

# **THE LAW ON INDICATIONS OF GEOGRAPHICAL ORIGIN<sup>1</sup>**

## **I. SUBJECT-MATTER AND CONDITIONS FOR PROTECTION**

### **Article 1**

This Law shall regulate the acquisition and legal protection of indications of geographical origin.

Indications of geographical origin shall be appellation of origin and geographical indication.

### **Article 2**

Indications of geographical origin shall be used to mark natural, agricultural and industrial products, products of traditional handicrafts and services.

### **Definition of the Appellation of Origin**

#### **Article 3**

An appellation of origin shall be the geographical name of a country, region or a locality, used to designate a product originating therein, the quality and characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors, and which is produced, manufactured or processed within a specific limited geographical area.

### **Definition of the Geographical Indication**

#### **Article 4**

Geographical indication shall be the indication that identifies certain goods as goods originating from the territory of specific country, region or a locality within such territory, where specific quality, reputation or other characteristics of the goods can be essentially attributed to their geographical origin.

### **Traditional and Historic Names**

#### **Article 5**

Where the requirements referred to in Articles 3 and 4 of this Law have been met, a name that is not the official geographical name of a country, a region or a locality, which has become well-known through a long-term use in trade as the traditional name of the product that originates from such region or a historical name of such region shall also be an indication of geographical origin.

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<sup>1</sup> Draft approved by the Council of Ministers of Serbia and Montenegro.

**Homonymic Names**  
**Article 6**

Where the names of two or more places of origin of the product are identical or nearly identical in written or pronounced form (homonymic names), protection of such

**Fees and Costs of the Procedure**  
**Article 9**

In the administrative procedure before the responsible authority prescribed fees and costs shall be collected.

**Registers**  
**Article 10**

The responsible authority shall keep the Register of Applications for Appellation of Origin, the Register of Applications for Registration of Geographical Indications, the Register of Applications for Recognition as Authorized Users of Appellation of Origin, the Register of Applications for Recognition as Authorized Users of Geographical Indications, the Register of Appellations of Origin, the Register of Geographical Indications, the Register of Authorized Users of Appellations of Origin, the Register of Authorized Users of Geographical Indications.

The Registers referred to in the paragraph 1 of this Article shall have the status of public records and any interested person may examine them only in the presence of an official.

The files of registered geographical indications, except those protected by confidentiality, may be examined only in the presence of an official.

Upon the written request of an interested person and upon payment of the prescribed fee, the responsible authority shall issue copies of the documents and the corresponding attestations and certificates with respect to facts entered in the official registers.

Content of the Registers referred to in paragraph 1 of this Article shall be regulated by a specific regulation.



## **Essential Elements of the Application**

### **Article 15**

The following shall be the essential elements of the application:

- 1) request for the registration of an appellation of origin or a geographical indication;
- 2) description of the geographical area;
- 3) information on specific characteristics of the product.

## **Request for the Registration of an Appellation of Origin or a Geographical Indication**

### **Article 16**

The request for registration of an appellation of origin or a geographical indication shall include:

- 1) the particulars of the applicant;
- 2) the geographical name to be protected;
- 3) the type of product to which the geographical indication applies
- 4) the name of the region or a locality of origin of the product to be marked by a geographical name;
- 5) the signature of the applicant;
- 6) proof that the prescribed fee has been paid.

Where the applicant is a foreign natural or legal person or a foreign association, the application referred in paragraph 1 of this Article shall be accompanied by a public document issued by a responsible authority in the country of origin verifying that the appellation of origin or a geographical indication has been registered in the country of origin.

The application for the registration of the appellation of origin, along with the elements referred to in paragraph 1 of this Article, shall include the information on the organization authorized to control the quality of a product.

The application for the registration of the geographical indication, along with the elements referred to in paragraph 1 of this Article, may include the appearance of the geographical indication if comprising of words and possible figurative elements or figurative elements only, suitable to identify geographical origin of certain goods.

## **Description of the Geographical Area**

### **Article 17**

Description of the geographical area shall comprise information on the geographical area where the products originates from and shall include specifics on administrative borders of such area, its geographical map and the information on human factors suitable to cause specific characteristics, quality and reputation of the concerned product.

