

## Comments

### on the bill on Amendment and Supplement to the Marks and Geographical Indications Act

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The proposed bill to the ASA (Amendment and Supplement Act) to the MGIA (Marks and Geographical Indications Act), provides the termination of the national registrations of geographical indications for agricultural products and foods, as of the date of entry into force of the ASA to the MGIA (§ 4 of the bill for the ASA to the MGIA). The preliminary assessment of the impact of the act does not indicate any potential risks. Only positive impacts are indicated, without taking under sufficient account the reflecting impact of the proposed abolition of the national registrations of geographical indications for agricultural products and foods on current and future holders of such rights. The proposed bill will have a negative impact in several directions, which I will point out without fully explaining, namely:

1. The removal of national registrations of geographical indications for agricultural products and foodstuffs deprives the producers of such products from the possibility of using the system of international registration of geographical indications established by the Lisbon Agreement on the Protection of Appellations of Origin.

By virtue of the Agreement, through international registration, a Bulgarian appellation of origin may obtain legal protection in all States, Parties to this Agreement. The only condition for obtaining an international registration is the designation of origin to be registered in the country of origin, that is, in Bulgaria.

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By dropping the national registrations, Bulgarian producers will not be able to use this easy and economical way for registration of Bulgarian appellations of origin in other countries. This impact of the act should be considered in view of the fact that Bulgaria is a traditional producer of agricultural products and foods or at least it should be mentioned.

2. The immediate termination of national registrations of geographical indications for agricultural products and foods, from the date of entry into force of the ASA to the MGIA is an unacceptable revocation of legally acquired industrial property rights. Such an approach is contrary to the principle of protection of property of individuals and legal entities, stated in Art.1 of Protocol No.1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). For the forcefully revoked rights and for the lost funds to the State, may be directed claimed claims for damages suffered by this legislative change.

3. The immediate termination of national registrations can lead to unconscientious commercial practices and to the detriment of consumers. The immediate abolition of all registrations of national geographical indications would allow unconscientious producers and traders of agricultural products and food products to use the previously registered geographical indications even though they never met their requirements and were not registered as their users. In this way unconscientious producers and traders will benefit by an unjust and unfair manner from the already established reputation and market share of the geographical indications in question. The effect will be unfavorable both for holders of terminated geographical indications and for the consumers of agricultural products and foods, for whom they have been a guarantee of certain characteristics and quality.

Taking into account the above-mentioned adverse aftermath, consideration should be given to the possibility of the proposed ASA to the MGIA to act in future without affecting the acquired rights to the registered geographical indications. This way shall be ensured, after its adoption, the registration of geographical indications only at a European level under Regulation (EU) No 1151/2012 and, at the same time, the validity of the geographical indications registered so far on a national level, will be retained without revoking the holders of their acquired rights.

Sincerely,  
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