

## **THE PARLIAMENTARY ASSEMBLY OF BOSNIA AND HERZEGOVINA**

Pursuant to Article IV.4.a) of the Constitution of Bosnia and Herzegovina, the Parliamentary Assembly of Bosnia and Herzegovina, at the 75<sup>th</sup> session of the House of Representatives, held on April 7, 2010, and at the 46<sup>th</sup> session of the House of Peoples, held on May 28, adopted the

### **THE LAW ON THE PROTECTION OF INDICATIONS OF GEOGRAPHICAL ORIGIN**

#### **PART ONE – GENERAL PROVISIONS**

##### **Article 1 (Subject Matter of the Law)**

- (1) This Law governs the manner of acquisition, maintenance, content, termination and legal protection of indications of geographical origin in Bosnia and Herzegovina (hereinafter: B&H).
- (2) This Law shall also apply to appellations of origin and geographical indications that are internationally registered for BiH.
- (3) The provisions of this Law shall not apply to such products where the acquisition and the system of protection, as well as the exercise of the right to use geographical indications on such products, are expressly regulated otherwise by special legislation.

##### **Article 2 (Concept of an Indication of Geographical Origin)**

- (1) An indication of geographical origin (hereinafter: indication of origin) shall be any indication by which a country or a place situated therein is directly or indirectly indicated as the country or place of geographical origin of a product.
- (2) Indications of origin shall be used to designate natural, agricultural, industrial, artisan and handicraft products.

##### **Article 3 (Concept of a Geographical Indication)**

A geographical indication shall be an indication which identifies specific goods as the goods originating in the territory of a specific country, a region or a locality within that territory, where a specific quality, reputation or other characteristics of the goods can essentially be attributed to its geographical origin.

##### **Article 4 (Concept of an Appellation of Origin)**

An appellation of origin shall be the geographical name of a country, a region or a locality, which serves to designate a product originating therein, the quality and specific characteristics of which are exclusively or substantially conditioned by the geographical environment, including

natural and human factors, and the entire production, processing and preparation of which take place in a defined geographical area.

Article 5  
(Traditional and Historical Names)

A name which is not an administrative geographical name of a certain country, a region or a locality and which, due to its long-term use in trade, has become well-known as the traditional name of a product originating in that area or it is the historical name of such an area, provided that it fulfils the requirements referred to in Articles 2, 3 and 4 of this Law.

Article 6  
(Origin of Raw Materials)

A product may exceptionally be protected by an appellation of origin or by geographical indication if it has proven traditional attribute, high reputation and is well-known, and where the raw materials for the production of such product originate in a region different from or larger than the processing area, provided that the production area of the raw materials is limited and that special conditions for the production of the raw materials exist, as well as the system of inspection control that ensures supervision over fulfillment of special conditions.

Article 7  
(Homonymous Names)

Where the names of two or more places of origin of a product are identical or almost identical in written or spoken form (*homonymous names*), the protection of such geographical names shall be granted to all the interested parties that meet the requirements prescribed by this Law, based on the principles of fair and equal treatment of producers on the market, and truthful informing of consumers, except when it may cause confusion among the public about the exact geographical origin of a product.

Article 8  
(Names Which Shall Not Be Protected by a Geographical Indication or an Appellation of Origin)

(1) A geographical indication or an appellation of origin shall not protect a name:

- a) which is contrary to public order or morality,
- b) which is the name of a protected plant variety or animal species if it could mislead the public about the geographical origin of a product,
- c) whose appearance or contents could create confusion in trade, regarding the type, origin, quality, production method or other characteristics of a product,
- d) which represents the accurate name of a country, region or locality in which a product originates, but which causes a false notion with the consumers that product comes from another country, region or locality,

e) which has, due to the long-term use thereof in everyday speech, lost its geographical meaning and has become a generic or common name for designating a particular product,

f) which is not protected or has ceased to be protected in the country of origin or is no longer used in that country.

(2) An appellation of origin or a geographical indication used for vine product shall not be protected by this Law if it is identical with the name of a grape variety that existed in the territory of B&H before January 1, 1995.

#### Article 9 (Generic Names)

(1) A generic name shall be a geographical name which has, although it refers to a geographic location where the product was originally produced or marketed, lost its geographical significance in everyday speech and has become a general name for that product.

(2) In determining whether a geographical name has become a generic name all the circumstances shall be taken into account and particularly the current situation in the geographical area from which the product originated and where it is used.

#### Article 10 (National Treatment)

(1) Foreign natural persons and legal entities shall enjoy the same rights with regard to the protection of indications of origin in B&H, as are enjoyed by national natural persons and legal entities, if that arises from international treaties and conventions acceded to or ratified by Bosnia and Herzegovina (hereinafter: international treaties and conventions), or from the principle of reciprocity.

(2) The existence of reciprocity shall be presumed until proven to the contrary.