**Information on Specific Characteristics of the Product**  
**Article 18**

Information on specific characteristics of the product related to the application for the registration of a geographic indication shall comprise detailed description of the production method of the product, precise indication of specific characteristics or quality of the product, including information on the reputation acquired, on persons authorized to use the geographical indication and conditions for such a use and rights and obligations of the user of the geographical indication

Information on specific characteristics of the product related to the application for the registration of an appellation of origin shall be submitted in a form of a report on the manner of the production of the product and its specific characteristics and quality, which shall include *inter alia*:

1)

If the applicant for the registration of an appellation of origin or a geographical indication rectifies the situation within the time limit, a filing date of the motion rectifying the situation shall be recognized, by a specific decision, as a filing date for such an application, and the application shall be entered in the appropriate register of applications.

If the applicant for the registration of an appellation of origin or a geographical indication does not rectify the situation within the time limit, responsible authority shall reject the application.

### **Order of Examination of the Applications** **Article 20**

Applications shall be examined in the order determined by their filing dates.

Notwithstanding paragraph 1 of this Article, an application shall be decided upon in an expedited procedure:

- 1) where of the procedure before the court, customs authorities or inspectorate has been initiated, if the court, customs authorities or inspectorate so require;
- 2) if the application for an international registration of an appellation of origin or a geographical indication has been filed.

In cases referred to in paragraph 2 of this Article a request for an expedite examination of the application shall be submitted.

Special fee shall be payable for the request for an expedite examination of the application referred to paragraph 2, item 2 of this Article.

### **Examination of the Completeness of an Application** **Article 21**

The application for the registration of an appellation of origin or a geographical indication shall be complete where it contains all the elements referred to in Articles 16-18 of this Law.

If the responsible authority determines that the application for the registration of an appellation of origin or a geographical indi

In the case referred to in paragraph 4 of this Article, if the prescribed fee has been paid, the applicant for the registration of an appellation of origin or a geographical indication may request the restoration to the previous condition, within 3 months from the date the decision to reject the application has been served.

### **Examination of the Registration Requirements**

#### **Article 22**

Where the application for the registration of an appellation of origin or a geographical indication is complete within the meaning of Article 21, paragraph 1 of this Law, the responsible authority shall examine whether the requirements for the registration of an appellation of origin or a geographical indication have been met.

During the examination of requirements for the registration of an appellation of origin or a geographical indication, responsible authority shall obtain an opinion of the competent authority of the member state where an appellation of origin or a geographical indication originates from, about the fulfillment of the requirements for the registration of an appellation of origin or a geographical indication.

The competent authority of the member state referred to in paragraph 2 of this Article shall provide its opinion within 60 days from the day it has been requested.

Where the competent authority of the member state referred to in paragraph 2 of this Article does not provide its opinion within 60 days from the day it has been requested, responsible authority shall examine the fulfillment of the registration requirements without such an opinion.

### **Decision to Deny the Registration**

#### **Article 23**

Where the competent authority of the member state has provided a negative opinion with respect to fulfillment of requirements for the registration of an appellation of origin or a geographical indication or where the responsible authority determines that the application for the registration of an appellation of origin or a geographical indication does not meet requirements for the registration under this



Where the competent authority of the member state referred to in Article 22, paragraph 2 of this Law does not provide it

**Period of Validity of an Appellation of Origin and a Geographical Indication**  
**Article 26**

Period of validity of the registered appellation of origin or a geographical indication shall not be limited.

**Request for the Recognition of the Status  
of the Authorized User  
Article 29**

The request for recognition of the status of an authorized user of an appellation of origin or a geographical indication shall contain:

- 1) particulars of the applicant;
- 2) the geographical name to be protected;
- 3) the type of product to which the geographical name applies;
- 4) the name of the region or locality in which the product originates;
- 5) the manner of marking the products;
- 6) appearance of an appellation of origin or a geographical indication;
- 7) indication of specific characteristics of the product;
- 8) the signature of the applicant;
- 9) proof that the prescribed fee has been paid.

In addition to elements referred to in paragraph 1 of this Article, the request for recognition of the status of an authorized user of an appellation of origin shall contain the name of the organization authorized to control quality control of the product.

**Proof of the Specific Activity Performed  
Within the Specific Region  
Article 30**

Appropriate certificates and decisions issued by competent authorities shall be deemed to be proof of the specific activity performed or specific product produced within the specific region.

