup> This Decision, declaring 2018 the “European Year of Cultural Heritage”, highlighted how cultural heritage is “of great value to European society from a cultural, environmental, social and economic point of view”, making its sustainable management “a strategic choice” in pursuing the common policies of the Union.<sup>12</sup>

To achieve the objectives laid out in Recitals (7) and (8) of the Proposal, one must overcome the argument of the core incompatibility between these two sets of rights and interests, which would see Geographical Indications and Cultural Heritage as fundamentally different concepts. To this end, one must move past a few objections, the two main ones relating to the definition of CH and to the suitability of an IP framework, such as the GI one, to an immaterial right embodied by a traditional C&I product.

## 1. THE PROTECTION OF CULTURAL HERITAGE AS A MOTIVATING FACTOR FOR THE NEW GI REGULATION

The Commission was not wrong in proposing GIs as the instrument which could help convey aspects of the cultural identity of a specific region. Because of the nature of GIs, applying this *sui generis* protection to a traditional product, with the product in question being the result of the skills and know-how of local people employed in manufacturing these goods in the specific geographical region, can help communicate its underlying cultural value.<sup>13</sup>

Indeed, by reading the Proposal for a Regulation on craft and industrial GI products (‘Proposal’), it can be seen how the cultural and social heritage elements have been presented as reasons behind the adoption of this new instrument, specifically in Recitals (7), where it is said that geographical indication protection “is acknowledged so as to safeguard and develop cultural heritage both in the agricultural and the craft and industrial areas” and (8), where it is added that it is therefore necessary to “safeguard and develop cultural heritage and traditional know-how”, something that the GI system for craft and industrial products should ensure. The Explanatory Memorandum accompanying the Proposal details how improving the visibility of authentic C&I products on the markets can benefit both consumers, producers, and the regions these operate in.<sup>14</sup> More specifically, by establishing a directly applicable GI protection for C&I products at Union level, the Proposal aims at improving the ability of producers to protect their goods from counterfeiting, incentivizing them to invest into their trade. This will in return, the Commission asserts, also positively affect consumers, by improving the availability and visibility of authentic C&I products.

7 European Commission, ‘Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on geographical indication protection for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the Council and Council Decision (EU) 2019/1754 COM(2022) 174 final (hereafter ‘Commission Proposal for Regulation on GI for CI’).

8 Ibid, Art 1(a).

9 Matteo Gragnani, ‘The EU Regulation 1151/2012 on Quality Schemes for Agricultural Products and Foodstuffs’ [2013] 8 Eur Food & Feed L Rev 376, 377.

10 Dev S. Gangjee, ‘Geographical Indications and Cultural Rights: The Intangible Cultural Heritage Connection?’ in Christophe Geiger (ed), *Research Handbook on Human Rights and Intellectual Property* (Edward Elgar Publishing 2015) 546.

11 Decision (EU) 2017/864 of the European Parliament and of the Council of 17 May 2017 on a European Year of Cultural Heritage [2018] OJ L 131, 20.5.2017, p. 1–9.

12 Ibid, whereas (5).

13 Delphine Marie-Vivien and Estelle Biénabe, ‘The Multifaceted Role of the State in the Protection of Geographical Indications: A Worldwide Review’ [2017] 98 World Development 1, 2.

14 Explanatory Memorandum accompanying the European Commission Proposal for a Regulation Of The European Parliament And Of The Council on geographical indication protection for craft and industrial products European Commission COM(2022) 174 final 2022/0115 (COD) on European Union geographical indications for wine, spirit drinks and agricultural products, and quality schemes for agricultural products, amending Regulations (EU) No 1308/2013, (EU) 2017/1001 and (EU) 2019/787 and repealing Regulation (EU) No 1151/2012. 1-2.

Consequently, these circumstances ought to help safeguard the Cultural Heritage of the regions that GI C&Is originate from, drawing in tourism and contributing to the profitability and attractiveness of the traditional craft professions, thus ensuring that the know-how is handed down to the next generation.<sup>15</sup> Overall, the Commission asserts that the introduction of an efficient intellectual property protection for craft and industrial products would help fuel the economy<sup>16</sup> of the, especially rural, regions where traditional C&Is are manufactured, providing a driving force for sustainable growth<sup>17</sup>, as it is already the case for agri-tourism.<sup>18</sup>

Moreover, in the Commission Staff Working Document, published alongside the Proposal, one of the arguments given in support of an EU legislative intervention on craft and industrial GIs is the fact that a lack of unitary C&I GI protection negatively affects the preservation of cultural heritage, as, more often than not, the products that embody it suffer for lack of recognition or counterfeiting.<sup>19</sup> Without adequate tutelage, C&I geographically linked products and the traditions they are derived from, tend to disappear. This fact is made evident by comparing the lists of potential GI C&I products compiled by two studies, the first conducted in 2013<sup>20</sup> and the second in 2020<sup>21</sup>, from which several items identified in the previous study had already gone missing in less than a decade. Moreover, a legislative intervention aimed at addressing this issue is in line with what is set out in Article 167 of the Treaty on the Function of the European Union, where by the Union has a duty to contribute to “the flowering of the cultures of the Member States”<sup>22</sup> and keeping the attention to cultural heritage alive. At present, a few EU member states have adopted<sup>23</sup> forms of protection and recogni-

tion for craft and industrial traditional territorially linked products that are seen as expressions of their regional culture, but, as already stated, no uniform instrument exists to provide for such non-agricultural products’ protection at Union level.<sup>24</sup> It is worth looking at some examples of such provisions, starting with the French Consumer Law of March 17, 2014, which enacted its own protection for non-agricultural GIs, adopting nationally the scheme provided in EU legislation for agricultural PGIs.<sup>25</sup>

