EU GEOGRAPHICAL INDICATIONS AND CIRCULAR ECONOMY: GENERAL OVERVIEW AND FURTHER REFLECTIONS

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1. *Introduction*

Geographical Indications ("GIs") represent a very important intellectual property regime in the context of the EU legal order. That is why, in the context of the new paradigm shift towards a sustainable circular economy that characterizes the EU policy agenda, it could be interesting to link the two aspects in order to provide some insights and further reflections within the broader debate.

In order to do so, it is necessary first to provide a general overview of GIs, presenting them as a peculiar regime of EU law whose legal characteristics remain relatively unfamiliar, even among European consumers.

Then, more advanced legal issues concerning GIs can be addressed, with particular emphasis on the challenges arising from sustainability and circular economy, in light of the evolving policy priorities of the European Union. This final part is intended to offer just some perspective for reflections rather than ready-made conclusions,

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since this is not the forum for developing a thorough elaboration of relevant proposals and viable solutions.

2. *Geographical Indications as* sui generis *intellectual property rights*

Geographical Indications are recognised under EU law as intellectual property rights. Although considerable academic debate exists regarding their precise legal nature from a theoretical point of view, it is sufficient for our purposes to observe that their status as intellectual property rights is firmly established in the principal international agreements (e.g. TRIPS Agreement) and, even more clearly, in EU legislation.

One aspect deserves particular emphasis from the outset: GIs constitute a *sui generis* intellectual property right. In other words, they represent an autonomous and independent legal institution, distinct from every other form of intellectual property. They differ not only from copyright and patents, but, most importantly, from trademarks.

The distinction between GIs and trademarks is fundamental to understanding the EU system. A trademark is an intellectual property right protecting the distinctive sign of a product or service originating from a specific commercial source. In other words, it identifies the business responsible for placing a product or service on the market and enables consumers to distinguish that undertaking from its competitors.

Geographical Indications pursue a different objective. Although they also constitute intellectual property rights, and although they also function as distinctive signs, they are not designed to identify the commercial origin of a product. Instead, they indicate that a product originates from a specific geographical area and possesses qualities, characteristics, or a reputation linked to that territory.

Consequently, under EU law, GIs and trademarks are separate legal institutions that fulfil different functions and should not be regarded as overlapping forms of protection.

To better understand the practical significance of GIs, it is useful to consider a number of well-known examples. Products such as Champagne, Parmigiano Reggiano, Prosciutto di San Daniele, Queso Manchego, and Münchener Bier all constitute GIs protected under EU law. These products originate from defined geographical areas and

possess specific qualities or characteristics associated with those territories. Importantly, a geographical indication does not identify an individual producer; rather, it designates an entire "subcategory" or "group" of products sharing a common geographical origin and complying with the relevant production requirements.

Another example can clearly illustrate this distinction. Numerous producers manufacture Champagne, each marketing its products under its own trademark, such as Veuve Clicquot. In this example, Veuve Clicquot is the trademark identifying the commercial source of the product, whereas Champagne is the GI identifying the protected subcategory of sparkling wines originating from the Champagne region and complying with the applicable production specifications.

Accordingly, the term Champagne does not function as a "classic" trademark because it does not identify a single commercial undertaking. Rather, it communicates information concerning the geographical origin and quality of a product.

However, the names corresponding to GIs could be protected with further special types of trademark, namely collective marks and certification marks. Collective marks identify the commercial origin of a product but in a "collective" sense, indicating membership in an organized association. Certification marks indicate the possession of certain characteristics as verified by a responsible rightholder. Even if in the abstract these two special types of trademarks could both be adapted to protect GIs, they would lack a fundamental element of GIs as *sui generis* intellectual property rights in the EU fashion: that is, the role of the public authority in underpinning the credibility of the regime. That is why GIs could be defined as a hybrid between a private collective mark and a public certification scheme.

Understanding this distinction between trademarks and GIs is essential for appreciating the rationale underlying the EU *sui generis* system. In fact, GIs do not pursue a mere "market" objective of reducing search-costs for consumers while enabling business to invest and capitalize their reputation. On the contrary, GIs pursue a multifaceted policy mission, mixing classic objectives of consumer information and fair competition with more peculiar objectives of territorial development and cultural preservation.

3. *The EU legal regime of Geographical Indications*

Going into detail in the EU legal framework, another fundamental aspect of GIs concerns the distribution of legislative competence. This issue is particularly significant in the context of EU law because GIs constitute one of the few areas of intellectual property in which the European Union exercises exclusive competence.

Unlike other forms of intellectual property protection, GIs are governed exclusively at the EU level. In many areas of intellectual property law, national and EU systems coexist. Trademarks provide a clear example of this dual structure. A business may register a trademark before its national intellectual property office, thereby obtaining protection limited to the territory of a single Member State. Alternatively or indeed cumulatively, it may apply to the European Union Intellectual Property Office (EUIPO), headquartered in Alicante, to obtain an EU trademark that enjoys unitary protection throughout the European Union. These two systems coexist, allowing applicants to choose the form of protection most appropriate to their commercial interests.

This dual approach reflects one of the traditional principles of intellectual property law: the principle of territoriality. Historically, intellectual property rights have been closely linked to State sovereignty. Since intellectual property rights are granted by public authorities, their legal effects have traditionally been limited to the territorial jurisdiction of the authority that confers them. Consequently, territoriality remains a fundamental principle governing intellectual property law both within domestic legal systems and at the international level.

Obviously, when the sovereignty discourse concerns the EU legal order, the situation is more complicated. To a certain extent, this can explain why competences are so fragmented between European and national level. However, GIs represent a notable exception. Over time (and somehow not in proper way) the EU has progressively established a unitary system in which GIs may be registered and protected only at the EU level. Today, the Union enjoys exclusive competence in this field, meaning that Member States cannot establish independent national systems of protection for Geographical Indications. National authorities continue to play an important administrative role during the application procedure, but the legal recognition of a GI belongs exclusively to the EU.

Accordingly, there is not (anymore) an autonomous Italian, French, or Spanish system of Geographical Indications comparable to national trademark systems. Products originating in individual Member States may certainly qualify for geographical indication protection, but registration is ultimately granted through the EU legal framework rather than under national legislation. This exclusive competence constitutes one of the defining characteristics of the EU GI system and distinguishes it from most other branches of intellectual property law.

