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THE ARTISTRY OF TRADITION:  
A COMPARATIVE ANALYSIS OF CRAFT HERITAGE  
PROTECTION IN EUROPE AND JAPAN

1. Introduction

The evolution of civilization is gradually eroding the bond between products and their geographical roots, propelled by the dissemination of knowledge and uniform distribution. In this era of increasing standardization, there is a burgeoning appreciation for goods endowed with distinct characteristics. The value of a crafted item increases when its uniqueness is validated by tradition, establishing an enduring connection between production and environment. Crafts, serving as mirrors of centuries-old traditions, encapsulate national identity and cultural richness. The preservation of these crafts becomes a guardian of an unwritten yet meticulously cultivated heritage.

The aim of this comparative study is to provide an overview of contemporary regulations protecting the art of craftsmanship, in the context of craft products in the regulations of the EU and Japan, to gain insight into best practice and potential areas for improvement in the protection of traditional crafts globally. The protection of industrial products in both the EU and Japanese regulations has been deliberately omitted in order to narrow the scope of the comparative work. Because of the breadth and complexity of the matter at hand, the focus is mainly on the regulations concerning the protection of crafts in the context of the Living National Treasures programme and the regulations introducing the programme in Japan, and those introduced by the new Regulation (EU) 2023/2411 of the European Parliament and of the Council of 18 October 2023 on the protection of geographical indications for craft and industrial products and amending regulations (EU) 2017/1001 and (EU) 2019/1753 (OJ L, 2023/2411, 27.10.2023) (hereinafter: Regulation (EU) 2023/2411).

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## 2. Protecting craft heritage in the context of “The Living Human Treasures” programme

In the context of considering cultural heritage within the framework of specific values, the conscious adoption of protective measures is imperative.<sup>1</sup> The United Nations Educational, Scientific and Cultural Organization (UNESCO) consistently endeavors to undertake such actions on a global scale, notably exemplified by the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, drawn up in Paris on 17 October 2003 (*Journal of Laws* of 2011, No. 172, item 1018) (hereinafter: the 2003 UNESCO Convention). Within this legal framework, intangible cultural heritage is defined as practices, ideas, messages, knowledge, skills, instruments, artifacts, and associated cultural spaces recognized by communities, groups, or individuals as integral parts of their cultural heritage. Intangible cultural heritage, continuously reproduced in connection with the environment, the influence of nature, and historical context, imparts a sense of identity and continuity.<sup>2</sup> Its protection requires manifestation and materialization, with the Convention highlighting oral traditions, performing arts, and knowledge/skills associated with traditional crafts as its pivotal manifestations (art. 2 of 2003 UNESCO Convention). Currently, UNESCO fulfills the objectives of the 2003 UNESCO Convention by undertaking and inspiring actions aimed at safeguarding living heritage. It initiates and facilitates the exchange of best practices in this regard, notably through the creation of a register of intangible heritage – a system of lists<sup>3</sup> that highlight these values and honor the communities associated with them. One of these lists is the Representative List of the Intangible Cultural Heritage of Humanity (hereinafter: ICH List).<sup>4</sup> This initiative aims to highlight selected phenomena of intangible heritage and the cultural spaces associated with them on the global stage, as well

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<sup>1</sup> Mention may be made here, for example, of: The Convention on the Protection of Cultural and Natural Heritage adopted in Paris on 16 November 1972 by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its seventeenth session (*Journal of Laws* of 1976, No. 32, item 190); UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, drawn up in Paris on 20 October 2005 (*Journal of Laws* of 2007, No. 215, item 1585); The Polish Committee for UNESCO, “Program Pamięć Świata” [The Memory of the World Program], <https://www.unesco.pl/komunikacja-i-informacja/pamiec-swiata/> (accessed: 20.04.2024).

<sup>2</sup> J. Adamowski, K. Smyk, *Niematerialne dziedzictwo kulturowe: źródła – wartości – ochrona* [Intangible Cultural Heritage: Origins – Values – Protection], Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej Narodowy Instytut Dziedzictwa, Lublin – Warszawa 2013, p. 10.

<sup>3</sup> Representative List of the Intangible Cultural Heritage of Humanity, [https://ich.unesco.org/en/lists?text=&country\[\]=00176&multinational=3#tabs](https://ich.unesco.org/en/lists?text=&country[]=00176&multinational=3#tabs) (accessed: 20.04.2024).