Another example can be found by looking at Italy.<sup>26</sup> This Member State has adopted sectoral laws that offer some form of GI C&I protection, including laws covering specific products deemed worthy of recognition. One of these instruments is *Law n. 188/1990 for the Protection of Artistic and Traditional Ceramics and of Quality Ceramics*<sup>27</sup>, which gives protection to two categories of ceramics: the first on the basis of them being the expression of cultural heritage for those areas where working ceramics is a solid tradition, the second category is instead awarded protection when the production of the ceramics is completed following specific guidelines, leaving it open to all who choose to adhere to it.<sup>28</sup> Although laws like this one are not considered to be covered by the IP umbrella, some elements of the GI instrument are clearly visible: there is mention of a specific region of production, which is the source of a product that is expression of peculiar human element pertaining specifically to the area in question, as well as the referencing to an approved and registered discipline on how to conduct production in order to obtain the mark of recognition, that is then synonymous with quality. Italian Law n. 188/1990 also created special registries for the producers of the two categories of ceramics covered by this bill, as well as a national Ceramics Counsel, tasked with protecting and promoting the traditional

15 The above considerations can be found transposed in Recitals (7) and (8) of the Proposal, where specific GI protection is chosen as an instrument to, amongst other objectives, provide for the safeguarding and developing of Cultural Heritage and traditional know-how.

16 Cecilia Navarra and others, ‘Geographical Indications for Non-Agricultural Products: Cost of Non-Europe Report’. (2019). The Cost of Non-Europe (CoNE) report conducted by the European Parliamentary Research Service (2019) shows that the introduction of EU GI protection for non-agricultural products would have a positive effect on employment and rural development.

17 Pilar Montero, ‘Towards a Core Unitary Legal Regime for Geographical Indications in the European Union Digital Market’ (2021) 16 *Journal of Intellectual Property Law & Practice* 427.

18 Marianna Bicskei and others, ‘Reform Proposals on the Geographical Indications of the European Union for the Protection of Traditional Knowledge’ (2012) 3 *The WIPO Journal* 222.

19 Commission Staff Working Document Accompanying the document Proposal for a Regulation of The European Parliament and of The Council on geographical indication protection for craft and industrial products and amending Regulations (EU) 2017/1001 and (EU) 2019/1753 of the European Parliament and of the Council and Council Decision (EU) 2019/1754 (n 108) 3.

20 Insight Consulting and others, ‘Study on Geographical Indications Protection for Non-Agricultural Products in the Internal Market: Final Report’. Prepared on behalf of the European Commission (Insight Consulting 2013).

21 Navarra and others (n 12) 11.

22 Article 167 of the Consolidated version of the Treaty on the Functioning of the European Union (TFEU) OJ C 202 7.6.2016, p. 47–390.

23 Currently, the protection of non-agricultural products under the hat of GIs is provided by over a dozen Member States, using various legal schemes, varying from national to regional regulations on crafts,

specific legislation on a single product or national laws that institute a GI regulatory system. A fact that is bound to change when the new self-standing Regulation will be adopted, if we are to consider that what happened in regard to the agricultural sector of GIs is bound to be mirrored. For the relevant analysis see: Nicola Coppola, ‘The CJEU Confirms the Exclusive Character of EU Competence in PDO/PGI Schemes’ (2014) 9 *Journal of Intellectual Property Law & Practice* 717, 718.

24 For an analysis on why this is the case: Hanna Schreiber, ‘Intangible Cultural Heritage, Europe, and the EU: Dangerous Liaisons?’ in Andrzej Jakubowski and others (eds), *Cultural Heritage in the European Union A critical Inquiry into Law and Policy*, vol 9 (Studies in Intercultural Human Rights, Brill | Nijhoff 2019) 338.

25 Article L721-2 of the French IP Code, modified according to Article 73 of the Law n. 2014-344 of 17 March 2014 on consumption together with Decree n. 2015-595 of 2 June 2015 concerning provisions on geographical indications protecting industrial products and handicrafts.

26 Italy has a long standing tradition when it comes to protecting products originating within its borders, starting from the creation of the Denominazione di Origine Controllata (DOC) label, introduced by the law Decreto-legge del 12 luglio 1963, n. 930, and currently incorporated by the European PDO. Italy has also introduced a law specifically for the protection of the “Made in Italy” mark, Legge 20 novembre 2009, n. 166 “Conversione in legge, con modificazioni, del decreto-legge 25 settembre 2009, n. 135, recante disposizioni urgenti per l’attuazione di obblighi comunitari e per l’esecuzione di sentenze della Corte di giustizia delle Comunità europee. [09G0180]” and is the European country with the most registered agricultural GIs, landing at a whopping 876 registered quality schemes.

27 Repubblica Italiana Legge 9 luglio 1990, n.188 – “Tutela della ceramica artistica e tradizionale e della ceramica di qualità”.

28 Ibid, Art. 2.

and historical cultural heritage linked to ceramics production, and with monitoring the compliance with this law throughout national bounds.

Such legislative instruments are nothing more than a diluted version of a Geographical Indication. These norms already show how the elements of tradition and cultural heritage are integrated in the legislative texts that deal with the same C&I products that the Proposal would ultimately cover. The legislation of MS plays a significant role in recognizing expressions of cultural heritage in geographically linked C&I products, thereby highlighting the need to ensure their protection through a unitary scheme.