#### Article 11 (Competence for the Procedure of Protecting Indications of Origin)

(1) Legal protection of indications of origin, in accordance with the provisions of the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods of April 14, 1891, shall be provided by direct application of those provisions and legislation on the suppression of unfair competition, in judicial proceedings before the courts having subject matter and territorial jurisdiction or in administrative procedure before the competent customs or market inspection authority.

(2) The court shall be competent to decide which indications of origin shall not, due to their generic character, enjoy the protection under the provisions of the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, excluding from the reservation laid down by this paragraph geographical names of the regions used for the indications of origin of vine products.

#### Article 12

(Competence for the Procedure of Protecting Appellations of Origin and Geographical Indications)

(1) The Institute for Intellectual Property of Bosnia and Herzegovina (hereinafter: the Institute) shall perform the jobs related to the protection of geographical indications and appellations of origin in the administrative procedure prescribed by this Law.

(2) The provisions of the Law on Administrative Procedure ("Official Gazette of BiH", volumes 29/02, 12/04, 88/07 and 93/09) shall be applied in the procedure carried out before the Institute, unless otherwise provided by this Law.

(3) A decision issued by the Institute in the procedure referred to in paragraph 1 of this Article may be appealed before the Board of Appeal of the Institute (hereinafter: the Board of Appeal) within a period of 15 days from the day of receipt of the decision.

(4) An administrative dispute may be instituted before the Court of Bosnia and Herzegovina against decision issued by the Board of Appeal, within 30 days from the day of receipt of the decision.

Article 13  
(Registers)

(1) The Institute shall keep, in electronic form, the Register of Applications for Appellations of Origin, the Register of Applications for the Grant of the Status of Authorized Users of Appellations of Origin, the Register of Applications for the Grant of the Status of 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 Register of International Applications for Appellations of Origin and the Register of Representatives for the Protection of Geographical Indications and Appellations of Origin (hereinafter: the Register of Representatives).

(2) The Register of International Applications for Appellations of Origin shall be considered to be a collection of applications for appellations of origin filed under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, and published by the International Bureau of the World Intellectual Property Organization (hereinafter: the International Bureau).

(3) The registers referred to in paragraph 1 of this Article shall be part of a single system of registers of industrial property of B&H in electronic form.

(4) The contents of the registers referred to in paragraph 1 of this Article shall be prescribed by a special regulation for the implementation of this Law (hereinafter: the implementing regulation).

(5) The registers referred to in paragraph 1 of this Article shall be considered as public records, and any interested person may inspect them, without payment of special fees.

(6) At a written request of interested persons, and subject to payment of the prescribed fee and procedural charges, the Institute shall issue the copies of documents and relevant attestations and certificates, with respect to the facts on which it keeps official records.

Article 14  
(Representation)

(1) Natural persons and legal entities, practicing representation in the appellations of origin and geographical indications protection procedures before the Institute, shall be entered in the Register of Representatives referred to in paragraph 1 of Article 13 of this Law.

(2) A foreign natural person or legal entity must be represented in the procedure carried out before the Institute by a representative entered in the Register of Representatives, whereas a national natural person or legal entity may act before the Institute also on his/its own.

(3) Natural persons and legal entities fulfilling the conditions laid down in the implementing regulation shall be entered in the Register of Representatives.

Article 15  
(Information Providing)

(1) The Institute shall allow any person, at his written request, to inspect the documentation relating to an appellation of origin or a geographical indication.

(2) The content and the manner of inspection referred to in paragraph 1 of this Article shall be regulated by the implementing regulation.

(3) Search services of applied for and registered appellations of origin and geographical indications provided to foreign persons shall be carried out through a representative referred to in paragraph (2) of Article 14 of this Law, whereas national persons may request the provision of search services also on their own.

Article 16  
(Fees and Charges in the Procedure for the Registration of an Appellation of Origin or a Geographical Indication, Acquisition and Maintenance of the Status of an Authorized User and Information Providing Services)

(1) All the acts in the procedure for the registration and termination of an appellation of origin or a geographical indication, acquisition, maintenance and termination of the status of an authorized user of an appellation of origin or a geographical indication, as well as the provision of information services, shall be subject to payment of the fees, in accordance with the current regulations governing national administrative fees (hereinafter: the fees) and special procedural charges (hereinafter: the procedural charges), in the amount specified by a special tariff, enacted by the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina, upon the motion of the Director of the Institute.

(2) Evidence of payment of the fees and procedural charges referred to in paragraph 1 of this Article shall be filed with the Institute, in the manner as defined by the implementing regulations.

Article 17  
(International Registration of an Appellation of Origin or a Geographical Indication)

(1) An authorized user of an appellation of origin or a geographical indication or an applicant for the registration of an appellation of origin or a geographical indication may file a request for the international registration of an appellation of origin or a geographical indication in accordance with the international treaty which is binding for BIH.

