

LAW ON GEOGRAPHICAL INDICATIONS FOR THE FEDERAL REPUBLIC OF YUGOSLAVIA¹

I. GENERAL PROVISIONS

Art. 1. This Law governs the acquisition and protection of rights in geographical indications.

A geographical indication protects an appellation of origin or an indication of source applied to goods manufactured by natural or legal persons within a specified geographical area.

Art. 2. An appellation of origin is the geographical name of a country, region or locality, which serves 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 limited geographical area.

An appellation of origin may also be a name that is not the official geographical name of a country, a region or a locality, but which has become well-known through long-term use in trade as the appellation of a product that originates in such region, if it satisfies the conditions referred to in the first paragraph.

Art. 3. An indication of source is the geographical name that is used to denote that a given product originates in a given country, region or locality.

If not registered under the provisions of this Law, an appellation of origin shall be protected as an indication of source.

Art. 4. Geographical indications are used to designate natural, agricultural, manufactured or industrial products and products of national handicraft.

Art. 5. The geographical names of products that are protected by a geographical indication in accordance with this Law may not become generic or common names.

II. SUBJECT AND CONDITIONS OF PROTECTION

Art. 6. A geographical appellation shall not be protected if it:

- (1) is contrary to morality or the law;
- (2) has an appearance or content that infringes copyright or industrial property rights;

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(3) has an appearance or content that is liable to create confusion in trade as to the nature, origin, quality, method of fabrication or other characteristics of the products.

Art. 7. Foreign natural and legal persons may apply for protection of a geographical indication and for entry in the Register of Authorized Users if they have acquired corresponding rights in their country of origin and they satisfy the conditions set out by this Law.

Foreign natural and legal persons may also enjoy the rights referred to in the first paragraph if such derives from international agreements on the reciprocal protection of geographical indications concluded or ratified by the Federal Republic of Yugoslavia.

III. PROCEDURE FOR PROTECTION

Common Provisions

Art. 8. Legal protection for appellations of origin and indications of source shall be acquired by means of an administrative procedure prosecuted by the federal body or organization responsible for intellectual property (hereinafter referred to as "the competent federal body").

Decisions taken in accordance with the first paragraph shall terminate the procedure, but shall be subject to administrative appeal.

Art. 9. The competent federal body shall keep the Register of Applications for Registration of Geographical Indications, the Register of Applications for Recognition as Authorized Users, the Register of Geographical Indications and the Register of Authorized Users of Geographical Indications.

The Registers referred to in the first paragraph shall be open to the public and interested persons may consult them free of charge.

The files of registered geographical indications and of the authorized users of such indications may be consulted by interested persons on oral request, but only in the presence of an official.

On the written request of interested persons and on payment of the prescribed fee, the competent federal body may make copies of the documents and the corresponding attestations and certificates with respect to facts entered in the official registers.

Art. 10. The competent federal body shall be required to give access to interested natural and legal persons to the documentation and information on geographical indications and the authorized users of such indications.

Art. 11. Foreign natural and legal persons may only assert rights afforded them by this Law in proceedings before Yugoslav courts or administrative bodies through professional representatives who shall be Yugoslav natural or legal persons.

Art. 12. Natural and legal persons who satisfy the conditions set out in the Federal Patent Law shall be entered in the Register of Representatives kept by the competent federal body.

Initiating the Procedure for Registration of a Geographical Indication

Art. 13. The procedure for registration of a geographical indication shall be initiated by the filing of an application.

The application may be filed only by natural or legal persons who produce within a specified geographical area the products that bear the name of that geographical area.

The application for registration of a geographical indication shall comprise a request for registration of the geographical indication, information on the geographical area and, in the case of an application for an appellation of origin, a report on the method of production and the qualities and characteristics of the product.

The application for registration of a geographical indication may concern only one geographical indication relating to only one type of product.

The procedure before the competent federal body shall be subject to fees in accordance with the Law on Federal Administrative Fees and the Recovery of Costs and Expenditure occasioned by the provision of information services.