## 2. THE OVERLAP BETWEEN GEOGRAPHICAL INDICATIONS AND CULTURAL HERITAGE

Despite the cited cases in MS laws, a question remains regarding the compatibility between the two frameworks of IP and Cultural Heritage.<sup>29</sup> The idea of using GIs specifically as a means to protect Cultural Heritage is not a completely novel one<sup>30</sup>. Historically, this link between GIs and culture has been elaborated thanks to the French legislation, through the development of its system of *Appellation d'Origine Contrôlée*, which built on the meaning of *terroir*. This concept, representing the link that exists between a quality, reputation or other characteristic of the good in question, and which is essentially attributable to its geographical origin, was thus expanded to also include C&Is.<sup>31</sup>

However, it must be noted that some authors have shared less than enthusiastic opinions regarding the impact of a GI registration on a traditional product from an artisanal industry, meaning the association between GIs and CH has not always been welcomed.<sup>32</sup> The objec-

tions raised are not entirely without merit.<sup>33</sup> For instance, one of the arguments against this association was that applying the intellectual property rights regime to cultural heritage would result in its commodification, acquainting its commercialization with unfair exploitation.<sup>34</sup> This would, some say, turn something that is, in its essence, collective heritage, into a privately controlled asset.<sup>35</sup>

Nonetheless, it has also been found in the literature that a successful GI is the result of the intergenerational transmission of the know-how and traditions of several generations of people over an extended period, which gives the GI itself a communal heritage dimension<sup>36</sup>, highlighting also the fact that “the subject matter of intellectual property law may sometimes overlap with that of cultural heritage”.<sup>37</sup> This goes to show how the view that GIs could provide a positive contribution to Cultural Heritage has also gathered supporters amongst scholars.<sup>38</sup> To summarise, it cannot be denied that Geographical Indications “are constructed not just as a tool to protect and promote quality products, but also as a pillar which should contribute to defining the identity of a place, as well as the identities of the group(s) operating within that place”.<sup>39</sup>

## 3. WHERE TO LOOK FOR A DEFINITION FOR CULTURAL HERITAGE

Despite repeated references to “European Culture”, EU legislative texts lack a precise definition for it. Even if we can find mention of common European culture all the way back into the fundamental Treaties of the European Union, it is important to acknowledge that these terms have come to bear true meaning in the actions of the Union only far more recently.<sup>40</sup> The EU has limited powers when it comes to direct intervention on the subject of cultural heritage, as most of the competence has been

29 For a recently published analysis of this topic see: Fiona Macmillan, 'Intellectual Property and Cultural Heritage: Towards Interdisciplinarity' in Irene Calboli and Maria Lilla Montagnani (eds), *Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives* (1st edn, Oxford University Press 2021) 331.

30 To provide an example of the literature on the subject of the connection made between IP and traditional knowledge connected with GIs: Teshager Dagne, 'Law and Policy on Intellectual Property, Traditional Knowledge and Development: Legally Protecting Creativity and Collective Rights in Traditional Based Agricultural Products through Geographical Indications' (2010) 11 *The Estey Centre Journal of International Law and Trade Policy* 68.

31 The concept of *terroir* was not created as a legal category, but as a technical concept developed by the French experience of GIs. For an in depth account of the birth and application of the concept of *terroir*: Marie-Vivien Delphine, 'Le Droit Des Indications Géographiques En Inde. Un Pays De L'ancien Monde Face Aux Droits Français, Communautaire Et International' (Doctoral Thesis en Droit et Sciences Sociales, Ecole des Hautes Etudes en Sciences Sociales 7 September 2010) 169–78. See also: Dev S Gangjee, '(Re)Locating Geographical Indications: A Response to Bronwyn Parry' in Lionel Bently and others (eds), *Trade Marks and Brands: An Interdisciplinary Critique* (Cambridge University Press 2008).

32 Amit Basole, 'Authenticity, Innovation, and the Geographical Indication in an Artisanal Industry: The Case of the Banarasi Sari: Authenticity, Innovation, and the Geographical Indication in an Artisanal Industry' (2015) 18 *The Journal of World Intellectual Property* 127.

33 Dennis S Karjala and Robert K Paterson, 'The Case Against Property Rights in Old Intangible Indigenous Cultural Property' (2017) 15 *Nw J Tech & Intell Prop*, 3.

34 Paolo Davide Farah and Riccardo Tremolada, 'Diritti Di Proprietà Intellettuale, Diritti Umani e Patrimonio Culturale Immateriale' (2014) I *Rivista di Diritto Industriale* 21.

35 Macmillan (n 29) 331.

36 FAO Regional Office for Asia and the Pacific, *Quality Linked to Geographical Origin and Geographical Indications: Lessons Learned from Six Case Studies in Asia* (RAP publication 2010/04, Amélie Lecoent and others eds, Food and Agriculture Organization of the United Nations, Regional Office for Asia and the Pacific 2010) 181.

37 Macmillan (n 29) 336.

38 Steven Van Uytsel, 'When Geographical Indications Meet Intangible Cultural Heritage: The New Japanese Act on Geographical Indications' in Irene Calboli and Wee Loon Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture* (Cambridge University Press 2017) 510.

39 Matteo Ferrari, 'The Narratives of Geographical Indications' (2014) 10 *International Journal of Law in Context* 222, 223.