<sup>4</sup> Lists of Intangible Cultural Heritage and the Register of good safeguarding practices, <https://ich.unesco.org/en/lists> (accessed: 20.04.2024).

as to disseminate knowledge about them.<sup>5</sup> The list includes such elements as: The Polonaise,<sup>6</sup> the Szopka tradition in Kraków<sup>7</sup>, washi,<sup>8</sup> and Yuki-tsumugi.<sup>9</sup> Acknowledging the need for broader protection, UNESCO extends support by designating individuals as “Living National Treasures,”<sup>10</sup> those who embody the requisite expertise. The primary objective is to preserve knowledge and skills linked to culturally significant intangible heritage. This protection not only bestows public recognition but also provides resources, such as grants and subsidies, supporting skill consolidation, development, training programs, and documentation efforts. Designees must demonstrate excellence, commitment, and the ability to pass on knowledge to prevent the disappearance of intangible heritage. Various countries adhering to the Convention have adopted titles such as “Bearer of the Tradition of Folk Crafts”<sup>11</sup> in the Czech Republic, “Master of Arts and Crafts”<sup>12</sup> in Poland, or “Living National Treasure”<sup>13</sup> in Japan. Despite recommendations for implementing the protection of Living National Treasures, its full realization for cultural heritage remains inadequate, as is illustrated later in this article via the example of Japan.

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<sup>5</sup> M. Rozbicka, “National Heritage Institute in the process of implementing in Poland the provisions of the 2003 UNESCO Convention on the Safeguarding of Intangible Cultural Heritage” [in:] *Niematerialne dziedzictwo kulturowe: doświadczenia w ochronie krajów Europy Środkowej i Wschodniej oraz Chin. 10-lecie wejścia w życie Konwencji UNESCO z 2003 roku w perspektywie zrównoważonego rozwoju* [Immaterial Cultural Heritage Experience in the protection of Central and Eastern European countries and China 10th anniversary of the entry into force of the UNESCO Convention of 2003 in view of sustainable development], ed. H. Schreiber, Narodowy Instytut Dziedzictwa, Warszawa 2017.

<sup>6</sup> K. Rząca, “Polonaise, traditional Polish Dance”, <https://ich.unesco.org/en/RL/polonaise-traditional-polish-dance-01982> (accessed: 20.04.2024).

<sup>7</sup> A. Janikowski, “Nativity scene (szopka) tradition in Krakow”, UNESCO, 2018, <https://ich.unesco.org/en/RL/nativity-scene-szopka-tradition-in-krakow-01362> (accessed: 20.04.2024).

<sup>8</sup> “Washi, craftsmanship of traditional Japanese hand-made paper”, UNESCO, <https://ich.unesco.org/en/RL/washi-craftsmanship-of-traditional-japanese-hand-made-paper-01001> (accessed: 20.04.2024).

<sup>9</sup> “Yuki-tsumugi, silk fabric production technique”, UNESCO, <https://ich.unesco.org/en/RL/yuki-tsumugi-silk-fabric-production-technique-00406> (accessed: 20.04.2024).

<sup>10</sup> *Guidelines for the Establishment of National “Living Human Treasures” Systems*, <https://ich.unesco.org/doc/src/00031-EN.pdf> (accessed: 20.04.2024).

<sup>11</sup> Government Regulation 5/2003 of 16 December 2002 on Cultural Awards presented by the Ministry of Culture, <https://mk.gov.cz/en/the-title-bearer-of-the-tradition-of-folk-crafts-en-1766> (accessed: 20.04.2024).

<sup>12</sup> Article 3a of the Act of 22 March 1989 on crafts (consolidated text: *Journal of Laws* of 2020, item 2159, as amended).

<sup>13</sup> *Cultural Properties for Future Generations: Outline of the Cultural Administration of Japan*, Agency for Cultural Affairs, Japan, Tokyo 2022, [https://www.bunka.go.jp/tokci\\_hakusho\\_shuppan/shuppanbutsu/bunkazai\\_pamphlet/pdf/93693501\\_01.pdf](https://www.bunka.go.jp/tokci_hakusho_shuppan/shuppanbutsu/bunkazai_pamphlet/pdf/93693501_01.pdf) (accessed: 20.04.2024).

