

## **Law of the Republic of Tajikistan on Geographical Indications**

This Law regulates the relations formed in connection with legal protection and use of geographical indications.

### **Article 1. Main notions used in this law and their definitions**

1. A geographical indication – is a designation which identifies a good as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

The notion of a geographical indication includes the notions of “appellation of origin” and “indication of source”.

2. An appellation of origin is a name of a country, a settlement, location or other geographical object, used for designation of the goods the specific quality and features of which are essentially or exclusively defined by natural conditions or other factors or by a combination of natural conditions and these factors.

An appellation of origin may be a historical name of a geographical object.

A name which, although constituting or containing the name of a geographical location, has not come into general use in the Republic of Tajikistan as a means of expressing the designation of a particular type of good, unconnected with the place in which it is produced, shall not be recognized as an appellation.

3. An indication of source – is a designation directly or indirectly indicating a place of true origin or manufacture of a good.

An indication of source may be represented in the form of a name of a geographical object or figurative representation.

4. A geographical object - a territory with officially defined borders, for example a country, a region as a part of a country, settlement, locality.

5. An application for registration and provision of the right to use an appellation of origin – is a collection of the documents necessary for registration of the appellations of origin and geographical indications, or for acquiring the right to use the registered appellations of origin or geographical indications.

6. An applicant - is a natural person or legal entity or association of persons who filed the application.

7. A competent authority – is a state authority empowered by the Government of the Republic of Tajikistan to determine borders of the geographical object where the good is produced, the specific quality and features of which are essentially or exclusively defined by characteristic for the given geographical object natural conditions or other factors or by a combination of natural

conditions and these factors, with which some of the characteristics of the good are connected, and also to certify that the applicant is located in the given geographical object..

8. A certificate for the right to use an appellation of origin – is a document certifying the exclusive right of its holder to use an appellation of origin.

## **Article 2. Provision of legal protection to geographical indications**

1. Legal protection of the appellation of origin in the Republic of Tajikistan is provided on the basis of its registration before the National Center for Patents and Information under the Ministry of Economy and Trade of the Republic of Tajikistan (hereinafter “patent office”) in order established by this Law or by virtue of the international agreements of the Republic of Tajikistan. On the basis of registration a certificate for the right to use an appellation of origin is granted.

2. An appellation of origin may be registered jointly by several persons for designation of the good produced on the territory of a definite geographical object, the specific quality and features of which are essentially or exclusively defined by characteristic for the given geographical object natural conditions or other factors or by a combination of natural conditions and these factors. The right to use the appellation of origin belongs to each of these persons.

The right to use an appellation of origin, registered in accordance with the established procedure, may be granted to any legal person or individual manufacturer located in the same geographical object and producing the good with the same features.

3. Legal protection of an indication of source shall be provided on the basis of the use of the indication

Legal protection of an indication of source shall consists in non-admission of the use of deceptive (false) indications of source and also of indications that are capable of confusing consumers in respect of true origin of the good.

Indication of source shall not be subject to the State registration.

## **Article 3. Scope of legal protection of geographical indications**

1. In the Republic of Tajikistan legal protection shall be granted to a geographical indication located in the territory of the Republic of Tajikistan.

2. Legal protection of an appellation of origin located in another country shall be granted in the Republic of Tajikistan if that appellation of origin is registered in the country of origin of the good and in the Republic of Tajikistan in accordance with legislation.

3. Legal protection of the indication of source located in another country shall be provided in the Republic of Tajikistan if this indication of source is used in the country of origin of the good.

## **Article 4. Application for registration and provision of the right to use an appellation of origin**

1. An application for registration and provision of the right to use an appellation of origin (hereinafter “application”) shall be filed with the Patent Office by an applicant (applicants) on his own or through a patent attorney, registered in the Patent Office.

2. Foreign legal entities or natural persons living permanently abroad or their patent attorneys shall act to obtain certificates for the right to use appellations of origin through patent attorneys registered with the Patent Office of the Republic of Tajikistan.