40 For an overview of the timeline of the EU's acts see Krzysztof Pomian, 'European Heritage and the Future of Europe' in Andrzej Jakubowski and others (eds), *Cultural Heritage in the European Union A Critical Inquiry into Law and Policy*, vol 9 (Studies in intercultural human rights, Brill | Nijhoff 2019).



retained by the Member States.<sup>41</sup> Nevertheless, the EU has, under Article 3(3) of the TFEU, a duty to ensure the safeguarding and promotion of European cultural heritage. This is usually achieved by providing financial support to MS and cultural institutes, via various funds and programmes, through the promotion of cultural tourism, and by encouraging intra-EU cooperation, as per Article 167 TFEU.<sup>42</sup>

But what is then, in the eye of the EU legislator, cultural heritage? For a definition we need to go no further than to the Council Conclusions of 21 May 2014 on *cultural heritage as a strategic resource for a sustainable Europe*.<sup>43</sup> In this document, the Council lists what it believes cultural heritage to be, namely “the resources inherited from the past in all forms and aspects – tangible, intangible and digital (born digital and digitised), including monuments, sites, landscapes, skills, practices, knowledge and expressions of human creativity, as well as collections conserved and managed by public and private bodies such as museums, libraries and archives”.<sup>44</sup>

Lacking more stringent regulatory references, this one can be taken as applicable to the present reasoning, in good faith. In such a broad definition, goods resulting from traditional craftsmanship would fit right in, as an expression of the interaction between people and places through time: a localised manifestation of collective human creativity.

#### 4. LOOKING AT UNESCO FOR FURTHER GUIDANCE

The notion of cultural heritage provided by the Council did not come to existence in a void. The United Nations Educational, Scientific and Cultural Organization (UNESCO) introduced the concept of Cultural Heritage as heritage of humanity into international law as early as 1954, in the Convention for the protection of Cultural Property during armed conflicts.<sup>45</sup> The same year, the Council of Europe had also taken action by drafting the European Cultural Convention.<sup>46</sup> Adopted in Paris, this Convention has the purpose of developing a mutual understanding and appreciation of both the similarities and diversities in European culture, recognizing that it is

founded on the same fundamental values. By comparison, the EU’s intervention on the subject came at a much later date.<sup>47</sup>

Apart from the aforementioned Conventions, other pieces of international legislation contribute to defining what constitutes cultural heritage, and can support the argument that it includes C&Is with specific geographical links. The most prominent and promising example is undoubtedly offered by UNESCO. Its rich catalogue provides a broad definition for cultural heritage, that is not limited to physical artefacts, i.e., material heritage, but also comprises living expressions inherited from our ancestors, such as oral traditions, performing arts, and, for what most pertains to the present topic, knowledge and techniques linked to traditional crafts. All of these elements fall in the category of intangible cultural heritage<sup>48</sup>, which includes traditional craftsmanship.<sup>49</sup> The Preamble to the UNESCO Universal Declaration on Cultural Diversity reads that “culture should be regarded as the set of distinctive spiritual, material, intellectual and emotional features of society or a social group” and that culture encompasses, in addition to art and literature, also “lifestyles, ways of living together, value systems, traditions and beliefs”.<sup>50</sup>

With the above legal framework as a reference, the most interesting legal instrument to highlight the connection between craft and industrial GIs and cultural heritage in European products is the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage. This Convention instituted a registry under which States signatories can inscribe practices, expressions, knowledge, skills, instruments and objects or artefacts associated with cultural heritage and human creativity. On this registry we can find several elements registered by EU Member States that have all the credentials to meet the requirements set for obtaining a registered GI under the Proposal for a Regulation on C&Is. Amongst the elements inscribed, we find the manufacturing process to make: Louça preta de Bisalhães<sup>51</sup>, traditional black pottery that is known with the name of the Portuguese town where it is produced; Aubusson tapestry<sup>52</sup>, a form of upholstery obtained by weaving an image using processes practised in the town of Aubusson and a few other limited localities in the Creuse region of France; Pag needle-point lace<sup>53</sup>, a type of lace that is peculiar to the Croatian coastal

41 Magdalena Pasikowska-Schnass, ‘Cultural Heritage in EU Policies’ in [Cultural Heritage in Europe: Linking Past and Future, Brussels, European Parliamentary Research Service June 2018] 1.

42 To find more on the topic one can directly visit the European Commission’s dedicated webpage: <<https://culture.ec.europa.eu/cultural-heritage/cultural-heritage-in-eu-policies>>. Last accessed 3rd of January 2023.

43 Council conclusions of 21 May 2014 on cultural heritage as a strategic resource for a sustainable Europe 2014/C 183/08 OJ C 183, 14.6.2014, p. 36–38.

44 Ibid, paragraph 2.

45 UNESCO, ‘Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention’ (14 May 1954), Preamble.

46 Council of Europe, ‘European Cultural Convention’ (5 May 1955). See in particular Article 5.

47 Pomian [n 40] IX.

48 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage adopted 17 October 2003.

49 Ibid, Article 2(2)(f).

50 General Conference of the United Nations Educational, Scientific and Cultural Organization, 31 st session, ‘Universal Declaration on Cultural Diversity’ (first published 2002, 2001).

51 <<https://ich.unesco.org/en/USL/bisalhães-black-pottery-manufacturing-process-01199>> accessed 3rd of January 2023.

52 Inscribed by France in 2009 [4.COM 13.39] on the Representative List of the Intangible Cultural Heritage of Humanity. Nomination file No. 00250 <<https://ich.unesco.org/en/RL/aubusson-tapestry-00250>> accessed 3rd of January 2023.

53 Inscribed by Croatia in 2009 [4.COM 13.32] on the Representative List of the Intangible Cultural Heritage of Humanity. Nomination file No. 00245

town of Pag; Organ craftsmanship, a form of instrument-making that has been shaped in Germany for centuries<sup>54</sup> Blaudruck/Modrotisk<sup>55</sup>, a kind of cloth that is dyed blue and printed with a special technique that is shared by artisans from Austria, Czechia, Germany, Hungary and Slovakia<sup>56</sup>.