**The Proof of Quality Control of the Product Performed  
Article 31**

The document (attestation, certificate, credential or report) confirming that the quality control of the product has been performed, issued by the authorized organization named as the organization responsible to perform quality control in the request for the registration of the appellation of origin and the request for the recognition of the status of an authorized user of the appellation of origin, which verifies that the product subject to control has all the specific characteristics listed in the report on the manner of production of the product and its specific characteristics and quality referred to Article 18, paragraph 2 of this Law, shall be deemed to be the proof that the quality control of the product has been performed.

The time of validity of the document referred to in paragraph 1 of this Article shall not exceed 3 months.

**Filing Date of the Application**  
**Article 32**

The application for the recognition of the status of an authorized user of an appellation of origin or a geographical indication shall be entered in the appropriate register referred to in Article 10, paragraph 1 of this Law on

**Examination of Completeness of the Application**  
**Article 34**

The application for the recognition of the status of an authorized user of an appellation of origin or a geographical indication shall be complete where it contains all the elements referred to in Articles 29-31 of this Law.

If the responsible authority determines that the application referred to in paragraph 1 of this Article is not complete, it shall notify the applicant in writing, stating the reasons, and invite the applicant to regularize the application within 30 days.

## **Decision to Deny the Status of an Authorized User**

### **Article 36**

Where the competent authority of the member state has provided a negative opinion with respect to fulfillment of requirements for the recognition of the status of an authorized user of an appellation of origin or a geographical indication or where the responsible authority determines that the application for recognition of the status of an authorized user of an appellation of origin or a geographical indication does not meet requirements for the recognition of the status of an authorized user of under this Law, responsible authority shall notify the applicant in writing, stating the reasons for denial to recognize the status of an authorized user of an appellation of origin or a geographical indication and inviting him to comment those reasons within 60 days.

Upon the substantiated request of the applicant for the recognition of the status of an authorized user of an appellation of origin or a geographical indication and the payment of the prescribed fee, responsible authority may extend the time limit referred to in paragraph 1 of this Article for as long as it finds appropriate, but not longer than 3 months.

Where the applicant provides the commentary to reasons that have led to denial to recognize the status of an authorized user of an appellation of origin or a geographical indication, the responsible authority shall obtain the opinion on such a commentary of the competent authority of the member state referred to in Article 35, paragraph 2 of this Law.

Where the competent authority of the member state referred to in Article 35, paragraph 2 of this Law does not provide its opinion within 60 days from the day it has been requested, responsible authority shall continue to examine the fulfillment of the requirements for the recognition of the status of an authorized user without such an opinion.

The responsible authority shall decide to deny the recognition of the status of an authorized user of an appellation of origin or a geographical indication if the applicant does not comment at all or, where the comment was provided, but the responsible authority or the competent authority of the member state are of the opinion that the status of an authorized user of an appellation of origin or a geographical indication cannot be recognized.

## **Conversion of the Application for the Recognition of the Status of the Authorized User of an Appellation of Origin Into the Application for the Recognition of the Status of an Authorized user the Geographical Indication and Vice Versa**

### **Article 37**

Where in the proceedings upon the application for the recognition of the status of an authorized user pursuant Article 24 of this Law, a conversion of an application for the

registration of the appellation of origin into the application for the registration of the geographical indication has taken place, the applicant for the recognition of the status of an authorized user of an appellation of origin or a geographical indication that has been converted shall, along with the payment of the prescribed fee, submit the request to convert the application for the recognition of the status of an authorized user of the appellation of origin into the application for the recognition of the authorized user of a geographical indication, or vice versa.

The responsible authority shall notify without delay all the applicants for the recognition of the status of an authorized user of an appellation of origin or a geographical indication that the request for the conversion of an appellation of origin or a geographical indication has been submitted pursuant Article 24 of this Law.

The responsible authority shall issue an individual decision on conversion of the appropriate application.

**Decision on Payment of the Fee for the Recognition  
of the Status of the Authorized User  
Article 38**

Where the application for the recognition of the status of an authorized user of an appellation of origin or a geographical indication meets the requirements under this Law for the recognition of the status of an authorized user of an appellation of origin or a geographical indication, the responsible authority shall, in accordance with Article 24, invite applica-





Authorized users of an appellation of origin or a geographical indication shall have the right to use the appellation of origin or the geographical indication to mark the product that the appellation of origin or the geographical indication has been related to.

Authorized users shall have the exclusive right to mark their products with the indication "controlled appellation of origin".