### 3. Protection of craft heritage in Japan's legislation

#### 3.1. Historical background

During the difficult period of World War II for the preservation of craft arts in Japan, many works of material art were destroyed by warfare.<sup>14</sup> These were in danger of extinction because of a number of factors which included the recruitment of soldiers into the Japanese army, an aging population, mortality among artists, the presence of fewer artists willing to continue their artistic work during and after the war<sup>15</sup> as a result of the suspension and marginalization of the state's conservation policy. The end of World War II, because of hyperinflation and a reluctance to cultivate traditional crafts caused by Japan's defeat in World War II, also marginalized the protection of cultural heritage. This lasted until the fire in 1949 at the Horyuji Temple, Japan's oldest wooden structure with Buddha wall paintings. This provided animpetus for the establishment of the Law for the Protection of Cultural Properties in 1950,<sup>16</sup> under which cultural property was protected under three categories: tangible (covering both movable cultural property such as crafts and sculptures along with immovable property such as temples and buildings). The second category was historical sites, including the ruins of Japan's ancient capitals, along with natural monuments and landscapes. A further category included intangible cultural assets including performing arts or music played on traditional instruments such as the *shamisen*.<sup>17</sup> The implementation of the protection described above was the responsibility of institutions of a local nature involving local governments in cooperation with central institutions of the national government.<sup>18</sup> The wide-ranging

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<sup>14</sup> D. Fedman, K. Cary, "A Cartographic Fade to Black: Mapping the Destruction of Urban Japan during World War II", *Journal of Historical Geography* 2012, vol. 38, no. 3; I. Trifu, "Reform in Late Occupation Japan. The 1950 Law for the Protection of Cultural Properties", *Journal of Japanese Law* 2017, no. 43, p. 212; N. Noriaki, "Heritage Management in Present-day Japan" [in:] *The SAGE Handbook of Modern Japanese Studies*, ed. J.D. Babb, SAGE Publications Ltd, London 2015.

<sup>15</sup> I. Trifu, "Reform in Late Occupation Japan...", p. 212, G.R. Scott, "The Cultural Property Laws of Japan: Social, Political, and Legal Influences", *Pacific Rim Law & Policy Journal* 2003, vol. 12, no. 2, p. 45, N. Noriaki, "Heritage Management..."; J.R. Rutkowski, "Imperialist Legacies in East Asia: a comparative analysis of Living National Treasures in Japan, China, Korea, and Mongolia", A thesis submitted to the School of Graduate Studies Rutgers, The State University of New Jersey, New Brunswick, New Jersey, 2021, <https://rucore.libraries.rutgers.edu/rutgers-lib/66735/> (accessed: 20.04.2024).

<sup>16</sup> E. Kakiuchi, "Cultural heritage protection system in Japan: current issues and prospects for the future", *Gdańskie Studia Azji Wschodniej* 2016, issue 10, pp. 7–8.

<sup>17</sup> *Shamisen: The Magic of Japanese Instruments (Japanese Traditional Music)*, [https://www.youtube.com/watch?v=by4g6\\_uQleo](https://www.youtube.com/watch?v=by4g6_uQleo) (accessed: 28.02.2024).

<sup>18</sup> E. Kakiuchi, "Cultural heritage...", p. 12.

scope of the above-mentioned act also regulates measures to safeguard “Living National Treasures” – artists, often craftsmen, representing the highest degree of mastery in the relevant techniques and arts.<sup>19</sup>

### 3.2. Living National Treasures Program

The government’s primary objective in introducing this program is to ensure the transmission of traditional craftsmanship to future generations. Recognition of holders can take one of three forms: individual, collective, or group acknowledgment.<sup>20</sup> The agency responsible for conferring the title is the National Commission for the Protection of Cultural Properties, which has categorized cultural goods into specific general groups: ceramics, dolls, textile arts, metal, paper, lacquer, bamboo, and carpentry.<sup>21</sup> These categories define a particular group of products without specifying names or verbal designations. The procedure aims to protect craftsmen characterized by the highest degree of artistic craftsmanship in their own, often niche, field. This does not imply that a craftsman must be the most outstanding representative of a general field representing a broad Japanese tradition (e.g., pottery). Instead, it protects their artistic craftsmanship within a specific type of craft work, such as polychrome enamel glazing on porcelain.<sup>22</sup>

