



Council of the European Union
General Secretariat

**Interinstitutional files:
2018/0218(COD)**

Brussels, 05 December 2019

WK 10483/2019 ADD 13

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WORKING PAPER

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	7451/1/19 REV 1 + COR 1
N° Cion doc.:	9556/18 + REV 1 (en, de, fr) + COR 1
Subject:	Regulation on common market organisation (CMO) of agricultural products - Greek comments

Delegations will find attached the comments from the Greek delegation.



HELLENIC REPUBLIC
MINISTRY OF RURAL DEVELOPMENT AND FOOD
DIRECTORATE GENERAL OF FOOD
DIRECTORATE OF QUALITY SCHEMES AND ORGANIC FARMING
DIRECTORATE OF FOOD EXPLOITATION AND TECHNOLOGY

Athens, 2 December 2019
Ref. Nr: 1267/311635

To: GENERAL SECRETARIAT OF THE COUNCIL

Subject: Regulation on common market organization (CMO) of agricultural products –Greek comments.

I) As regards WD 7451/1/19/REV 1/27-5-2019 DRAFT REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL «Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labeling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands», the Greek comments are the following:

I. As regards Article 2 - Amendments to Reg. (EU) 1151/2012:

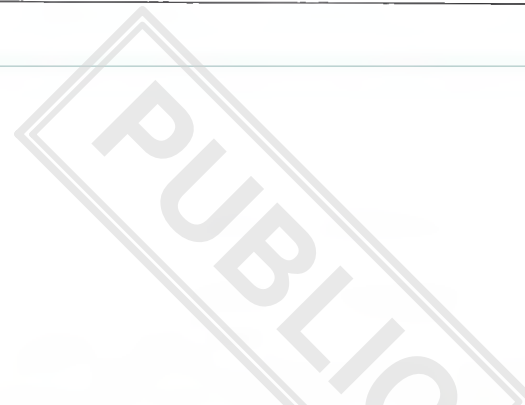
In general the proposal includes provisions which simplify the existing procedure in a certain degree, for which in principle we are not opposed to. However, there are some points for which we would like to express some reservations or disagreements.

Article 2 Amendments to Regulation (EU) No 1151/2012	Comments of Greece
Regulation (EU) No 1151/2012 is amended as follows: (1) in Article 2, paragraphs 2 and 3 are replaced by the following: '2. This Regulation shall not apply to spirit drinks or grapevine products as defined in Part II of Annex VII to Regulation (EU) No 1308/2013, with the exception of wine-vinegars. 3. This Regulation, and in particular the registrations made pursuant to Article 52, shall be without prejudice to compliance of products concerned with other Union rules relating in particular to the placing of products on the market, marketing and to food labeling.; (2) in paragraph 1 of Article 5, point (b) is replaced by the following: '(b) whose quality or characteristics are essentially or	

<p>exclusively due to a particular geographical environment, with its inherent natural factors and where relevant human factors;'</p>	<p>(2) We agree with the deletion. <u>Recital:</u> Human factors are indeed essential in the characterization of a product with a protected designation of origin. Alleviating the human factors would moreover affect the protection of products at international level where opponents will often evoke similarities in the natural and geographical environment to undermine the specificity of designations of origin.</p>
<p>(3) in paragraph 1 of Article 7, point (d) is deleted;</p>	<p>(3) We agree with the deletion. <u>Recital:</u> The text of the Regulation (EU) 1151/2012 in force should remain unchanged. In our opinion the point of proof of origin is important, as it is in addition to the general traceability principles provided for in Reg. 178/2002. Applying this, businesses are obliged to keep inputs / outputs balance records in order to prove the origin of the product and of its raw materials. Moreover, competent control authorities include in their control plans the proof of origin as a critical one for the credibility of the PDO/PGI scheme. Therefore, we don't agree with the Commission's view as we consider that this point ensure consumer protection and enhance the credibility of PDO / PGI quality systems. Also, the Commission's intention to delete the point of proof of origin from Reg. (EU) 1151/2012 but to allow Member States to maintain it if they wish so, is considered problematic. In our opinion, this proposal enhances the lack of uniformity on the evaluation of the PDO / PGI applications between Member States and possibly results in unequal treatment.</p>
<p>(3a) in Article 7, paragraph 1 point (f) is replaced by the following: (f) details establishing the following: (i) as regards a protected designation of origin the link between the quality or characteristics of the product and the geographical environment referred to in Article 5(1); the details concerning human factors of that geographical environment may, where relevant, be limited to a description of the soil, landscape management and cultivation practices or other relevant human contribution to the maintenance of the natural factors of the geographical environment referred to in Article 5(1); (ii) as regards a protected geographical indication, the link between a given quality, the reputation or other</p>	<p>(3a) We don't agree with the proposed text and we prefer the text to remain as it is in the Reg. (EU) 1151/2012. <u>Recital:</u> We consider that it's the combination of natural factors and human factors of a geographical environment as a whole is essential for the link of a product with its geographical area.</p>