Rights referred to in paragraphs 2 and 3 of this Article shall include the right to use an appellation of origin or a geographical indication on packaging, catalogues, prospectuses, advertisings, posters and other forms of offer, on instruction, invoices, business correspondence and other forms of business documents, and to import or export goods bearing such appellation of origin or geographical indication.

### **Prohibited Actions**

#### **Article 43**

Any person who had not been recognized as the authorized user of an appellation of origin or a geographical indication shall not be allowed to use registered appellation of origin or geographical indication, their translation, transcription or transliteration, regardless of the font or the color used, or expressed in any other manner, to mark products, where the appellation of origin or the geographical indication is supplemented with the words such as : "kind", "type," "fashion," "imitation", "by the process" and the like, even where the geographical origin of the product is correct.

### **Relation to the Previously Registered Trademark**

#### **Article 44**

The provisions of this Law shall not influence the conditions for the registration, validity of the registration or the right to use the trademark which is identical or similar to the registered geographical indication, if the application for the registration or the registration of the concerned trademark has been done in a good faith or the trademark rights have been acquired by the use in good faith prior to the filing of the application for the registration of the geographical indication.

### **Use of the Personal Name**

#### **Article 45**

The provisions of this Law shall in no way influence any person to use his/her personal name in the commercial activities, or that of his/her predecessor, except where such name is used in such a manner as to deceive consumers.

### **Prohibition of Transfer**

#### **Article 46**

Registered appellation of origin or geographical indication shall not be subject to the contract on transfer of rights, license agreement, pledge, franchise or the like.

Where the registered appellation of origin or geographical indication is subject of the application for the registration of a trademark or is registered trademark, such a trademark cannot be transferred, assigned, pledged or the like.

**VI CANCELLATION OF THE DECISION TO REGISTER AN  
INDICATION OF GEOGRAPHICAL ORIGIN OR THE  
DECISION TO RECOGNIZE THE STATUS OF AN AUTHORIZED USER**

**Article 47**

Upon the written application of an interested person, the responsible authority may cancel the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user, if it determines that requirements for the registration of an indication of geographical origin or requirements for the recognition of the status of an authorized user have not been met at the time of the decision was issued.

**Application for the Cancellation of the Decision to Register an Indication of  
Geographical Origin or the Decision to Recognize the Status  
of the Authorized User**

**Article 48**

The application referred to in Article 47 of this Law shall be submitted in two copies

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If the applicant does not regularize the application within the time limit referred in paragraph 2 of this Article, the application shall be rejected.

### **Proceedings Upon the Complete Application**

#### **Article 49**

Where the application referred to in Article 47 of this Law complete, the responsible authority shall serve it to the opposing party and invite it to respond within 30 days from the date the invitation has been served.

The responsible authority may schedule the hearing in the proceedings initiated upon the application referred to in Article 47 of this Law.

If the applicant for the cancellation of the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user renounces the application, the responsible authority may continue the proceedings *ex officio*.

Provisions of Article 22, paragraphs 2, 3 and 4, Article 23, Article 35, paragraphs 2,3 and 4 and Article 36 of this Law shall apply *mutatis mutandis* to the proceedings upon the application for the cancellation of the decision to register an indication of geographical origin.

#### **Article 50**

Upon the completion of the proceedings referred to in Article 47 of this Law, the responsible authority may issue or refuse to issue, a decision to cancel the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user.

Three months after the decision to cancel the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user has become final and enforceable, the responsible authority shall publish prescribed information on such a decision in the official publication.

#### **Article 51**

Cancellation of the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user shall not have the effect on any court decision related to the violation of rights that are final and enforceable at the time of issuance of such a decision, provided that the plaintiff or the authorized user of the indication of geographical origin have acted in good faith.

## **VII. CEASE OF THE INDICATION OF GEOGRAPHICAL ORIGIN**

### **Cease of the Appellation of Origin or Geographical Indication In the Country of Origin Article 52**

Registered appellation of origin or registered geographical indication shall cease to be valid when its protection in the country of origin ceases.

Upon the application of the interested person accompanied with the certificate of the competent authority of the country of origin of an appellation of origin or a geographical indication, or upon the information received from the competent authority of the country of origin of an appellation of origin or a geographical indication that the protection of such an appellation of origin or a geographical indication has ceased in the country of origin, the responsible authority shall issue a decision that will cease validity of an appellation of origin or a geographical indication.