The existence of this Lists of Intangible Cultural Heritage, under the guild of UNESCO, but populated by goods from EU's Member States, can offer a strong launch pad to support the argument in favour of including cultural heritage in the upcoming legislation on C&I Geographical Indications in a more pervasive way. The listed elements represent but a small fraction of traditional handicrafts and industrial products that are historically connected or anchored to specific areas in Europe. These inscribed goods represent a wealth that the Regulation could tap into, also considering that "items inscribed under [the Convention] may carry commercial and financial value".<sup>57</sup> Such economic value may pre-exist, or it might arise thanks to "the commodification that comes with legal protection".<sup>58</sup> Therefore, it could not be denied that registering a product expression of Intangible Cultural Heritage as a GI would benefit the producers of such goods. This could do more for the preservation and transmission of the craftsmanship that lies behind them, than what the UNESCO Convention ever could, because it would help put local traditional C&I products literally back on the market's map and available to a wider platform of consumers. The public would therefore be able to engage with the products, and therefore sustain the producers, further ensuring that the traditional C&I products' production is perpetuated and the underlying cultural elements preserved.

According to this line of reasoning, the proposed Regulation on craft and industrial GIs would finally provide a protective legal framework to the Intangible Cultural Heritage that informs many of the European C&I goods. Indeed, this could be accomplished through the registration of the name identifying such goods as a Geographical Indication.

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<<https://ich.unesco.org/en/RL/lacemaking-in-croatia-00245>> accessed 3rd of January 2023.

54 Inscribed by Germany in 2017 (12.COM 11.b.10) on the Representative List of the Intangible Cultural Heritage of Humanity. Nomination file No. 01277 <<https://ich.unesco.org/en/RL/organ-craftsmanship-and-music-01277>> accessed 3rd of January 2023.

55 Inscribed by Austria, Czechia, Germany, Hungary and Slovakia in 2018 (13.COM) on the Representative List of the Intangible Cultural Heritage of Humanity. Nomination file No. 01365 <Blaudruck/Modrotisk/Kékfestés/Modrotlač, resist block printing and indigo dyeing in Europe – intangible heritage – Culture Sector – UNESCO> accessed 3rd of January 2023.

56 This last example of an inscription would also serve to exemplify a possible GI product whose area of origin is not defined by national borders, an eventuality that is taken into account by the Proposal for a Regulation on craft and industrial GIs in Article 6(4), and that would serve even the ulterior purpose of promoting cooperation between MSs.

57 Tomer Broude, 'Mapping the Potential Interactions between UNESCO's Intangible Cultural Heritage Regime and World Trade Law' (2018) 25 International Journal of Cultural Property 419, 422.

58 Ibid.

## 5. HOW AND WHERE TO FIT CULTURAL HERITAGE IN THE GI FRAMEWORK

Having highlighted this connecting thread between GIs and CH, the issue at stake is how to effectively include a substantial protection for an intangible element, pertaining to cultural heritage law, which is mostly expressed via a process, into an IP instrument that is structured instead around the protected use of a registered name. Cultural heritage could be incorporated in the text of the Proposal for a Regulation on GI protection for craft and industrial products either directly, in a specific provision, or indirectly through interpretation.

To accomplish this objective, the rationale behind the protection of GIs is arguably the first aspect to consider. When it comes to GIs, the law protects the registered sign against use by an unauthorised party. This is done in order to prevent third parties from appropriating the qualities of those products, making consumers believe that the goods arrive from the same particular places of production as the genuine GI product, when instead this is not the case. The right awarded allows the GI consortium of owners to build and keep their reputation for quality and, at the same time, to assist consumers in more easily finding goods which quality and authenticity they can trust in.

Secondly, one must consider the framework in which this right is built. The protected element is a registered name, which acts as an indicator of geographical origin, rather than of a specific undertaking. The products placed on the Single Market under the sign, accompanied by the corresponding Quality Schemes labels, are not subject to protection *per se*, but only tangentially, because of the strict relation between the name and a given quality, reputation, or another essential characteristic of it. These are all part of the requirements that a name must comply with in order to obtain GI protection ex Article 5(b) of the Proposal for a Regulation.<sup>59</sup>

Only in reference to these essential elements, needed to register a GI, the additional information that a GI name is instilled with becomes relevant. The know-how and traditions that are behind the uniqueness of the final product can contribute to informing its reputation or an essential quality or characteristic. This kind of information represents a type of property that is intangible, that is impossible to trace back to a single author and, most relevantly, that has been in the public domain far beyond any term normally supplied by the traditional information protection regimes with regard to the duration of IP rights.

It is evident that the very nature of the object for which protection is sought here makes most of the more traditional IP rights unsuitable to provide any kind of recognition to the traditional knowledge aspects<sup>60</sup> behind a

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59 Article 5 of the Proposal is concerned specifically with establishing the requirements for the terroir link, the connection to be established between C&I product and the geographical area of source.

60 Dennis S Karjala and Robert K Paterson, 'The Case Against Property Rights in Old Intangible Indigenous Cultural Property' (2017) 15 Nw J Tech & Intell Prop, 8.

Geographical Indication. Even so, the Cultural Heritage element contributes to making the C&I product what it is, hence it plays a fundamental role in filling the requirements for GI registration, as they are posed.

### A. How case law from the CJEU could help safeguard CH

Regardless of the challenges posed by the incorporation of the Cultural Heritage element into this future Regulation on C&I GIS, as the recitals explicitly state the protection of CH among the pursued objectives, during the practical application of the future Regulation the scope of protection that it awards to a craft or industrial product will need to be interpreted accordingly.

