

# Geographical indications:

## Expanding EU regulation and criminal cases

### What is a GI?

A geographical indicator (GI) is a symbol used to identify products that have a specific geographical origin and have features or reputations that are unique to that origin.

The link between the product and the geographical area is required for an item to be designated as a GI. The GI reputation allows consumers to trust and differentiate quality products while also assisting producers to market their products more effectively.

Traditionally, GI protection has been associated with agricultural products and foodstuffs.

The present [TRIPS Agreement](#) provides extensive protection for wines and spirits while leaving agricultural products and foodstuffs to national governments.

In 1992, EU-level GI protection was adopted. In [Regulation No. 1151/2012](#), issued in November 2012, established new EU quality systems.

Wine designations of origin and geographical indications are protected by separate legislation; Commission [Regulation 2019/33](#) establishes precise standards for protected designations of origin and geographical indications, traditional terms, and wine labeling.

In 2022, the European Commission released a [legislative proposal](#) to reform GIs regulations for wine, spirits, and agricultural products. In 2023, the newly approved [Regulation 2023/2411](#) broadened GI protection beyond agricultural and food items to include crafts and industrial products.

### GIs in the EU

EU Regulation No. 1151/2012 of the European Parliament and the Council of November 21, 2012, on quality systems for agricultural products and foodstuffs, establishes three geographical indicators and traditional specialties. Products registered under one of the three schemes may be marked with that scheme's logo. This ensures product protection in both the EU and third countries.



#### Protected designation of origin (PDO)

PDO designation is granted to items that have the strongest ties to the place where they are manufactured. This means that the entire production process for the product takes place in a single region.

**Example: Kalamata olive oil, Prosciutto di Parma**



#### Protected Geographical Indication (PGI)

PGI highlights the link between a certain geographic place and the product's name. This means that at least one stage of production occurs in the designated region.

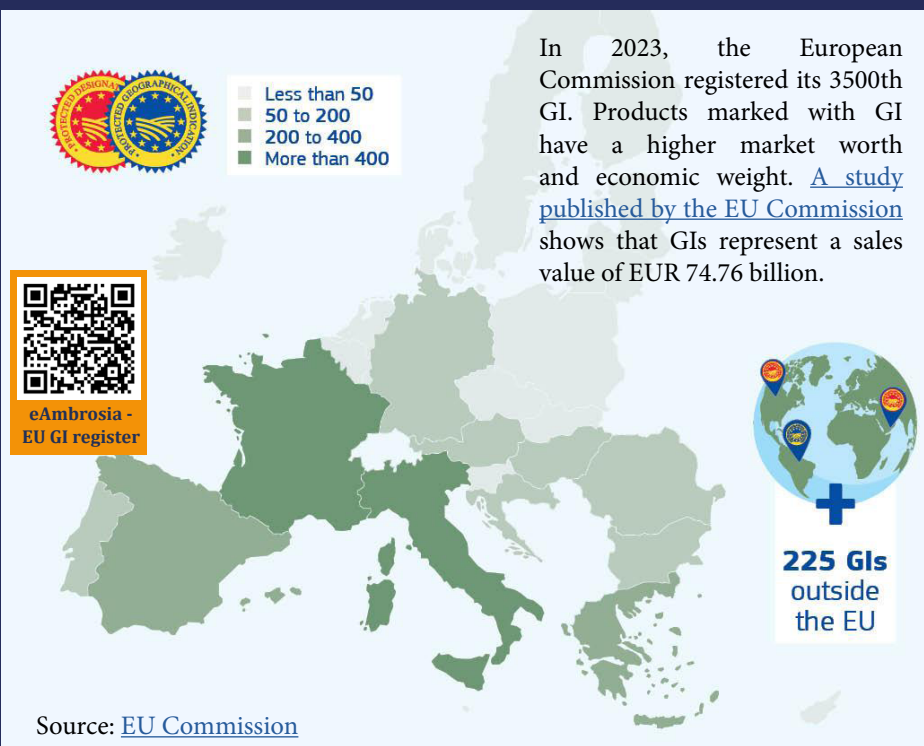
**Example: Provence honey, Clare Island Salmon**



#### Traditional speciality guaranteed (TSG)

TSG designation emphasizes traditional elements of the product, such as its manufacturing process or composition, without being tied to a specific geographical place.

