

GIs, certification marks and collective marks – are they serving different purposes and value propositions?

Katarina KOMPARI, Legal Department, EUIPO
5-8 July 2022

OVERVIEW

TMs

Individual

Collective

Certification

GIs

Nature

Means of protection

Scope of protection



Ex-officio examination
of TM applications

GIs as earlier rights

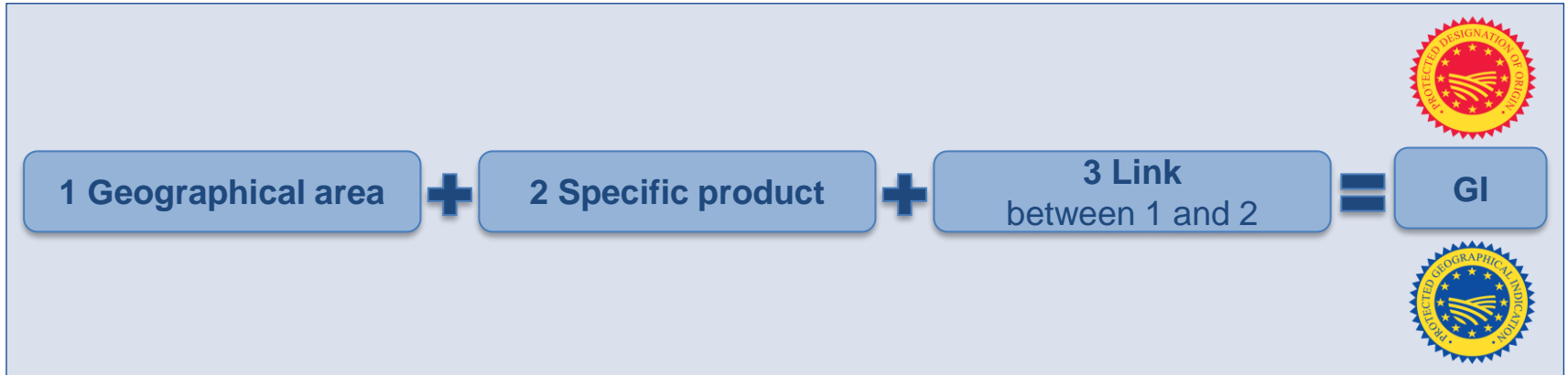
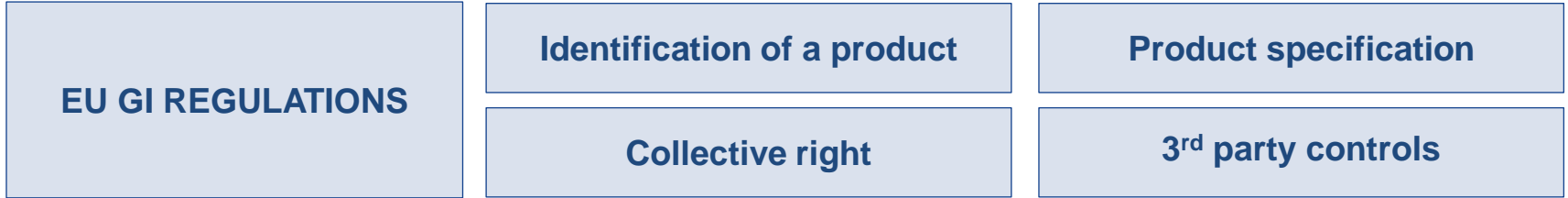
LEGAL FRAMEWORK

EU legislation GIs

- Regulation (EU) No 1308/2013 - *wines*;
- Regulation (EU) 2019/787 - *spirit drinks*;
- Regulation (EU) No 1151/2012 - *agricultural products and foodstuffs*.

- GIs that enjoy protection in the EU through **international agreements to which the EU is a party** Article 7(j) EUTMR.

GEOGRAPHICAL INDICATIONS in EU



EU COLLECTIVE MARKS

Art 74-82 EUTMR

Art 2(3) EUTMR
Art 16 EUTMR

Description

Ownership

Regulations of Use

Specific ground of refusal:
Misleading

1. An EU collective mark shall be an EU trade mark which is described as such when the mark is applied for and is capable of distinguishing the goods and services of the members of an association from those of other undertakings. Associations of manufacturers, producers, suppliers, or traders [...], as well as legal persons governed by public law, may apply for EU collective marks.

2. By way of **derogation from Article 7(1)(c) EUTMR**, signs or indications which may serve, in trade, to designate the **geographical origin** of the goods or services **may constitute EU collective marks**. An EU collective mark shall not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided that he uses them in accordance with honest practices in industrial or commercial matters; in particular, such a mark shall not be invoked against a third party who is entitled to use a geographical name.



EU CERTIFICATION MARKS

Art 83-93 EUTMR

Art 2(3) EUTMR
Art 17 EUTMR

Description

Ownership

Regulations of Use

Specific ground of refusal:
Misleading

Art. 83 (1) EUTMR: An EU certification mark shall be described as such [...] and is capable of distinguishing goods or services which are certified by the proprietor of the mark in respect of material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, **with the exception of geographical origin**, from goods and services not so certified. (2) Any natural or legal person may apply [...] provided that such person does not carry on a business involving the supply of goods or services of the kind certified.



GEOGRAPHICAL INDICATIONS AND TRADE MARKS

	GIs	Individual TM	Collective marks	Certification marks
Definition	Name or indication which identifies a product with specific geographical origin	Distinguishing the goods or services of one undertaking from those of other undertakings	Distinguishing the goods or services of the members of an association from those of other undertakings	Distinguishing goods or services certified by the proprietor from those not so certified
Essential function	Geographical origin	Commercial origin	Collective commercial origin	Compliance with certification scheme
Geographical terms	YES	NO	YES	NO (EU) YES (National)
Right to use	Any operator complying with specifications	Proprietor and licensees	Association members Bona Fide Third Parties	Certified users Bona Fide Third Parties* Not the Proprietor



www.euipo.europa.eu



[@EU_IPO](https://twitter.com/EU_IPO)



[EUIPO](https://www.linkedin.com/company/euipo)



[EUIPO.EU](https://www.facebook.com/EUIPO.EU)

THANK YOU