Another distinctive feature of GIs is their historical relationship with the so-called Common Agricultural Policy. The development of the GI regime was originally driven by agricultural policy objectives rather than by intellectual property considerations alone. This can be appreciated in those multifaceted policy objectives as described above. Consequently, the first categories of products benefiting from geographical indication protection were "agri-food" products, with a special position for wines.

Although GIs have subsequently evolved, this historical background continues to influence the structure of the current legal framework. Even today, the EU system remains organised according to different categories of products, namely agri-food products, wines, spirit drinks, and, more recently, craft and industrial products.

At first sight, this categorisation may appear somewhat artificial. On the one hand, the legal framework continues to distinguish between different classes of products. On the other hand, the recent extension of GI protection to craft and industrial products has considerably broadened the scope of the system, making GIs potentially applicable to almost any kind of goods. Nevertheless, the division into product categories remains a structural characteristic of the EU regime.

Despite these categories, the legal principles governing GIs are largely uniform. The substantive concepts, registration procedures, and mechanisms of protection are substantially common across the different sectors. Consequently, although the legislation distinguishes between various categories of products, the overall architecture of the system remains coherent, allowing the same fundamental principles to govern GIs regardless of the products concerned.

A significant reform of the EU legal framework was recently enacted. Before this reform, GIs were regulated through separate legislative instruments. Specific regulations governed agri-food products,

wines, and spirit drinks, while no regime existed for craft and industrial products.

The recent reform fundamentally reorganised this framework. A consolidated regulation now governs agri-food products, wines, and spirit drinks under a common legislative structure, replacing the previous sector-specific approach with a more coherent and harmonised framework (Regulation (EU) 2024/1143). At the same time, a separate regulation introduced a dedicated regime for craft and industrial products, which became operational on 1 December 2025 (Regulation (EU) 2023/2411).

The introduction of a separate regime for craft and industrial products responded to differing political sensitivities among the Member States about GIs, which historically were present and still are so. While several Member States have traditionally supported a strong GI policy, others have been less prone to do so. Consequently, the EU legislator considered it preferable to establish a distinct legal framework specifically designed to promote the development of this new category of GIs, rather than simply extending the considerably more complex agricultural regime already existing.

As said, the underlying principles governing GIs remain substantially identical. However, the coexistence of these two legislative instruments inevitably raises certain issues concerning consistency and coordination. This is particularly true because of certain normative discrepancies not so easy to reconcile. In this sense, it should be anticipated that this distinction between the two regulations reflects primarily political and institutional considerations rather than fundamental legal differences. That is why an objective of overall consistency can (and should) be pursued, as it will be argued further.

4. *A unitary GIs system with two schemes: Protected Designations of Origin (PDO) and Protected Geographical Indication (PGI)*

Having outlined the institutional framework governing GIs, it is now useful to examine their essential legal features. Although GIs constitute a unitary category of intellectual property rights, the EU system distinguishes between two main different forms of protection: the Protected Designation of Origin (PDO) and the Protected Geographical Indication (PGI).

Both PDOs and PGIs fall within the broader family of GIs and are represented by official EU quality symbols (respectively, the "red" and the "blue" logo) that consumers can commonly see on such products (Delegated Regulation (EU) 2025/26, Annex XVII). Nevertheless, they constitute two distinct legal schemes characterised by different eligibility requirements and different degrees of territorial connection. In general terms, the PDO represents the more stringent form of protection, whereas the PGI provides a broader and more flexible regime.

To qualify as a Protected Designation of Origin, three cumulative conditions must be satisfied (Article 46(1) Regulation (EU) 2024/1143).

First, the product must originate from a specific geographical area, which normally consists of a defined place or region and, only in exceptional circumstances, an entire country. The territorial element is therefore fundamental. In most cases, the protected area is relatively limited in geographical scope. For example, Champagne originates exclusively from the Champagne region, while Münchener Bier is linked specifically to the city of Munich and its surrounding area rather than to the whole of Bavaria. Although broader geographical areas may occasionally be recognised, such as for Scotch Whisky, the underlying principle remains the existence of a clearly defined territory.

Secondly, the product must possess qualities or characteristics that are intrinsically linked to that geographical area. It is therefore insufficient merely to identify a product with a particular place of origin. Furthermore, the relevant qualities must derive from the territory itself. EU law requires the existence of a genuine qualitative link between the product and the geographical environment in which it is produced.

For PDOs, this territorial link is understood in a particularly strict and objective sense through the concept of *terroir*. Borrowed from French legal and agricultural terminology, the notion of *terroir* has evolved in the context of GI in order to encompass considerably more than the physical location of production. It includes the natural environment, climatic and geological conditions, traditional production methods, local know-how, and the historical experience of the producers operating within that territory. These natural and human factors combine to create the distinctive characteristics that justify protection under the PDO regime.

The third requirement concerns the production process itself. In the case of a PDO, all stages of production must take place within the defined geographical area. This requirement reflects the particularly strong territorial connection characterising the PDO system and reinforces the objective relationship between the product and its geographical origin.

Protected Geographical Indications follow a more flexible approach. This broader scheme was introduced to accommodate products whose relationship with the territory is less intensive but nevertheless sufficiently significant to justify legal protection. In many cases, products have acquired a long-standing reputation associated with a particular geographical area even though their characteristics cannot be explained exclusively by natural or environmental factors.

Like the PDO, the PGI requires that the product fulfil three conditions of the same kind (Article 46(2) Regulation (EU) 2024/1143).

First, the product shall originate from a defined geographical area. The territorial element therefore remains an essential prerequisite. However, the nature of the required link differs significantly.

Under the PGI scheme, the relevant qualities of the product may derive not only from objective environmental conditions but also from its reputation. The geographical connection may therefore be established through the historical recognition enjoyed by the product, the continuity of traditional production methods, or the long-standing association between the product and the territory in the perception of consumers. In other words, the emphasis shifts from the objective concept of *terroir* towards the historical and cultural reputation developed by the product over time.