**Example: Jamon Serrano, Mozzarella**



# New Regulation 2023/2411 on crafts and industrial products



## Introduction of a new industrial property right

Regulation 2023/2411 establishes a new system for producers of craft and industrial products to seek GI certification and protection for their goods. This is a considerable expansion of GI protection at the EU level, since GIs were previously only available for agricultural products and foodstuffs, wine, and spirits.

[Regulation 2023/2411 on the protection of geographical indications for craft and industrial products](#) aims to safeguard GIs for craft and industrial items having a certain quality, reputation, or other attribute associated with their geographical origin (Article 1). The regulation establishes rules for application, registration, protection, control, and enforcement. In many ways, the regulation is comparable to the current system for geographical indicators of agricultural products.

The Regulation follows Article 22.1 of the TRIPs Agreement and specifies three qualifications for a product to be recognized as a GI. The quality, reputation, or other characteristics of the craft or industrial product must be primarily, but not completely, due to its geographical origin. Crafts and industrial products can only receive the Protected Geographical Indication (PGI) symbol, which means that only one manufacturing stage of the product must take place inside the defined geographical area.

### Elements of GIs

1

originates in a specific place, region or country

2

has a given quality, reputation or other characteristic essentially attributable to its geographical origin

3

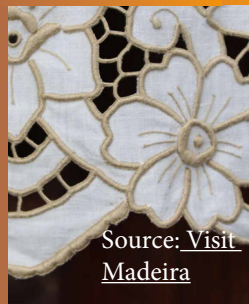
has at least one of the production steps of the product that takes place in the defined geographical area

### Examples of GI protected crafts and industrial products

- Madeira embroidery from Portugal;
- Limoges porcelain from France;
- Murano glass from Italy;
- Solingen knives from Germany;
- Donegal tweed from Ireland;
- Bolesławiec pottery from Poland.



Source: [Limoges porcelain](#)



Source: [Visit Madeira](#)



Source: [OriginalMuranoGlass](#)

Entered  
into force  
on 16  
November  
2023

Applies  
from 1  
December  
2025

### Lack of uniform regulation at the national level

Prior to the implementation of Regulation 2023/2411, there was no EU-wide protection for crafts and industrial products. This was left up to national regulations. However, only 16 EU Member States have implemented national schemes for crafts and industrial products (Belgium, Bulgaria, Croatia, Czechia, Estonia, France, Germany, Hungary, Italy, Latvia, Poland, Portugal, Romania, Spain, Slovakia, Slovenia).



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For example, in France, Law No. 2014-344 amended the Intellectual Property Code by introducing a new industrial property right: 'Geographical Indications Protecting Industrial Products and Crafts'.

Sweden, on the other hand, has legislation that only addresses the protection of agricultural products and foodstuffs. The Act (2018:1654) on the Protection of Names of Agricultural Products and Foodstuffs includes provisions for sanctions in the case of an infringement of such designations protected by EU legislation and international agreements. During the new regulation consultation process, the Swedish government expressed concerns regarding the necessity for such regulation, citing existing EU legislation that offers protection through restrictions on unfair competition, deceptive marketing, and trademark law. Despite this, the Swedish government acknowledged that their national legislation would need to be updated to encompass crafts and industrial products.



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## Registration Procedure - new competences for EUIPO

The Regulation establishes a two-step registration process for craft or industrial products as geographical indicators. The registration process begins at the national level, as arranged by the member states. The second process of registration takes place at the EU level, with the European Union Intellectual Property Office (EUIPO) responsible for assessing and deciding on GIs for craft and industrial goods.

### PHASE 1 - national phase

Each Member State will nominate one competent authority to receive and examine GI applications. For example, in Belgium, the Regions (Flanders, Brussels, and Wallonia) are responsible for GI identification and protection.