This has already been the case in the jurisprudence developed for agricultural GIs. More specifically, this reasoning was recently presented in the Opinion given by Advocate General Pitruzzella in the *Morbier* case.<sup>61</sup>

While discussing the object of protection under the Quality Scheme Regulation, especially the issue whether it is only the registered name to be protected or whether the protection is to be extended to the product covered by that name, the Advocate General underlined how the core objective of the legislation on PDOs and PGIs is to protect traditional products with specific characteristics linked to geographical origin. Henceforth, the scope of protection granted to GIs must be interpreted in the light of this objective.<sup>62</sup> AG Pitruzzella had also advanced this concept in a previous Opinion he had given in case *Queso Manchego*.<sup>63</sup> In paragraph 20 of his Opinion, AG Pitruzzella had stated that the protection of designations of origin “forms part of the objective of safeguarding European cultural heritage, as referred to in Article 3(3), fourth subparagraph of the EU Treaty”.

These Opinions could not be more welcomed to the questions here discussed, as one of the more complex issues to overcome when trying to apply GIs to Intangible Cultural Heritage is the fact that GIs do not offer protection strictly to an expression of tradition, such as a cultural practice, or to its resulting product. What GIs do, is to offer protection against the misuse and misappropriation of a geographical name, as linked to a good. This means that, as of now, a GI cannot, in theory, be used to protect the technique behind blowing Murano glass, or the process for vitrifying Limoges porcelain, but only the name and the sign under which these highly traditional and notorious products are commercialised. This aspect

though seems to have been abandoned by the CJEU, which embraced the Advocate General’s Opinion and found that Article 13(1) of Regulation No 1151/2012 does not prohibit solely the use by a third party of the registered name. This is the result of the fact that geographical indications, in the *Morbier* case, a PDO, designate a product that has certain qualities or characteristics. As a consequence, the geographical sign and the product covered by it are closely linked.<sup>64</sup>

Building on what the Advocate General stated in the *Morbier* and *Queso Manchego* cases, the argument that could be brought forward is that GIs could still provide an indirect form of tutelage to a cultural practice or a traditional craftsmanship process, because their end result, i.e. the final product, is in fact protected not as an isolated item, but rather as the product of tradition, and ultimately as one of the objectives pursued by GIs: the protection of common cultural heritage<sup>65</sup>.

With this result in mind, the expectation is that future cases dealing with the application of what is currently Article 35 of the Proposal will not be able to disregard the result of this jurisprudential interpretation of the scope of protection of a GI.

Having set the basis for this reasoning, the question then becomes how to further integrate this element in the existing framework of a GI and, more specifically, of a craft or industrial GI.

### B. Drafting the Product specifications for GIs under Article 7 of the Proposal

Another element that could help advance the argument that GIs can be a vector for protecting expression of Intangible Cultural Heritage can be found within what is required to apply for GI registration in the EU legislation. Article 8 of the Quality Scheme Regulation, for example, prescribes that the registration application requires the applicant to file several elements, including the ‘product specification’, which can be found in Article 7 of the same provision and in Article 7 of the Proposal. The product specification is the document containing all the details relevant to identifying the geographically linked product.

Looking more closely at article 7 of the Proposal, we see that the product specification, also known as *cahier des charges*, includes not only the product’s name, description, definition of the geographical area, raw materials, labelling and inspection rules, link between area of production and quality/reputation, but also, and most importantly here, under letter (e), the need to provide a description of the method used to obtain the product and “when appropriate” the additional information concerning “the traditional methods and specific practices

<sup>61</sup> Case C-490/19 *Syndicat interprofessionnel de défense du fromage Morbier v. Société Fromagère du Livradois SAS (Morbier)*, Opinion of Advocate General Pitruzzella delivered on 17 September 2020 EU:C:2020:730.

<sup>62</sup> *Ibid.*, paragraphs [26] and [27]. The CJEU, in its final decision in the *Morbier* Case recalls this passage from the Advocate General’s Opinion in paragraph [37], restating that ‘the PDO and the product covered by it are closely linked’.

<sup>63</sup> Case C-614/17 Opinion of Advocate General Pitruzzella delivered on 10 January 2019 in case *Fundación Consejo Regulador de la Denominación de Origen Protegida Queso Manchego v Industrial Quesera Cuquerella SL e Juan Ramón Cuquerella Montagud (Queso Manchego)* EU:C:2019:344.

<sup>64</sup> Case C-490/19 *Syndicat interprofessionnel de défense du fromage Morbier v. Société Fromagère du Livradois SAS (Morbier)*, EU:C:2020:1043.

<sup>65</sup> Case C-490/19 *Syndicat interprofessionnel de défense du fromage Morbier v. Société Fromagère du Livradois SAS (Morbier)*, Opinion of Advocate General Pitruzzella delivered on 17 September 2020 paragraph [29] EU:C:2020:730.

used”<sup>66</sup>. By the looks of it, it could then be said that “a product becomes eligible for a GI not only by virtue of where it is produced, but [also] how”<sup>67</sup>.

It is in the product specifications that the cultural heritage dimension lying behind the product could be identified and valorised, giving a legal framework to practices that are both origin-linked and collectively shared.<sup>68</sup> This argument is supported by the fact that it has been found in the relevant literature that “GIs are seen as potential bulwarks against commoditization because they do not merely designate what the product is (its appearance or physical and organoleptic qualities) but also where, by whom and how – very specifically – it was made”.<sup>69</sup>

This hypothesis is not without weak spots, as they have been pointed out in the literature on agricultural GIs, that is here once again borrowed. Because the quoted section of Article 7(e), based on the text of Article 7(e) of the QSR, is preceded by the location “when appropriate”, it has been raised as an objection that the inclusion of an historical overview or other references to traditional methods connected with intangible cultural heritage elements is not an actual requirement<sup>70</sup> under Article 7. When it comes to agricultural Geographical Indications, it is left to the applicant to add these elements into the product specification. This might be modified when it comes to registering craft and industrial products under the proposed self-standing system, if such a requirement is introduced.