From a theoretical perspective, this distinction has generated considerable academic debate. PDOs are traditionally regarded as embodying an objective, terroir-based model, whereas PGIs rely on a broader reputational connection. In practice, however, the distinction has become progressively less pronounced. Both schemes increasingly emphasise the longstanding continuity of production, local know-how, and the territorial traditions that justify protection. Both schemes rely on this mix of geography and history as the roots of the specific distinctive qualities of the product to be protected as GI. As a result, the practical differences between PDOs and PGIs are often less significant than the legal definitions might suggest, at least from this point of view.

Another substantial distinction between the two regimes concerns the production process. Whereas a PDO requires that every stage of production takes place within the protected geographical area, a PGI requires only that at least one stage of production occurs within that territory. This considerably relaxes the territorial connection and provides producers with greater organisational flexibility.

This more flexible structure of the PGI in terms of production process has also attracted criticism. Allowing only one production stage to take place within the geographical area may weaken the genuine territorial link and, in some circumstances, facilitate abusive or excessively broad claims to protection. Whether these concerns materialise depends largely on the specific content of each product specification. In practice, many PGIs maintain a much stronger territorial connection than the legal minimum would require. For instance, although raw materials may originate outside the protected area, most or all subsequent production processes may still take place within the designated territory, thereby preserving a substantial geographical link. At the same time, it is true that certain PGIs are too loose, following mere business logic rather than sound territorial rooting. Consequently, the flexibility of PGIs should not be regarded as problematic in itself: its appropriateness ultimately depends on how the single PGI is structured and managed. However, the system should consider appropriate correction considering the existence of such problematic practices.

In addition to PDOs and PGIs, EU quality policy includes several other quality schemes, such as the Traditional Speciality Guaranteed (Article 52 Regulation (EU) 2024/1143) and optional quality terms, including "mountain product" (Article 82 Regulation (EU) 2024/1143). These schemes differ fundamentally from proper GIs because they are not based on a specific geographical origin. A TSG protects a traditional recipe or production method rather than a territorial link, so that it can be reproduced elsewhere than the place of origin, while the designation "mountain product" refers to production in mountainous areas defined in general, rather than located in a certain geographical region. Since neither scheme requires the close territorial connection that characterises GIs, they fall outside the scope of the present discussion.

5. *Registration procedure and relevant documents*

Protection as a GI is granted only upon registration. Unlike other forms of protection that may arise through use or reputation alone, GIs benefit from the specific legal regime established under EU law only after completion of the formal registration procedure. Consequently, all well-known GI examples recalled above are protected because they have been duly entered in the EU register of GIs.

The registration procedure operates through a two-stage structure, combining national and European administrative procedures. As a general rule, applicants must first complete a preliminary examination at national level before the application is transmitted to the EU level for final assessment and registration (Articles 10 and 13 Regulation (EU) 2024/1143, as well as Article 7(1) Regulation (EU) 2023/2411).

A limited exception has recently been introduced for craft and industrial products (Article 7(2), Regulation (EU) 2023/2411). Under the new legal framework, Member States that have not established a national authority responsible for conducting the preliminary examination may allow applicants to submit their applications directly to the competent EU authority. This solution was introduced primarily to facilitate the implementation of the new regime in Member States with limited experience or interest in GIs. Nevertheless, the ordinary procedure remains based on two successive administrative stages: an initial national examination followed by a final decision at EU level.

During the first stage, applications are examined by the competent national authority, which may be either the national intellectual property office or another public body, such as the competent ministry (agriculture or trade), depending on the institutional organisation of the Member State concerned.

Once the national examination has been successfully completed, the application proceeds to the European level. Here, the institutional framework reflects the ongoing evolution of the EU system. For agri-food products, wines, and spirit drinks, the European Commission continues to act as the authority responsible for registration. By contrast, under the recently introduced regime for craft and industrial products, responsibility has been entrusted to the European Union Intellectual Property Office (EUIPO). This institutional distinction illustrates the peculiar nature of the GI system, which combines el-

ements of traditional agricultural governance with those of modern intellectual property administration.

The registration procedure is initiated exclusively upon application by the interested operators. The competent authorities do not act *ex officio* to identify products deserving protection. Rather, the process follows a bottom-up approach, requiring the producers themselves to seek registration of the GI for their product (Article 9 Regulation (EU) 2024/1143 and Article 8 Regulation EU 2023/2411).

It is important to stress that applications are generally submitted not by individual producers but by producer groups. This reflects the collective nature of GIs. Since a GI identifies, as said, a sub-category or "group" of products rather than the product of a single undertaking, the legal framework assumes that several producers operating within the same geographical area share an interest in protecting the geographical name. Consequently, local producers are expected to organise collectively and submit a joint application. Although EU law provides limited exceptions allowing applications by individual producers in exceptional circumstances, the collective model remains the general rule and one of the defining features of the GI regime.

Every application must be accompanied by a number of supporting documents (Article 12 Regulation (EU) 2024/1143 and Article 11 Regulation (EU) 2023/2411). Among these, two are particularly significant: the single document and the product specification.

The single document summarises the essential characteristics of the GIs and provides the legal justification for its protection. It explains the geographical origin of the product, the territorial link, the historical tradition underlying its production, and the specific qualities or reputation that justify recognition as a GI. In essence, it presents the substantive grounds supporting the application (Article 50 Regulation (EU) 2024/1143 and Article 10 Regulation (EU) 2023/2411).

The product specification serves a different function. It constitutes the technical document defining the production rules and parameters applicable to the GI. It specifies the process methods and quality standards that producers must comply with in order to market their products under the protected geographical name (Article 49 Regulation (EU) 2024/1143 and Article 9 Regulation (EU) 2023/2411).

The registration procedure also includes the possibility of opposition. Interested parties may challenge an application on several legal grounds, including, for example, the generic nature of the proposed

name or conflicts with earlier trademark rights (Articles 15(3) and 26 Regulation (EU) 2024/1143 as well as Article 19 Regulation (EU) 2023/2411). The opposition system mirrors the two-stage registration procedure and therefore distinguishes between the national and European phases. During the national stage, opposition may be lodged by operators established within the Member State where the application originates. Once the procedure reaches the European level, however, those national operators are no longer entitled to raise objections. At this stage, opposition is reserved for third parties who were not entitled to participate during the national examination. This procedural separation prevents duplication of objections and contributes to the orderly conduct of the registration process. However, interested parties should be aware of this preclusion.