When the substantive conditions are completed, the relevant body will publicly publish the GI application, giving third parties the opportunity to file an opposition if they believe the GI should not be granted. This is followed by a potential appeal procedure.

Following the completion of the national phase, Member States will submit successful applications to the EUIPO for the second phase at the Union level.

### PHASE 2 - Union level phase

EUIPO will double-check the application and publish it at the EU level, allowing for an EU-wide opposition procedure. Only once the opposition period has ended will the GI be given the protection at the EU level.

Member states will be able to request an exemption from the national phase, allowing the EUIPO to serve as the receiving office for craft and industrial product GI applications. Such a derogation can be granted only if the Member State demonstrates that the local interest in maintaining geographical indications for craft and industrial products is minimal.

It should be highlighted that the EUIPO will not be responsible for the registration of GIs for agricultural and food products.



## Expanded scope of protection

The Regulation offers a level of protection comparable to that of GIs in the food, agriculture, wine, and spirit drinks industries. However, there are other features that broaden the protection: the Regulation provides that this category of GIs is protected against any use of a domain name, and that the producer group or any producer may enforce their rights on goods in transit.

**Direct or indirect commercial exploitation of the protected name by comparable products that do not conform to the product specification**

**Any misuse, imitation or evocation of the protected name**

**EU Registered GIs are protected against these actions**

**Any other false or misleading indication as to the provenance, origin, nature, or essential qualities of the goods that is likely to create a false impression as to origin**

**Any other practice liable to mislead the consumer as to the true origin of the product.**

### Use of term 'evocation'

The term 'evocation', as defined by the Court of Justice of the European Union ("CJEU"), was first used in EU legislation.

According to the CJEU, the key factor in establishing whether there is an evocation is whether an average European consumer can draw a sufficiently explicit and direct link between the term used to describe the relevant product and the protected GI.

Similarity can be established when the sign used to designate products includes a part of a protected GI; when there is a phonetic and visual relationship between the GI and the disputed sign; when there is a "conceptual proximity" between the GI and the disputed sign; or even when the products covered by that GI are similar to the products and services for which the disputed sign is used. This is merely an example list; the courts must consider each case individually.



Read the case



## The next steps

National GI schemes will no longer exist once the Regulation takes effect. Member states that already have a national GI scheme for crafts and industrial products must adapt it to meet the Regulation's requirements, whereas Member States that do not yet have a GI scheme for crafts and industrial products must broaden the scope of the GI protection they already have in place.

Italian Law No. 206, enacted on December 27, 2023, became effective on January 11, 2024. It comprises unique provisions aimed at matching the protection of Italian artisanal and industrial products with the Regulation's upcoming implementation.

With this Law, Italy recognizes the value of typical craft and industrial products traditionally linked to local production methods rooted within a specific geographical area; promotes

their protection as significant elements of the overall national cultural heritage; ensures that consumers have reliable information on typical craft and industrial production; and supports craftsmen and producers in preserving production traditions and reputations linked to their places of origin. This Law also modifies the existing GI registration system to meet the requirements of the nationwide phase of the registration process.



Read the law



Source: [sib.it](https://sib.it)

## New Regulation 2024/1143 on on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products

On 23 April 2024, [Regulation \(EU\) 2024/1143 of on geographical indications for wine, spirit drinks and agricultural products, as well as traditional specialties guaranteed and optional quality terms for agricultural products](#) was published and is applicable from 13 May.

### Changes introduced by the new Regulation geographical indications for wine, spirit drinks and agricultural products



#### Single GI system for wine, spirits and agricultural products

The Regulation encompasses all of these industries rather than each having its own piece of legislation.



#### Protection online

GIs are going to have the protection both offline and online. Domain names that use GIs illegally will be taken down or have access to them disabled by geo-blocking. The EUIPO will set up a domain name alert system.



#### Protection of GIs as ingredients

The GIs can be used as an ingredient and referenced in the name, labelling, and advertising. However, in this case the GI's recognised producer must be notified in advance.



