The Legal System for the Protection of Geographical Indications: A Study in Jordanian and Comparative Law

Alaeldin Abdallah Alkhasawneh
United Arab Emirates University, United Arab Emirates, Firas Alkhasassbeh, Yarmouk University – Jordan

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The study introduces the right to Geographical Indications (GIs) as emerging theme in the law, to which lot of legislations have paid attention for its positive impact on the fair competition, protection of consumer, stimulation of the economy and development of societies. It shows the GIs identity that made it separate and distinct from other rights, and also sought to indicate the ways and scope of the protection as well as the conditions of indications for the protection mainly under the Jordanian law. Several other laws also have been treated such as the French law, the EC laws and some Arab laws. The legal framework for the protection of GIs varies dramatically from one country to another whether in terms of definition, procedures, scope and means of protection have been compared and emerged that the protection in Jordan and France was based on the rules of trademarks. Then they resorted to approve special legal rules for the GIs as a separate and stand-alone legal system. However, there are two levels of protection in France: the protection of the simple level enjoyed by all GIs and the enhanced protection which the GIs have for certain products. The effective protection of GIs gives added value to the economy of nations and, the application of GIs laws requires cooperation between producers, owners of indications and relevant institutions. It is preferred to resort to the idea of registration of GIs in a special record to facilitate the making of legal protection measures. Also, the protection of the GIs shall be available through a special law as one of the intellectual property issues.

Keywords: Geographical indications (GIs), Jordanian laws, trademarks, TRIPS Agreement, PARIS Convention

GIs, which are a symbol, name or mark referring to the geographic origin of a particular product, are regarded as an important means of marketing of agricultural or manufactured products. They are also an effective way to promote geographical location, mobilize local capacity and develop poor and remote areas through the reputation which these products get by the GIs, which form in this area an important livelihood source, especially if these products have obtained wide fame as any famous trademark. In spite of all that, this type of intellectual property stayed away from study and research to a large extent.

The importance of talking about GIs and methods of protection appeared together with the advent of globalization, the development of technology and the increase of competitiveness in commercial and industrial business. Disparity and difference between the products have become a way to attract consumers and market products. So, GIs play an important and key role in enlightening the consumer and making him take note of the added value of these products because they contain a certain quality and characteristics that make the product more attractive for the consumer than other products on the market.

The importance of studying the issue of the protection of GIs is represented by the fact that these indications provide significant value to the product and thus contribute to the promotion of agriculture, handicraft industries, help of farmers, artisans, rural development and promotion of tourism, so that the product becomes an identity of the area, which it is attributed to. What also reinforces the importance of the study of GIs is that Jordan and the Arab countries in general are one of the areas which are famous for the production quality of many goods and products, where Jordan and the Arab states are generally known for the richness of their wealth and the multiplicity of products. These products are the result of the diversity of natural places, and traditional practices and handicrafts, such as Jordanian olive oil which represent more than one third of the cultivated area in Jordan, pomegranate cultivated in north of Jordan or hard skimmed yoghurt (Jameed). Therefore, GIs represent successful and profitable partnership.
between the producer and the consumer, so that the producer finds its efforts financially appreciated and its products enjoy a high value, and the consumer finds its needs and demands secured and gets a quality product.

The importance of protection is also reinforced by the existence of international and management standards established by the European Union to allow the products to enter their territory and give added value, making it necessary to give protection to these products to suit the requirements of the markets of these States of special conditions and specifications of imported goods, especially in light of Jordan's accession to the WTO Global and enactment of a special law regulating the protection of GIs, a Jordanian GIs Act of 2000.

In spite of everything mentioned above, the issue of the protection of GIs was not of great interest, like other issues of intellectual property rights. Most of the studies in this field focused on personal rights and moral rights, despite the fact that the issue of GIs has imposed its important characteristics and identity in the practical application, particularly, the claims to provide protection for the right to collective intellectual property. Therefore, this study aims to contribute to the understanding of the controversy and debate about the concept and identity of the right to GIs and how to protect these indications. The study also aims to demonstrate the extent of the relationship between protection policies and the rules of intellectual property within the scope of traditional products, and understand the complex system that connects the elements of the market, territory, and management together. Therefore, the aim of this study is to present the best practices for the protection of GIs and understand their main characteristics, advantages and disadvantages and how to develop them. The increasing use of GIs has led to shed light on many cases of infringement, imitation and a violation of this right, especially in light of the multiplicity of concepts and terms that were given to express geographical designations, mixing with each other and variability in others. This multiplicity of concepts led often to the multiplicity of the means and methods of protection, especially in the absence of a unified international system for this purpose. All this makes it important to determine the nature of the right to GIs, and try to establish a legal system to protect this right at the national and international level.

Nature of GIs

Putting a sign or symbol which refers to the geographical origin of the product is deemed a commercial practice aiming at distinguishing that product by the consumers, given the large number of products in the market.

Referring to the geographical source falls under the concept and the idea of the quality of the product in which several parties contribute to ensure the origin and reference. There is no doubt that the success of the idea of GIs needs a legal organized base and interested professionals. GIs contribute to the respect for the environment and the preservation of plant and animal diversity in the country, which promotes the national economy and sustainable development. In order to determine the nature of the right to GIs, attempts must be addressed that have been made in determining its concept and distinction from others. It is necessary to determine the conditions and standards in the GI so as to enjoy the necessary protection.

The Concept of the Right to GIs

In reviewing the jurisprudential and legislative attempts in the definition of GIs, disagreement between jurisprudence and legislation has been seen on a unified concept of this right. Also, the argument on the concept of this right raises a difficulty in determining its nature and ranking both within the intellectual property rules or the rules of competition or consumer protection rules. The specific nature and the particularity of GIs will be discussed by examining its characteristics and distinction from other similar concepts.

Definition of the Right to GIs

Many attempts have been carried out to define the GIs, whether at the level of international conventions, national legislation or jurisprudence. The attempts ranged from giving a broad concept of GIs combining other similar geographical labels and a narrow concept of the right to GIs. The term of GIs may bear and include many concepts at the same time, as there is no one term or concept for the GIs at the global level. This expression covers several different terms to be identified and distinguished from each other such as designations of origin, indication of the source and protected GIs. The common denominator between these concepts is that they all refer to a symbol or name which refers to the geographical origin of the product, and other features which the geographical
origin may suggest. This is the broad concept of GIs which is mentioned in Article 22 of TRIPS (Agreement on Related Aspects of Intellectual Property Rights).

In the context of this broad sense, the GIs could include the sign of the source, the designation of origin, and GIs in the narrow sense. So it is a multi-term that includes a wide range of signs and symbols that represent the relationship between product quality and geographical origin. This multiplicity shows the diversity of the concepts associated with the idea of GIs, and it could be a source of variation in the ways and means for the protection of GIs. The GIs in this sense include every code that determines the place, which is the source of this product and has to do with the quality of the product in one form or another. The right to the GI is a partnership relationship between the individual, the region and the nature for producing a commodity of special nature and quality. It is also the relationship between the region or territory and the community.

TRIPS Agreement has given in Article 22/1 a comprehensive definition of GIs, where it stipulates: "indications that identify a good as originating in the territory of a member country or a region or locality in that territory where a given quality, reputation or other characteristic of the item is essentially attributable to its geographical origin". This text shows that the GIs are useful in determining that a product comes from the territory of the WTO member state or region in this country, and so that the quality or characteristic or features of the product mainly belong to the geographical origin. This definition combines the definition of source names, where the Agreement (TRIPS) of WTO imposes special obligations on states regarding the protection of intellectual property rights and, including those relating to GIs. This Agreement decided a minimum of protection that states must abide by and not exceed.