### 3.3. Procedure

The process of awarding the title of Living National Treasure in Japan involves multiple stages. Initially, the Cultural Affairs Agency appoints a National Commission for the Protection of Cultural Properties (NCPCP), comprising experts across various crafts and arts, including researchers, architects, writers, historians, art curators, and a representative from the Ministry of Education, Culture, Sports, Science, and Technology. This commission identifies individuals or groups eligible for the title, creating a list of former and current Living National Treasures based on the allocated annual budget for grants.<sup>23</sup> The National Commission selects

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<sup>19</sup> Agency for Cultural Affairs of Japan, “Intangible Cultural Properties”, [https://www.bunka.go.jp/english/policy/cultural\\_properties/introduction/intangible/](https://www.bunka.go.jp/english/policy/cultural_properties/introduction/intangible/) (accessed: 20.04.2024).

<sup>20</sup> B.C Adachi, “Preserving the Intangible: Japan’s Living National Treasures”, *Craft Horizons* 1978, vol. 38, no. 5; K. Kikuchi, “The Training Course for Safeguarding of Intangible Cultural Heritage 2011 – session 1: Japanese Administrative System for Safeguarding ICH”, 1.02.2011, <https://www.irci.jp/assets/site/2011PartnerProgram/en/session1.html> (accessed: 20.04.2024).

<sup>21</sup> J. Allen, “National Living Treasures: Japan’s Living Embodiments of Culture”, *Unseen Japan*, 28.03.2023, <https://unseen-japan.com/japan-national-living-treasures/> (accessed: 20.04.2024).

<sup>22</sup> Agency for Cultural Affairs of Japan, “Intangible Cultural Properties”, [https://www.bunka.go.jp/english/policy/cultural\\_properties/introduction/intangible/](https://www.bunka.go.jp/english/policy/cultural_properties/introduction/intangible/) (accessed: 20.04.2024).

<sup>23</sup> J.R Rutkowski, “Imperialist Legacies in East Asia...”, p. 21.

a maximum of 116 potential title bearers,<sup>24</sup> considering the significance of specific traditional fields. In addition to the budget, the recognition of a specific traditional field as “important” by the National Commission is also crucial.<sup>25</sup> An example of an individual with this title is Yasumasa Komiya, known for his expertise as a dyer of “Edo Komon” kimono fabrics.<sup>26</sup> Legal criteria for selection include acquiring skills in Japan, a deep-rooted connection to Japanese tradition passed down through generations,<sup>27</sup> and the ability to pass on knowledge and skills to successors.<sup>28</sup> Additional criteria include high artistic standing, craftsmanship,<sup>29</sup> and the creation of practical works.<sup>30</sup> Upon approval of initial candidates, the Committee of Examining Experts, comprising scholarly researchers, professors, and experts in specific fields, examines the eligibility prerequisites.<sup>31</sup> Documents on candidates’ profiles are publicized<sup>32</sup> in e.g. *The Japan Times*, and after deliberations by the Council for Cultural Affairs,<sup>33</sup> the Minister of Education, Culture, Sports, Science, and Technology makes the final decision, submitted for approval by the full government cabinet.

This approval is implemented through individual (*Kakko Nintei*), collective (*Sogo Nintei*), and conservation group (*Hoji Dantai Nintei*) certification. The title has a state character and is associated with national recognition. Receiving the title is not only an honor and a distinction but also comes with certain obligations to preserve the protected heritage. The Living National Treasure title can also be given to those who are engaged and are masters in their own fields, such as playing traditional instruments, ceremonial tea brewing, and flower arranging (*ikebana*)<sup>34</sup>. The grant awarded for this title amounts to 2 million yen (approx. 12,250 euros).<sup>35</sup>

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<sup>24</sup> D. Mcowan, “The Living National Treasures of Japan”, *Dai Ichi Arts, Ltd.*, 14.03.2023, <https://www.daiichiarts.com/blog/57/> (accessed: 20.04.2024).