#### More rights for GIs producers

Recognised producer groups will be able to manage, strengthen and develop their geographical indications, in particular through access to anti-counterfeiting and customs authorities in all MS.



#### Streamlined registration

The registration procedure will consist of two phases: a national phase - examination of the application for registration, and a phase at EU level for which the European Commission remains solely responsible.

# Criminal legislation on GI infringements

The national scope of GI protection is limited in light of the CJEU's case law on the relationship between national legislation and GI safeguards for agricultural products and foodstuffs, which is now governed by Regulation (EU) No 1151/2012. According to consistent EU case law - C-478/07 (Budvar, 2009) and C-56/16/P (EUIPO v Instituto dos Vinhos do Douro e do Porto, 2017), EU regulation establishes a standard and comprehensive system of protection for geographical indications coming within its jurisdiction. This means that, for example, member states do not have a national GI registration system; instead, all GIs are registered at the European Union level.

Nonetheless, Member States retained authority of the GIs' criminal enforcement systems. However, there is no unified criminal protection framework for GIs across the EU Member States. Some national legislation provides special sanctions for GI infringement, whilst other systems classify GI infringement as generic infringement of IP rights. Furthermore, certain Member States do not have any criminal sanctions governing GI infringements. The examples below are not exhaustive, but demonstrate how national legislation may differ between EU member states.

## Separate criminal provision

In some EU member states, criminal liability for GI infringements is set as a separate criminal law provision. In some cases, this is governed by distinct laws, and in others, criminal punishments are established in a separate article of the criminal code.

Some EU Member States enacted special legislation to regulate GIs. This legislation provides criminal sanctions for GI offenses. For example, in Denmark, [Executive Order on quality schemes for agricultural products and foodstuffs](#) specifies penalties for specific circumstances of unauthorized use of GIs. Another example is Ireland's [European Union \(Quality Schemes for Agricultural Products and Foodstuffs\) Regulations of 2015](#). This Regulation states that a person who fails to comply with certain national regulations or certain articles of Regulation (EU) 1151/2012 transferred to national legislation, commits a summary offence punishable by a class A fine. It should be noted that the two instances do not include GIs on crafts and industrial products.

[Article 289 of the Croatian Criminal Code](#) is an example of a stand-alone criminal provision that punishes abuse of GIs of products and services, as well as an indication of the traditional reputation of agricultural and food products, causing significant damage.

## Criminal sanctions for GI infringements fall under provisions regulating other IP rights

In the majority of EU member states, criminal punishments for GI infringement are covered by provisions governing other IP rights. GI infringements are typically controlled with trademark infringements, but in some cases, they fall under more general intellectual property rights enforcement.

The Criminal Codes of [Romania](#) and [Slovakia](#) are two instances of Criminal Codes in which GI infringements are governed by the same laws as trademark violations. The [Latvian](#) and [Lithuanian](#) Criminal Codes are instances of regulations in which GIs are not referenced in criminal rules governing trademark infringement. However, the scope of trademark protection is determined in their trademark laws, which also cover the protection of geographical indications. This means that the same elements of the crime apply to GI infringement as to the trademark violations.

[Article 388 of the Hungarian Criminal Code](#) is an example of a more general regulation. This article establishes criminal punishments for industrial property rights infringement. Section 4 of this article provides a list of IP rights that are deemed industrial property rights for the purposes of Article 388, which includes GIs. Other examples of similar regulation include the [Estonian](#) and [Czech](#) Criminal Codes.

This demonstrates the different regulation of criminal punishments for GI violations, which varies by country.

## No criminal provision for GI infringements

In a few countries, there is no criminal provision for GI infringement. In such circumstances, GI violations might be addressed indirectly, either through food fraud-related criminal charges or administrative procedures.

Greece is one example of such a country. There is no criminal provision for GI regulation in the Criminal Code or related legislation. Indirectly, GI violations may result in administrative penalties under Articles 23–27 of the [Law on Administrative measures, procedures and sanctions in the application of Union and national legislation in the fields of food, feed and animal health and protection](#). This means that GI violations are only subject to administrative punishment in Greece.