Some Arab laws have taken this broad sense, for example the Jordanian legislator defines the GIs in Article 2 of the Code of Geographical Indications of 2000 as: ‘any indication that identifies the origin of a product or to a specific country or region or specific location of its territory if the quality or fame or other properties of the product belonging mainly to that origin.’ The Egyptian legislature defines the GIs in Article 104 of the Protection of Intellectual Property Rights Law of 2002 as those:

which determine the origin of a commodity in a region or locality in the WTO member state or reciprocally treat the Arab Republic of Egypt when the quality, reputation or other influential characteristic of the item in promoting is essentially attributable to its geographical origin.

According to Article (104) of the Egyptian Law of Protection of Intellectual Property Rights of 2002 the main function of GIs is to "determine the origin of a commodity in a region or locality in the WTO Member State or reciprocally treats the Arab Republic of Egypt whenever the quality, reputation or other influential characteristic of the item in promoting is essentially attributable to its geographical origin". Hence, in order to protect these indications they should have been already protected in the country of origin.

French legislator has also taken the broad sense. Under Article 721-2 of the Intellectual Property Code, and by virtue of the amendment made by the legislature in accordance with the Hamon Law of 2014 on consumption, the subject of GIs has been organized and the door opened for industrial and handicraft products after they were limited to agricultural products. In accordance with Article 721-2 to 721-10, industrial products, manufacturing and mining products have been added to the products that can withstand geographical indication. The law also decided that the National Institute for Intellectual Property is the body responsible for granting GIs. The geographical index was drawn up in detail and the decision to grant the indications was required to be published in the Official Gazette.

The narrow sense of the right to GIs refers to a geographical designation that link between the product and the region because of the presence of the quality or reputation or other characteristics that essentially and exclusively belong to this region. In this context, the GI is defined as: ‘the code used on the product that has a specific geographical origin and enjoys a quality or fame belonging to its whereabouts or geographical origin and is often from the name of the place of geographical origin of the product’. Agricultural products often have quality and characteristics stemming from the place of production and are affected by specific local factors such as climate and soil. In order for the code to act as a geographical indication, the national legislation must contain provisions in this regard and be significant to the consumer on this basis. The geographical source
may be a village or town, region or country. The use of the GI is not limited to agricultural products, but can be extended to the special quality caused by human factors existing in the geographic origin of the product, such as the production techniques and the traditions followed in them.

In the same context, some jurisprudence defines the GI as the sign used on the outstanding geographic origin of goods and often has characteristics or reputation associated with the place of origin. GIs are a way to differentiate the product from other products and gain a competitive advantage in the market, as they are regarded as a form of unique, collective intellectual property, accompanied by several rights, such as the right to exclusive use of the name. Significant relationship must be between the characteristics, quality and cultural aspects with the source or origin of the product.

From these definitions, it can be concluded that the GI may exhibit the name of the area that is known for its specific product. It may also carry the name of the country or the state when fame belongs to the country itself and not just to the region. The GI refers to the specific product name, and demonstrates the production area notorious for the manner of its production or manufacturing, in addition to the inherited traditions and methods in production which give it a certain value. But GIs may mix and be similar with some concepts that distinction must be made between them, which will be addressed in the following item.

**Distinction of GIs**

The concept of GIs differs from many of the labels and terminology that contribute to identify and distinguish goods and commodities. It differs from the so-called certificate of origin or the so-called trading statement because it aims to determine the name of the place where the product won great fame. As for the certificate of origin, it gives the indication to the place of manufacturing of the product only. Some writers define it as ‘every clarification relating directly or indirectly to the products and commodities by imposing a statement of the number, quantity or weight or source of production, composition or characteristics of materials’. They are indicative information about the origin of a specific product, date of manufacturing to be offered by the producer or distributor. The GI stands out as a collective ownership, where so that it gives the person and the other individuals, in the same geographic area, the monopoly right to third parties on this product which is not found in the certificate of origin, which only serves to identify the place of manufacture. The GI does not really give an exclusive right to a specific person only, but it represents a collective ownership awarded to every producer of a certain product in a particular country or area with the same quality and characteristics that distinguish it from other products.

The certificate of origin is usually imposed under consumer protection laws. It is also organized by the laws of public health for drugs and chemical products, and by the customs laws as a condition for import of products and good. The certificate of origin was organized in the Madrid Agreement while not provided for in the TRIPS Agreement. In Jordan, it has been addressed in Articles II and IV of the Goods Marks Law No. (19) of 1993.

The so-called labels or indication of the source provenance, this term has been stated in Article 10 of the Paris Treaty of 1883 on the Protection of Industrial Property and the Madrid Agreement of 1891. After that, it was not stated in any other agreement. It is stated in the Madrid Agreement: ‘Each product includes the wrong signal or false directly or indirectly, the country subject to this Agreement is referred to as a country or place of origin that prevents the import from any country subject to this Agreement’. Therefore, this term is defined as: ‘words show that a country or a place exists in this country is the place of the source or origin of this product’ or ‘every indication of the geographical area from which the product came in general. The term includes in addition to the place making or extracting the product the place where the product packed and sent for trading and export. It is not required to be associated with the product quality’. This term does not indicate a company that produces this product, and the definition does not require that the product contains a certain quality or characteristics resulting from the geographical origin, for example the phrase (Made in ... ). So, the term ‘source names’ or ‘appellation of origin’ should be addressed. This term was referred to in the Lisbon Convention on the Protection of Appellations of Origin and their International Registration of 1958, which put an international system for the protection of the protected source names in the context of domestic
legislation of the state parties to the Agreement, provided that the designation of origin is registered internationally.\textsuperscript{16} Article 2/1 defines appellation of origin as ‘the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors’. Some defines it as: ‘the designation indicates what residents of a certain area enjoy of the nature of the climate and the inherited knowledge, which was reflected on the quality of the product, its characteristics and advantages’.\textsuperscript{17} It refers to the climatic conditions of temperature and humidity in addition to the knowledge handed down and the process of preparation and storage. According to this definition, the source names must be of the quality and characteristics stemming primarily and exclusively from the geographical source specified in the geographical label. The product must be famous, and this label is given to the commodity when its quality or features belong mainly to a specific region with the presence of human and natural factors which give the product its distinctive characteristics. All stages of production, preparation and conversion have been done in this geographical area. The GI is approaching appellations of origin, the term of geographic indications is a general term aiming to shed light on the source of a particular product and its relationship with the features and characteristics related to this source or that region.\textsuperscript{18}

As for the collective trademarks and their relation to GIs, they are referred to as the production, manufacturing or marketing trademarks used by the members of some group or by a specific company to be distinguishable from those made by members outside this group or by another company.\textsuperscript{19} They are marks used by the members of an association or institution or company to identify their products or services and show their relation to the standards of this group and nothing to do with the geographical origin. Hence, it is a symbol used by the company to differentiate its products and services from the products and services of other companies, and gives the owner the right to prevent others from using the trademark.\textsuperscript{20} It is similar in some respects to the GIs and meets with them. Therefore, some countries apply the laws for the protection of trademarks on GIs, which to be discussed in the Part II. But before that, it is necessary to discuss the specific nature and the particularity of the right to GIs.

\textbf{Specific Nature and the Particularity of the Right to GIs}

As noted earlier, the GIs are a tool for local development and a means able to provide commercial and economic benefits and advantages while maintaining the local values and traditions and ensuring the contribution of the largest possible number of members of the region in the production process. They confirm the existence of a relationship between a specific product and some place as well as the one of kind production methods. The product has properties that distinguish it from others in addition to the level of quality associated with that region, as it is difficult to re-produce the same methods and quality in another area.\textsuperscript{21} This feature provides a competitive value extended over time for the product of protection, which would achieve the benefits to the consumer and the product together.