<sup>25</sup> T. Kono, “The Legal Protection of the Intangible Cultural Heritage in Japan” [in:] *The Legal Protection of the Intangible Cultural Heritage: A Comparative Perspective*, ed. P.L. Petrillo, Springer International Publishing, Cham 2019.

<sup>26</sup> K. Grzybczyk, *soft power, a prawo własności intelektualnej* [Asian soft power, and intellectual property law], Wolters Kluwer, Warszawa 2024, p. 96.

<sup>27</sup> T.Y. Hui, J. Bremen, E. Ben-Ari, *Perspectives on Social Memory on Japan*, Brill, Kent 2005.

<sup>28</sup> “Living National Treasures – the link between past, present and future”, TOKI, 17.08.2023, <https://www.toki.tokyo/blogt/2023/8/9/living-national-treasures-the-link-between-past-present-and-future> (accessed: 20.04.2024).

<sup>29</sup> J.R. Rutkowski, “Imperialist Legacies in East Asia...”, p. 21.

<sup>30</sup> This is how, for example, swords are counted as a protected craft, due to their tradition of usefulness, or dolls displayed on *tokonama*, the use of which relates to the decoration of a traditional Japanese home, intended to demonstrate the lavishness of a particular home.

<sup>31</sup> J. Allen, “National Living Treasures...”

<sup>32</sup> J.R. Rutkowski, “Imperialist Legacies in East Asia...”, p. 24.

<sup>33</sup> “Living National Treasures...”

<sup>34</sup> *Ibidem*.

<sup>35</sup> J. Allen, “National Living Treasures...”

The main purpose of conferring these titles is to preserve traditions and pass on skills through diverse activities. Government funding supports skill maintenance, improvement, and educational activities, decided by the title holder. Examples include workshops, seminars, and lectures at universities. In addition, the products produced must be of a practical nature and must not be produced for decorative purposes. Traditional craft learning, often within families, relies on meticulous observation of technique of the master (*sensei*).<sup>36</sup> This enduring practice, rooted in ancient methods, involves strict teaching, learning from mistakes,<sup>37</sup> and striving for perfection. It imparts not just skills but also philosophy, historical context, and spiritual rituals, ensuring cultural continuity. However, Japan's westernization, low profitability, strict adherence requirements, and material unavailability contribute to diminishing interest in these ritualistic craft techniques among new apprentices.<sup>38</sup> Furthermore, the craftsmen themselves, who hold the above-mentioned title, emphasize the drawbacks of the formalization and establishment of procedures for granting the title of Living National Treasures. They highlight the pressure of creation and the significant responsibility that comes with increasing expectations, which can lead to premature death or hinder the actual development of cultural heritage.<sup>39</sup> This pressure arises from the inability to create unusual pieces, as artists are often constrained to produce only traditional art.

Additionally, the overly formalistic procedures associated with documenting their works prevent artists from genuinely focusing on the intangible, long-lasting rituals that enable the creation of artworks that are national heritage.<sup>40</sup> The organization of the above-mentioned educational activities is handled by The Japan *Kogei* Association.<sup>41</sup> In the context of the further creation and development of traditions, mention should be made of NFT's "ON-KO-CHI-SHIN" project<sup>42</sup>, part of the "JINP" (Japan Inspired NFT Portal), which presents a digital representation of works by *kogei* artists, including Living National Treasures. Its creative director is

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<sup>36</sup> T. Y. Hui, J. Bremen, J. Ben-Ari, *Perspectives on Social Memory...*; "Living National Treasures..."

<sup>37</sup> J. Allen, "National Living Treasures..."

<sup>38</sup> "Living National Treasures..."

<sup>39</sup> T. Y. Hui, J. Bremen, J. Ben-Ari, *Perspectives on Social Memory...*

<sup>40</sup> Conclusions after discussions with Living National Treasures at the international conference entitled. "Jikihitsu – the signature of the artist. The presence of Japanese tradition in contemporary Polish art", Warsaw, 10–12 June 2019.

<sup>41</sup> *Handbook for the Appreciation of Japanese Traditional Crafts*, <https://www.nihonkogeikai.or.jp/en>, (accessed: 20.04.2024).

