



Brussels, 2.3.2023
COM(2023) 104 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on a Protocol between the European Union and the Republic of Kazakhstan on the protection of Geographical Indications for agricultural products and foodstuffs, wines and spirits, amending the Enhanced Partnership and Cooperation Agreement between the European Union and the Republic of Kazakhstan

EXPLANATORY MEMORANDUM

The Commission proposes to negotiate an agreement on amending the Enhanced Partnership and Cooperation Agreement between the European Union and the Republic of Kazakhstan ('EPCA')¹ as regards the protection of Geographical Indications (GIs) for agricultural products and foodstuffs, wines and spirits. The amendments would take the form of a Protocol added to the EPCA.

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The promotion and protection of European Union (EU) geographical indications at international level is a key element of the EU trade policy.

The EU, its Member States and the Republic of Kazakhstan are signatories to the EPCA, which entered into force on 1 March 2020. Under this EPCA, and in particular its Title III, Chapter 7, Section 2, the Parties agreed on rules related to protection of GIs that shall be enshrined in both Parties' systems. Establishing such rules aimed at ensuring a high level of protection of GIs from the EU and Kazakhstan, where the parties apply for a direct registration of GIs in Kazakhstan or in the EU. Pursuant to Article 83 of the EPCA, the Parties are committed to start negotiations, no later than seven years after the date on which Title III of the EPCA starts to apply, with a view to concluding an agreement on the protection of GIs in their respective territories. Title III of the EPCA entered into force on 1 May 2016 when the EPCA was provisionally applied. The Parties are thus committed to start negotiations on the protection of GIs no later than 1 May 2023.

This commitment is in line with the EU key policy objectives to protect GIs in the area of international trade in agricultural products. An agreement on the protection of GIs, in the form of a Protocol to the existing EPCA, would reinforce the European Union's quality policy, fight deceptive practices and prevent the wrongful use of GIs. It would contribute to increasing the added value of EU agricultural exports and thus make the EU economy more competitive.

• Consistency with existing policy provisions in the policy area

The conclusion of the agreement on GIs with Kazakhstan fits into the overall strategy of promoting the EU GIs policy. The EU has exclusive competence in protecting at EU-wide level GIs of agricultural products. The initiative aims at providing a high level of direct protection to the list of EU GIs in Kazakhstan and Kazak GIs in the EU; it will also give producers of products bearing geographical indications a competitive advantage.

Therefore, the Commission considers it appropriate to recommend to the Council the adoption of a Decision authorising the opening of negotiations for a bilateral agreement between the EU and Kazakhstan on the protection of GIs for agricultural products and foodstuffs, wines and spirits. This Decision should be accompanied by the negotiating directives in Annex to this recommendation. The eventual agreement with Kazakhstan will take the form of a Protocol to the existing EPCA.

¹ Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (OJ L 29, 4.2.2016, p. 3).

- **Consistency with other Union policies**

The negotiation of a bilateral agreement on GIs with Kazakhstan is in line with the EU's external actions and in particular with the Union objectives regarding the EU strategy of promoting the GIs policy. All the bilateral agreements recently negotiated include provisions on the promotion and protection of GIs.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The recommendation is based on Article 218 (3) and (4) of the Treaty on the Functioning of the European Union (TFEU).

The European Parliament will be kept informed at all stages of the procedure, in line with Article 218(10) TFEU.

- **Subsidiarity (for non-exclusive competence)**

According to Article 5(3) of the Treaty on European Union (TEU), the subsidiarity principle does not apply in areas of exclusive Union competence.

- **Proportionality**

The Commission recommendation is in line with the principle of proportionality.

- **Choice of the instrument**

The only way to achieve the objective set out in Article 83 of the EPCA is by way of an international agreement. The procedure to negotiate, sign and conclude international agreements is set out in Article 218 of the TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

No impact assessment has been carried out for this initiative, as there are no alternative policy options. The Parties are committed under the EPCA to start the negotiations in view of protecting GIs through a bilateral agreement under a set timeframe. Furthermore, stakeholders and the agri-food industry consulted through the relevant DG AGRI Advisory Group reiterated their strong interest for the protection of GIs through bilateral agreements. This interest is also shared by the Kazakh side.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The Agreement will have no direct impact on the EU budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Negotiations are expected to commence not later than May 2023.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The Commission recommends that:

- the Council adopts a Decision authorising the Commission to open and conduct negotiations for amending the existing EPCA in order to add a Protocol on the protection of GIs for agricultural products and foodstuffs, wines and spirits;
- the Commission be nominated as the EU negotiator on this subject;
- the Council appoints a special Committee to assist the Commission in these negotiations, in this case the Committee referred to in Article 207 of the Treaty on the Functioning of the European Union;
- the Council approves the negotiating directives annexed to this recommendation.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The European Union, its Member States and the Republic of Kazakhstan are signatories to the Enhanced Partnership and Cooperation Agreement ('EPCA')¹, which fully entered into force on 1 March 2020.
- (2) Title III (Trade and Business) of the EPCA, which includes the provisions on geographical indications, has been provisionally applied since 1 May 2016.
- (3) Article 83 of the EPCA obliges the Parties to commence negotiations with a view to concluding an agreement on protection of geographical indications in their respective territories no later than seven years after the date of application of Title III of the EPCA,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate with the Republic of Kazakhstan, on behalf of the Union, amendments to the Enhanced Partnership and Cooperation Agreement between the European Union and the Republic of Kazakhstan (EPCA) in the form of a Protocol on the protection of Geographical Indications (GIs) for agricultural products and foodstuffs, wines and spirits.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Trade Policy Committee.

¹ Enhanced Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Kazakhstan, of the other part (OJ L 29, 4.2.2016, p. 3).

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*