Notably, when considering how to discipline the protection of GIs for craft and industrial products, the Commission introduced a slight reform in this respect of the Quality Scheme Regulation, possibly with the intention to move away from the objections raised in the foregoing paragraph.

Under the proposed formulation of Article 7 of the Regulation for C&Is, the requirement to provide a description of the production method is now standing alone under letter (e), which originally read “the authentic and unvarying local methods”, but has then become “the traditional methods and specific practices used”. We find here an explicit mention of the term ‘traditional’ as related to a C&I Geographical Indication in an actual Article of the proposal.

The Commission did not abandon the approach of giving the applicant the possibility of opting out from providing this information where it is not appropriate. Since there is no frame of reference given as to when this condi-

tion of appropriateness is satisfied, this seems to be left once again to the arbitrary volition of the applicant.

Nonetheless, it would be auspicious, in the opinion of the author, that the Proposal take a stronger stance towards protecting, even if indirectly, traditional knowledge and therefore the intangible cultural heritage connected with handicrafts and industrial products and their place of provenance. This could be realised in Article 7(e) by simply removing the expression “where appropriate” and including, as an actual requirement for registration, the description of the traditional methods and specific practices in the application.

In the eventuality that none of the proposed approaches is found convincing, an alternate or even additional solution could be implemented, namely that of hybrid quality scheme.

## 6. THE (REVISED) TSG: TRADITIONAL GEOGRAPHICAL PRODUCT

This alternative approach, currently not considered by the Proposal for a Regulation on the protection of C&Is, revolves around the inclusion of a quality scheme other than PGI, which is the only label from the Quality Schemes that is reprised in the Proposal. Title III of the Quality Scheme Regulation lists, after PGI and PDO, the Traditional Specialities Guaranteed. The objective of this provision, as detailed under Article 17 Regulation 1151/2012, is to safeguard traditional methods of production and recipes, by providing support to consumers in the effort to communicate to the public which value-adding attributes their products possess.

Differently from PDOs and PGIs, TSGs do not list amongst their qualifying criteria a link to a specific place of origin, but rather focus the attention on a different element: tradition. The term “traditional” is defined in article 3(3) of Regulation 1151/2012 as indicating that there has been “proven usage on the domestic market for a period that allows transmission between generations”, adding then that “this period is to be at least 30 years”.

The emphasis posed on the methods of production and on the use perpetuated through time make this quality scheme interesting for the discipline of GIs on craft and industrial products, as they bring the human factors to the forefront<sup>71</sup>. This is because C&Is are generally relying more on such factors to establish the connection with the area of origin. Consequently, the *terroir* link is based on an historical reputation, or by reference to localised technical know-how that is mostly an endowment of “authentic products that are a part of the EU’s cultural heritage”.<sup>72</sup>

<sup>66</sup> Proposal for a Regulation, Article 7(e), mirroring Regulation 1151/2012 Article 7(e) which prescribes to include “the authentic and unvarying local methods”.

<sup>67</sup> Amit Basole, ‘Authenticity, Innovation, and the Geographical Indication in an Artisanal Industry: The Case of the Banarasi Sari: Authenticity, Innovation, and the Geographical Indication in an Artisanal Industry’ [2015] 18 *The Journal of World Intellectual Property* 130.

<sup>68</sup> Gangjee (n 9) 549.

<sup>69</sup> Dev S. Gangjee, ‘Introduction: timeless signs or signs of the times?’ in Dev S. Gangjee (ed.) *Research Handbook on Intellectual Property and Geographical Indications* (Edward Elgar Publishing 2016) 3.

<sup>70</sup> Gangjee (n 9) 551.

<sup>71</sup> Andrea Zappalaglio and others, ‘Sui Generis Geographical Indications for the Protection of Non-Agricultural Products in the EU: Can the Quality Schemes Fulfil the Task?’ [2020] 51 *IIC – International Review of Intellectual Property and Competition Law* 38.

<sup>72</sup> Thanasis Kizos, ‘Consumers’ and Producers’ Expectations and Gains from Geographical Indications’ in *Comprehensive Analytical Chemistry* (Elsevier 2013) vol 60, 34.



If the inclusion of the traditional cultural elements in the PGI scheme were to prove too cumbersome, revising something akin to the TSG could allow for the incorporation of Intangible Cultural Heritage in a more direct and clear way. To this end, the Commission could have included in the Proposal a new quality scheme based strictly on human factors and the historical connection of a specific C&I product to the geographical area of origin.

This quality scheme could, hypothetically, be called the Traditional Geographical Product<sup>73</sup>. In this TGP, the element of tradition would then become central, relating to the method used, as it is now for TSG, but with the added element of the strictly defined geographical area as a requirement for registration. The human element would take centre stage in a solution which, uniting CH and IP, would make of the GI sign “something which is, at the same time, external and internal to the fabric of a place, as well as of the community living in that place”<sup>74</sup>.

Such a solution would allow to merge the scheme of the TSG, still based on the use of a protected geographical name, with the additional character of traditional methods and cultural heritage therein, even when the source material comes from an area different than the one defined. This combination would then result in a sign capable of transmitting the relevant information to consumers: namely, that the product bearing the logo is the result of a traditional practice or method, that it has been manufactured in the designated geographical area, and that the raw materials employed are those traditionally used.

While basing the structure for a TGP generally in what now is the one defined in the Quality Scheme Regulation for TSG, the objectives of this quality scheme could be defined as a means to safeguard traditional methods of production and products representing cultural heritage expressions, “by helping producers of traditional product in marketing and communicating the value-adding attributes of their traditional [methods] and products to consumers”<sup>75</sup>.