The right to the GI has certain identity that stems from its distinctive properties and the controversy over the possibility of ranking and including it in similar systems. The right to the GIs is an issue that falls under several different frameworks and classifications. It falls under economics, geography, international trade and law. GIs on the product represents an issue that falls under the rules of consumer protection for the individual consumer who wishes to ensure access to a commodity with high quality, especially in light of some of the developments that led to the transformation of the consumer convictions towards the quality of goods and the specific, known source to avoid certain things, such as cow madness and bird flu. The GI on the product offers the consumer private information of the origin and the source of the product and its quality,\textsuperscript{22} which justifies the existence of the texts providing for its protection in the consumer laws. This issue also falls under the framework of the rules of intellectual and industrial property protection,\textsuperscript{23} where the right under the GI is really moral, specifically one of industrial property forms.\textsuperscript{24} But what distinguishes this right is that it represents a collectively right not individual claimed by a group of people who are producers, processors in a particular region or a particular country against any illegal use of the right to the GI.\textsuperscript{25} This aspect of intellectual and industrial property has not been significantly addressed from among the intellectual property issues,\textsuperscript{26} as was often the focus is on the copyrights, trademarks and patents.

The confusion and dispersion of the issue of GIs is noted between competition, intellectual property and
consumer protection laws in addition to the rules of
the local government imposes several difficulties in
defining the concept and scope of this right and then
difficulties in ways to protect these indications. In this
area, the evolution of the concept of intellectual
property rights must be considered. If the focus is on
the intellectual property rights as its traditional
concept includes a limited number of rights
independent from each other and the legal system in
general, united by common elements and
denominators, it is found that the GI may be far away
from this category. Conversely, if there can be
movement away from this traditional view, and it is
taken into account that the intellectual property rights
are multiple and form part of the economic law and
the competition law in general, there is no doubt that
this right is included in this concept. The
multiplicity of forms and types of intellectual property
rights and the development of modern technology
boosted the last view. The only element that combines
these rights is the existence of an exclusive right for a
person or entity and protected market from
competition. No doubt that the increased attention to
GIs is in line with the evolution of the concept of
intellectual property protection and convergence with
the idea of protection of competition, because the idea
of exclusivity of these rights has been effective and
strengthened in light of this economic system based
on the idea of competition. This system, which is
based on innovation and invention and promotion of
successful and winning economic sectors, is produced
significantly from the exclusivity provided by these
rights and protected by the competition and market
rules as well. The book produces rights only for his
author and sometimes for the publisher and some
neighbouring rights without exceeding to the right of
distribution collectively and exclusively.

The identity of the right is highlighted in the GIs
for its characteristics which make it truly unique and
one of a kind. The talking is not about the rights in
rem nor about personal rights, but on an abstract
subject or place represented by an exclusive right
described as one of the intellectual and industrial
property rights.

This right is natural. The region gives the name to
the product which forms a fortune for the region and
not for a specific person. Because the product is the
outcome of common efforts for them, it is a collective
property managed by a personal right. Most of
intellectual property rights are described as human
and humanitarian rights as they relate to a purely
humanitarian creativity such as copyright, trademarks,
and patents, while the right to represent the GI is
really the result of joint work between man and
nature. The copyright and patents can also be
described as temporary because they expire after a
period of time and enter the public domain. Exclusivity is a temporary return before entering into
the public domain. As for the trademark, the situation
is somewhat different, since it starts from registration
and then ends with the termination of the company
that deposited it, but it may also become public if it is
not defended. As for the GI, it is not subject to
limitation because the region is eternal and so cannot
be forgotten. The copyrights, patents and trademarks
are individual rights enjoyed by a natural person or
legal entity. However, the GI represents a collective
right. In addition, the intellectual property rights are
based on the novelty and innovation, i.e., they
introduce a work or idea not previously existed. These
rights do not maintain anything previously existed or
tradition as is the case in GIs. They accept waiver
unlike GIs that do not accept waiver or disposal.
There is no one individual that has the right to waive
them. From this presentation, it is found that there is
a deep rift between these concepts and the concept of
GIs. Therefore, it is an independent right which
requires the existence of a separate legal system,
especially in the means of protection.

The right to GIs is exclusive. At the same time, it
is a right that represents a collective ownership among
the members of a particular country or region, where
it guarantees to every person the results of his efforts,
expertise and intelligence. Hence, the right to
particularity stems from here, as it forms a right
special for the group that enjoys it.

This right is also characterized as an industrial
property but not disposable. This right is linked to
three important ideas: intellectual property rights,
national sovereignty and personal rights. It is a unique
mixture. The idea of GIs and the need for protection
are based on cooperation. This requires a statement of
land or territory effect on the product away from
humanitarian or human work. The right is only
interested in the land or territory of certain product
quality. There is no confrontation between the person
and nature. The existence before practice distinguishes
the right to GIs because the land already existed
and procedures to give the right come to recognize
the right already exists. Therefore, the right cannot be transformed into the public domain or public property. It is the right for the region or the country concerned. It is not only a creative or innovative work but the result of the accumulation of multiple and cumulative experiences and creations. The right to GIs forms a sort of preserving and maintaining of the traditional knowledge.

The right to GIs combines several branches of law that seem separate from each other. This right combines three systems: intellectual property rights, sovereignty over the territory and personal rights. It is, as said earlier, a unique mixture of its kind. The identity of the right stems from the role of the region in this right, which is described as a co-author of the product concerned. It is an exclusive right, but is at the same time heritage, local and national legacy that must be protected. It is an economic right whose returns and productivity are found in personal rights. It is a human right on a given territory and the right of the territory at the same time. It is the private right of the group that practiced it but it represents many aspects of the idea of sovereignty. It is also the right of an industrial property, but non-assignable or disposable. So, the right to the GIs is a right owned by a certain group and not an individual. This is what represents the identity of this right. On the other hand, there are people who stress on the disadvantages of GIs. According to this trend, GIs are not a live and ideal choice in many branches and activities which their production is not of distinctive and unique properties. The benefits of GIs are concentrated in certain categories of consumers and producers and not the simple and ordinary consumers. As for the products of less value and producers with at least minimum level are not benefiting from the protection in the form desired. Also, access to a protected GI is not an easy job. But it requires decades of work and patience and permanent commitment, which requires very expensive and high expenses if GIs management is abused. Therefore, GIs are unlikely to be controlled by a small number of producers and companies and the exclusion of small producers. This could lead to the extinction of some of the traditions and practices and the elimination of diversity.

After finishing, viewing the concept of GIs, the necessary criteria and conditions for the recognition of GIs must be studied.

Criteria and Conditions for the Protection of GIs

Many necessary criteria and conditions for the recognition and protection of the GI have been put forward. They are concentrated in objective conditions relating to the quality enjoyed by the product, reputation, or any other properties. In contrast, there are formal conditions to provide protection particularly in registration.

Objective Conditions

A review of international conventions and national legislation on the issue of GIs, suggests that in order to enjoy the necessary protection, geographical label must meet several conditions that can be deduced from the definition offered by this legislation for GIs. WTO has also developed a set of rules which member states of the Organization could follow when laying down the protection of GIs laws. Therefore, the states are to prepare a law, regulation or instructions and inform the Organization of these rules to be circulated to the rest of the member states in order to be the basis for the protection of GIs in that state. There must be a geographical label special for a city or area or anywhere in this country. These conditions can be summarized in several standards often referred to by Jurisprudence and legislation as objective conditions for the protection of GIs, which is what have been studied, respectively.

Quality

This standard refers to the physical characteristics and features of a particular product in addition to the features related to its production process. These properties can be more or less known to carry out the purchase of the product. Of these properties, consumer preference for the intended product without any other products stems from. For example, of the physical properties referred to are the product vitality, colour, taste, etc. Also, it is referred to the characteristics relating to the process of production and at the same time referring to the geographical source, such as the method of production, pay equity, where consumer confidence is enhanced in the existence of a certificate to ensure product quality. This standard includes a personal side left to the discretion of each person. But, it is used in most GIs definitions in national legislation and international agreements governing the protection of these GIs as a criterion to distinguish the product based on the geographical origin. However, identifying the quality standard for a particular product cannot be global
according to unified and comprehensive standards that do not put into consideration the cultural diversity of the international community. This discretion seems that it stems from a realistic approach of qualified authorities at the national level and according to its own factors.