Finally, registration does not render a GI immutable. The legal framework allows amendments, particularly to the product specification, whenever adaptation becomes necessary (Article 24 Regulation (EU) 2024/1143 and Article 31 Regulation (EU) 2023/2411). Such amendments may reflect technological developments, changing environmental conditions, evolving consumer preferences, or other circumstances requiring modifications to production and presentation rules.

The applicable procedure depends on the significance of the proposed amendment. Minor modifications may be approved by the competent national authority alone. Conversely, amendments affecting the essential characteristics of the GI require a new two-stage procedure involving both the national authorities and the competent EU institution. This mechanism ensures that substantial changes remain subject to the same level of scrutiny as the original registration while allowing sufficient flexibility to accommodate the evolving needs of producers and markets.

6. *Right to use, control mechanisms, and enforcement of Geographical Indications*

One of the most distinctive features of the EU system of Geographical Indications is the concept of the right to use (Article 36 Regulation (EU) 2024/1143 and Article 47 Regulation (EU) 2023/2411). In this respect, GIs differ significantly from other forms of intellec-

tual property protection. Traditionally, intellectual property rights are based on the principle of exclusivity: the rightholder alone may exploit the protected right or authorise its use by third parties. Geographical Indications follow a different logic. As collective intellectual property rights, they are founded on an open and non-discriminatory system of access. Any economic operator satisfying the legal requirements governing a geographical indication is entitled – has the "right" – to use the protected name.

Alongside the right to use, the GI regime also establishes a duty to use the official EU quality symbols (Article 37 Regulation (EU) 2024/1143 and Article 48 Regulation (EU) 2023/2411). For agri-food products, the PDO and PGI logos must appear on the label. Although exceptions exist for certain categories, including some wines, spirit drinks, and the recently introduced craft and industrial Geographical Indications, the mandatory display of the official symbols remains the general rule. This obligation reflects an important policy objective. As previously noted, public awareness of GIs remains relatively limited, even within the EU. The mandatory use of the official logos therefore serves not only an informative function but also contributes to increasing consumer awareness and promoting the EU quality schemes.

The right to use GIs, in terms of open and non-discriminatory access, should not, however, be understood as unrestricted access. The right to use a geographical indication is limited to producers operating within the defined geographical area. Nevertheless, all producers established within that territory are entitled to use the GI provided that they comply with the applicable legal requirements. It could be also defined as a "club" system, but actually as an "open" club: in fact, membership of the producer group or consortium responsible for managing the GI is not a precondition. Likewise, participation in the procedure that originally promoted or registered the GI is unnecessary. The only decisive conditions are that the producer operates within the designated geographical area and that the product complies with the applicable Product Specification. Consequently, any producer meeting these requirements is entitled to market its product under the protected geographical indication. In practical terms, a producer established within the Champagne region who complies with the Product Specification is entitled to market its wine as Champagne, irrespective of membership in the relevant producer consortium.

At the same time, it should be stressed that geographical origin and quality compliance constitute a double cumulative condition. In other words, geographical origin alone is insufficient. A producer operating within the protected geographical area may use the GI only if the product fully complies with the technical standards established in the product specification. To illustrate, ownership and cultivation of vineyards located within the Champagne region does not automatically entitle the producer to market its wine as Champagne. The producer must also comply with the detailed production rules governing such a PDO, as laid down in the relevant product specification.

In truth, a third condition must also be satisfied. In addition to geographical origin and quality compliance, producers must successfully undergo the relevant control procedures. Only producers who are local, compliant, and duly certified are entitled to use the protected geographical indication.

This is a very defining characteristic of the GI system, being based on a comprehensive framework of independent controls regulated by law and inspired by public logic. Compliance with the product specification is not left exclusively to the producer group managing the GI. Instead, producers must undergo verification carried out by public authorities or independent third-party certification bodies (Article 39 Regulation (EU) 2024/1143 and Article 52 Regulation (EU) 2023/2411). Independent certification constitutes one of the principal features distinguishing GIs from other forms of quality claims, including certification marks that merely indicate certain product characteristics without being subject to systematic external verification. The existence of an independent control system reinforces the credibility of GIs by ensuring that the quality guarantees associated with the protected name are effectively monitored and enforced.

The recently introduced regime for craft and industrial Geographical Indications partially departs from this traditional model. Under certain circumstances, self-certification is permitted (Article 51 Regulation (EU) 2023/2411). This innovation proved controversial during the legislative process. It was introduced primarily to facilitate the development of the new regime and encourage wider participation by producers. Nevertheless, this solution is strongly criticized, because of the risk of weakening one of the fundamental pillars of the GI system.

The control system extends beyond the ex ante certification stage, in terms of compliance verification preceding the marketing of the

product. It also encompasses ex post controls, in terms of market surveillance about the respect of this intellectual property rights (Article 42 Regulation (EU) 2024/1143 and Article 54 Regulation (EU) 2023/2411). Market surveillance is intended to identify products unlawfully using protected GIs in order to prevent the marketing of goods that fail to satisfy the relevant standards, to the detriment of the objectives of the system.

An important feature of the EU system is that enforcement of GIs is not left exclusively to private initiative. Member States are required to ensure the ex officio protection of GIs. Consequently, the competent public authorities must monitor compliance with the legal regime and take appropriate enforcement measures whenever infringements are identified, regardless of whether individual producers initiate legal proceedings.

This principle has not always been uniformly accepted. In the past, some Member States argued that protecting GIs originating in other Member States should remain primarily the responsibility of the affected producers. This objection has since been overcome. Under the current legal framework, all Member States are required to protect all registered GIs, irrespective of their national reference. This solution consistently reflects the unitary nature of the EU system. Since GIs constitute EU intellectual property rights rather than national rights, every Member State bears responsibility for ensuring their effective protection throughout the internal market, in a spirit of "loyal" cooperation.

In this regard, the enforcement of GIs should take into account the territorial scope of the exclusive right as extending also to products intended exclusively for export. A product manufactured within the EU in violation of a protected GI infringes the exclusive right even if it is destined solely for markets outside the Union. Accordingly, a market operator (or the public authority entrusted with enforcement) cannot rely on the argument that the unlawful use of the GI is for products addressed exclusively to consumers in third countries. Under the principle of territoriality, as said fundamental to intellectual property rights, the relevant infringement occurs where the unlawful use takes place also at the stage of production, so in this case within the territory of the European Union.