<p>characteristic of the product and the geographical origin referred to in Article 5(2);</p>	
<p>(4) in paragraph 1 of Article 10, the introductory sentence wording is replaced by the following: 'A reasoned statement of opposition as referred to in Article 51(1) shall be admissible only if it is received by the Commission within the time limit set out in that paragraph and if it:';</p>	
<p>(5) in Article 13, the following paragraph 4 is added: '4. The protection referred to in paragraph 1 shall also apply with regard to: <i>a) goods entering the customs territory of the Union without being released for free circulation within the customs territory of the Union and with regard to</i> <i>b) goods sold through means of distance selling such as electronic commerce.'</i> <i>For goods entering the customs territory of the Union without being released for free circulation within that territory, the group or any producer entitled to use the protected designation of origin or protected geographical indication shall be entitled to prevent all third parties from bringing goods, in the course of trade, into the Union without being released for free circulation there, where such goods, including packaging, come from third countries and bear without authorisation the protected designation or indication.</i></p> <p>Greek proposal: (5) In Article 13 , the following paragraph 4 is added: « 4. The protection referred to in paragraph 1 shall also apply with regard to: (a) goods when declared for release for free circulation, export or re-export (b) goods when entering or leaving the customs territory of the Union (c) goods when placed under a suspensive procedure or in a free zone or free warehouse (d) goods when sold through means of distance selling such as electronic commerce.</p>	<p><i>(5) We welcome the Commission's proposal to extend the protection of the registered names of Article 13 to e-commerce and customs, however in our opinion does not include all the cases.</i> <i>We believe that is important, the proposed Regulation to be in line with the Reg. (EU) 608/2013 and particularly Article 13 to be in line with Article 1 (scope) of Reg. (EU) 608/2013 on customs enforcement of intellectual property rights, including Geographical Indications.</i> <i>Moreover, we have reservations on how the provision on the proposed new paragraph could work. Our country has mostly small producer groups with limited financial and administrative resources. Therefore, it would be difficult for them to follow trade flows and detect possible infringements of GI legislation throughout EU. We propose that products entering the Union or exporting in Third countries which misuse, imitate or evoke the registered GI names to be prevented by customs without being required group's intervention.</i> <i>Therefore we propose a different wording for paragraph 4 to be added.</i></p>
<p>(6) Article 15 is amended as follows:</p> <p>(a) in paragraph 1, the second subparagraph is replaced by the following: 'Those implementing acts shall be adopted without applying in accordance with the examination procedure referred to in Article 57(2) <i>except those where the admissible statement of opposition is lodged under Article 49(3).'</i>';</p>	<p><i>6 (a) While we think that the amendment intends to simplify the process, we would like clarifications concerning the addition of "except those... Article 49 (3)" on how Member States will handle acceptable national objections. Should a transitional period be given directly by the Member State or by the Commission without applying the examination procedure of Article 57 (2)?</i></p>