It must be pointed out that the quality relationship between a particular product and geographic origin becomes difficult to identify. So, there must be an intervention to determine other personal criteria such as the quality of the ingredients used and method of production. It is true that the fact that a product sprang from the traditional method or its production or preparation or conversion was carried in a geographical area could contribute in determining its quality. But, these items may not contribute in determining the quality for another product. Finally, the requirement for the quality relationship between some geographic medium and a product creates a defect or a shortage with regard to the countries whose GIs are concerned with non-agricultural or craft products, but industrial products. Also, the production traditions and human qualifications can be transferred from one area to another, especially in the age of globalization.

Reputation
This standard is associated with the history or the historical source of the product. The history of the product must be reported in order to state its historical presence in the geographical area. This affects the reputation and forms a file to show the key elements of the history of that product. It is also allowed to prove the use of the name, efficiency and reputation of a particular product. The initial uses of a particular name accompanied by a description of the product and method of transformation become useful information and elements of this file, which should be detailed to a large extent. Specific references can also be focused on to confirm the historical link of a particular product to a particular place, especially in the aspect of humanitarian skills and experience. Oral testimony and a relationship similar to that of descendants and ascendants can also be resorted to, *viz.* from the moment of production to the moment of marketing. The reputation standard is based also on the distinctive nature of the product, which distinguishes it from other. The more the product has a real identity, the more rooted its reputation and fame. Thus, this product can be classified as it belongs to a certain range of products and that it has a particularity that allows it to carry a geographical name in the marketing and selling stage then winning fame. The reputation is based in particular on the view and the idea of the consumer of the geographical source of the product, namely its ability to distinguish between the product protected by the GI and the other products of the same quality or other quality. In some systems, the focus is on the economic value of reputation, where it is based largely on the necessary investments from producers to get a reputation. Consumers will pay a higher price for a product specially protected by the GI because it has certain reputation and fame. The reputation assessment and identification differ from a system to another depending on the product quality. It can also be assessed on local, national and international foundations. Therefore, the local reputation may be sufficient to provide the required protection.

Relationship with Geographical Source
The relationship between a particular product and geographic origin can be determined under foundations or properties other than the quality and reputation, notably the unique human and natural factors. Under the protection systems of special nature or relating to GIs as a right-standing on its own, the land is regarded as a link between the natural and human factors which are formed over time. Thus, the natural and human factors are numerous and different from product to product. In this case, then, it is enough to give an accurate description of the basis of the relationship between the land, identity or peculiarity of the product and the various aspects of production, as transformation and modulation. Therefore, this estimate is carried out under personal and objective criteria to distinguish it from other and refer to the product characteristics and practices in the production of raw materials to the formation and transformation stage. These standards allow access to the objective definition of the components of the product, such as colour, shape, or synthetic or formation texture. This definition is done firstly by the raw material of the product, and the form in which it appeared after converting. The methods used in this assessment may be the resorting to historical references or questions from the producer themselves or acts of physical or chemical analysis or through taste experts. This standard requires the need to show the link between the place and one of the other elements, allowing a statement that this particular factor produces this property. Suffice it to distinguish
or show elements for determining the product and the resulting characteristics. This is a key element in the application for the product protection as GI and the evaluation to be objective as far as possible, making it easier to determine the place and cause of protection by the geographical index which shows these elements in a systematic, clear and specific form.

With regard to the evidence, making a simple and easy approach becomes a chore and a must. The relationship can be proved by producers and it should be clearly following the ability to scan and monitor the availability of the reasons for protection. This ensures the consumer that the product is a GI. The tracking of a protected product, viz the process of tracking from the moment of its production to marketing, forms an important element in the process of clarification and proof of the extent of meeting the terms of protection by the product. Some systems require that the geologically designated areas are different from the surrounding areas and do not require a special characteristic of the product, while there are other systems that does not require a linkage between the place and the production way. That is, the quality of the product overcomes the method of production, because the relationship with the geographical origin constitutes a key point in the method of production, on which the application focuses to register the product as GI.

**Requirement to Use**

The question arises about the extent of the obligation to use for the protection of GI. The basic principle as scholars believe is that the lack of use of the GI does not drop it out. But the legislation is moving towards the abolition of protection for GI if it is not used. The registration of a trademark including GI requires that the production of a commodity is continuous in the geographical area.

**Formal Requirements (Registration)**

Most of the legislations require that the GIs are recorded in the Register of GIs in order to enjoy the necessary protection. Any GI not recorded does not enjoy the protection prescribed. This requires a special register and a competent authority to receive, examine and give opinion about applications for registration, and then comes the possibility of objecting to decisions of acceptance or rejection of the registration. A geographical index must be submitted and attached to the application for recognizing the GI, which forms the basis of the element and the cornerstone for the recognition of this GI and the reference to the certificate of protected products. The application for recognition of the GI and the extent of respect for the requirements that must be met are checked, where the relevant committee meets at the national level and expresses its views on the application for recognition and protection of GI. The application firstly starts from a set of producers in a particular area or region or country of the competent authority which decides within a specified period either to give a positive response followed by the publication of its decision at the expense of the requesting party or give a negative decision to reject the registration of this GI based on convincing justifications and reasons. Then, the right to objection starts. The record of GIs must include: the GI name, the name of the authority requesting the registration, the competent supervisory board of the geographical index, the geographical index, the date of registration and the date of publication of the registration. The registration has a disclosing and not a creating impact. There is the GI regardless of registration. If related to the foreign GI previously recognized in its home country or by an international organization, the application must be done by the holder of the right. The registration may be cancelled in several cases decided by the law at the request of producers, the supervisory board or the stakeholder. In practice, the organizations or their representatives who represent producers in that country can apply for the registration of GIs in Jordan. After that, the applications are screened before the competent authority. If the conditions are available, the competent authority will accept the GI registration which will be published so that others can object to during a specified period. If rejected, the application may be submitted again within sixty days. The application and all documents must be submitted in Arabic and a translation to be provided for foreign documents.

**Protection of GIs**

The protection of GIs is paid wide attention by the developed and developing countries alike, due to many social and economic benefits achieved by this protection. Therefore, the presence of several international agreements governing the ways to provide protection for geographical appellations is noted. Also, the presence of a large number of laws representing the legal system for the protection of GIs as a separate and standalone system is noted. The GIs
offer consumers a guarantee of quality and respond to the growing demand for information and transparency about the source and origin of the products they want to buy in addition to the method of manufacture. Many of the justifications and reasons for providing protection for GIs have been cited. There are justifications which belong to the rules of trade where maintaining a fair and legitimate competition for producers was the primary motive for the movement of the protection of GIs and the consumer in general. Therefore, GIs were likened to industrial property. They represent an investment that has been achieved collectively and through several generations in order to find fame and reputation for the product. The protection in this area is in the respect for the trademark rules and competition and the maintenance of the product presentation rules, particularly agricultural ones by creating a system and rules to govern agricultural policies.

In contrast, there are justifications belonging to the development of local governance systems. The policy of protection of GIs can be justified by their impact on the local and urban development, whether at the local, or rural or regional level. The protection of GIs is an important policy for the protection of the products of the concerned area, an element of its economic policy and its success, especially on the agricultural level, where profits and returns resulting from local or national agricultural commodities increase as well as a sense of pride for the people of these areas. In addition, there are justifications due to the wealth and preservation of the sources. The protection of GIs is a way to preserve the biological sources such as animal assets, plant diversity and biodiversity in addition to human knowledge of the individuals or the group associated with the presence of these sources. These sources are associated with social factors and the rules of the collective intellectual property protection, which requires consideration of GIs as national or local wealth.

In this part, the scope of protection will be discussed. Then, the discussion of the ways of protection at the international and national levels will also be done.

