

THE LAW ON INDICATIONS OF GEOGRAPHICAL ORIGIN

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.

Decisions in the procedure referred to in paragraph 1 of this Article shall be final and against such decisions administrative dispute procedure may be initiated.¹

Fees and Costs of the Procedure
Article 9

Authorized user of the indication of geographical origin or the applicant for the authorized user of the indication of geographical origin may file an application for international registration in accordance with an international agreement binding on Serbia and Montenegro.

The application for international registration referred to in paragraph 1 of this Article shall be filed to the responsible authority accompanied with a payment of prescribed fees.

Content of the application for international registration of the indication of geographical origin shall be regulated by a specific regulation.

Representation Article 13

In the proceedings before responsible authority, any foreign natural or legal person must be represented by an agent listed in the Register of Agents kept by the responsible authority or by an attorney at law.

Any natural or legal person that meets requirements established by the law that regulates patents shall be inserted in the Register of Agents.

III PROCEEDINGS UPON THE APPLICATION OF THE INDICATION OF THE GEOGRAPHICAL ORIGIN

Initiation of the Proceedings for the Registration of the Appellation of Origin and the Geographical Indication Article 14

The proceedings for the registration of the appellation of origin and geographical indication shall be initiated by the appropriate application.

The application for the registration of an appellation of origin or a geographical indication may be filed by the following persons:

- 1) natural or legal persons who produce within a specified geographical area the products that bear the name of that geographical area;
- 2) associations of persons referred to in item 1 of this paragraph, chambers of commerce, associations of consumers and the authorities interested in protection of an appellation of origin or a geographical indication, within their activities;
- 3) foreign natural or legal persons or foreign associations, if an appellation of origin or a geographical indication were registered in the country of origin or where it stems from the international agreements.

The application for registration of an appellation of origin or a geographical indication may be related to only one geographical indication or a name and to only one type of product.

The prescribed fee shall be payable for the application for the registration of the appellation of origin or

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

The filing date and time shall be indicated on the application for the registration of an appellation of origin or a geographical indication filed directly to the responsible

If the responsible authority determines that the application for the registration of an appellation of origin or a geographical indication is not complete, it shall notify the applicant in writing, stating the reasons, and invite the applicant to regularize the application within 30 days.

Upon the substantiated request of the applicant for the for the registration 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 2 of this Article for as long as it finds appropriate, but not longer than 3 months.

If the applicant does not regularize the application within the given time limit or does not pay the regularization fee, responsible authority shall reject the application.

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

authority shall notify the applicant in writing stating the reasons for denial to register 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 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 register 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 22, paragraph 2 of this Law.

Where the competent authority of the member state referred to in Article 22, 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 registration requirements without such an opinion.

The responsible authority shall decide to deny the registration of an appellation of origin or a geographical indication if the applicant for the registration of an appellation of origin or a geographical indication 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 an appellation of origin or a geographical indication cannot be registered.

Conversion of the Application for the Registration of an Appellation of Origin Into the Application for the Geographical Indication and Vice Versa Article 24

Upon the request of the applicant for the registration of an appellation of origin or a geographical indication submitted before the end of the proceedings and the payment of the prescribed fee, application for the registration of an appellation of origin can be converted into the application for the registration of a geographical indication, and vice versa.

In the process of examination of the fulfillment of the requirements for the registration of an appellation of origin, where the requirements for the registration of an appellation of origin have not been met but the requirements for the registration of a geographical indication have been met, the responsible authority shall suggest to the applicant for the registration of an appellation of origin to convert such application into the application for the registration of a geographical indication.

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

Decision to Register and Entry Into the Appropriate Register Article 25

Where the competent authority of the member state has provided positive opinion on fulfillment of requirements for the registration of an appellation of origin or a geographical indication or where the opinion has not been provided within the time limit referred to in Article 22, paragraph 3 of this Law, and where the responsible authority finds that the application for the registration of an appellation of origin or a geographical indication meets the requirements under this Law, the responsible authority shall issue a decision on the registration of an appellation of origin or a geographical indication, and such an appellation of origin or a geographical indication, along with the prescribed bibliographical data, shall be entered into the Register of the Appellations of Origin or the Register of Geographical Indications, as appropriate.

Registered appellation of origin or a geographical indication shall be published in the official publication of the responsible authority.