Similarly, in Malta, GI violations are not treated as an ad hoc criminal offense. However, in the instance of fraud, GI infraction may fall under Article 293 of the [Criminal Code](#). In this situation, GI infringements can only result in criminal culpability if they are performed fraudulently.

# Criminal cases on GI violations

Criminal investigations of GI violations are frequently complex, necessitating detailed research of the chemical composition of the supposedly counterfeit product. Often, the perpetrators in these circumstances are charged with food fraud rather than intellectual property offenses. The Italian Supreme Court's decision is one case in which the court classified the use of fake olive oil as a fraud crime.



## Counterfeit extra virgin olive oil

Italian Supreme Court  
Case No. 50753 of 25/10/2023

The owner and legal director of the company that produced, packaged, and marketed as extra virgin olive oil, an oil that turned out to be wholly seed oil or a blend of olive oil was found guilty of fraud in trade and sale of non-genuine foodstuffs by the first and second instance courts.



Read the Case

The defendant filed a claim with the Supreme Court, saying that the lower court incorrectly defined the oil he was manufacturing as lampante.

The Supreme Court alluded to the composition of the oil in question, as determined by Carabinieri NAS, as well as the qualification of virgin olive oil set out in Annex I of Regulation 2568/91, which was revised and reinforced by Regulations 1234/2007 and 1308/2013. Taking into account the threshold values for virgin olive oils, the court found that the defendant's oil does not match the criteria for extra virgin oil, as sold.

This business action foreshadows two crimes: trade fraud and the sale of counterfeit foods. Fraud in commerce (Article 515 of the Criminal Code) occurs when a product is delivered to the buyer that differs in origin, provenance, and quality from what was declared or agreed upon. On the other hand, for the effort, no proof of bargaining is required; instead, it is sufficient to determine that the product is meant for market. Article 516 of the Criminal Code, which prohibits the selling of counterfeit goods, only applies to food, which is always considered consumed. Crimes that, in the view of the Supreme Court, must be judged concurrently without the possibility that fraud in commerce encompasses the sale of counterfeit food, as mentioned in previous opinions.

The defendant's use of GI protected extra virgin olive oil as the subject of the fraud was regarded an aggravating element. The company neglected to mention the protection of origin on its labels and used the marking without prior certification.

In some cases, the perpetrator is charged just with GI infractions. In this case, the legal analysis focuses mostly on product labeling. This means that, despite being branded as a GI protected product, the product does not meet the necessary standards. The Spanish instance of inappropriate labeling of famous hams is one such example.



## Improper use of term Los Pedroches

Cordoba Criminal Court No. 1  
Case No. 331/22 of 23/02/2023



Read the Case

The regulatory council of the Protected Designation of Origin (PDO) Los Pedroches, which is in charge of protecting PDOs related to hams, filed a complaint with Guardia Civil de Córdoba in 2019 after learning that certain hams were labeled with the protected word "Los Pedroches".

The PDO seal, which recognizes Los Pedroches Iberian ham, ensures and protects a product that originated in the north of the province of Cordoba and whose association with the geographical location is critical to its quality or features. According to the Regulatory Council, these hams must be produced from animals fed with acorns or finished in montanera, with a minimum age at entry of 12 months for the Iberian and 10 months for the crossbred, a maximum weight at entry of 105 kilos and a minimum of 140 at the time of slaughter, with a deadline for slaughter of March 31 and, in exceptional cases, April 30.

The Court explained that the products covered by GIs recognised by the European Union have certain characteristics that the others do not, and that the operators registered in the Regulatory Council's registers have the exclusive right to use the protected name to distinguish their hams. Furthermore, the Court concludes that the mention of the name Los Pedroches in a product not covered by this PDO is a sufficient fact to consider "that we are facing an attempt to deceive the consumer and make him believe that he is acquiring a product protected by it".

As a result, the court sentenced the defendants to one year and ten months in prison, an eighteen-month fine with a daily fee of €10, and consideration of compensation for moral damages in favour of the Regulatory Council, the amount of which to be determined during the execution phase.

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