Scope of Protection

The range of GIs is limited because the area of application of the law is determined by the products without services. This is clear from reading the text of the TRIPS Agreement and national laws, organized by it. Basically, the TRIPS Agreement decides that states are free to determine the products that deserve protection, but mostly they decide protection for agricultural products, agricultural processed food products and craft products. Most EU countries apply protection to these products, which is decided by the European Decree No. 510 of 2006. Currently, the protection is not limited to agricultural products or food, but extends to the industrial, mineral and craft products. Modern legislation is moving to introduce industrial GIs such as porcelain, lace, knives, granite, stone and vases in the scope of protection, which is determined by countries such as Turkey, Germany, France, India and the Czech Republic. Basically, the natural agricultural products are the only protected by GIs. But the French consumption draft law submitted 2 May 2013 in the French cabinet was inclined to expand the scope of protection for GIs to include processed products. This bill was also proposing to add a fourth paragraph to Article 713 of the French intellectual property law, so that the registration of a trademark does not prevent the use of the same code or similar codes as geographic indication only if the mark - taking into account its fame and duration of use – is the exclusive source of reputation or of knowledge and familiarity of consumer for this product, which has demanded a GI. In March 2014, the so-called Hamon Law on consumption was issued, which adopted a broad idea of the products appropriate to carry a GI. The Law allowed putting the GI on industrial products as well as processing and mining industries if they meet the terms of GIs. This has been confirmed in Article 721-2 of the French Intellectual Property Code. This Law aims to enhance consumer information and support local economic development, which constitute an important issue for consumers, the region and the companies. Also, this Law aims at the consumer who puts his choice in a particular product protected by GI to decide consciously and willingly the quality and basic characteristics of the product associated with the region. This change allows for non-agricultural goods producers to benefit from the protection of GIs system. Many producers demanded to provide this protection for industrial products. Recognition of GI and giving it the necessary protection could drive many industrialists to dwell in such areas to take advantage of these indications. The GI gives importance to the region or place or country of production which determines the quality of the products and their characteristics that stem from this region, which contributes to the economic development of the province or region while
providing the protection of human knowledge from unfair competition.

It should be noted that there is a European project for the protection of GIs in 2014. This project determines that the protected GI does not hinder the use of a trademark that was obtained in good faith prior to the GI provided that it does not cause confusion about the real geographical product origin. The priority of trademark registration permits that consideration of use has been made in good faith. The existence of the protected GI does not put the former trademark used in good faith into question. When dealing with the protection of GIs, the concept of the geographical area in which the protection of the GI is stationed should also be discussed. The geographical area is defined as: 'the area where the GI or the designation of origin is famous or the production process or natural and human factors that give the product its characteristics are stationed'. Article 70 paragraph (b) of the Syrian law defines the country of origin as: the country which its name represents the designation of origin, in which the product became famous, or the country in which the region is located or the party that its name represents the designation of origin of which the product is well-known. This area may be a village, city or area or the entire country, such as Havana for Cuban cigar, Ceylon Tea and Egyptian cotton. The product determines the geographical area in which the protection of the item is sought as GI. This is based on natural factors characterizing a specific geographic area as well as human factors. As for how to determine the geographical area, its borders shall be natural or administrative, provided that it enjoys the same human or natural characteristics.

There is a question in the process of addressing the scope of protection, on how to provide protection in a country other than the countries of geographical source, where this protection varies depending on the country and the system used in it. This could spark controversy, especially if the GIs are protected in some countries or regions and not protected in the other. This controversy was since long time ago on the protection of GIs at the international level, and has contributed to the adoption of several international treaties in this area, such as the Paris Convention for the Protection of Industrial Property of 1883, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods 1891 and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration 1958 as well as the conclusion of other bilateral agreements. Then, the controversy resurfaced again with the World Intellectual Property Organization with view to adopt an international treaty for the protection of GIs and reviewing past agreements. The issue of the protection of GIs was raised in the Uruguay Round in 1986-1994, and appeared here in the aspects relating to intellectual property rights, the TRIPS agreement, and the Appendix of Marrakech. Some legislation provides that foreign GIs not protected in the original country or the State of origin cannot be protected. Article 70 of the Syrian law on Trademarks and GIs states that ‘For protecting GIs, it is required that they have gained and are still enjoying protection in the country of origin’. The same applies to Article 4 of the Omani law on GIs.

Each product that meet the requirements contained in the geographical index shall benefit from the special protection of GIs. If it is proven that this product belongs to the same geographical area benefiting from the protected GI and meeting the conditions of protection contained in this index, the producers shall enjoy the same protection afforded to registered producers through an application to the competent department of registration of GIs.

As for the timetable of protection, many laws provide that the special protection of GIs that have been registered starts from the date of filing the application and not from the date of registration. Some states specify the timetable protection, that is, the protection of GI expires after a certain period of time if renewal was not applied for. But it is preferred not to specify duration of protection so as not to become general GIs that can be easily violated. The Egyptian legislator has decided this period of ten years.

The Jordanian legislator has provided for the uses that are not allowed in respect of GIs in the same text contained in the TRIPS Agreement (Article 10), preventing any use of GIs of a similar product of a protected product based on the possibility of misleading consumers. The use of this label is also prevented on a non-similar product; otherwise it is considered unfair competition subject to liability. The Jordanian law prohibits any use of protected label on products that do not meet the conditions set forth in the geographical index of the terms of reference, as the protection was granted based on the geographical
The use of any means in the designation or presentation of a good that indicates that the good in question originates in a geographical area other than the true place of origin, in a manner which misleads the public as to the geographical origin of the good.

The use of a geographical indication which, although literally true, falsely represents to the public that the goods originate in other than the true place of origin.

Any use of a GI that constitutes unfair competition contrary to honest practices in industrial or commercial activities.

Article 4 of the Jordanian law also provides:

1. The Registrar of Trademarks may refuse to register any trademark, if formed of or contained a GI, or if related to a product from an origin the use of the GI suggests otherwise, in a manner conducive to misleading the public.

2. The Registrar of Trademarks may receive objections to the registration of the trademark described in item (1) of this paragraph. The deletion of such trademark may be requested from the record, without being restricted by the related duration provided for in the Trademark Law in force.

b- The provisions of paragraph (a) of this Article shall apply, even if the GI is true in terms of characters but it leads to mislead the public about the true origin of the product.

Hence, the Jordanian law prohibits the establishment of trademarks indicating geographic sites. Some writers argues that a specific bureau for registering GIs in the Ministry of Industry and Trade should be established, and the GIs should be considered a quality sign certified by the Jordanian Institute of Standards and Metrology.

The French legislator has emphasized this in Article 721 of the legalization of intellectual property and the Syrian legislator in articles 27-76 of the GIs Act. The same provision was provided in Article II of the Bahraini law on the protection of GIs of 2004, and in Article 5 of the Omani law on GIs.

In contrast, much legislation provides for certain exceptions and situations that do not constitute a violation of the right in the GI. It is excluded from the scope of protection the so-called sex labels because they are used by consumers to denote the type of product and not the quality associated with its geographical source. It does not always allow for distinguishing it from other products. Also excluded from the protection are the so-called symmetric or heterogeneous indications. It is a designation similar to other label but it is not produced in the same geographical area. A distinction must be made between these two designations in any way. Otherwise, the application for registration will be rejected so as not to mislead the consumer. The use of a trademark including a GI also does not constitute any violation or act of unfair competition if it was in good faith. In this regard, Article 7 of the Jordanian GIs Act provides that:

it is not regarded a violation of the provisions of this Act as follows: a. 1. having a trademark identical or similar to a GI through using it in good faith before the enforcement of the provisions of this Act or before granting protection for the GI in the country of origin. 2. submitting an application for registration of a trademark in the Kingdom similar or identical to a GI or registration in good faith. b - using a GI in any way whatsoever, suggesting another state if it is identical with the familiar terminology in the Arabic language to slang name for any product or service in the Kingdom [Jordan]. (c) any person using his name or the name of his predecessor in his business in a way that does not mislead the public. d. using a GI that does not enjoy the protection or its protection has ended in country of origin or is no longer used in the country.

