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INFORMATION NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Regulation on geographical indications and quality schemes
- Summary of public feedback received after adoption of the proposal

Delegations will find attached, for information, a letter by the European Commission's Director-General for Agriculture and Rural Development to the chair of the Special Committee on Agriculture with a summary of the public feedback received after the adoption of the proposal for a Regulation on geographical indications and quality schemes.



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

The Director-General

Brussels
AGRI.F.3/VD(2022)8102232

Subject: Revision of agricultural geographical indications: Summary of the public feedback received after the adoption of the proposal

Dear Mr Němec,

On 31 March 2022, the Commission adopted a Proposal for a Regulation of the European Parliament and of the Council on European Union geographical indications for wine, spirit drinks and agricultural products, and quality schemes for agricultural products⁽¹⁾. The proposal contributes to the objectives pursued by the Common Agricultural Policy (CAP), in particular to improve the response of EU agriculture to societal demands on economic, social and environmental sustainability outcomes of agricultural production. The overall goal of the revision of geographical indications (GIs) is to facilitate the uptake of GIs across the Union, as intellectual property instruments accessible to all farmers and producers of products, linked by characteristics or reputation, and to their place of production.

As part of the Commission's Better Regulation framework, legislative proposals and accompanying impact assessments, which are put forward to the European Parliament and to the Council, are opened for public feedback once they have been adopted by the Commission. This letter summarises the feedback received through the Commission 'Have your say' webpage between April and June 2022⁽²⁾.

1. RESPONDENTS

The Better Regulation Portal registered 41 contributions: 14 from business associations, 8 from non-governmental organisations, 7 from company/business organisations, 3 from EU citizens, 2 from consumer organisations, 2 from public authorities and 5 that classified themselves as “others”.

⁽¹⁾ COM(2022) 134 final

⁽²⁾ [Food & drink – EU geographical indications scheme \(revision\) \(europa.eu\)](https://european-council.europa.eu/media/en/press-communications/infographic/infographic-2022-04-20-01.pdf)

Mr Stanislav Němec
SCA Spokesperson
Permanent Representative of the Czech Republic to
the European Union
Rue Caroly / Carolystraat, 15
B-1050 Bruxelles/Brussel

10 contributions came respectively from Italy and France, 7 from Belgium, 5 from Germany, 3 from Spain, 2 from Portugal, and 1 respectively from Finland, Czech Republic, Bulgaria and Austria.

2. FEEDBACK

On the definition of GIs, some respondents suggest harmonising definitions of geographical indications in line with the definition in the TRIPS agreement to avoid differences in understanding and characterisation of a “genuine” versus an “illicit” GI. Others propose referring to the Lisbon agreement on GIs by keeping the word “quality”.

On the definition of “consumer”, two respondents suggest clarifying the notion of “*reasonably circumspect consumer*” in relation to “*average consumer*” or the definition in the current European jurisprudence (Champannillo) “*average European consumer (who is normally informed and reasonably attentive)*” to define the expected degree of information to consumers.

On sustainability, the respondents underline:

- That sustainability efforts need to be and remain voluntary. GI groups would have the mission to disseminate and communicate on best sustainable practices;
- The need for a clear definition of sustainability based on the three pillars, environmental, social and economic (except for one respondent indicating that a set of minimum requirements per product category should be defined to assess the quality of the products);
- The fact that the European Commission should not be granted powers to adopt delegated acts based on an ex-post definition of sustainability. If criteria for the recognition of sustainability standards for GIs are to be established, they should be directly included in the Regulation.

On the “**producer group**” and the “**recognised producer group**”, the respondents would like:

- More clarity on the definition and a harmonisation of the terms: “producer groups”, “recognised producer groups”, “producer groups representing two thirds of producers”, etc.;
- No actor other than producers be involved in the internal functioning of producer groups and recognised producer groups, unless these groups decide otherwise;
- To let the Member States maintain or improve their national system thanks to the subsidiarity principle;
- A definition of general rules and principles applicable to GI groups, their powers and responsibilities as well as how a GI group can be recognised by the Member State while considering national specificities;
- Additional power to GI groups to manage, defend and promote their products and their protected names (EU wide right for producer groups to take legal proceedings before the civil courts and to claim damages/illegal profits on behalf of its producer members).