### **Cease of the Geographical Indication Based on the Court Decision Article 53**

Interested person may file a suit before the court in order to establish that certain geographical indication became generic, i.e. usual name for certain product.

Proceedings referred in paragraph 1 of this Article shall be administered by the competent court of the member state.

Registered geographical indication shall cease based on the final and enforceable decision of the court establishing that the ii became generic, i.e. usual name for certain product.

Registered geographical indication that is registered and protected in its country of origin as an appellation of origin, cannot be declared as generic, i.e. usual name for certain product, for as long as such protection is valid in the country of origin.

After the responsible authority receives the court decision referred to in paragraph 3 of this Article, it shall insert the decision in the appropriate register and publish the prescribed information on the cease of validity of the geographical indication in the official publication.

**VIII. CEASE AND REVOCATION OF THE STATUS  
OF AN AUTHORIZED USER**

**Cease of the Status of an Authorized User of an Appellation of Origin or a  
Geographical Indication  
Article 54**

Status of an authorized user of an appellation of origin or a geographical indication

## **IX. CIVIL LAW PROTECTION**

**Right to File an Action**  
**Article 58**

An action for infringement of an appellation of origin or a geographical indication referred to in Article 56 of this Law may be filed by any person referred to in Article 14, paragraph 2 of this Law, authorized user of an appellation of origin or a geographical indication and public or state prosecutor.

Where the proceedings referred to in Articles 47, 52, 53 and 55 of this Law have been initiated before the responsible authority or the court, the court administering the action referred to in Article 56 of this Law shall delay the proceedings pending the final decision of the responsible authority or the court.

**Time Limit to File an Action**  
**Article 59**

An action for the infringement of an appellation of origin or a geographical indication may be filed within a period of three years as of the day on which the plaintiff became aware of the infringement and the identity of the infringer, but not later than five years as of the day of the first infringement.

**X. PROVISIONAL MEASURES**

**Provisional Measure of Seizure or  
Removal from the Circulation**  
**Article 60**

At the request of a person that makes it probable that his registered appellation of origin or geographical indication has been infringed or is about to be infringed, the court may order a provisional measure for seizure or removal from the circulation of infringing products, the equipment for production of those products, and/or an injunction prohibiting the continuation of activities already commenced which could result in an infringement of an appellation of origin or a geographical indication.

**Securing of Evidence**  
**Article 61**

At the request of a person who makes it probable that its appellation of origin or a geographical indication has been infringed or is about to be infringed, or there is a risk of that the irreparable damage and that

The person from whom the evidence is being collected shall be served a decision to secure an evidence at the time of the collection of evidence, and the absent person shall be served the decision as soon as it becomes possible.



## **Article 66**

An entrepreneur or other natural person shall be fined for the misdemeanor for any actions referred to in Article 65, paragraph 1 of this Law (Article 57).

## **Article 67**

Any company, enterprise or other legal person representing other persons without authorization in the exercise of rights under this Law shall be fined for the misdemeanor if it (Article 13).

Responsible person in the company, enterprise or other legal person shall be fined for the misdemeanor for any actions referred to in paragraph 1 of this Law.

Any natural person representing other persons without authorization in the exercise of rights under this Law shall be fined for the misdemeanor (Article 13).

## **Article 68**

The amounts of fines referred to in Articles 65 - 67 shall be specified by the regulation of the member states.

Courts and magistrates of the member states shall have the jurisdiction over the proceedings and penalization .

Complaints for economic offences and misdemeanors referred to in Articles 65 - 67 shall be filed by the administrative authorities of the member states responsible for inspectorial supervision.

## **XII. TRANSITIONAL AND FINAL PROVISIONS**

### **Validity of the Established Appellations of Origin and Geographical Indications**

#### **Article 69**

Indications of origin and geographical indications that are valid on the day on which this Law enters into force shall remain in force and the provisions of this Law shall apply to them.

The provisions of this Law shall also apply to applications filed prior to the date of entry into force of this Law where the administrative procedure was not completed.

Established indications of origin shall be renamed as “registered appellations of origin” and existing geographical indications shall be renamed as “registered geographical indications”.

Status of authorized users shall be renamed in accordance with paragraph 3 of this Article.

**Existing Registers**  
**Article 70**

The implementing regulation for this Law shall be enacted within 6 months from the day on which this Law enters into force.

Existing registers shall be divided, rename