

# **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.

## **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 geographical names shall be granted to all interested persons that meet requirements provided for in this Law, based on the principles of just and equal treatment of producers in the market and truthful information of consumers, except where this could give the wrong impression to the public about the exact geographical origin of the product.

## **Names That Cannot be Protected**

### **Article 7**

The following shall not be protected by the indication of geographical origin:

- 1) names contrary to public order or morals;
- 2) names that are protected plant varieties or animal species;
- 3) names whose appearance or content may mislead consumers with respect to nature, origin, quality, manner of production or other characteristics of the product;
- 4) a name that is the exact name of the country, region or a locality of origin of the product, which causes wrong impression among consumers that the product originates from another country, region or a locality;
- 5) a name which, due to long-term use, became generic, i.e. usual name for a specific product;
- 6) a name that is not protected or ceased to be protected or ceased to be used in the county of origin.

Indication of geographical origin for the vine product that is identical to the name of the variety of grape that existed in the territory of Serbia and Montenegro before January 1, 1995, shall not be protected under the this Law.

## **II. GENERAL PROVISIONS ON THE PROTECTION PROCEDURE**

### **Protection of Indications of Geographical Origin**

#### **Article 8**

Legal protection of indications of geographical origin shall be exercised in the administrative procedure before the administrative authority of the Council of Ministers responsible for the intellectual property matters (hereinafter referred to as: the responsible authority)

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.<sup>1</sup>

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<sup>1</sup> Please note that the administrative dispute procedure is actually the court review of the administrative decision by the Court of Serbia and Montenegro.

## **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.

## **Availability of Documents**

### **Article 11**

The responsible authority shall make available its documents related to indications of geographical origin to any interested person.

## **International Registration of the Indication of Geographical Origin**

### **Article 12**

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 a geographical indication.

## **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) particulars on the applicant for the registration of the appellation of origin and the person authorized to represent the applicant;
- 2) geographical name to be protected;
- 3) information on the usual manner and the method of production of the product;
- 4) information on specific characteristics and the quality of the product;
- 5) proof that the quality control of the product has been performed by the authorized organization;
- 6) information on the method of marking the product;
- 7) rules identifying the persons authorized to use the appellation of origin and the conditions for such a use;
- 8) rules on the rights and obligations of a user of the appellation of origin;
- 9) other information under other regulations regulating the quality of a product.

## **Filing Date of the Application**

### **Article 19**

The application for the registration 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 15 of this Law.

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 authority that contains essential elements referred to in Article 15 of this Law and the applicant shall be issued a certificate.

Where the application for the registration of an appellation of origin or a geographical indication does not contain essential elements referred to in Article 15 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 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 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 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 Law, responsible 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, 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 recognition of the status of an authorized user 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 Applications**

### **Article 33**

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.

## **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.

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 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 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.

## **Examination of the Requirements for the**

### **Recognition of an Authorized User**

### **Article 35**

Where the application for the recognition of the status of an authorized user of an appellation of origin or a geographical indication is complete in accordance with Articles 29-31 of this Law, the responsible authority shall examine whether the requirements for the recognition of the status of an authorized user of an appellation of origin or a geographical indication have been met.

During the examination of requirements for the recognition of the status of an authorized user 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 recognition of the status of an authorized user 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 requirements for the recognition of the status of an authorized user without such an opinion.

## **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 invite the applicant to pay the fee for the recognition of the status of an authorized user of an appellation of origin or a geographical indication for the first three years and the costs of publication of the information relating to the authorized user of an appellation of origin or a geographical indication, and to furnish evidence of payment.

Where the applicant does not furnish the evidence of payment referred to in paragraph 1 of this Article within 30 days, the applications shall be considered withdrawn, and the responsible authority shall declare withdrawal by a specific decision.

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**

#### **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 and shall include:

- 1) corporate name or the first name and the family name and the corporate domicile or the address of the applicant;
- 2) indication that the cancellation of the decision to register an indication of geographical origin or a decision to recognize the status of an authorized user is being requested;
- 3) registered number of the indication of geographical origin whose cancellation is being requested or registered number of the indication of geographical origin against whose authorized user the request has been submitted;
- 4) corporate name or the first name and the family name and the corporate domicile or the address of the authorized user of the indication of geographical origin whose cancellation is being requested;
- 5) reasons for the cancellation;
- 6) evidence supporting the reasons;
- 7) power of attorney, where the proceedings are initiated through an attorney;
- 8) evidence that the prescribed application fee has been paid.

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 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 shall cease before the time referred in Article 41, paragraph 1 of this Law lapses:

- 1) if the authorized user of an appellation of origin or a geographical indication renounces his right - on the first day subsequent to the day on which the responsible authority receives the motion of renunciation;
- 2) if an appellation of origin or a geographical indication ceased based on the decision of the responsible authority pursuant Articles 52 or 53 of this Law - on the day set in the decision concerned;
- 3) if the legal person who is the authorized user ceased to exist or a or if the natural person who is the authorized user has died - on the day the legal person ceased to exist or on the day of death, except where the right has been transferred to the successors in right of the legal person.