Ways to Protect GIs

The need to provide legal protection for GIs stems from two important phenomena: First: globalization, particularly the globalization of business dealings, and the second: making of specific criteria for agricultural and food products and the trend towards consolidation mode. The legal regulation for the protection of GIs shows diversity of systems for the protection of GIs. These systems have evolved under different legal traditions and special economic and social context, which explains why there are diverse mechanisms for
the protection of these GIs. This diversity stems from the economic and political systems in each country. The GIs in states which are based on a market economy constitute a tool capable of ensuring fair competition, making a profit and a means to provide clear information to the consumer.\textsuperscript{71} So, it can be seen that the protection methods in them are based on unfair competition, as the case is in the United States. In other countries, the GIs are a tool for local development and protection of the economy, and at the same time a way for the protection of the heritage, the environment and the diversity of products. In contrast, it has been found that the countries which are based on the agricultural economy consider GIs as a means of small producers to enter the market with their quality products; especially they are mostly agricultural and traditional products.\textsuperscript{72} So, greater intervention of the state has been seen in providing protection, where there is a record supervised by the state to establish the rules and principles for granting the protection.

Despite the fact that there are different and multiple protection systems at the level of the states themselves and within their territories, the GIs are always related to products designed for export, prone to imitation and violation outside the territory of the State. Then the protection at the local or regional level may not be sufficient. From here, it was inevitable to talk about protection at the international level and the need for international cooperation to ensure effective protection.

**International Legal Regulation for the Protection of GIs**

Before the end of the nineteenth century, products bearing GI were not traded to distant places from their existence area and geographic origin because of the slow pace of transportation and the difficulty of conservation, which only allowed exporting products that can be preserved for a long time. They were only those that are subject to the commercial deal on international level. With the expansion of markets and the emergence of unfair competition from producers and the necessity of the Consumer Protection, the importance of providing protection emerged and special legal rules for local and international markets were established. It is noted that the Paris Convention for the Protection of Industrial Property of 1883 was the first multilateral treaty that gives special protection for indications under the amendment of 1925.\textsuperscript{73} The Madrid Agreement came about in the same context. This Agreement introduced the issue of discrimination between false and counterfeit indications. It is possible that the label is the real name of the place of the source or origin of the product but misleading in terms of the use of a GI of a very well-known name.\textsuperscript{74}

The Lisbon Treaty on the protection of the source names and their internationally recognition, which was signed in 1958 can be considered as the first step towards giving special protection to the GIs. In fact, this convention can be deemed one of the most important treaties concerning the protection of appellations of origins.\textsuperscript{74} With the establishment of the World Trade Organization, the focus on protection has been even more. According to Article 22/2 of the TRIPS Agreement, member states shall provide the legal means through legislation to ensure that the use of any means in the designation or presentation of a good is suggesting that the item in question originates in a geographical area other than its true origin in a way misleading the public.\textsuperscript{75} Member states are also committed to enact legislation to ensure for the parties involved the uses of GIs for being within unfair competition. According to Article 24 of this Convention, the protection of GIs ends together with its termination in the country of origin of the product.

GIs has emerged under the TRIPS Agreement as a new, stand-alone term that must be protected at the national and international level. As noted earlier, the TRIPS Agreement has given a general, broad definition of GIs, so as to include within it many geographical names such as the source names and the guides of origin and other labels. The TRIPS Agreement provides for two levels of protection, the first level is normal protection, while the second is a kind of enhanced protection or additional. As for the normal protection, it includes the protection of all products except wine and liquor. This protection is to abide by the general principles established by the Convention for the protection of GIs.\textsuperscript{76} These principles are the commitment to consumer protection, the need to provide accurate and clear information about the products and goods, the commitment to protect producers from illegal practices which constitute unfair competition, and finally the rejection of the application for registration of GIs on the products that are not from the same geographical source or concerned region. The enhanced or additional protection is related to wine and liquor. It is not a private or a stand-alone
protection but is enhanced protection to those provided by the regular level. 77 It is added to the minimum in the normal protection. Therefore, these products benefit from the regular protection and then the additional protection. It differs from the regular protection because it is semi-automatic and objective protection that there is no need to prove deception or unfair competition to ensure the right of producers, but enough to prove the use of the indication on the products that are not from the same source or exact geographical location in the indication, and without the need to prove any misleading or act of unfair competition. 78 This protection is related to wine and liquor only, that is, the additional protection is applied when the use of the GI which identifies a wine to be indigenous to the area and not any other product. If not wine, it does not benefit from the additional protection but the regular. This Agreement excludes from the scope of protection all public heterogeneous indications and those used in good faith before the GI registration for a period to be determined by law. 79 In practical terms, the TRIPS Agreement is inadequate where some shortcomings are interspersing it. It does not impose a unified system for the protection of indications of members of the World Trade Organization countries, but on the contrary, its texts give full freedom to the States in the application of its own protection. 80 The Paris Convention is maligned for its narrow scope. It is noticed that a few states have joined the Madrid and Lisbon Conventions, as well as the difficulty of assessing compensation. 81 All of these flaws push for the establishment of a special stand-alone legal system.

It should be pointed out that the risks of insufficient protection prescribed for GIs under these rules, because the arbitrary use of GIs may cause damage to the reputation of the products and the producers of these commodities in addition to the damage to the consumer, as producers rights are exploited without charge making their investments go in vain. The consumer may fall victim to misinformation for believing that he is buying a product that is genuine and has certain characteristics while he may be getting but a replica that does not have the same value. 82 This damage may pose a threat to the national economy of the state concerned that it may lose an important source of income because of these violations.

The protection determined by the international conventions may be riddled with some defects and show a deficit for providing the necessary protection. 83 The TRIPS Agreement can be resorted to only if there is a misleading to the public or when there is unfair competition. Therefore, some of the illegal uses may not be subject to this Agreement if they do not show any misleading to the public, although they constitute a violation, especially if they include determining the true source of the product. The text of this Agreement allows for the competitors who do not belong to the same region specified in the GI harming the reputation of the GI and making it vulnerable to violations which robs important sectors in the market from original producers. Also, the survival of the text in this formulation leads to the conversion of these indications to generic names. Thus, they can be used by anyone, and this, on the other hand, deprives the original producers of their rights. This text is as well maligned because it puts the burden of proof on the original producers as they have to prove that the use is illegal and it is misleading to the public or an act of unfair competition which is difficult of proof. 84 On the other hand, the prescribed protection of wine and liquor form a higher level of protection. There should be no proving for the existence of misleading to the public or act of unfair competition in order to be in front of unlawful use of GIs. Their GI is protected for its own sake, without regard to the extent to mislead the public or compete with the original producers. All producers from outside the geographical area specified in the indication are prevented from using it. So, the burden of proof here is diminished because you do not have to prove deception or unfair competition.

In light of these shortcomings, it is imperative to take the highest level of protection through the application of prescribed protection in Article 23 of the TRIPS Agreement on all products, not just on some products. But what is the status of national legislation?

Means of Protection of GIs at the National Level

By the protection of GIs is characterized that there are several legal systems and different forms of the methods of protection, where the method of protection for GIs varies from one country to another and from product to product as well. Even in the same country, the form and the various methods of protection are various. There may be several methods that can be applied to ensure effective protection. The differences are the terms of protection, the possibility
of the use of GIs, and the extent of protection. They are summed up as follows:

1. The laws that are based on commercial practices, namely, consumer protection laws and preventing unfair competition laws.\textsuperscript{85}

2. Trademark rights, namely, texts to ensure protection against the registration of GIs and the designations of origin as trademarks by collective marks.

3. Special laws to ensure the protection of GIs and designations of origin, based on the special features of the products concerned or to the method of production, such as laws on the protection of indications, as in Jordan.