On protection/evocation, some respondents suggest withdrawing the proposed definition of evocation, which is incomplete and does not take into account the virtual

dimension, but also other applicable jurisprudences in this matter and rely on the European Court of Justice jurisprudence.

On the protection of GIs as an ingredient, some respondents would like to reinforce the protection of GIs used as ingredients by:

- Reintroducing the sentence “including when used as ingredients” in the main Article on GI protection and ensuring that the GI groups have a say in the use of the name of their GI in the food name of the processed product;
- Defining the term ‘food name’ as newly introduced;
- Clarifying rules on the use of GIs used as ingredients in the new Regulation (and not in the delegated acts), in particular the authorisation of the use of the logos, the agreement of the group of producers to use the GI in the sales denomination of the product.

On Domain Name System (DNS) and online protection, the respondents would like to go further with regard to the protection of GIs online by:

- Introducing provisions that will allow for the fight against abuses on the internet, notably with regard to all domain names’ registration;
- Recognising the power to suspend or remove contentious domain names on the basis that they include or evoke a GI;
- Accentuating the European Commission’s efforts to increase the liability of online intermediaries in the notification and removal of illegal advertisements infringing GIs;
- Making the e-commerce platforms responsible for withdrawing references to products infringing GIs and for transmitting information to the right holder (for generic top-level (=gTLD) domain names, e.g. “.Cognac”)

On the delegation of tasks to EUIPO (EU Intellectual Property Office), most respondents:

- Reject the externalisation of the management of the GI system to EUIPO by delegated acts. The powers and tasks that the Commission may delegate to EUIPO need to be clearly defined in the main Regulation and specified in the form of an exhaustive positive list and may include only non-essential tasks. Such a listing should also include powers that the Commission cannot delegate;
- Consider the proposed delegation to EUIPO risks weakening the specificity of GIs as tools for rural development and spatial planning and as a symbol of the quality of the European food products (no expertise in agricultural issues/very limited understanding of GIs, no simplification of procedures due to an additional player);
- Would like that the Commission remains in charge of the registration, amendment, opposition and cancellation of GIs, and the assessment of the applications and amendments of product specifications;
- Define clearly the role of EUIPO, which could include areas where it can bring an added-value:
 - o The management of the GI register,
 - o Support for the protection of GIs in domain names’ registration as provided for in the Commission proposal,

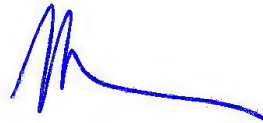
- The improvement of the fight against counterfeiting and piracy of GIs through the European Observatory on Infringements of Intellectual Property Rights,
- Support to the Commission with regard to the GI registration procedures for aspects concerning only intellectual property rights, such as the verification of possible conflicts with trademarks.

On the EU symbol, a few respondents would like the Commission to strengthen the provision regarding the authorisation of the use of the EU symbol and specify how to use it on the labelling of products where the GI is used as an ingredient.

On simplified procedures, a few respondents consider that:

- Regarding wine GIs, the registration, amendments, cancellation, and protection provisions can be harmonised with those for agricultural products and spirit drinks, but the texts cannot be merged. Regulation on the common market organisation of the markets should include all provisions related to wine management, to ensure coherence (wine labelling, planting authorisations, competition law issues, etc.).
- It is necessary to give a clear timeframe and speed up the amendment procedure that affects the adjustments of production processes to external changes and pressures, like climate change.

On controls, one respondent would like to clarify that ‘certification bodies’ must only verify compliance with the specifications and that they are not in charge and cannot issue ‘certificates of authorisation to produce’. For another respondent, it does not appear necessary to require an on-the-spot check.



Wolfgang BURTSCHER

Copy:

Mr. Cesare Onestini
Director-General LIFE
General Secretariat of the Council of the European Union
Rue de la Loi / Wetstraat 175
B-1048 Bruxelles/Brussel

Ms. Ilze Juhansone
Secretary General
European Commission
Rue de la Loi / Wetstraat 200
B-1049 Bruxelles/Brussel