Finally, one of the most significant innovations introduced by the recent reform concerns the digital enforcement of GIs (Article 43 Reg-

ulation (EU) 2024/1143 and Article 60 Regulation (EU) 2023/2411). The new legislative framework extends enforcement mechanisms to internet domain names and services provided by online intermediary, including digital marketplaces and platforms. In this respect, GIs have been brought into line with other categories of intellectual property rights, which already benefit from enforcement mechanisms specifically designed to address infringements occurring within the digital environment.

7. *The scope of protection of Geographical Indications*

Having examined the institutional framework governing GIs, it is now appropriate to consider their substantive dimension as intellectual property rights, namely the scope of protection conferred by EU law. As with all intellectual property rights, the legal mechanism of GIs is to provide protection by granting the rightholder the ability to exclude unauthorised third parties from using the protected subject matter. While copyright protects creative works, patents protect inventions, design rights safeguard the appearance of products, and trademarks protect the distinctive signs identifying the commercial origin of goods and services, GIs protect the names of such sub-categories of typical products whose (renowned) quality or (qualitative) reputation are linked to a specific geographical area.

Despite the articulation of the EU system, GIs enjoy a uniform standard of protection. The same substantive rules apply regardless of whether the protected designation is registered as a PDO or a PGI and irrespective of the category of product concerned, including agri-food products, wines, spirit drinks, and craft and industrial products. Similarly, the protection applies equally in both offline and online environments. Consequently, although the GI regime encompasses different product categories and legal schemes, the substantive protection afforded by EU law is unitary.

The legal framework establishes four principal forms of protection (Article 26 Regulation (EU) 2024/1143 and Article 40 Regulation (EU) 2023/2411). While protection against misleading practices represents the traditional and internationally recognised core of GI protection, the EU system extends considerably beyond this minimum standard by introducing broader and more distinctive mechanisms.

Starting from the end of the norm, the fourth hypothesis represents these the most conventional form of protection: that is, misleading indications regarding geographical origin. A GI is infringed where the presentation of a product misleads consumers into believing that it originates from the protected geographical area when this is not the case. This form of protection is based upon the traditional concept of consumer confusion. If consumers purchase a product believing it to be an authentic Champagne, whereas it does not originate from the Champagne region, the GI has been infringed through a misleading indication of origin in this most "classic" sense.

A similar rationale underlies the third hypothesis of protection against false or misleading indications appearing on packaging or product presentation. Here again, the objective is to prevent consumers from being deceived regarding the true geographical origin of the product. In this case, the same logic applies to those practices that go beyond the use of the GI in the product name. In this sense, also this provision corresponds to the more traditional understanding of GI protection that exists in many legal systems worldwide.

However, the most distinctive feature of the EU regime for GIs regards the first and second hypothesis. The first one extends protection beyond situations involving consumer confusion by prohibiting direct or indirect commercial use of GIs. In the case of comparable products, the use of a GI is prohibited based on the sole condition that such products are not compliant with the product specification. This applies irrespective of whether consumers are actually misled, so granting a therefore considerably broader protection than the simple prohibition of deceptive practices.

Furthermore, even where the products concerned are not comparable, unauthorised use may still be prohibited if it results in the unfair exploitation of or detriment to the reputation of the GI. Obviously, this aspect of the regime requires a case-by-case assessment, and it is open for debate in its actual and correct extension. However, it demonstrates well that the EU system protects not only consumer information but also the economic and reputational value embodied in GIs themselves.

An even more distinctive form of protection of GIs is provided through the concept of evocation. Under EU law, a GI may be infringed even where the protected name is not used directly, and even where expressions such as "style", "type", "method", "imita-

tion", "kind", or similar qualifying terms accompany the disputed designation. Such disclaimers do not exclude infringement. The prohibition is therefore exceptionally broad and reflects one of the defining characteristics of the EU system.

The practical implications of this regime are best illustrated through the case law of the Court of Justice of the European Union, which has progressively expanded the concept of evocation.

One of the basic cases to show how evocation works in practice is the use of the designation "Parmesan" for cheeses that did not comply with the PDO Parmigiano Reggiano (CJEU, case C-132/05). The Court confirmed that geographical indications are protected against translation, as the very black letter of the law provides, so concluding that the use of term "Parmesan" constituted an infringement of the relevant GI.

Historically, the landmark decision for evocation is the "Cambozola" case (CJEU, case C-87/97), concerning a cheese marketed under a name combining references to Camembert and Gorgonzola. The Court held that the nominal part "zola" was sufficient to evoke the PDO Gorgonzola, thereby infringing GI protection. Importantly, the decision did not depend upon any finding of consumer confusion. It is a fact that consumers were unlikely to purchase the Cambozola cheese believing that it was genuine Gorgonzola. Nevertheless, the mental association created between the two names was sufficient to establish infringement, exactly because evocation protects GIs from any mechanism of unauthorized market association.

Subsequent case law further broadened this principle. In the "Verlados" case (CJEU, case C-75/15), a Finnish spirit produced by a company located in the town of Verla was marketed under such a name resembling the protected French GI Calvados. Applying the reasoning developed in Cambozola, the Court easily concluded that the designation was unlawful under the notion of evocation.

The judgment is particularly significant for several additional reasons. First, the Court rejected any so-called "truth" defence. The fact that the producer was genuinely established in the town of Verla did not justify the use of a name evoking the GI. Secondly, the Court denied the applicability of a "de minimis" principle. In this sense, the producer argued that only a limited number of bottles had been produced, but the Court held that the scale of production was irrelevant for determining infringement. Finally, the Court reaffirmed that

consumer confusion is not a necessary element of evocation, also with regard to local consumers. More precisely, even if Finnish consumers in this case clearly understood that Verlados differed from Calvados, the mental association between the two products remained sufficient to establish infringement.

The concept of evocation was expanded even further in the "Glen Buchenbach" case (CJEU, case C-44/17). The product concerned was a whisky produced in Germany bearing such a designation allegedly considered in violation of the GI Scotch Whisky. Although the word "Glen" is actually not a part of the GI, the Court concluded that this characteristically Scottish term, widely use by the local whisky industry, was capable of leading consumers to associate the product with the protected GI. The absence of any textual similarity with the GI was therefore immaterial. What mattered was already the conceptual association created in the consumer's mind.