### **Revocation of the Decision to Recognize the Status of an Authorized User Article 55**

Upon the application of the interested person, the responsible authority may revoke a decision to recognize the status of an authorized user of an appellation of origin or a geographical indication if it determines that the conditions prescribed by this Law for the recognition of the status of an authorized user of an appellation of origin or a geographical indication, have ceased to exist.

In the proceedings initiated upon the application for the revocation of a decision to recognize the status of an authorized user of an appellation of origin or a geographical indication, an authorized user of an appellation of origin or a geographical indication must prove the existence of the conditions prescribed by the law for the recognition of the status of an authorized user of an appellation of origin or a geographical indication.

Provisions of Article 35, paragraphs 2, 3 and 4 and Article 36 of this Law shall apply *mutatis mutandis* to the proceedings initiated upon the application for the revocation of a decision to recognize the status of an authorized user of an appellation of origin or a geographical indication.

The status of a person inserted in the appropriate register as the authorized user of an appellation of origin or a geographical indication shall cease on the first day subsequent to the day the decision to revoke a decision to recognize the status of an authorized user of an appellation of origin or a geographical indication became final and enforceable.

## **IX. CIVIL LAW PROTECTION**

### **Protection in the Event of Infringement of Registered Indication of Geographical Origin Article 56**

In the event of infringement of a registered indication of geographical origin, an action may be filed and the plaintiff may request the following:

- 1) determination of the infringement of an appellation of origin or a geographical indication;
- 2) termination of the infringement of an appellation of origin or a geographical indication;
- 3) destruction or alteration of the objects used to infringe of an appellation of origin or a geographical indication;
- 4) destruction or alteration of the tools and equipment used to manufacture the infringing objects, if necessary for the protection of rights;
- 5) reimbursement of pecuniary damages and justifiable legal costs and expenses;
- 6) publication of the court decision at the expense of the defendant;
- 7) supplying of information about third parties participating in the infringement of an appellation of origin or a geographical indication.

Any person that infringes an appellation of origin or a geographical indication shall be liable for the damages in accordance with general rules of compensation of damages.

If the infringement of an appellation of origin or a geographical indication was intentional, the plaintiff may request from defendant the compensation amounting up to three times of the amounts of direct damage and lost profits.

Proceedings initiated upon the action referred to in paragraph 1 of this Article shall be expedited.

### **Infringement of Registered Appellation of Origin or Geographical Indication Article 57**

Any unauthorized use of protected appellation of origin or a geographical indication by any economic operator within the meaning of Articles 42 and 43 of this Law shall constitute an infringement of an appellation of origin or a geographical indication.

The imitation of the registered appellation of origin or geographical indication shall also constitute an infringement of an appellation of origin or a geographical indication.

**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 irreparable damage and that there is reasonable doubt that the evidence thereof will be destroyed or that later it will not be possible to obtain them, the court may decide to secure the evidence without prior notification or hearing of the person from whom the evidence is to be collected.

An inspection of premises, vehicles, books and documents, as well as the seizure of objects, hearing of witnesses and expert witnesses shall be deemed securing of evidence within the meaning of paragraph 1 of this Article.

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.

### **Time Limit to Request Provisional Measure Article 62**

The provisional measure referred to in Article 60 of this Law and the measure to secure the evidence referred to in Article 61 of this Law may also be requested before an action for infringement of the registered appellation of origin or a geographical indication is filed, provided that action is filed within 15 days from the date of execution of the provisional measure or the measure to secure the evidence.

An appeal against a court decision ordering a provisional measure referred to in Article 60 of this Law and measure to secure the evidence referred to in Article 61 of this Law shall not stay the execution of the decision.

### **Security Article 63**

At the request of a person against whom a proceedings for infringement of the registered appellation of origin or geographical indication or proceedings for a provisional measure has been initiated, the court may determine an appropriate sum of money, to be borne by the applicant, as a security in the event that request is found to be groundless.

### **Obligation to Provide Information Article 64**

A court may order a person responsible for an infringement of the registered appellation of origin or geographical indication to provide information about any third parties who have participated in the infringement of the appellation of origin or geographical indication and about their distribution channels.

Person referred to in paragraph 1 of this Article who does not fulfill the obligation of providing information shall be held liable for any damages arising therefrom.

## **XI. PENAL PROVISIONS**

### **Article 65**

Any company, enterprise or other legal person which, in the manner referred to in Article 57 of this Law, infringes the registered appellation of origin or geographical indication shall be fined for the economic offence (Article 57).

Responsible person in the company, enterprise or other legal person shall be fined for the economic offence for actions referred to in paragraph 1 of this Article.



## **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, renamed and established within 30 days from the day on which this Law enters into force.

**Article 71**

On the day this Law enters into force, the Law on Geographical Indications of Origin (FRY Official Gazette No. 15/95 and 28/96) shall cease to be effective.

**Article 72**

This Law shall enter into force on the eighth day after the day of its publication in the Official Gazette of Serbia and Montenegro.