The diversity of national laws and regulations regarding the protection of GIs is but formal and does not represent the real situation in each country.\textsuperscript{85} This division is not exclusive so that another method of protection can be imagined out of this range. Also, the method of protection may vary according to the nature of the product itself. The means of protection will be examined as follows:

Laws Existing on Commercial Practises: There are, in some countries, no rules of the protection of GIs, but they apply some commercial practices mechanisms represented by the rules to protect consumers and prevent unfair competition. Most countries apply standards to protect business investments against illegal practices by competitors.\textsuperscript{86} The Paris Convention prevented unfair competition according to Article 10, and the TRIPS Agreement also banned it in Article 22.

At the national level, the protection from unfair competition evolved despite its diversity among the states, but, seeks to achieve one goal which is to give the victim an effective means against illegal practices of competitors.\textsuperscript{87} But when the act or work is illegal in the commercial or industrial scale, it is up to national legislation. In order to prevent illegal use of GI on the basis of unfair competition, the victim will have to show pictures of the use of the other of GI not licensed, it leads to fallacy and it causes or may cause harm to him. It should be noted that the protection of GIs under unfair competition laws can be carried out by resorting to the rules of civil liability, meaning that protection is established upon the responsibility of the perpetrator of the harmful act to compensate the victim for the damage done to him, such as the loss of part of customers.\textsuperscript{88} where he has to prove that the product has customers or specific reputation and that the defendant has harmed them. The unfair competition laws grant merchants a way to bring a claim against competitors who commit commercial practices contrary to the legitimate commercial practices. With respect to GIs, such protection also applies to traders and producers and against any unauthorized use of a GI by others more than to give individual private rights.\textsuperscript{89} In this area, many questions about the concept and standards of production or the series of producers eligible to use the GI are raised. The protection of the GI prescribed under these rules applies only to confront the parties to the lawsuit.

It is also pointed out that the protection may be decided under consumer protection laws. Many states enacted a special consumer protection laws, set aside some of their provisions for the protection of GIs, showed civil and criminal sanctions against the perpetrator of the deception and provider of misleading or false advertising. The laws of consumer protection aim to ensure the provision of true and accurate information to the consumer by professionals, producers and distributors in order to contract with free, conscious and informed will and to provide balance in the relationship between the consumer and the professional. Therefore, the information on GIs must be clear and complete to allow the consumer to take an informed decision when choosing a product from several different geographic origins of products.\textsuperscript{90} This information should be related to the nature and characteristics of the product and geographical origin in order to protect consumers from misleading with regard to the geographical origin, the quality and characteristics of the products. So, any wrong description of the products by putting the wrong or fake GI is condemned criminally and civilly. Even if the information is not wrong or false, but helps to fall into the mistake, it’s condemned as well.

Protection by the rules of Trademarks: Protection may be carried out by the rules of trademarks, such as the collective marks and the certification sign indicating that the product or service that decides the trademark has specific characteristics of which is its geographical source.\textsuperscript{91} The trademark owner takes care to prove that the product that enjoys this trademark has these characteristics. Any product that respects the specific production standards of the trademark owner has the right to use the trademark.\textsuperscript{92} This owner ensures that the product which uses the
mark enjoys the said quality for him. Also, the owner of the trademark should put specific rules at the time of filing the registration application to show the characteristics, users licensed to use and methods of monitoring and inspection. The protection in this way stems from the general rules of trademarks. Claims of prejudicing the trademark commence by the owner. A special register is devoted to these signs called the collective marks, or the certification signs record. The collective marks contribute to achieving protection as they determine the source and origin of the products. So, the registration of collective marks or certification signs is an effective way to provide protection. However, the adoption of protection under the rules of trademarks is no longer inadequate due to the incompatibility of these rules with the particularity of GIs. This justifies the use of a special legal system, especially the lack of a special legislation to protect GIs leads to the inability of products of the country and their geographical names to benefit from the protection at the international level, because the products enjoying the protection at the international level requires first that these products be protected with GIs registered in the same country, where they must be recognized in the original source country. Also, not determining the product's relationship with the region as well as the products in question may cause some conflicts and differences.

Protection under a Separate Legal System: The protection is carried out here under special rules for geographical names or indications, as a private and independent group of the intellectual and industrial property rights. It is represented in several forms, including:

1. Appellations of Origin: The protection system results from the need to address and resist illegal practices affecting the geographic origin of a particular product. The protection is for geographical names used on the product that has certain reputation and is unique because of its quality or certain properties primarily and exclusively belonging to its production in a certain environment special for that geographical area.

This kind of protection is based on a particular law, specific instructions, decrees or administrative decision based on particular administrative procedures to which representatives of producers and directors contribute. It may also result from the judicial decision or the registration process itself. In this range, the geographical area and the conditions of use are defined by these decrees or procedures. For example, the Lisbon Convention allows the protection of appellations of origin in the country other than the country of production or geographical origin.

Under these laws or decrees, the unauthorized use of the protected designation of origin constitutes a violation that requires criminal and civil liability to any person who uses the label of a product not made in accordance with the conditions provided by law, which determines the special designation of origin protection. These claims are often commenced by the competent institutions of the state such as the authorities controlling the labels of origin or the devices of consumer protection or intellectual property rights.

Protection by GIs Rules: The protection here is also derived from the law, decree, court judgment or registration process. However, the standards of protection are different. The protection according to the Lisbon Treaty is based on the relationship with the geographical environment, but there is no such special requirement in the TRIPS Agreement. Also, the range of the administration authority competent to determine if a GI can enjoy protection varies. Therefore, the availability of standards and conditions for protection are simply enough for the registration. The protection for products that have GIs may be carried out through an administrative procedure for the license. This procedure could be useful in monitoring the use of GIs. The party in charge often examines whether the product for which an application of licensing has been submitted corresponds to and respects the legal requirements or not. If the conditions for the granting of the license are not available, the license to market the product will not be granted. Of course, these actions serve to ensure the integrity of commercial practices and consumer protection. Several legal tools contribute to achieve this goal, including consumer protection laws and the laws for legitimate practices to market some products, where the criteria to display and market products and the laws for protection against unfair competition are decided. These laws determine specific mechanism or administrative means to prevent the use of a GI deceptively and to have administrative or criminal sanctions in case of violation.

In this regard, some of the countries that impose protection under special legislation decide that in
order to take advantage of the protection, the GI must be mandatorily registered with the competent authority. But, there is no uniformity in the conditions of registration or product quality, where many of the EU countries decide that the submission of the registration application is available for producers’ gatherings or their representatives only. This application includes the name, address of the organization, the book of conditions, as well as the rules applicable to packaged products, determination of the geographical area and the relationship between the product and the geographic area. In France, the registration is made in a public and formal record by a public institution (INAO), composed of representatives from the management, producers and consumers,\textsuperscript{98} in order to give its opinion on the products for which the indication is sought, determine the concerned geographical area and confer protection on the GI. The protection is carried out through a decree published in the Official Gazette under which the geographical area, production and processing methods, and packaging conditions are determined. The first attempt to regulate the GIs in France came through 1824 Act, which focused on the use of names (names of producers and place of production). So, the talking was about the right to the name for GIs, which focused on the right in a personal domain more than the business side.\textsuperscript{99}

The adherents to the right were in the form of a group not as individuals. They are producers of a commodity in a particular area based on specific controls and quality standards. The law of 1824 has devoted the relationship between the product and the particular place, that is, the collective nature of the right, and linked the quality considerations with respect to the traditions and practices of certain professional in the scope of intellectual property.

Then, the protection was organized under the 1905 Law on the Prohibition of Deception and the Law of 1919 About the Names of the Source or Origin. The protection of GIs policy has passed through four important stages in France.\textsuperscript{99} In the first phase, the protection consisted the rules of the competition: 1905-1970, under which the 1919 Act falls, that reinforced the recognition of GIs by the acknowledgment that it is possible for the producer to sue who illegally exploits his trade name which is a breach of competition rules. Then, protection became through the rules of the agricultural market regulation and quality assurance: 1970-1985, then the rules of the local development: 1985-2000, and finally by intellectual property rights rules starting in 2000.\textsuperscript{99} The last amendment decided, organized and expanded the scope of this protection based on the Law of Hamon of 2014, under which the National Institute of Intellectual Property became a competent authority to grant GIs.