<p>(b) in paragraph 2, the introductory sentence wording is replaced by the following: 'Without prejudice to Article 14, the Commission may adopt implementing acts extending the transitional period mentioned in paragraph 1 of this Article <i>up to 15 years</i> in <i>duly</i> justified cases where it is shown that:';</p>	<p><i>Also, for point 6 (b) we consider that the extension of the transitional period should remain for up to 15 years as it is a satisfactory transition period for business harmonization.</i> <i>The initial Commission's proposal not to indicate a maximum duration for certain transitional periods weakens the protection of protected designations of origin or protected geographical indications. The absence of a time limit could lead to confusion among consumers and result in unfair treatment for producers.</i></p>
<p>(7) the following Article 16a is inserted: 'Article 16a Existing geographical indications for aromatised wine products Names entered in the register established pursuant to Article 21 of Regulation (EU) No 251/2014 of the European Parliament and of the Council* shall automatically be entered in the register referred to in Article 11 of this Regulation <i>as protected geographical indications</i>. The corresponding specifications shall be deemed to be the specifications for the purposes of Article 7 of this Regulation. * Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84, 20.3.2014, p. 14).';</p>	<p><i>We agree with the addition.</i></p>
<p>(8) in paragraph 1 of Article 21, the introductory sentence wording is replaced by the following: 'A reasoned statement of opposition as referred to in Article 51(1) shall be admissible only if it is received by the Commission before expiry of the time limit and if it:'; <i>(8a) Article 24 is amended as follows:</i> <i>(a) paragraph 1 is replaced by the following:</i> <i>'1. Registered names shall be protected against any misuse, imitation or evocation, including as regards products used as ingredients, or against any other practice liable to mislead the consumer.'</i>; <i>(b) the following paragraph is added:</i> <i>'4 . The protection referred to in paragraph 1 shall also apply with regard to goods sold through means of distance selling such as electronic commerce.'</i>;</p>	<p><i>(8a) We agree with the proposed text</i></p>
<p>(9) the following Article 24a is inserted: 'Article 24a Transitional periods for use of traditional specialities guaranteed The Commission may adopt implementing acts granting a transitional period of up to five years to enable products the designation of which consists of or contains</p>	<p><i>Similarly to item 6a), we believe that it should be clarified how these admissible objections would be handled.</i></p>

<p>a name that contravenes Article 24(1) to continue to use the designation under which they were marketed on condition that an admissible statement of opposition under Article 49(3) or Article 51 shows that such name has been legally used on the Union market for at least five years preceding the date of the publication provided for in point (a) of Article 50(2).</p> <p>Those implementing acts shall be adopted without applying in accordance with the examination procedure referred to in Article 57(2) <i>except those where an admissible statement of opposition is lodged under Article 49(3).'</i></p>	
<p>(10) in Article 49, the following paragraphs 8 and 9 are added:</p> <p>'8. The Member State shall inform the Commission without delay if any procedure is initiated before a national court or other national body concerning an application lodged with the Commission, in accordance with paragraph 4.</p> <p>9. Where appropriate, the Commission may adopt implementing acts to suspend the scrutiny of the application for registration referred to in Article 50 until a national court or other national body has adjudicated on a challenge to an application for registration where the Member State has taken a favourable decision in a national procedure in accordance with paragraph 4.</p> <p>Those implementing acts shall be adopted without applying the examination procedure referred to in Article 57(2).'</p>	<p><i>We have significant reservations about the modifications provided for in this item as it is not certain that the Competent Authorities of the Member States will be aware of these appeals when they are lodged.</i></p> <p><i>We agree with the deletion. (See our comments on point (11)).</i></p>
<p>(11) Article 50 is replaced by the following:</p> <p>'Article 50 Scrutiny by the Commission and publication for opposition</p> <p>1. The Commission shall examine applications for registration that it receives in accordance with Article 49 (4) and (5). The Commission shall review<i>check that</i> the applications <i>contain the required information and that they do not contain</i> for manifest errors, taking into account the outcome of the scrutiny and opposition procedure carried out by the Member State concerned. Scrutiny by the Commission should not exceed a period of six months from the date of receipt of the application from the Member State. Where this period is exceeded, the Commission shall inform the applicant <i>of the reasons for the delay</i> in writing of the reasons for the delay.</p> <p>The Commission shall, at least each month, publish the list of names for which applications for registration have been submitted to it, as well as the date of their submission.</p>	<p><i>As regards paragraph 1, we do not agree with the proposed text as we do believe that it should remain as it is in Article 50 (1) of the Reg. (EU) 1151/2012 in force: «The Commission shall scrutinize by appropriate means any application that it receives pursuant to Article 49, in order to check that it is justified and that it meets the conditions of the respective scheme».</i></p> <p><i>In our opinion, the evaluation of applications as it is described in the proposed text, seems to be a purely bureaucratic/administrative management of applications, undermining the credibility of quality schemes, as no more technical and quality criteria will be evaluated at Commission level for any agricultural product and foodstuff.</i></p> <p><i>Thus, the main responsibility of the evaluation falls in the Competent Authorities of the Member States, each of which will possibly evaluate applications in a quite a different way (some with strict criteria and others with less strict). Therefore, the uniformity of implementation of the PDO/PGI scheme within the Union will be weakened, as there will be no technical evaluation by</i></p>

