

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2023/1628

of 10 August 2023

rejecting an application for protection of a geographical indication in accordance with Article 52(1) of Regulation (EU) No 1151/2012 of the European Parliament and of the Council

(‘Лідський квас/Lidski kvas’ (PGI))

(notified under document C(2023) 5371)

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs⁽¹⁾, and in particular Article 52(1) thereof,

Whereas:

- (1) In accordance with Article 50 of Regulation (EU) No 1151/2012, the Commission has examined the application for registration of the names ‘Лідський квас/Lidski kvas’ as protected geographical indication (PGI). The application refers to a fermented beverage produced in the city of Lida in Belarus and was submitted by the Joint-Stock Company ‘Lidskoe Pivo’ from Belarus on 21 July 2021 (PGI-BY-02788).
- (2) Following the scrutiny, the Commission sent a letter requesting clarification of some of the aspects of the file. In particular, taking into account that water for the production of the ‘Лідський квас/Лідскі квас’ has to come from particular springs located on land owned by the applicant, and production of the product is carried out according to a ‘separate unique technological instruction’, as stated in the product specification, (the owner and sole user of which is the applicant) the applicant was asked to explain if the participation of other producers is possible in accordance with the principles of Geographical Indications scheme in the EU.
- (3) Moreover, the Commission explained that a single natural or legal person may be treated as a group when filing an application, where it is shown that both of the conditions of Article 49(1), second subparagraph, of Regulation (EU) No 1151/2012 are fulfilled: (a) the person concerned is the only producer willing to submit an application; and (b) with regard to protected geographical indications, the defined geographical area possesses characteristics which differ appreciably from those of neighbouring areas or the characteristics of the product are different from those produced in neighbouring areas. The applicant was asked to provide such justifications.
- (4) In the reply the applicant provided an updated Single Document and product Specification, according to which the Joint-Stock Company ‘Lidskoe Pivo’ is the only owner and operator of the wells that must be used for production of ‘Лідський квас/Lidski kvas’ and that the entire production process is carried out on the territory of city of Lida by the applicant and according to a ‘separate unique technological instruction’, the owner and sole user of which is the applicant.

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

- (5) On the basis of the information provided, the Commission concluded that the application does not fulfil the requirements laid down in Regulation (EU) No 1151/2012 and informed the applicant in the rejection letter that, if no observations have been received within two months of receipt of the letter, it intends to launch the procedure for the adoption of a formal Commission decision rejecting the application pursuant to Article 52(1) of Regulation (EU) No 1151/2012.
- (6) The Commission took into account that the system of GIs has been developed and designed in order to allow producers, of a certain area and whose product differentiates itself from any other product on the market due to the natural/social environment in which it has been produced, to protect their products.
- (7) The Commission considered that protected geographical indications confer, unlike individual trademarks, collective rights and contrary to trade marks owned by clearly identifiable holders, GIs are deemed to be owned by a collective abstract community, that comprises all producers, -current or potential-, abiding to the related specification. This means that any producer who respects the requirements of the product specification may use the protected designation.
- (8) The Commission concluded that the participation of other producers is clearly not possible in case of 'Лидский квас/Lidski kvas', where the applicant is the only owner and operator of the wells that must be used for production of the product in question.
- (9) Moreover, the Commission took into account that, the owner and sole user of the 'separate unique technological instruction', according to which the product is produced, is the applicant. Therefore, the product characteristics are not attributable to its geographical origin as required by Article 5(2) of Regulation (EU) No 1151/2012 but to 'special production method', as described by the applicant, that is in the exclusive possession of the applicant. The production technics are described in a general way by listing merely the production steps, without providing any details that would allow participation of other potential producers.
- (10) Further, Article 49(1) of Regulation (EU) No 1151/2012 provides that applications for the protection of GIs should be submitted by a group of producers, as a rule. Only where the additional conditions of Article 49(1), second subparagraph are fulfilled, may a single producer apply for such protection. The Commission noted that the applicant did not provide any justification in this regard.
- (11) The applicant did not reply to the rejection letter sent by the Commission within the set deadline.
- (12) In the light of the above the Commission considers that the application for registration 'Лидский квас/Lidski kvas' as PGI does not fulfil the requirements of the Regulation (EU) No 1151/2012, namely Article 5(2) and Article 49(1) of the said Regulation.
- (13) The application for protection of the name 'Лидский квас/Lidski kvas' as a protected geographical indication should therefore be rejected.
- (14) The measures provided for in this Decision are in accordance with the opinion of the Agricultural Product Quality Policy Committee,

HAS ADOPTED THIS DECISION:

Article 1

The application for registration of the name 'Лидский квас/Lidski kvas' is rejected.

Article 2

This Decision is addressed to the legal representative of the applicant:

EUROMARKPAT GERMANY
v.Füner Ebbinghaus Finck Hano

European Patent, Trademark and Design Attorneys
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Done at Brussels, 10 August 2023.

For the Commission
Janusz WOJCIECHOWSKI
Member of the Commission
