



Position Paper

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EDA request to exclude trademarks from the draft implementing Regulation on voluntary origin labelling

EDA calls for a consistent evaluation on the relevance and proportionality of the inclusion of trademarks on the voluntary origin labelling EU legal framework.

Within Recital 2 of the draft Commission Implementing Regulation on voluntary origin labelling, “*trade marks and other brand names which may include geographical indications*”¹, are proposed to fall in the scope of the new Regulation.

Following the World Intellectual Property Organisation distinction: geographical indications identify a good as originating from a particular place and the trademarks as good or service originating from a particular company.²

The EU food law excludes and strongly prevents possible confusions between trademarks and geographical indications. Article 3 of the Directive EU 2015/2436 defines trademarks by saying: “*A trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds*”, and it outlines the scope of trade marks, which consists in “*distinguishing the goods or services of one undertaking from those of other undertakings*”. Furthermore, articles 3.1 (c) and 12.2 of the Directive EU 2015/2436 set up several rules to prevent a possible confusion between trade marks and geographical indications, by envisaging trade marks’ revocation in case “*it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services*”.

As laid down in Recital 57 of Regulation EU 1169/2011, the Regulation should comply with proportionality principle, meaning that it reaches the objectives of ensuring consumers informed choices and securing the smooth functioning of the internal market by avoiding excessive or unjustified burdens for the industry³.

We therefore call for an evaluation on the relevance and proportionality of the inclusion of trademarks on the voluntary origin labelling EU legal framework, and we request to exclude trademarks from the scope of the Commission draft implementing regulation.

¹ COMMISSION IMPLEMENTING REGULATION laying down rules for the application of Article 26(3) of Regulation (EU) N° 1169/2011 (version of 23.05.2016)

² http://www.wipo.int/geo_indications/en/faq_geographicalindications.html

³ [REGULATION \(EU\) No 1169/2011 on the provision of food information to consumers](#)