Then, the broadest interpretation of evocation (at the moment) was reached in the "Queso Manchego" case (C-614/17). Queso Manchego is a PDO for a typical cheese produced in the La Mancha region of Spain. The dispute concerned a producer who used imagery associated with *Don Quixote de la Mancha*, including references to the literary character Rocinante and visual elements depicting the cultural landscape of La Mancha, without directly using the protected designation itself. The Court held that evocation may arise not only through words but also through figurative elements capable of establishing the said mental link with the GI. Moreover, this case is even more important because the infringing producer was actually established in the relevant geographical area (although its products were not compliant with the GI in question). Consequently, also labels, images, symbols, and other visual representations may all constitute infringements where they evoke the protected GI according to the mental mechanism so established.

This presentation cannot cover all relevant decisions about GIs. However, this line of case law clearly demonstrates the exceptionally broad scope of protection enjoyed by GIs as a matter of principle under EU law. Although the breadth of this protection remains the subject of considerable debate, the EU judges tend to support the legislature's objective to safeguard not only consumers against deception, but also the distinctiveness, reputation, and economic value associated with GIs.

8. *Sustainability of Geographical Indications in the EU reformed regime*

After this general overview about GIs as *sui generis* regime in the EU legal framework, some further reflections can be provided in light of the new paradigm of a sustainable circular economy.

As known, sustainability has become one of the central priorities of contemporary EU agenda. Nevertheless, this policy objective has only marginally influenced most areas of intellectual property law. Neither trademark law, patent law, nor copyright law has undergone substantial reform aimed at incorporating sustainability through new substantive requirements, conditions, or exceptions. However, GIs represent a notable exception in this sense.

Owing to their close relationship with agricultural policy, territorial development, and the preservation of cultural heritage, GIs have integrated sustainability into their regulatory framework. Rather than treating sustainability as an external policy objective, the recent reform has embedded it within the operation of the GI system itself.

Starting with agricultural products, GIs now expressly allow producer groups to agree on sustainable practices (Article 7 Regulation (EU) 2024/1143).

These practices must exceed by definition the minimum standards already required under applicable legislation, thereby encouraging producers to pursue higher levels of environmental, social, or economic sustainability.

The norm further provides that such practices may either remain voluntary or become binding upon all producers operating under the GI. Where the producer group decides to make them mandatory, the sustainability commitments must be incorporated into the product specification and consequently become legally binding conditions governing the use of the relevant GI.

An important feature of this mechanism is its bottom-up character. The EU legislator deliberately refrained from prescribing specific sustainability requirements applicable to all GIs. Instead, producer groups are entrusted with determining which sustainability practices are appropriate for their particular products and geographical contexts, as well as whether such practices should remain voluntary or become mandatory.

This approach presents both advantages and disadvantages. A top-

down regulatory model would undoubtedly provide greater uniformity and stronger legal certainty, but it would also reduce the flexibility necessary to accommodate the considerable diversity of GIs. By contrast, the bottom-up model allows sustainability commitments to reflect local conditions, traditional production methods, and the specific needs of individual producer communities. Moreover, because these commitments originate from the producers themselves, they may benefit from greater acceptance and more effective implementation.

The sustainability framework also includes an important element of public transparency (Article 8 Regulation (EU) 2024/1143). After the reform, producer groups may prepare sustainability reports describing the relevant practices agreed and enacted for the GI. The norm requires such reports to be both accurate and comprehensible, thereby ensuring that the information provided is reliable and accessible to consumers and any other interested stakeholders. Furthermore, the European Commission is responsible for making these reports publicly available, reinforcing their visibility and enhancing the public dimension of sustainability within the GI regime.

Here again, the legislator has favoured a voluntary rather than mandatory approach. Unlike the (highly controversial) corporate sustainability reporting obligations or due diligence requirements, the preparation of sustainability reports remains optional for GI producer groups. Nevertheless, the reform establishes a legal framework designed to ensure that voluntarily disclosed information satisfies minimum standards of accuracy, transparency, and reliability.

The situation is somewhat different for craft and industrial Geographical Indications. The corresponding regime does not contain provisions equivalent to those governing sustainability practices and sustainability reports in the agricultural sector.

In particular, this parallel regime lacks a proper discipline in terms of definition, scope and conditions of such sustainable practices and obligations. In this sense, there is no definition of a "legal-plus" standard, nor even the reference to the environmental and social dimension of sustainability. Moreover, no regulated form of public reporting is provided. Instead, the reform just generally entrusts producer groups with the task to agree on possible sustainability commitments, admitting the option to integrate such obligations into the product specification or through separate instruments (Article 45(2)(c) Regulation (EU) 2023/2411).

Apart from the single operative issues, this normative divergence illustrates more broadly one of the principal challenges created by the recent reform. Several provisions governing craft and industrial Geographical Indications differ from those applicable to agricultural products, raising questions regarding the future coherence of the EU GI system. It remains uncertain whether such differences respond to a rationale of "agricultural" speciality, or whether agricultural GIs should be considered the original model of general inspiration, or even whether the gradual extension of GIs beyond the agricultural sector should ultimately lead to a new "de-agriculturalized" model across all product categories. However, as anticipated before, consistency should be preferred and pursued to the benefit of the GI system itself.

9. *The new discipline of GIs for derivative products*

This issue becomes particularly evident in relation to the legal regime governing GIs used as ingredients or components of derivative products, one of the most significant innovations introduced by the recent reform. Even if this aspect is not directly linked with circular economy, it presents a remarkable affinity with the logic that inspires this new paradigm of continuous "redevelopment" of value within the productive system.

For many years, it was highly debated the issue of determining if a protected GI could be freely used to express the fact that typical products constituted an ingredient or component of the final product. The central question was to weigh up the conflicting interests of "competitors", who actually used genuine GI ingredients and components, with the ones of "rightholders", who generally claim exclusive control on the use of the protected GI.

To better illustrate this problem, it is enough to recall the well-known litigation concerning the "Champagne sorbet" case (CJEU, case C-393/16). A supermarket chain marketed an ice-cream under this commercial name, on the basis that the recipe contained Champagne as an ingredient. The legal issue was not (only) whether Champagne had actually been used, but whether the presence of a genuine GI ingredient entitled the producer to refer to the protected GI in the commercial name of the derivative product.