3. An application shall relate to a single appellation of origin.
4. An application shall contain:
  - 4.1. a request for registration and provision of the right to use the appellation of origin or provision of the right to use the previously registered appellation of origin, containing details of the applicant (applicants) and his (their) place of business or residence;
  - 4.2. the claimed appellation;
  - 4.3. an indication of the good for which registration and provision of the right to use the appellation of origin or provision of the right to use the appellation of origin already registered are requested, with an indication of the name of the place in which the good is produced (borders of the geographical object);
  - 4.4. a description of the particular features of the good
5. The following shall be attached to the application:
  - 5.1. for a national applicant (a natural person or legal entity of the Republic of Tajikistan)-a resolution of the local government authority stating that the applicant is located in the geographical object in question and produces the good, the special features of which are defined by natural conditions or other factors or by combination of natural conditions and these factors;
  - .5.2. for a foreign applicant -a resolution of the local government authority stating that the applicant is located in the geographical object in question and produces the good, the special features of which are defined by natural conditions or other factors or by combination of natural conditions and these factors;
  - a document confirming his right to use the claimed appellation of origin in the country of origin of the good.
  - 5.3. a receipt for payment of the fee in the established amount;
6. A filing date of an application with the Patent Office shall be established by the date of receipt of documents specified in paragraph 4 of this article and where the above-mentioned documents have been presented not at the same time - on the date of receipt of the last of the filed documents.
7. The requirements for application documents shall be established by the Patent Office.

## **Article 5. Examination of an application**

1. An application shall be examined by the Patent Office, including a preliminary examination and examination of the claimed designation, in accordance with this Law and the regulations established by the Patent Office.
2. During examination of the application before the decision on it has been made the applicant shall be entitled to supplement, correct or amend the materials, which do not change the substance of the application.

If the additional materials change substantively the application, these materials shall not be considered and may be established by the applicant as a separate application.

During the examination, the Patent Office may request from the applicant additional materials, without which the examination cannot be conducted.

The additional materials shall be filed within two months of the day on which the request is received. At the applicant's request, the period in question may be extended by not more than six months, if the request to extend the period has been received prior to the expiry of the

aforementioned two-month period. In the event the applicant violated the established term or did not answer the request, the application shall be considered to have been withdrawn and the applicant shall be informed about it.

4. An applicant may withdraw the application at any stage of the examination.

5. The preliminary examination of the application shall be conducted within two months of the date on which the application is filed with the Patent Office

During the preliminary examination the content of the application shall be verified, along with the presence of the requisite documents, their compliance with the established requirements, and also the payment of fees.

On the basis of the results of the preliminary examination the application shall be accepted for consideration or a decision to refuse consideration of the application shall be taken. The applicant shall be informed of the results of the preliminary examination.

Upon acceptance of the application the filing date shall be established in accordance with paragraph 4 article 4 of this Law.

7. On the application being accepted for consideration the examination of the claimed designation shall be carried out during which it shall be established whether the claimed designation is a name of a country, settlement, location or geographical object used for designation of the good, the specific quality and features of which are essentially or exclusively defined by characteristic for the given geographical object natural conditions or other factors or by a combination of natural conditions and these factors.

8. Following the examination, the Patent Office shall make one of the following decisions

- to register the appellation of origin and to provide the right to use it,
- to refuse to register the appellation of origin and not to provide the right to use it;
- to provide the right to use a previously registered appellation of origin;
- to refuse to provide the right to use a previously registered appellation of origin.

#### **Article 6. Appeal against the decision on an application**

1. Where an applicant does not agree with the decision on preliminary examination or the with the decision on examination of the claimed designation, he may, within three months of the day on which he receives the decision, submit an appeal to the Appeals Board of the Patent Office (hereinafter “the Appeals Board”).

2. The appeal must be examined during four months from the date of its receipt by the Appeals Board. The procedure for consideration of appeals by the Appeals Board shall be established by the Patent Office.

3. The decision of The Appeals Board may be challenged in the Supreme Economic Court of the Republic of Tajikistan within six months from the date the decision is received.

#### **Article 7. Registration of an appellation of origin and issuance of a certificate of the right to use an appellation of origin**

1. On the basis of the decision of the examination the Patent Office shall register an appellation of origin in the State Register of Appellations of Origin of the Republic of Tajikistan (hereinafter “Register”). The information related to the registration and provision of the right to use the appellation of origin and the subsequent changes of the information shall be entered in the Register. The content of the information shall be determined by the Patent Office.

2. The certificate for the right to use the appellation of origin (hereinafter “certificate”) shall be issued by the Patent Office after registration of the appellation of origin in the Register provided that the prescribed fee has been paid.

3. The form of the certificate and the content of the information contained therein shall be determined by the Patent Office.