<p>2. <i>The Commission shall adopt delegated acts, in accordance with Article 56, supplementing this Regulation by laying down a non-exhaustive list of grounds for the suspension of the scrutiny</i></p> <p>3. <i>In duly justified cases, including as set out in the framework provided by the delegated acts referred to in paragraph 2 of this Article, the Commission may adopt implementing acts to suspend the scrutiny of the application for registration referred to in this Article until a national court or other national body has adjudicated on a challenge to an application for registration where the Member State has taken a favourable decision in a national procedure in accordance with Article 49(4). Those implementing acts shall be adopted without applying the examination procedure referred to in Article 57(2).</i></p> <p>4. Where, based on the scrutiny carried out pursuant to paragraph 1, the Commission considers that the conditions laid down in Articles 5 and 6 are fulfilled as regards registration applications under the scheme set out in Title II, or that the conditions laid down in Article 18(1) and (2) are fulfilled as regards applications under the scheme set out in Title III, it shall publish in the <i>Official Journal of the European Union</i>:</p> <p>(a) for applications under the scheme set out in Title II, the single document and the reference to the publication of the product specification;</p> <p>(b) for applications under the scheme set out in Title III, the specification.';</p>	<p><i>the Commission, based on objective and uniform criteria.</i></p> <p><i>As regards paragraphs 2 and 3, first of all we should take into account that Member States are required to conduct a national opposition procedure and to rule on any opposition, always in the light of legislation (EU and national), the technical details of the application and the overall experience of the scheme.</i></p> <p><i>In our opinion, a procedure initiated before a national court, should not prevent the Commission from examining the individual application, as this process can take many years and the registration of the GI would be unreasonably delayed. Moreover, if the opportunity of suspension of the scrutiny was provided, then there would be a risk that the opponents would appeal to the national courts knowing that they will gain extra time by that.</i></p> <p><i>Finally, we find it useful to mention that from our experience so far, the scrutiny of applications by the Commission, clarifying the facts at issue, has been a deterrent to the lengthy national court proceedings.</i></p>
<p>(12) Article 51 is amended as follows:</p> <p>(a) paragraph 1 is replaced by the following:</p> <p>'1. Within three months from the date of publication in the <i>Official Journal of the European Union</i>, the authorities of a Member State or of a third country, or any natural or a legal person <i>resident or established in a third country and</i> having a legitimate interest and established in a third country, may lodge a reasoned statement of opposition with the Commission.</p> <p>Any natural or a legal person having a legitimate interest, resident or established or resident in a Member State other than that from which the application was submitted <i>and having a legitimate interest</i>, may lodge a reasoned statement of opposition with the Member State in which it is resident or established</p>	<p><i>We agree with the proposed text.</i></p>

within a time limit permitting an opposition to be lodged pursuant to the first subparagraph.';

(b) paragraph 2 is replaced by the following:

'2. The Commission shall examine the admissibility of the reasoned statement of opposition based ~~in particular~~ on *the* grounds of opposition laid down in Article 10 as regards protected designations of origin and protected geographical indications and based ~~in particular~~ on the grounds for opposition laid down in Article 21 as regards traditional specialities guaranteed.';

(c) paragraph 3 is replaced by the following:

'3. If the Commission considers that the reasoned statement of opposition is admissible it shall, within five months from the date of publication of the application in the *Official Journal of the European Union*, invite the authority or person that lodged the reasoned statement of opposition and the authority or body that lodged the application with the Commission to engage in appropriate consultations for a reasonable period that shall not exceed three months.

The authority or person that lodged the reasoned statement of opposition and the authority or body that lodged the application shall start such appropriate consultations without undue delay. They shall provide each other with the relevant information to assess whether the application for registration complies with the conditions laid down in this Regulation. If no agreement is reached, this information shall be provided to the Commission.

At any time within the period of consultations, the Commission may, at the request of the applicant extend the deadline for the consultations by a maximum of three months.';

(d) paragraph 5 is replaced by the following:

'5. The reasoned statement of opposition and other documents which are sent to the Commission in accordance with paragraphs 1, 2 and 3 shall be in one of the official languages of the Union.';


(13) in Article 52, paragraphs *1 and 2* ~~is are~~ are replaced by the following:

'1. Where, on the basis of the information available to the Commission from the scrutiny carried out pursuant to the first subparagraph of Article 50(1), the Commission considers that the conditions laid down in Articles 5 and 6, as regards the quality schemes set out in Title II, or in Article 18, as regards the quality schemes set out in Title III, are not fulfilled, it shall adopt implementing acts rejecting the application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).