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.

IV. PROCEEDINGS UPON THE APPLICATION FOR THE RECOGNITION OF THE STATUS OF THE AUTHORIZED USER OF THE INDICATION OF THE GEOGRAPHICAL ORIGIN

Initiation of the Proceedings for the Recognition of the Status of the Authorized User **Article 27**

The procedure for recognizing an authorized user of an appellation of origin or a geographical indication shall be initiated by filing the application for recognizing the status of an authorized user of an appellation of origin or a geographical indication.

The application for recognizing the status of an authorized user of an appellation of origin or a geographical indication may be submitted by natural or legal persons who, within the geographical area, produce products marked by the name of such geographical area, as well as associations of such natural or legal persons.

Prescribed fee shall be payable for filing of an application for recognition of a status of an authorized user of an appellation of origin or a geographical indication.

Essential Elements of the Application **Article 28**

Essential elements of the application for recognition of a status of an authorized user of an appellation of origin or a geographical indication shall be the following:

- 1) Request for recognition for recognition of a status of an authorized user of an appellation of origin or a geographical indication;
- 2) Proof of specific activity performed within the specific geographical area.

A proof that that the quality control of the product has been performed by the authorized organization named in the application for the registration of the appellation of origin shall also be essential element of the application for the recognition of the status of an authorized user of an appellation of origin.

**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 only if it contains essential elements referred to in Article 28 of this Law.

The filing date and the filing number shall be indicated on the application referred to in paragraph 1 of this Article filed directly to the responsible authority that contains essential elements referred to in Article 28 of this Law and the applicant shall be issued a certificate.

Where the application for the recognition of the status of an authorized user of an appellation of origin or a geographical indication does not contain essential elements referred to in Article 28 of this Law, responsible authority shall invite the applicant to rectify the situation within 30 days from the date the information was received, with the warning that the application shall be rejected.

If the applicant for the recognition of the status of an authorized user 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. (the da.rig06 Tc.0635 Tw

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:

- 3) where of the procedure before the court, customs authorities or inspectorate has been initiated, if the court, customs authorities or inspectorate so require;
- 4) 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.

Where the application for the recognition of th

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.

In the case referred to in the paragraph 2 of this Article, an applicant for the for the recognition of the status of an authorized user 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.

**Decision to Recognize the Status of an Authorized User
and Entry Into the Appropriate Register
Article 39**

Where the applicant for the recognition of the status of an authorized user of an appellation of origin or a geographical indication furnishes the evidence of payments referred in Article 38, paragraph 1 of this Law, the responsible authority shall issue a decision on recognition of the status of an authorized user of an appellation of origin or a geographical indication and the recognized status of the applicant, along with the prescribed bibliographical data, shall be entered into the Register of Authorized Users of Appellations of Origin or the Register of Authorized Users of Geographical Indications, as appropriate.

**Issuance of the Certificate and Publication of the Information
of the Status of the Authorized User
Article 40**

An authorized user of an appellation of origin or a geographical indication shall be issued a certificate verifying the status of an authorized user of an appellation of origin or a geographical indication and the prescribed information shall be published in the official publication.

**Time of Validity of the Status of the Authorized User
Article 41**

Status of the authorized user of an appellation of origin or a geographical indication shall be valid for three years as of the date of entry into the Register of Authorized Users of Appellations of Origin or the Register of Authorized Users of Geographical Indications.

Upon the application of the authorized user of an appellation of origin or a geographical indication, accompanied with the evidence that requirements prescribed by this Law have been met and that the prescribed fee has been paid, the status of an authorized user can be renewed perpetually, for as long as the appropriate appellation of origin or a geographical indication is valid.

**V. CONTENT AND THE SCOPE OF THE RIGHT OF THE USER OF THE
INDICATION OF THE GEOGRAPHICAL ORIGIN**

Use of the Registered Appellation of Origin or a Geographical Indication

Article 42

Registered appellation of origin or geographical indication may be used only by the persons who were recognized the status of authorized users of such appellation of origin or geographical indication, which were entered in the appropriate Register.

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

If the application to cancel the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user does not meet requirements referred to in paragraph 1 of this Article, responsible authority shall invite the applicant in writing to regularize the application within 30 days from the date the notification has been served.

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

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