#### **Article 8. Period of validity of a certificate**

1. A certificate shall be valid for a period of 10 years from the date on which the application is filed with the Patent Office.

2. The period of validity of a certificate, at the request of its holder, submitted during the final year of the certificate’s validity, may be extended for 10 years, on retention of the conditions giving him the right to use the appellation of origin. The renewal may be made infinitely.

3. The period of validity of a certificate may also be extended at the request of the holder, submitted within six months of the expiry of the certificate's period of validity, provided that an additional fee has been paid.

4. The Patent Office shall enter details of the extension of the period of a certificate's validity in the Register. At the holder's request, the same details shall be entered on the certificate.

5. The request for extension of the period of validity must include

- for a holder of a certificate – a natural person or legal entity of the Republic of Tajikistan - a resolution of the competent authority stating that the owner is located in the given geographical object and produces the goods with the features indicated in the certificate;
- for a foreign holder of a certificate - a resolution of the competent authority stating that the holder is located in the given geographical object and produces the good with the features indicated in the certificate;
- a document confirming his right to use the appellation of origin in the country where the good originates;
- 5.3. a document confirming payment of the fee in the established amount

#### **Article 9. Entry of changes in the Register and on the Certificate**

1. A certificate holder shall inform the Patent Office of a change in his family name, first name and patronymic, as well as of changes relating to the registration and provision of the right to use the appellation of origin.

2. Changes shall be entered in the Register and on the certificate at the request of the certificate holder, provided that the prescribed fee has been paid.

3. The Patent Office may on its own initiative enter in the Register the corrections to grammatical and other obvious errors. At the request of the certificate holder the changes shall be entered on the certificate.

#### **Article 10. Publication of the information on the registration and provision of the right to use an appellation of origin**

Information concerning the registration and provision of the right to use an appellation of origin, entered in the Register, shall be published by the Patent Office in its Official Bulletin.

### **Article 11. Registration of an appellation of origin in foreign countries**

1. Legal entities and natural persons of the Republic of Tajikistan may register an appellation of origin in foreign countries.
2. An application for registration of an appellation of origin in foreign countries shall be filed following the registration and acquisition of the right to use the appellation of origin in the Republic of Tajikistan.

### **Article 12. Fees**

1. For the execution of legal actions connected with registration of an appellation of origin fees shall be levied. Fees are to be paid to the Patent Office by an applicant, owner of a certificate or in agreement with them by other natural persons and legal entities.
2. Levels, procedures and terms for payment of fees shall be established by the Government of the Republic of Tajikistan
3. The order of usage of fees shall be defined by legislative acts of the Republic of Tajikistan.

### **Article 13. Use of a geographical indication**

1. The use of an appellation of origin shall be considered its application on a good and packaging, in advertising, pamphlets, invoices, and also in other forms linked to the introduction of the good into the economy.
2. The use of a registered appellation by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as "sort", "kind," "type," "imitation," and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the user as regards the place of origin and special features of the good shall not be allowed.
3. Any person who honestly used the name of a geographical object identical or similar to the registered appellation of origin for not less than six months prior to the date of its registration shall be granted the right to continue to use it during a period determined by the Patent Office, but for not more than two years counted from the date of the said registration
4. The assignment of the right to use a geographical indication and provision of the right to use it on the basis of a license shall not be admitted.

### **Article 14. Precautionary Marking**

A certificate holder may affix at the appellation of origin a precautionary marking in the form of the Latin letter R, either –by itself or in a circle, or the “appellation of origin” or “registered appellation of origin” verbal designations indicating that the used name is an appellation of origin registered in the Republic of Tajikistan.

### **Article 15. Recognition of a registration of an appellation and of a certificate for the right to use the appellation as invalid**

1. The registration of an appellation of origin may be recognized as invalid, if it is made in violation of the requirements established by this Law.
2. A certificate may be recognized as invalid, if it is issued in violation of the requirements established by this Law.

3. Any person may submit to the Appeals Board an appeal against

- the registration of an appellation of origin;
- the issue of a certificate for the right to use the appellation of origin.

The procedure of consideration of appeals is established by the Patent Office.

The decision of the Appeals Board may be challenged in the Supreme Economic Court of the Republic of Tajikistan within six months of the day on which it is received.