Art. 14. The request for registration of a geographical indication shall comprise or state:

- (1) the particulars of the applicant;
- (2) the geographical name protected as a geographical indication;
- (3) a statement to the effect that it is an appellation of origin or an indication of source;
- (4) the type of product to which the geographical indication applies;
- (5) the name of the region or locality in which the product originates;
- (6) the appearance of the geographical indication, comprising words and possible figurative elements, together with the method of marking the products;
- (7) the characteristics of the product if the application is for an appellation of origin;
- (8) name of the body responsible for controlling the product in the case of an application for an appellation of origin;
- (9) the signature of the applicant.

Art. 15. The information on the geographical area of production for a given product shall comprise a precise designation of the geographical area, identification of its administrative boundaries, a geographical map and other prescribed data, whether the application for registration concerns an appellation of origin or an indication of source.

If the application relates to an appellation of origin, the report on the production method and qualities and characteristics of the product shall comprise: particulars of the applicant or of the person authorized to represent him, the geographical name of the product protected by the appellation of origin, information on the methods and processes for production of certain products, information on the qualities and characteristics of the product, rules for the method of marking the product, rules identifying those persons who have the right to use the appellation of origin and the conditions for using it, rules on the rights and duties of a user of the appellation of origin, together with other prescribed data.

Register of Applications for Registration of Geographical Indications

Art. 16. A Register of Applications for registration of geographical indications shall be kept in which the following information shall be entered: particulars of the applicant, filing date and number of the application for registration of a geographical indication, geographical name protected by the geographical indication, appearance of the geographical indication, statement whether the application concerns an appellation of origin or an indication of source and other prescribed data.

Art. 17. If the application for registration of a geographical indication satisfies the conditions set out in Articles 13, 14 and 15 of this Law, it shall be entered in the Register of Applications for registration of geographical indications.

The day and time of filing with the competent federal body shall be entered on the application and the applicant shall receive a certificate of filing.

Initiating the Procedure for Recognition as an Authorized User of a Geographical Indication

Art. 18. The procedure for recognizing an authorized user of a geographical indication shall be initiated by filing the corresponding application.

The application for recognition as an authorized user shall contain a request for recognition, proof of activity and the product control certificate if the application for recognition as an authorized user relates to an appellation of origin.

The application for recognition as an authorized user may concern one user only.

Filing of an application for recognition as an authorized user of a geographical indication shall be subject to payment of a fee.

Art. 19. The request for recognition as an authorized user of a geographical indication shall contain or state:

- (1) particulars of the applicant;
- (2) the geographical name protected by the geographical indication;
- (3) a statement whether an appellation of origin or an indication of source is concerned;
- (4) the type of product to which the geographical name applies;
- (5) the name of the region or locality in which the product originates;
- (6) the name of the body responsible for controlling the product in the case of an application for recognition as an authorized user of an appellation of origin;
- (7) the signature of the applicant.

Art. 20. For the purposes of this Law, the proof of activity or production of a product and the product control certificate, if the application for recognition as an authorized user relates to an appellation of origin, shall be constituted by certificates issued by competent bodies and shall contain the prescribed information.

Register of Applications for Recognition as Authorized Users of Geographical Indications

Art. 21. A Register of Applications for recognition as authorized users of geographical indications shall be kept in which the following information shall be entered: particulars of the applicant, filing date and number of the application for recognition as an authorized user, geographical name protected by the geographical indication, registration number of the geographical indication and a statement about whether the application relates to an appellation of origin or an indication of source, and other prescribed data.

Art. 22. If the application for recognition as an authorized user of a geographical indication satisfies the conditions set out in Articles 18, 19 and 20 of this Law, it shall be entered in the Register of Applications for recognition as authorized users of geographical indications.

The day and time of filing with the competent federal body shall be entered on the application and the applicant shall receive a certificate of filing.

Examination of Applications for Registration of Geographical Indications or of Applications for Recognition as Authorized Users

Art. 23. An application for registration of a geographical indication shall be deemed regular if it comprises:

- (1) a request for registration of a geographical indication in accordance with Article 14 of this Law;
- (2) information on the geographical area of production of the product in accordance with the first paragraph of Article 15 of this Law;

- (3) a report on the production methods and the qualities and characteristics of the product in accordance with the second paragraph of Article 15 of this Law in the case of an application for an appellation of origin;
- (4) proof of payment of the application fee for a geographical indication;
- (5) any other prescribed documents.