As to what the qualifying criteria to register the name as a TGP are concerned, these would need to be spelled out as describing a product:

- a) That originates in a specific place, region or, exceptionally, country;
- b) That is the result of a method of production, processing or composition corresponding to traditional practices;
- c) That is produced from raw materials that are the ones traditionally used.

By making a direct reference to the traditional character of the methods of production, a TGP would be then a sign capable of representing “a form of geographically embedded creativity”<sup>76</sup>.

This scheme would allow to introduce the elements expressing Intangible Cultural Heritage directly into the criteria that need to be met for the name connected to it to be protected, without needing the legal devices otherwise employed basing the reasoning on the Opinions of AG Pitruzzella in the cited *Morbier* and *Queso Manchego* cases.

What becomes essential, to be able to implement such an alternative solution, is defining what is to be intended as ‘traditional’.

This element, as connected with agricultural and gastronomic products, is already present in the Quality Scheme Regulation, but despite being already available to use, has not been totally embraced by the Proposal for a Regulation on C&Is.<sup>77</sup>

Under Article 3(f) of the Regulation Proposal, a definition of the words ‘traditional’ and ‘tradition’ are given, in association with a product originating in a geographical area, as meaning that there has been a proven historical usage in a community for a period that “allows transmission between generations”. It appears that, again, as it was the case before the Quality Scheme Regulation was reformed to establish a minimum period of at least 30 years.<sup>78</sup> There is a gap in the definition that is to be applied, leaving the interpretation somewhat open to what is to be considered as settled in a culture as traditional.

It would bode well if the final text of the Proposed Regulation included a time frame to mark a product as being an expression of traditional knowledge, considering that, as it is now, it is not sufficiently clear. The European legislator should intervene and provide a clear-cut time frame that would be applicable across the Single Market, to eliminate any possibility of inconsistent interpretation. This is relevant also if a reference is made to the fact that some European countries have adopted their own definitions on what constitutes ‘tradition’, that include different time frames, as is the case for example for Austria. The Republic of Austria has created a register for Traditional Austrian Specialties<sup>79</sup>, where the time limit imposed for a product to be listed in it is 75 years or over three generations<sup>80</sup>.

Lastly, to incorporate Intangible Cultural Heritage into this proposed quality scheme, the product specifications should be structured to include:

<sup>73</sup> Some inspiration for the idea behind the scheme proposed in this paragraph descends from reading: Kilian Bizer and others, ‘Sui Generis Rights for the Protection of Traditional Cultural Expressions: Policy Implications’ (2011) 2 J Intell Prop Info Tech & Elec Com L 114.

<sup>74</sup> Ferrari (n 39), 223.

<sup>75</sup> Article 17 of Regulation 1151/2012.

<sup>76</sup> Ferrari (n 39) *ibid*.

<sup>77</sup> Article 3(3) 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 OJ L 343, 14.12.2012, p. 1–29.

<sup>78</sup> Down from the 50 years originally presented in the Proposal for what was to become, and now is, Regulation No 1151/2012.

<sup>79</sup> The registry can be consulted at: <<https://info.bmlrt.gv.at/themen/lebensmittel/trad-lebensmittel.html>> accessed 3rd of January 2023.

<sup>80</sup> Roman Sandgruber, *Traditional Craftsmanship as Intangible Cultural Heritage and an Economic Factor in Austria* (Facultas 2019) 18.

- a) a document providing the relevant information pertaining to the history behind the manufacturing methods employed and the historical connections between the place, region, or country;
- b) details establishing the link between the reputation or other characteristics of the product and the geographical origin.

These documents, as an essential component of the application for registration, would serve to show a strong *terroir* link, based on human factors rather than biological or chemical ones. Thus, it would go to show how this connection can be based also on the development of knowledge, technological advances as expressions of traditions and skills developed over time, in a specific place.

Applying such a solution would provide for an actual framework to accommodate cultural heritage protection into the Regulation on geographical indication protection for C&Is, therefore achieving through a binding instrument the public policy objective listed in Recitals (7) and (8) of the Proposal.

## 7. CONCLUDING REMARKS

What emerges finally from the presented analysis is that Cultural Heritage, when it comes to craft and industrial geographically linked products, is an element that is hard to keep away from.

Its inclusion in Recitals (7) and (8) of the Proposal for a Regulation on C&I Geographical Indications has solid bases and should not be limited there, but rather be incorporated also in a legally binding operative provision.

In that respect, it has been shown that the legislator could pick various degrees of inclusion to implement this reform of the Geographical Indications system. CH could be increasingly relevant for the registration of a GI because it affects the ability of the product to meet the requirements set by Article 5(b) of the Proposal. Namely, the know-how and traditions that make the final product what it is are also the source of its reputation or of an essential quality or characteristic, which is linked to the underlying CH elements. Another relevant provision would be the one concerned with the drafting of product specifications, in which CH could include the traditional methods and specific practices behind the production of the C&I GI goods.

Even if neither option would be enacted, GIs could still provide an indirect form of tutelage to a cultural practice or a traditional craftsmanship process. When the final product has been granted protection according to the most recent case law on the topic, the scope of it would need to take into consideration the objectives that this IP right pursues, namely the protection of common cultural heritage.

Taking it one step further, an additional solution could be to introduce a new Quality Scheme with the express

purpose of explicitly making CH one of the requirements, alongside the indication of a determined geographical area.

Unless additional attention is drawn to this topic, it is still unlikely that the final version of the Proposal will include any further action towards implementing the protection of European regional CH through craft and industrial GIs.



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