2. If the Commission receives no admissible reasoned



<p>statement of opposition under Article 51, it shall adopt implementing acts, without applying the examination procedure referred to in Article 57(2), registering the name.';</p>	
<p>(14) in Article 53, paragraphs 2 and 3 are replaced by the following: '2. Amendments to a product specification are classified into two categories as regards their importance: Union amendments, requiring an opposition procedure at the Union level and standard amendments to be dealt with at Member State or third country level. An amendment is considered to be a Union amendment where: (a) it includes a change in the name of the protected designation of origin, protected geographical indication or traditional speciality guaranteed or in the use of that name; (b) it risks to voiding the links referred to in point (b) of Article 5(1) for protected designations of origin and of Article 5(2) for protected geographical indications; (c) it introduces changes to the production method or to the use of raw materials and ingredients that deviate from the traditional practice and uses for traditional specialities guaranteed <i>it concerns a traditional speciality guaranteed</i>; (d) it entails new restrictions on the marketing of the product. All other amendments to product specifications are considered standard amendments. A temporary amendment that concerns a temporary change in the product specification resulting from the imposition of obligatory sanitary and phytosanitary measures by the public authorities or a temporary amendment necessary because of a natural disaster or adverse weather conditions formally recognised by the competent authorities are also considered to be standard amendments. Union amendments shall be approved by the Commission. The approval procedure shall follow, <i>mutatis mutandis</i>, the procedure laid down in Articles 49 to 52. Standard amendments shall be approved by the Member State in whose territory the geographical area of the product concerned is located and notified <i>communicated</i> to the Commission. Third countries shall approve standard amendments in accordance with the law applicable in the third country concerned and notify <i>communicate</i> them to the Commission. Amendments shall be scrutinised taking into account other elements of the product specifications. The scrutiny of the application shall focus on the proposed</p>	<p><i>We would like to be clarified if the proposed paragraph 2 (b): «it risks to voiding the links...» includes paragraph 2 (a) and (d) of the current Regulation i.e. «a) relates to the essential characteristics of the product d) affect the defined geographical area»</i></p>

<p>amendment. Where appropriate, the Commission or the Member State concerned may invite the applicant to modify other elements of the product specifications.</p> <p>3. In order to facilitate the administrative process of Union and standard amendments to product specification, including where the amendment does not involve any change to the single document, the Commission shall be empowered to adopt delegated acts, in accordance with Article 56, complementing the rules of the amendment application process.</p> <p>The Commission may adopt implementing acts laying down detailed rules on procedures, form and presentation of an amendment application and notification of standard amendments to the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 57(2).';</p>	
<p>(15) in Point I of Annex I, the following indents are added:</p> <p>'- aromatised wines as defined in Article 3(2) of Regulation (EU) No 251/2014;</p> <p>- other alcoholic beverages, except for spirit drinks and grapevine products as defined in Part II of Annex VII to Regulation (EU) No 1308/2013.'</p>	

II. As regards amendments to Reg. (EU) 1308/2013, further to the meeting of the Working Party on Agricultural Products on 25 October 2019, please see below our comments.

WINE SECTOR

a) Wine labeling (articles 119-122):

- For Article 120 we agree that products obtained at the end of a partial or total removal of alcohol do not meet the definition of agricultural products because they come from a further processing of wine and therefore need to be considered in Regulation 251/2014.
- For Articles 119-122 we reiterate our earlier suggestion that nutritional information should not be included on the label, but a link to the website of the winery where all the information is there must be provided.

b) Checks and penalties (Article 90a)

- We agree with France's comments that MS must have the ability to impose penalties analogous to the gravity of the infringement.

c) Article 63

We agree with the Italy's comments on Article 63 regarding the option of adding the abandoned areas when calculating planting permits.

Finally, it is important for Greece to ask again for the possibility that licenses that are not planted at the end of the three-year period should be re-licensed as a national reserve.

OLIVE OIL and OLIVES

Article 58(2): "For the types of intervention referred to in Article 57(1), the Union financial assistance shall be limited to 5% of the value of the marketed production of each producer or association of producer organizations". We would like to point out, that the percentage of 5%, for which we have expressed from the very beginning of the discussion our opposition, should be at least 15% in order producers to have a real incentive to participate in such working programs of olive oil and table olive sector.

THE DIRECTOR GENERAL

CHRYSOULA PAPADIMITRIOU