An application for recognition as a authorized user of a geographical indication shall be deemed regular if it comprises:

- (1) a request for recognition as an authorized user of a geographical indication in accordance with Article 19 of this Law;
- (2) proof of activity in accordance with Article 20 of this Law;
- (3) a product control certificate in accordance with Article 20 of this Law if the application for recognition relates to an appellation of origin;
- (4) proof of payment of the application fee for recognition as an authorized user of a geographical indication;
- (5) any other prescribed documents.

Art. 24. If the competent federal body deems that that the application is not regular, it shall invite the applicant in writing (examination report) to regularize the application within the time limit it shall prescribe.

If the applicant submits a well-founded request, the competent federal body may extend the time limit referred to in the first paragraph for such further period as it considers appropriate.

If the applicant does not regularize his application or does not pay the regularization fee within the prescribed time limit, the competent federal body shall reject the application for registration of a geographical indication or the application for recognition as an authorized user of a geographical indication.

In the case referred to in the third paragraph, the applicant may request restoration of his rights within a period of six months as from the date of receipt of the refusal decision.

Examination of the Requirements for Registration of a Geographical Indication or Recognition as an Authorized User of a Geographical Indication

Art. 25. If examination of the formal regularity of an application for registration of a geographical indication or an application for recognition as an authorized user of a geographical indication ascertains that the application is regular with respect to Article 23 or Article 24 of this Law, the competent federal body shall determine whether it satisfies the requirements set out in the Law for the registration of geographical indications or for recognition as an authorized user.

Art. 26. If the competent federal body deems that the application does not satisfy the conditions for registration of a geographical indication or for recognition as an authorized user of a geographical indication, it shall inform the applicant in writing (examination report) of the reasons for which the geographical indication may not be registered or the authorized user of a geographical indication may not be recognized and shall invite him to submit his comments within a period that it shall prescribe.

If the applicant submits a well-founded request, the competent federal body may extend the time limit referred to in the first paragraph for such further period as it considers appropriate.

If the applicant does not submit his comments or if he does so, but the competent federal body holds that the geographical indication may not be registered or that the person concerned may not be recognized as an authorized user of a geographical indication, it shall reject the request for registration of a geographical indication or for recognition as an authorized user of the geographical indication.

If, in the case referred to in the third paragraph, the application for an appellation of origin satisfies the requirements for registration as an indication of source or the application for recognition as an authorized user of an appellation of origin satisfies the conditions required for recognition as an authorized user of an indication of source, the competent federal body shall inform the applicant thereof and, with his consent, shall register the indication of source or the authorized user of the indication of source.

If the applicant does not submit his comments and the competent federal body takes the decision referred to in the third paragraph, the applicant may request restoration of his rights within a period of six months as from receipt of the date of receipt of the refusal decision.

Decision on Registration of a Geographical Indication or Recognition as an Authorized User of a Geographical Indication and Entry in the Register

Art. 27. If an application for registration of a geographical indication meets the required conditions, the competent federal body shall take a decision to register the indication and to enter it in the Register of Geographical Indications.

If an application for recognition as an authorized user of a geographical indication meets the required conditions, the competent federal body shall invite the applicant to pay the corresponding fee for the first five years and the costs of publishing the information relating to the authorized user of the geographical indication and to submit evidence of payment.

The competent federal body shall reject the application for recognition as an authorized user of a geographical indication if the applicant does not furnish within the prescribed time limit the evidence of payment referred to in the second paragraph.

In the case referred to in the third paragraph, the applicant may request restoration of his rights within a period of six months as from the date of notification of the refusal decision.

Art. 28. When the applicant files the evidence of payments referred to in the second paragraph of Article 27 of this Law, the competent federal body shall take the decision to recognize the authorized user of the geographical indication and shall enter the right to use in the Register of Authorized Users of Geographical Indications.

Art. 29. The following particulars shall be entered in the Register of Geographical Indications: the geographical name protected by the geographical indication, a statement about whether it is an appellation of origin or an indication of source, the types of products to which the geographical indication applies, the appearance of the geographical indication, the authorized users of the geographical indication, and any other prescribed data.

Art. 30. The following particulars shall be entered in the Register of Authorized Users of Geographical Indications: the surname and forename, or business name, and address, or headquarters, of the authorized user of the geographical indication, the geographical name protected by the geographical indication, the registration number of the geographical indication and a statement whether it is an appellation of origin or an indication of source, and any other prescribed data.