The Court of Justice held that, in principle, a producer may refer to a GI in the name of a derivative product where the product genuinely contains the protected ingredient. However, the mere presence of the ingredient is not sufficient. The GI product must be used in a quantity capable of conferring an essential characteristic upon the final product. In other words, a negligible quantity of Champagne would therefore not justify marketing an ice cream as "Champagne Sorbet". In reaching this conclusion, the Court largely confirmed the approach previously adopted by the European Commission in its interpretative soft-law guidance.

The recent reform has followed this case law, codifying a specific legal framework governing the use of GIs as ingredients in the agricultural sector (Article 27 Regulation (EU) 2024/1143).

Under the new regime, three cumulative objective conditions must be satisfied. First, the derivative product must not contain any another comparable ingredient with respect to the GI. This is to avoid any ambiguity or misuse. Secondly, the GI ingredient must be present in a quantity sufficient to confer an essential characteristic upon the final product. This is to establish substantial justification of such use. Thirdly, the percentage of the GI ingredient must be indicated on the product label. This is to provide consumers with transparent information.

In addition, the recent reform introduced a procedural mechanism applicable only to prepacked food products containing GIs. While the substantive conditions remain the same, producers of prepacked foods must comply with a further procedural requirement before marketing the product.

More precisely, the producer intending to market a prepacked food containing a protected GI ingredient must provide prior written notification to the producer group responsible for the GI. The notification must not merely communicate the producer's intention, but it must also demonstrate that all objective legal requirements governing such use have been satisfied.

Accordingly, the producer is expected to provide documentation showing, for example, the proposed product label, information about the supply of genuine GI products used as ingredients, and other evidence of this kind. The notification therefore serves as a transparency mechanism enabling the producer group to verify whether the legal framework has been correctly applied.

On the other side, it is important to emphasize that this procedure does not establish a system of prior authorization for the producer group. The producer group is not empowered to grant or refuse permission to use the GI. Rather, its role is limited to verifying whether the objective legal conditions governing the use of the GI have been fulfilled. Where the producer group considers that the statutory requirements have not been satisfied, disagreement may arise and of course it may ultimately be resolved through ordinary judicial mechanisms. Nevertheless, the producer group is only entrusted with the possibility to "acknowledge" or not the lawfulness of the situation in its response to the producer, providing at most "non-binding" information about correct use of the GI. The possibility of contractual agreements between the parties is also envisaged by the legislature as a mere voluntary option. In this sense, such a notification mechanism remains fundamentally different from an authorization system. Its primary objective is to encourage transparency and dialogue between the producer of the derivative product and the producer group responsible for the GI, thereby facilitating compliance while avoiding unnecessary disputes.

However, a different solution has been enacted for craft and industrial Geographical Indications (Article 41 Regulation (EU) 2023/2411).

In this context, the parallel regime establishes a discipline that appears to depart significantly from the objective approach governing agricultural Geographical Indications as just described. Where a derivative product incorporates a protected craft or industrial GI as a component, the producer may not refer to the GI in the commercial designation of the final product unless the "consent" of the relevant producer group has been obtained.

This provision introduces a substantially different regulatory model. Unlike the regime governing agricultural Geographical Indications, this regime does not expressly rely upon objective substantive conditions capable of automatically entitling producers to use the protected GI. Instead, the reference to the producer group's consent suggests a discretionary mechanism resembling prior authorization.

10. *Further reflections on GI system and circular economy (not) to conclude*

The distinction between the two systems is significant. Under the agricultural regime, the use of GIs in derivative products is governed by objective legal requirements. Prior notification merely enables verification that these requirements have been fulfilled, while any contractual arrangements between the parties remain voluntary and must not involve – as a matter of principle – royalty payments. This approach preserves one of the fundamental principles underlying GIs: open and non-discriminatory access for all economic operators satisfying the statutory conditions.

By contrast, the craft and industrial regime appears to make the use of the GI dependent upon the producer group's consent. Since the norm does not establish equivalent objective criteria, the producer group's decision concerning the use of the protected GI may depend upon discretionary commercial assessments. Such a mechanism inevitably raises concerns regarding legal certainty, equal treatment, and the risk of discriminatory access. Moreover, if authorization depends upon the producer group's consent, contractual negotiations become unavoidable, thereby introducing a logic close to licensing which is quite distant – if not dangerous – to the GI system.

As anticipated, this normative divergence represents one of the most evident inconsistencies introduced by the recent reform between agricultural GIs and craft and industrial GIs (even if perhaps not the most serious one, considering the questionable exception of self-certification as affecting the core value of GIs' controls and relevant trustworthiness). The coexistence of two different models governing comparable situations raises important questions regarding the future coherence of the EU GI system.

From this perspective, the question of derivative products requires delicate balancing of several different policy objectives. The legal framework seeks simultaneously to inform consumers, assure objective quality, preserve fair competition, safeguard subjective reputation of GIs, as well as maintain the cultural and social value associated with traditional products. Reconciling these objectives is particularly complex, taking account the legitimate interests of GIs producers (pushing for more restrictive rules) and competing operators (pushing for more liberal rules).

First of all, it should be repeated that consistency appears preferable in terms of systemic solidity and of legal certainty itself, to the benefit of consumers, producers, economic operators and public authorities alike. So, if the issue becomes choosing the reference point for the future development of EU GI law, the principles underlying the circular economy may offer useful guidance. In fact, from a systemic point of view, the question is not merely how to reconcile the two parallel GI regimes, but which regulatory model should better serve the overall policy vision of EU.

Against this background, the agricultural model appears particularly compatible with the objectives of the circular economy. By relying upon objective legal conditions, transparent procedures, and prior notification rather than discretionary authorization, the system facilitates the lawful reuse of protected products as ingredients while maintaining appropriate safeguards for the protected value of GIs. This approach promotes dialogue between economic operators in a spirit of commercial respect, supporting the legitimate interests of operators who conduct honest business on both sides. In this sense, the necessary protection of GIs is confirmed in a proportional way, without creating unnecessary barriers to the circulation and valorization of products incorporating genuine GI ingredients.

