



HELLENIC PARLIAMENT

JOINT MEETING
-SPECIAL STANDING COMMITTEE FOR EUROPEAN AFFAIRS
-STANDING COMMITTEE FOR ECONOMIC AFFAIRS

On March 30 2017, the aforementioned Hellenic Parliament Committees came to a joint meeting in order to adopt an

OPINION

On the Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the definition, presentation and labelling of spirit drinks, the use of the names
of spirit drinks in the presentation and labelling of other foodstuffs and the
protection of geographical indications for spirit drinks
COM (2016) 750 final

The members of the aforementioned Committees, having taken into consideration:

- The Proposal for a regulation text
- The information note of the Directorate for Alcohol and Food of the General Chemical State Laboratory (G.C.S.L.) General Directorate
- The information note of the Greek Federation of Spirits' Producers (S.E.A.O.P)
- The oral briefing by the Deputy Minister for Finance Mrs. Ekaterini Papanatsiou
- The oral briefing by the Head of the Directorate for Alcohol and Food of the General Chemical State Laboratory (G.C.S.L.) Mr. Stavros Samios

Adopted by majority the following opinion:

Subsidiarity Principle

The Proposal for a regulation- as stated in the explanatory memorandum- aims to align Regulation (EC) No 110/2008 with the Treaty on the Functioning of the European Union (TFEU). The explanatory memorandum also underlines that the new proposal introduces only a few minor technical amendments, in order to address shortcomings in the implementation of Regulation (EC) No 110/2008 and to make the legislation

consistent with new EU legal instruments, at the same time simplifying the regulations and improving readability.

To this end, the European Commission's proposal introduces a number of delegated and implementing acts. The Hellenic Parliament Committee for European Affairs deems that changes proposed by the European Commission by means of non-legislative acts go beyond the scope set out in articles 290 and 291 of the TFEU and especially article 290 par.1 stipulating that elements added or amended by means of non-legislative acts of general application issued by the Commission must be "non-essential elements" of the legislative act.

More specifically, the proposed draft regulation:

Contains provisions for empowering the Commission to adopt delegated acts for amending Annex I, which includes product technical definition and their requirements and characteristics (article 5, par.1), for introducing new categories of spirit drinks in the referred annex II (article 5, par.2), for amending rules on indications on the label of spirits drinks (article 16, par.1). Therefore, the Hellenic Parliament Committee for European Affairs deems that there is question of proportionality principle infringement, since the European Commission makes abusive use of TFEU provisions on non-legislative acts, thus stretching its scope of jurisdiction.

Proportionality Principle

By extension, the proposal for regulation is deemed problematic with regard to proportionality principle, as going beyond the minimum necessary measure for achieving its aim. The proposal for regulation provisions rebut the existing status regarding geographical indications recognition, as proposing abolishment of existing simple and relatively low-cost –administratively and economically speaking– procedures. The proposed new procedures contained in horizontal regulation 1151/2012 provisions "on quality schemes for agricultural products and foodstuffs" are more complex, time-consuming and also pose administrative burden and economic cost both to national administrations and producers, who, in our country, are in their vast majority family businesses unable to shoulder the cost resulting from

the proposed regulations. Therefore, the proposed Regulation is contrary to proportionality principle as well, as entailing disproportionate expenditures for member-states. In any case, the European Commission should have submitted a relevant impact assessment, since it is more than obvious that suggested changes entail economic and administrative burden.

Remarks

The following remarks are made on specific points in the Regulation's text:

1. The proposal for regulation fails to take account of the special, because of their nature, character of spirit drinks, compared to the various agricultural products, also long-term recognized via the long-standing exemption of spirit drinks' geographical designation from horizontal provisions.
2. Article 34 par.2 provisions concerning cancelation of protected geographical indications referred to in Regulation (EU) 110/2008 by means of implementing acts and on Commission initiative creates an issue of legal certainty, also rebutting the existing status. The initiative for cancelation of recognized geographical indication products' protection should remain within the member-state concerned.
3. The new proposal for regulation attempts to treat as similar the terms "bottling" and "packaging", considering that any obligation on basis of national legislative provisions concerning bottling within the geographical region under consideration runs contrary to the principle of free movement. Nevertheless, national legislation lays down the bottling obligation to be carried out within the geographical region under consideration, prioritizing quality assurance and characteristics of spirit drinks with geographical indication, also taking into account consumer needs. National law holds that due to the special nature of spirit drinks, there is the danger of downgrading qualitative characteristics or of product manipulation (adulteration, counterfeiting), during transportation -unpackaged and at bulk- for bottling, while it is well known that for many of these products post-check cannot prove manipulation or product adulteration . The EU Court of Justice case-law has on several occasions vindicated this view, placing special gravity on protection assurance of products of geographical indication, as these are products of high reputation, recognition and value. Moreover, it must be also taken into account that in consumers' of spirit drinks

of geographical indication consciousness, bottling is an integral part of the product's production process.

4. Finally, geographical indications are part of the cultural heritage of the member-state concerned, and therefore, reputation and quality assurance must be principally provided by national law and only supplemented by EU law.

5. As a general remark, it is noted that European Commission's tendency to rely on provisions 290 and 291 TFEU on issuing non-legislative acts of general application with the aim of procedure simplification involves the risk of exceeding competence (ultra vires) , when improperly applied, as in the case of the proposal for regulation under discussion.