

Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications: accession of the European Union

2023/0022(NLE) - 04/04/2023 - Legislative proposal

PURPOSE: to authorise, in full respect of the exclusive competence of the Union, the seven Member States that are members of the Lisbon Agreement prior to the Geneva Act to also ratify or accede to the Geneva Act.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 31 October 1958 is a treaty administered by the World Intellectual Property Organization ('WIPO'). The Lisbon Agreement creates a special union within the framework of the Union for the Protection of Industrial Property. Its contracting parties are to protect on their territories the appellations of origin of products of the other parties recognised and protected as such in the country of origin and registered at the International Bureau of WIPO.

Seven Member States are parties to the Lisbon Agreement, namely Bulgaria, Czechia, France, Italy, Hungary, Portugal and Slovakia. The Union itself is not a party to the Lisbon Agreement as only countries can accede to that Agreement.

Following a review of the Lisbon Agreement, on 20 May 2015 the WIPO Diplomatic Conference adopted the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications.

On 7 October 2019, the Council unanimously adopted Decision (EU) 2019/1754 on the accession of the European Union to the Geneva Act in accordance with Article 293(1) TFEU. Article 3 of that Decision provides that Member States which wish to do so are authorised to ratify or accede to the Geneva Act alongside the Union. Article 4 of the Decision provides that, in the Special Union, the Union and any Member State which ratifies or accedes to the Geneva Act is represented by the Commission in accordance with Article 17(1) of the Treaty of the Union (TEU). Article 4 further provides that the Union is responsible for ensuring the exercise of the rights and fulfilment of the obligations of the Union and of the Member States which ratify or accede to the Geneva Act.

In a statement entered in the Council minutes relating to the adoption of Decision (EU) 2019/1754, the Commission objected to the possibility for all Member States which wish to do so to be authorised to ratify or accede to the Geneva Act alongside the Union. However, the Commission also stated that it would have been ready to agree that the seven Member States which are already parties to the Lisbon Agreement and which have extensive intellectual property rights registered under that Agreement could be authorised to accede to the Geneva Act in the interest of the Union.

On 17 January 2020, the Commission brought an action under Article 263 TFEU seeking the partial annulment of Decision (EU) 2019/1754. The Commission asked the Court to annul Decision (EU) 2019/1754, insofar as that Decision authorises all Member States to accede to the Geneva Act. However, the Commission also asked the Court to maintain the effects of the parts of that Decision which it sought to

have annulled, in particular any use of the authorisation granted to accede to the Geneva Act, implemented before the date of delivery of the judgment by the seven Member States that are already parties to the Lisbon Agreement.

In its judgment of 22 November 2022, the Court annulled Article 3 and, to the extent that it contains references to the Member States, Article 4 of Decision (EU) 2019/1754. In its judgment, the Court also acknowledged the necessity of preserving the seniority and continuity of the protection of appellations of origin registered under the Lisbon Agreement in the seven Member States that were already parties to that Agreement, in particular, in accordance with the principle of sincere cooperation between the Union and the Member States, in order to protect acquired rights derived from those national registrations.

Article 11 of Regulation (EU) 2019/1753 of the European Parliament and of the Council provides for transitional provisions for appellations of origin originating in Member States already registered under the Lisbon Agreement. On the basis of those provisions, the seven Member States that are parties to the Lisbon Agreement notified the Commission by 14 November 2022 that they had chosen to request the international registration under the Geneva Act of appellations of origin already registered under the Lisbon Agreement.

CONTENT: the draft Council Decision aims at amending Decision (EU) 2019/1754 in order to authorise, in full respect of the exclusive competence of the Union, the Member States that were party to the Lisbon Agreement on 26 February 2020, namely **Bulgaria, the Czech Republic, France, Italy, Hungary, Portugal and Slovakia**, to ratify or accede to the Geneva Act, alongside the Union, to the strict extent that their accession is necessary to preserve, in the interest of the Union, the seniority and continuity of protection of designations of origin already registered by these Member States under the Lisbon Agreement, as well as to comply with the obligations laid down in Article 11 of Regulation (EU) 2019/1753 of the European Parliament and of the Council.