Publication of Geographical Indications

Art. 31. Registered geographical indications shall be published in the Official Bulletin.

Issue of the Certificate of Recognition as an Authorized User of a Geographical Indication and Publication of the Recognition

Art. 32. The competent federal body shall issue a certificate of recognition to the authorized user of a geographical indication and shall publish the particulars of the rights granted in its Official Bulletin.

IV. CONTENT AND SCOPE OF THE RIGHT TO USE A GEOGRAPHICAL INDICATION

Art. 33. A geographical indication may be used only by those persons entered in the appropriate Register as authorized users of the indication concerned.

Art. 34. The authorized user of a geographical indication shall be entitled to use that geographical indication to mark the products to which it applies.

This right shall extend to use of the geographical indication on packaging, catalogues, prospectuses, posters and other forms of offer, on directives, invoices, correspondence and other forms of trade papers, and to import or export goods bearing that indication.

Art. 35. The effect of a geographical indication protecting a geographical name shall be to prohibit any person not entered as an authorized user of the geographical indication from using that name, its transcription or transliteration, whatever the characters used, the color or mode of expression, in order to mark a product, even with the addition of words such as "type," "fashion," "by the process."

Art. 36. The authorized user of a geographical indication shall have the right to prohibit any person not entered as an authorized user from using the geographical name protected by the geographical indication, even if that geographical name corresponds to his name, a part of the trade name of an enterprise or a previously registered trademark.

Art. 37. A geographical indication may not be the subject of a contract for assignment, licensing, pledge, franchise, or the like.

Art. 38. If a geographical indication is the subject of a trademark that has been filed or registered, such trademark may not be transferred, assigned, pledged, or the like.

A geographical indication for which there are several authorized users may only be the subject of a collective mark.

Art. 39. The term of a geographical indication shall not be limited.

V. ACQUISITION AND DURATION OF THE RIGHT TO USE A GEOGRAPHICAL INDICATION

Art. 40. The authorized user of a geographical indication shall acquire the right to use that indication on entry of recognition of his capacity in the Register of Authorized Users of Geographical Indications.

The right to use a geographical indication shall last for five years as from the day of entry of the user in the Register of Authorized Users of Geographical Indications.

The right referred to in the second paragraph may be extended, at the request of the authorized user, for an unlimited number of times, subject to the prescribed conditions.

VI. LAPSE OF THE RIGHT TO USE A GEOGRAPHICAL INDICATION

Art. 41. The right to use a geographical indication may also lapse prior to expiry of the period referred to in the second paragraph of Article 40 of this Law:

- (1) if the authorized user renounces his right on the day after the day on which the competent federal body receives the letter of renunciation;
- (2) as a result of a court decision or a decision by the competent federal body in those cases set out in this Law - on the day set in the decision concerned;
- (3) if the legal person who is the holder of the right has been wound up or if the natural person who is the holder of the right has died - on the day of winding up or of death, except where the right has been transferred to the successors in title of the legal person or the heirs of the natural person.

VII. CANCELLATION OF THE REGISTRATION OF A GEOGRAPHICAL INDICATION OR THE RECOGNITION OF AN AUTHORIZED USER

Art. 42. The registration of a geographical indication or the recognition of an authorized user of a geographical indication may be canceled if it is established that, at the time the decision was taken, the requirements of this Law were not satisfied.

Art. 43. The registration of a geographical indication or the recognition of an authorized user may be cancelled at any time during the term of protection, either ex officio or at the request of an interested party or of the public prosecutor.

The request for cancellation referred to in the first paragraph shall be accompanied by the appropriate evidence.

Art. 44. If the person who requests cancellation of the registration of a geographical indication or the recognition of an authorized user withdraws his request during the procedure, the competent federal body may continue the proceedings ex officio.

VIII. REVOCATION OF THE DECISION TO RECOGNIZE AN AUTHORIZED USER

Art. 45. The decision to recognize an authorized user may be revoked if it is established that the conditions for recognition required by this Law have ceased to exist. The authorized user of the geographical indication shall be required to prove, during the proceedings for revocation of the decision on recognition of the authorized user, that the conditions required for recognition of that capacity were met.

Art. 46. The decision on recognition of an authorized user may be revoked ex officio or at the request of an interested party or at the request of the Public Prosecutor.