<sup>42</sup> CyberZ Inc., "Announcing the launch of 'ON-KO-CHI-SHIN,' an NFT project in which the 'Living National Treasures' worldly showcase the captivating legacy of the Japanese *kogei* in hopes to preserve the traditional cultures", PR Newswire, 30.01.2023, <https://www.prnewswire.com/news-releases/announcing-the-launch-of-on-ko-chi-shin-an-nft-project-in-which-the-living-national-treasures-worldly-showcase-the-captivating-legacy-of-the-japanese-kogei-in-hopes-to-preserve-the-traditional-cultures-301733113.html> (accessed: 20.04.2024).

“RK”, whose goal is to pass on the *kegei* tradition to future generations. The project offers unique NFTs, emphasizing the importance of preserving cultural practices in both the traditional and digital realms. Purchasers of the NFT are not entitled to any intellectual property rights, prohibiting reproduction, editing, or alteration. Only non-commercial use on social media platforms is permitted.

#### 4. Protection of crafts under the Agreement between the European Union and Japan for an Economic Partnership

In the context of the protection of craft products in Europe, mention should be made of the new Regulation (EU) 2023/2411, effective from 2025, which introduces comprehensive Europe-wide protection of geographical indications for craft and industrial products.

The regulation aims to protect these products from imitation, even in the realm of domain names on the Internet. The genesis of this regulation lies in the recognition of the potential to individualize goods by indicating their geographical origin,<sup>43</sup> which prompted the adoption of legislation to protect against unfair competition and unlock economic potential.<sup>44</sup> Regulation (EU) 2023/2411, while not an isolated piece of legislation,<sup>45</sup> is a response to the need to preserve craft products representing traditions passed down from generation to generation.

Because of the introduction of the above-mentioned protection in 2025, it should be assumed that, as in the case of geographical indications for food and wine products, cooperation between EU and Japan in this regard will take place on the basis of the Agreement between the European Union and Japan for an Economic Partnership signed on 17 July 2018 (OJ L 330/3, 27.12.2018) (hereinafter: EPA). Pursuant to it, both Parties shall establish or maintain in their territories a system of registration and protection of the said indications, which shall include an official way of making the list of registered geographical indications available to the public, an administrative procedure to verify whether a geographical indication identifies

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<sup>43</sup> The Agreement for the Suppression of False or Misleading Designations of Origin of 14 April 1891 (World Intellectual Property Organisation), TRT/MADRID-IP/001; Paris Convention for the Protection of Industrial Property adopted in Paris on 20 March 1883 (as amended on 28 September 1979), World Intellectual Property Organisation, TRT/PARIS/001.

<sup>44</sup> E. Nowińska, *Prawo własności przemysłowej, wzory przemysłowe, znaki towarowe, oznaczenia geograficzne, topografie układów scalonych* [Industrial Property Law, industrial designs, trademarks, geographical indications, topographies of integrated circuits], vol. 2, Kantor Wydawniczy Zakamycze, Kraków 2005, p. 83.

<sup>45</sup> An example of the act: Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ L 343, 14.12.2012, pp. 1–29).



a good as originating from the territory of a Party or from a region or locality in the territory of that Party, when a given quality, reputation or other characteristics of a good are essentially attributed to its geographical origin, an objection procedure that allows the legitimate interests of third parties to be taken into account and a procedure for cancellation of the indication in question, taking into account the legitimate interests of third parties and users of the registered geographical indications in question (chapter 14 art. 23 of EPA). The registration procedure provided for in the new EU regulation is similar to the existing protection of agricultural products and foodstuffs,<sup>46</sup> as well as trademarks (art. 25 para. 1 of the Regulation (EU) 2023/2411), including a regulated opposition procedure of two months at the national level and three months at the EU level for those entitled to object. The lists of said designations protected in the EU as well as Japan, in addition to bringing commercial benefits, provide consumers with a guarantee of authentic products from two regions with rich culinary and cultural wealth.<sup>47</sup>

## 5. Conclusions

Comparing the legal solutions described above, it is possible to come to the conclusion that legislators clearly recognize the need to effectively respect cultural heritage in international, European, and national regulations, despite the differences in the catalogs in terms of the main premises underlying consideration of cultural heritage. Preservation and protection of the traditions of a given region, the desire to individualize a given commodity and, as a result, increase its value are only some of them. It should also be pointed out here, for example, that the historical-sociological relationship between the initiators of the protection of cultural heritage of UNESCO and Japan see its goals in a demonstration of state repentance for and rejection of the militaristic image of Japan,<sup>48</sup> and the pursuit of internal restructuring of its own cultural policy and reintegration into international society.<sup>49</sup> Regardless of the rationale for emphasizing the value of preserving the heritage of handicrafts, efforts and endeavors to protect them should be viewed positively,

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<sup>46</sup> I. Barańczyk, *Ochrona prawna oznaczeń geograficznych* [Legal Protection of Geographical Indications], Difin, Warszawa 2008, p. 233.