On the other hand, there are countries which consider registration as an optional issue, where they do not require registration to provide protection, such as Jordan.\textsuperscript{100} Oman and Qatar. This removes the burden of registration costs from the shoulders of the right holder, but is subject to the necessity of proving the offense and the use of the general rules in that, which may be difficult. Therefore, the registration is possible but optional. Article 2 of the Omani law stipulates that. In Jordan, the GIs Act sets out the conditions by which the recognition of the GIs or their protection is made. It also defines the obligations and responsibility of those who wish to take advantage of them. The Act sets out the conditions of the application for the recognition of GIs, the procedures to be followed and those of foreign GIs, and determines the conditions for recognition of imported products, which enjoy a special quality associated with the geographical origin. Prior to the issuance of GIs Act, the Trademark Law regulated the protection under Article 8, paragraph (7), which was to prevent registration of a trademark that deceptively, indicated the geographical meaning.\textsuperscript{101} The Jordanian law so far does not require a special record to provide protection of GIs. Therefore, the general rules, such as the rules of consumer protection, protection of competition and trademark protection are resorted to.

As a result of Jordan’s accession to the World Trade Organization and the Organization of Intellectual Property (WIPO), the intellectual property legislation has been developed to conform and fit in with the TRIPS Agreement and the requirements of this accession. Jordan provides several regulations for the protection of GIs, such as the trademark regulation, regulations of protecting national and agricultural products, laws of unfair competition, consumer protection rules that require the provision of correct and accurate information, and GIs regulation pursuant to the law of GIs of 2000.

Jordan is enjoying an independent legal system for the protection of GIs pursuant to the law of GIs of 2000. The description of GI is granted on a specific product under this system when several conditions are
met initially. This idea is in line with what included in many legislation and international conventions such as the provisions of Article 22 of the TRIPS Agreement. The right to the GI under this system would benefit producers or legal persons associations, which represent producers in this region who are entitled to request registration of GI.

Content of Protection

In this section, forms of violation on the right to GIs will be addressed and then the sanctions provided for the event of a prejudice to that right will be reviewed.

Forms of Violation on the Right to GIs: There are several forms of violation on the right to GIs. According to Article 3 of the Jordanian GIs law, the most important are as follows:

1. The production of a commodity that refers to the name of GI of the other which is likely to mislead the consumer.
2. The use of a GI that leads to unfair competition.
3. Conducting propaganda misleading the public as if the ad includes an indication that the advertised product carries a GI that it does not actually enjoy.
4. Importing and exporting any forged GI and States should seize imported products, which include forged GIs.
5. The use of the GI as a trademark if the trademark refers to a protected GI.

Article 4 of the Jordanian GIs Act states that the registrar of trademarks shall have the power to refuse the registration of the trademark if it consisted of a GI that does not reflect the true origin of the product, which holds the GI.

Some writers believe that a national commission for GIs should be established so as to gather concerned administrations and professionals. The function of such a commission is to review the cases for GIs in the light of a list of requirements and legal provisions. The commission presents its opinion to those responsible for the registration of GIs. If the GI has not been registered after the commission advice, the requester will have the right to appeal. Further, the Ministry of Industry and Trade should be the authority for GIs.

Sanctions Established for Prejudicing the Right to a GI: The legislation dealing with the protection of GIs, both those that are protected by the rules of trademarks, or which adopted a special regulation for the protection has decided several sanctions in the event of violating the GI, including the compensation claim and temporary and precautionary measures.

1. Compensation claim: the right holder of the GI may obtain compensation for the damage suffered as a result of prejudice to the right to the GI. The court here resorts to the experts to assess the extent of damage and the amount of compensation. The Jordanian legislator has given the stakeholder the right of action to prevent infringement of the GI. The law allows each stakeholder to sue before the competent Court and ask to prevent the use of GI which was not contained in a registered trade mark if such use misleads the public about the real product origin. The stakeholder is entitled under Article 8 of the Jordanian GIs Act to provide a request with banking guarantee to demand a halt to the infringement or preventive seizure on the product the subject of the infringement.

In France, according to Article 722 of the French property Code, each person licensed to use the GI or any party or organization which the law gives the duty to defend the GIs, may bring a civil action for counterfeiting or misinformation which caused him harm. The same Article states that when assessing compensation, it shall be taken into account the negative economic effects and results for counterfeiting and prejudicing the rights, including the loss of profits, subsequent loss, moral damage and benefits earned by the perpetrator of fake or harmful act such as investments in individual property. The judge at the request of the aggrieved may estimate a lump sum for compensation.

2. Confinement: According to Egyptian law of intellectual property, anyone who forges a registered trademark or imitates it in a way that misleads the public shall be punishable by imprisonment for not less than two months and a fine of not less than five thousand pounds and not more than 20 thousand pounds, or one of the penalties. In Article 114 of the same law, anyone who puts a commercial statement not identical to the fact on his products, stores, warehouses, addresses, covers, invoices, correspondence or the media or otherwise, which is used in displaying products to the public shall be punishable by imprisonment for not more than 6 months and a fine of not less than 2,000 pounds and not more than 10 thousand pounds or either. Also, it shall be subject to the same punishment whoever...
ments unjustly on his trademarks or commercial papers a statement to make belief that it has been registered.

2. Precautionary measures: The stakeholder (injured) is entitled to request to stop infringing on the GI. This is indicated by Article 18 of the Jordanian GI Law. Under this Article, the provisional seizure can be applied to, products subject of the infringement can be confiscated, and materials used in this infringement can be destroyed. The system based on the protection of indications under the special rules, such as the trademark law, represents several pros, especially in light of the slow pace of the work of government agencies that do not work as quickly as required in the event of a forgery or fraud in the GIs. As for the disadvantages, they include the high cost borne by the owner of the mark124. The marks give their owner the private property rights. Disputes resolutions may incur significant costs, while if the indications have generally been recognized by the public authorities, the costs will be much lower.

Conclusion
At the conclusion of this study, many of the findings and recommendations can be summarised as follows:

GIs emerged as a tool to distinguish products and foodstuffs from the other with the emergence of social and political trends of interest to preserve the diversity and local development. This topic has gained high importance on several levels belonging to local development, biodiversity, sovereignty, and national economic growth.

The protection of GIs is a pioneering idea that needs for concerted efforts and support of the state, farmers and producers. It does not aim to restrict and paralyze the movement of trade, but enlighten the consumer and help him in order to make a consciously informed decision.

There are different levels of protection among the states, where the legal framework for the protection varies from one country to another dramatically whether in terms of definition, procedures, scope and means of protection. It emerged from the study that the protection was based on the rules of trademarks despite the defects they stand for. Then many countries resorted to approve special legal rules for the GIs as a separate and stand-alone legal system.

There are two levels of protection: the protection of the normal, simple level enjoyed by all GIs and the enhanced protection which the GIs have for certain products. The EU legislation has become skewed towards providing enhanced protection for all GIs relating to food products and not be restricted to a certain class of these products.

The provision of effective protection of GIs gives added value to the economy of nations, as many countries reap additional earnings and economic value of domestic products and contribute to improving the quality of products. The application of GIs laws requires joint action and cooperation between producers, owners of indications and relevant institutions to develop legal controls to prevent encroachment by individuals and non-licensees. It is preferred to resort to the idea of registration of GIs in a special record to facilitate the making of legal protection measures. The idea of protecting the GIs according to a special law as one of the intellectual property issues has also been supported.

References


73 Giovannucci D, Josling T et al., Guide des indications géographiques: Faire le lien entre les produits et leurs origines, (Genève, Centre de Commerce international, 2009) p. 47.