Art. 47. If the person who requests revocation of a decision on recognition of an authorized user renounces his request during the procedure, the competent federal body may continue the proceedings ex officio.

Art. 48. The person entered in the appropriate Register as an authorized user shall lose that capacity on the day on which the decision to revoke enters into force.

IX. CIVIL LAW PROTECTION

Protection in the Event of Infringement of a Geographical Indication

Art. 49. Any person who infringes a geographical indication shall be liable for damages under the general rules on compensation for damages. If the damages have been caused intentionally, compensation may be claimed for an amount up to three times that of the actual damages and of the loss of earnings.

Liability for infringement of a geographical indication as referred to in the first paragraph shall not exclude liability for acts of unfair competition.

The authorized users of a geographical indication that has been infringed may request, in addition to damages, an order forbidding the infringer from continuing the infringing acts and the publication of the decision establishing the infringement, at the expense of the defendant, together with posting of the decision at the entrance to his offices.

Art. 50. Any unauthorized commercial use of a geographical indication within the meaning of Articles 33 and 34 of this Law shall constitute an infringement of the indication.

The imitation of a geographical indication shall also constitute an infringement.

In order to establish infringement of a geographical indication, the court shall ascertain in particular whether there is a similarity within the meaning of Article 35 of this Law.

Art. 51. Proceedings for infringement of a geographical indication may be instituted by the authorized users of the geographical indication, by the consumer associations and by the Public Prosecutor.

Art. 52. Proceedings for infringement of a geographical indication shall be heard by the court within the jurisdiction of which the authorized users of the geographical indication have their place of residence or place of business.

Art. 53. Proceedings for infringement of a geographical indication may be instituted within a period of three years as from the day on which the plaintiff obtained knowledge of the infringement and of the identity of the infringer, but at the latest within a period of five years as from the day on which the infringement was committed.

Art. 54. The plaintiff in proceedings for infringement of a geographical indication may request the court to order a provisional injunction on the infringing activities and the provisional seizure or withdrawal from the market of the goods concerned.

Exceptionally, such provisional measures may be requested before the proceedings have been opened on condition that proceedings be instituted within 15 days of the day on which the request for provisional measures was submitted.

In the cases referred to in Article 35 of this Law, the court shall take provisional measures as referred to in the first and second paragraphs of this Article.

An appeal against a decision to order provisional measures shall not have suspensive effect.

Proceedings for infringement of a geographical indication shall be heard under the urgent procedure.

X. PENAL PROVISIONS

Art. 55. Any enterprise or other legal person who infringes a geographical indication and thereby causes damages (Article 50) shall be liable to a fine of between 5,000 and 50,000 new dinars for an economic offense.

A person having responsibility in the enterprise or other legal person shall also be liable to a fine of between 500 and 5,000 new dinars with respect to the act referred to in the first paragraph of this Article.

Art. 56. Any enterprise or other legal person who represents without authorization foreign natural and legal persons (Article 11) shall be liable to a fine of between 1,000 and 15,000 new dinars.

A person having responsibility in the enterprise or other legal person shall also be liable to a fine of between 500 and 1,500 new dinars with respect to the acts referred to in the first paragraph of this Article.

Any natural person who represents without authorization foreign natural and legal persons shall be liable to a fine of between 500 and 1,500 new dinars.

XI. TRANSITIONAL AND FINAL PROVISIONS

Art. 57. The appellations of origin for products registered and 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.

Following entry into force of this Law, the appellations of origin for products referred to in the first paragraph shall be called "geographical indications."

The provisions of this Law shall also apply to applications for registration of appellations of origin for products and to applications for recognition as authorized users filed prior to the date of entry into force of this Law and for which the administrative procedure is pending.

Art. 58. Implementing Regulations under this Law shall be issued within 60 days of the date of entry into force of this Law.

Art. 59. On the day this Law enters into force, the provisions of the Law on the Protection of Inventions,

Technical Improvements and Distinctive Signs (Official Gazette of the Federal Republic of Yugoslavia numbers 34/81, 3/90 and 20/90) referring to appellations of origin for products shall be repealed.

Art. 60. This Law shall enter into force on the eighth day after the date of its publication in the Official Gazette of the Federal Republic of Yugoslavia.