<sup>47</sup> “EU-Japan: An additional 42 geographical indications protected for both sides”, 27.09.2023, [https://www.eeas.europa.eu/delegations/japan/eu-japan-additional-42-geographical-indications-protected-both-sides\\_en](https://www.eeas.europa.eu/delegations/japan/eu-japan-additional-42-geographical-indications-protected-both-sides_en) (accessed: 20.04.2024).

<sup>48</sup> Japan was the first member allowed to join UNESCO after World War II ; see: T. Kono, „The Legal Protection...”, p. 55.

<sup>49</sup> T. Saikawa, “Returning to the International Community: UNESCO and Post-War Japan, 1945–1951” [in:] *A History of UNESCO: Global Actions and Impacts*, ed. P. Duedahl, Palgrave Macmillan UK, London 2016.

given the need to continue national practices of a cultural nature and protect the intangible cultural heritage resulting from traditional handicrafts. Legislators in both Europe and Japan appear to have noticed a link between the protection of traditions and international cultural promotion.<sup>50</sup> The protection of food-like products, present in European regulations since 1950,<sup>51</sup> has its genesis in this assumption. The initiative to extend the scope of crafts recognized by the Living National Treasures program eligible for protection and recognition with the aforementioned Japanese national title to culinary products is consistent with this. In this context, it is important to point out that the Japanese efforts to recognize the traditional dietary cuisine *Washoku* as an intangible cultural heritage of humanity by UNESCO are related to its ritual significance.<sup>52</sup> As an addendum, it is also important to highlight the amendment of the Law on the Protection of Cultural Property to create a registration system for intangible cultural property and intangible folklore property in 2022. According to its content, intangible goods considered important in Japan will be registered if they require protection. Entities with registered goods will be able to receive state financial support.<sup>53</sup> A global initiative aimed at safeguarding endangered crafts is worth noting: ARCH (Alliance for Rare Crafts Heritage), which brings together partners who combine their knowledge and networks in a think tank dedicated to rare crafts and to initiating collaborative interventions.<sup>54</sup>

The institutionalized and formalized nature of craft heritage protection seems a necessary and appropriate form of documenting and an attempt to materialize what is intangible and most valuable – traditions and skills passed down from generation to generation that can develop into cultural promotion on an international level. The basis of any materialized craft work is the labor-intensive acquired skills of the artisan, which is noted by attempts to protect intangible cultural heritage in international regulations and, as a result, also in Japanese law regulating this matter.

Opponents of the protection described stress that bureaucratic efforts to record and preserve artistic techniques by empirical means are inherently limited in their ability to effectively maintain and transmit the artistic methods mentioned. Each,

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<sup>50</sup> In this context, it is crucial to point the revision of the National Tourism Promotion Act in Japan per K. Kikuchi, “The Training Course...”, p. 7.

<sup>51</sup> Paris Convention for the Protection of Industrial Property (as amended on September 28, 1979); The Agreement for the Suppression of False or Misleading Designations of Origin.

<sup>52</sup> “Japan Eyes Adding Culinary Masters as ‘Living National Treasures’”, *Kyodo News+*, 4.01.2020, <https://english.kyodonews.net/news/2020/01/59188737e10b-japan-eyes-adding-culinary-masters-as-living-national-treasures.html> (accessed: 20.04.2024).

<sup>53</sup> *Cultural Properties for Future Generations Outline...*; “Special Feature 1: Development of Cultural Policies that Promote Social and Economic Values”, Ministry of Education, Culture, Sports, Science and Technology – Japan, [https://www.mext.go.jp/b\\_menu/hakusho/html/hpab201701/detail/1418065.htm](https://www.mext.go.jp/b_menu/hakusho/html/hpab201701/detail/1418065.htm) (accessed: 20.04.2024); K. Grzybczyk, *Azjałycki soft power...*, p. 96.