Accordingly, the agricultural regime may provide a persuasive interpretative model for the craft and industrial regime. Rather than understanding the producer group's consent as an unfettered discretionary power, it may be interpreted consistently with the broader principles governing GIs, namely as a mechanism for verifying compliance with objective legal requirements. Such an interpretation would preserve fairness, transparency, and equal treatment while remaining faithful both to the foundational principles of the GI system and to the broader objectives of the EU circular economy.

Ultimately, the recent reform illustrates how GIs are progressively evolving from a system concerned primarily with the protection of geographical names into a broader regulatory framework capable of integrating sustainability, market transparency, product valorisation, and circular economy principles in the govern of local production districts. In this respect, the continued pursuit of convergence between the agricultural and craft regimes, in full consistency with the legal foundations of this *sui generis* intellectual property right, will be essential for ensuring the long-term effectiveness of GIs.

References

B. Calabrese, *Geographical Indications Used as Ingredients or Components: A Proposed Reform in 'Sharp' Contrast with the Circular Economy (to Say the Least)*, in *Journal of Intellectual Property Law & Practice*, 2023, 18(5), pp. 339-343.

B. Calabrese, *The Evolving Protection of Geographical Indications Against Services: "Brand" New World?*, in *IIC – International Review of Intellectual Property and Competition Law*, 2024, 55(3), pp. 348-367.

B. Calabrese, *Geographical Indications*, in A. Biondi, O. Ştefan (eds), *Elgar Encyclopedia of European Law*, Edward Elgar Publishing, Cheltenham, 2026 (forthcoming).

I. Calboli, *Geographical Indications of Origin at the Crossroads of Local Development, Consumer Protection and Marketing Strategies*, in *IIC – International Review of Intellectual Property and Competition Law*, 2015, 46(7), pp. 760-780.

I. Calboli, *Geographical Indications Between Trade, Development, Culture, and Marketing: Framing a Fair(er) System of Protection in the Global Economy?*, in I. Calboli, W. L. Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture*, Cambridge University Press, Cambridge, 2017, pp. 3-35.

I. Calboli, *Pushing a Square Pin into a Round Hole? Intellectual Property Challenges to a Sustainable and Circular Economy, and What to Do About It*, in *IIC – International Review of Intellectual Property and Competition Law*, 2024, 55(2), pp. 237-248.

L. Dijkman, *Pairing Sturgeon with Champagne: Towards a Due Cause Exception in the Law of Geographical Indications*, in *IIC – International Review of Intellectual Property and Competition Law*, 2023, 54(8), pp. 1226-1243.

D.S. Gangjee, *Relocating the Law of Geographical Indications*, Cambridge University Press, Cambridge, 2012.

D.S. Gangjee, *Proving Provenance? Geographical Indications Certification and its Ambiguities*, in *World Development*, 2017, Vol. 98, pp. 12-24.

D.S. Gangjee, *From Geography to History: Geographical Indications and the Reputational Link*, in I. Calboli, W. L. Ng-Loy (eds), *Geographical Indications at the Crossroads of Trade, Development, and Culture*, Cambridge University Press, Cambridge, 2017, pp. 36-60.

D.S. Gangjee, *Sui Generis or Independent Geographical Indications Protection*, in I. Calboli, J. C. Ginsburg (eds), *The Cambridge Handbook of International and Comparative Trademark Law*, Cambridge University Press, Cambridge, 2020, pp. 256-270.

D.S. Gangjee, *Threads That Last: Geographical Indications for Textiles*, in D. Tan, J. Fromer, D. S. Gangjee (eds), *Fashion and Intellectual Property*, Cambridge University Press, Cambridge, 2025, pp. 283-315.

J. Hughes, *Champagne, Feta, and Bourbon: The Spirited Debate About Geographical Indications*, in *Hastings Law Journal*, 2006, 58(2), pp. 299-386.

T. Jaeger, *The Promise of eAmbrosia? What's in the Reform Package for EU Geographical Indications*, in F. Thouvenin, A. Peukert, T. Jaeger, C. Geiger (eds), *Kreation Innovation Märkte – Creation Innovation Markets. Festschrift Reto M. Hilty*, Springer, Berlin-Heidelberg, 2024, pp. 966 ff.

A. Kur, *No Strings Attached to GIs? About a Blind Spot in the (Academic) Discourse on Limitations and Fundamental Rights*, in *IIC – International Review of Intellectual Property and Competition Law*, 2023, 54(1), pp. 87-94.

D. Marie-Vivien, *Do Geographical Indications for Handicrafts Deserve a Special Regime? Insights from Worldwide Law and Practice*, in W. van Caenegem, J. Cleary (eds), *The Importance of Place: Geographical Indications as a Tool for Local and Regional Development*, Springer, Cham, 2017, pp. 221-252.

P. Montero García-Noblejas, *The Challenge of Geographical Indications for Craft and Industrial Products at the EU Level*, in A. Zappalaglio, E. Bonadio (eds), *The Future of Geographical Indications: European and Global Perspectives*, Edward Elgar Publishing, Cheltenham, 2025, pp. 89-105.

M. Ricolfi, *Geographical Indications*, in A. Marciano, G. B. Ramello (eds), *Encyclopedia of Law and Economics*, Springer, Cham, 2025, pp. 1169-1175.

A. Ribeiro de Almeida, *The New EU Regime on Geographical Indications: Opportunities and Challenges*, in A. Zappalaglio, E. Bonadio (eds), *The Future of Geographical Indications: European and Global Perspectives*, Edward Elgar Publishing, Cheltenham, 2025, pp. 106-114.

V. Zafrilla Díaz-Marta, A. Kyrylenko, *The ever-growing scope of Geographical Indications' evocation: from Gorgonzola to Morbier*, in *Journal of Intellectual Property Law & Practice*, 2021, 16(4-5), pp. 442-449.

A. Zappalaglio, F. Guerrieri, S. Carls, *Sui Generis Geographical Indications for the Protection of Non-Agricultural Products in the EU: Can the Quality Schemes Fulfil the Task?*, in *IIC – International Review of Intellectual Property and Competition Law*, 2020, 51(1), pp. 31-69.

A. Zappalaglio, *The Transformation of EU Geographical Indications Law: The Present, Past and Future of the Origin Link*, Routledge, Abingdon, 2021.