### **Article 16. Invalidation of a registration of an appellation of origin and a certificate**

1. The registration of an appellation of origin may be invalidated due to disappearance of the conditions characteristic to a given geographical object and impossibility to produce the good with the features indicated in the Register.

2. The validity of the registration of an appellation of origin in the name of a foreign legal entity or natural person shall also be terminated due to the loss of the right to that appellation of origin in the country origin of the good.

3. A certificate may be recognized as invalid

- due to the loss of specific features indicated in the Register in respect of this appellation of origin ;
- 3.2. due to cancellation of the registration of an appellation of origin;
- 3.3. in case of death of a natural person – holder of a certificate – in the absence of a successor, and in case of a liquidation of a legal entity – holder of a certificate – on the basis of a request submitted to the Patent Office.
- 3.4. on the basis of a request submitted to the Patent Office by the certificate holder.

4., Any person on the ground provided for in paragraphs 1, 2 and subparagraph 3.1 of paragraph 3 of this article, may file an appeal to the Appeals Board on invalidation of registration of an appellation of origin and of a certificate. The procedure for consideration of appeals shall be established by the Patent Office.

The decision of the Appeals Board may be challenged in the Supreme Economic Court of the Republic of Tajikistan within six months of from the date of its receipt.

5. The registration of an appellation of origin and a certificate shall be nullified by the Patent Office if they are recognized invalid and also on the grounds specified in paragraphs 1, 2 and 3 of this article.

### **Article 17. Patent Office**

The Patent Office shall accept applications for registration of appellation of origin, carry out their examination, keep the State Register of appellations of origin of the Republic of Tajikistan, issue certificates valid on all the territory of the Republic of Tajikistan, exert control over observation of the legislation in the field of protection of geographical indications, generalize the practice and make elucidations on its implementation, render methodological assistance on the above-mentioned issues and services to interested persons.

### **Article 18. Liability for violation of the legislation on geographical indications**

1. A person effecting a preventive marking in respect of an unregistered appellation of origin shall bear the responsibility in accordance with the legislation of the Republic of Tajikistan.

2. A person having the right to use a geographical indication shall have the right to demand the person unlawfully using the indication to remove from the good, its packaging, forms or other documentation, the unlawfully used geographical indication, or the designation similar thereto to the point of confusion, to destroy the images of the geographical indication or designation similar thereto to the point of confusion, in case it is impossible to confiscate and destroy the good and/or packaging.

A person having the right to use a geographical indication shall have the right to demand a compensation for the losses incurred

### **Article 19. Settlement of disputes relating to the Implementation of this Law**

Disputes connected with violation of the legislation on geographical indications shall be settled by the Appeals Board and the Supreme Economic Court of the Republic of Tajikistan within the limits of their competence.

### **Article 20. International agreements**

If an international agreement ratified and entered into force to which the Republic of Tajikistan is a party makes alternative provisions to those specified by this Law, the provisions of the international agreements shall be applied.

### **Article 21. The rights of foreign citizens, persons without citizenship, and foreign legal persons**

Foreign citizens, persons without citizenship, and foreign legal persons shall enjoy the rights provided for by this Law and other legal acts of the Republic of Tajikistan in the field of protection of geographical indications and shall be equally liable with natural persons and legal entities of the Republic of Tajikistan unless otherwise stipulated by the legislative acts of the Republic of Tajikistan and international agreements.

### **Article 22. Entry into force of this Law**

1. This Law shall enter into force six months after the date of its official publication, except Art.23.

2. Art. 23 of this Law shall enter into force on the date of its official publication.

3. Before bringing the legislation of the Republic of Tajikistan in compliance with this Law the legislative acts of the Republic of Tajikistan shall be applied in that part where they do not contradict this Law, unless otherwise is stated by Constitution

### **Article 23. Brining legislative acts of the Republic of Tajikistan in line with this Law**

The Government of the Republic of Tajikistan , within six months of the date of the official publication of this Law shall:

- prepare and submit in the prescribed manner to the Majlisi namoyandagon Majlisi Oli of the Republic of Tajikistan proposals on bringing the legislative acts of the Republic of Tajikistan in line with this Law;
- bring the decisions of the Government of the Republic of Tajikistan in line with this Law;
- ensure the revision and cancellation by the bodies of state administration subordinate to the Government of the Republic of Tajikistan of their regulatory acts which run counter to this Law;
- provide the adoption of the legal regulatory acts necessary for the implementation of this Law.