<sup>54</sup> “About the ARCH”, <https://www.thearch.org/> (accessed: 20.04.2024).

unique example of craftsmanship, both in Japan and Europe, conceals a specific technique, meaning, aesthetics, and patterns that are rooted in human experience. The memory of them is intangible, even elusive, just like the transmission of the skills involved: it takes place in the absence of words.<sup>55</sup> It seems difficult, if not simply impossible, to materialize the heritage in the form of word markings or titles of national character.

Paradoxically, these goals are united by the project proposed by “RK”: “ON-KO-CHI-SHIN” combining *kozei* heritage with contemporary art, since the use of NFT technology makes it possible to digitize cultural heritage, which can contribute to its long-term preservation. The digital representation of the heritage created by Living National Treasures can contribute to easier preservation and making it available for future generations. However, this can take place only in the context of the present-day disadvantages of the necessary technology, which include energy-intensive mining processes of blockchain networks (such as Ethereum) or security risks. Thus, this does not seem to be a timeless solution or the most appropriate one. Taking into account all the aspects described above, the protection of word designations of craft products proposed by European legislation appears currently to be the best compromise, although its full effectiveness in the context of safeguarding the cultural heritage of craftsmen will only be determined over time after its full implementation.

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<sup>55</sup> T.Y. Hui, J. Bremen, J. Ben-Ari, *Perspectives on Social Memory...*, p. 155.

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## SUMMARY

*Wiktoria Sikorska*

### THE ARTISTRY OF TRADITION: A COMPARATIVE ANALYSIS OF CRAFT HERITAGE PROTECTION IN EUROPE AND JAPAN

The article undertakes a comparative analysis of the protection of craft heritage in Europe and Japan, focusing on the “Living Human Treasures” program within the framework of UNESCO Guidelines for the Establishment of National “Living Human Treasures.” Additionally, the study addresses the protection of crafts based on Regulation (EU) 2023/2411 concerning the protection of geographical indications for craft and industrial products, narrowing its scope to the protection of craftsmanship. It analyzes the foundations of protection, its structure, and presents examples of products qualifying for protection. The comparative study contributes to a nuanced understanding of the diverse approaches and legal frameworks employed by Europe and Japan in safeguarding their rich craft heritages. By juxtaposing the European Regulation and the Japanese “Living National Treasures” system based on UNESCO protection, the article aims to draw insights into best practices and potential areas for improvement in the protection of traditional crafts on a global scale.

Keywords: Craft heritage, Geographical indications, Living National Treasure

## STRESZCZENIE

*Wiktoria Sikorska*

### KUNSZT TRADYCJI: ANALIZA PORÓWNAWCZA OCHRONY DZIEDZICTWA RZEMIEŚLNICZEGO W EUROPIE I JAPONII

W artykule przeprowadzono analizę porównawczą ochrony dziedzictwa rzemieślniczego w Europie i Japonii, koncentrując się na programie „Żywe skarby ludzkości” w ramach

wytycznych UNESCO dotyczących ustanowienia krajowych „żywych skarbów ludzkości”. Ponadto badanie dotyczy ochrony rzemiosła w oparciu o rozporządzenie 2023/2411 w sprawie ochrony oznaczeń geograficznych produktów rzemieślniczych i przemysłowych. Przeanalizowano podstawy ochrony, jej strukturę oraz przedstawiono przykłady produktów kwalifikujących się do ochrony. Studium porównawcze przyczynia się do lepszego zrozumienia różnych podejść i ram prawnych stosowanych w Europie i Japonii w celu ochrony ich bogatego dziedzictwa rzemieślniczego. Poprzez zestawienie europejskiego rozporządzenia i japońskiego systemu „Living National Treasures” opartego na ochronie UNESCO artykuł ma na celu wyciągnięcie wniosków na temat najlepszych praktyk i potencjalnych obszarów wymagających poprawy w zakresie ochrony tradycyjnego rzemiosła w skali globalnej.

Słowa kluczowe: dziedzictwo rzemieślnicze, oznaczenia geograficzne, żywy skarb narodowy