(2) A request for the international registration referred to in paragraph 1 of this Article shall be filed through the Institute, subject to payment of the prescribed fee and procedural charges.

(3) The contents of a request for the international registration of an appellation of origin or a geographical indication and the procedure of the Institute relating to such a request shall be regulated by the implementing regulation.

## **PART TWO – PROCEDURE UPON APPLICATION FOR THE REGISTRATION OF AN APPELATION OF ORIGIN OR A GEOGRAPHICAL INDICATION**

### Article 18

(Initiation of the Procedure for the Registration of an Appellation of Origin or a Geographical Indication)

(1) A procedure for the registration of an appellation of origin or a geographical indication shall be initiated by filing a respective application.

(2) An appellation of origin or a geographical indication application shall relate to one indication or one name of a geographical area only, and to one type of products only.

### Article 19

(Persons Who May File an Application for the Registration of an Appellation of Origin or a Geographical Indication)

An application for the registration of an appellation of origin or a geographical indication (hereinafter: an appellation of origin or a geographical indication application) may be filed by:

- a) national natural persons or legal entities who or which produce in defined geographical area the products designated by the name of such geographical area,
- b) associations of the persons referred to in item a) of this paragraph, chambers of commerce, associations of consumers, municipal, cantonal, entity and state authorities interested in the protection of appellations of origin or geographical indications, respectively, within the framework of their activities,
- c) foreign natural persons or legal entities or foreign associations, provided that an appellation of origin or a geographical indication is granted in the country of origin, where this arises from international treaties.

### Article 20

(Essential Elements of an Appellation of Origin or a Geographical Indication Application)

The essential elements of an appellation of origin or a geographical indication application shall be:

- a) request for the registration of an appellation of origin or a geographical indication,
- b) description of the geographical area,
- c) information on specific characteristics of products.

#### Article 21

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

(1) A request for the registration of an appellation of origin or a geographical indication shall contain:

- a) information on the applicant,
- b) geographical name to be protected,
- c) type of product to be designated by a particular geographical name,
- d) geographical name of the area or the place in which the product to be designated by a particular geographical name originates,
- e) signature of the applicant,
- f) evidence of payment of the fee,
- g) power of attorney if the application is filed through a representative.

(2) If the application is filed by a foreign person, the request referred to in paragraph (1) of this Article shall also contain a public document issued by the competent authority in the country of origin, certifying that an appellation of origin or a geographical indication was granted in the country of origin, accompanied by a certified translation of that public document into one of official languages of Bosnia and Herzegovina.

(3) A request for the registration of an appellation of origin shall, in addition to the elements referred to in paragraph (1) of this Article, contain an indication of the authorized accredited organization exercising control of specific characteristics of products.

(4) A request for the registration of a geographical indication may, in addition to the elements referred to in paragraph (1) of this Article, contain the representation of a geographical indication if, in addition to words, it also includes figurative elements or only figurative elements suitable for identifying geographical origin of particular goods.

#### Article 22

##### (Description of Geographical Area)

A description of the geographical area shall contain information on the geographical area in which the product originates, including closer definition of the administrative boundaries of that area, geographic chart of the area and information on geographical and human factors conditioning specific characteristics, quality or reputation of the product concerned.

Article 23  
(Information on Specific Characteristics of a Product)

(1) Information on specific characteristics of a product, where geographical indication application is concerned, shall contain description of the manner of product manufacture, precise indication of the specific characteristics or quality of a product, including information on acquired reputation, the provisions specifying who is entitled to use geographical indication and on what conditions, as well as the provisions specifying the rights and obligations of the user of a geographical indication.

(2) The information on specific characteristics of a product, where an appellation of origin application is concerned, shall be filed in the form of an elaborate on the manner of product manufacture, special characteristics and the quality of a product, containing in particular:

- a) information on the applicant for an appellation of origin and the person authorized to represent him,
- b) a geographical name to be protected,
- c) information on usual manner and process of product manufacture,
- d) information on specific characteristics and quality of a product,
- e) information on the causal link between geographical area and specific characteristics and quality of a product,
- f) proof of completed inspection of special characteristics of a product by an authorized accredited organization,
- g) provisions on the method of marking a product,
- h) provisions specifying who is entitled to use appellation of origin and on what conditions,
- i) provisions on the rights and obligations of the user of an appellation of origin,
- j) information specified by other regulations, governing the quality of a particular product.

(3) The proof referred to in item f) of paragraph (2) of this Article shall not be older than six months.

Article 24  
(Filing Date of an Appellation of Origin or a Geographical Indication Application)

(1) The accordance of the filing date of an appellation of origin or a geographical indication application shall require that the application filed with the Institute on such a date contains the essential elements of an application referred to in Article 20 of this Law.

(2) The Institute shall acknowledge the receipt of an application on the applicant's copy thereof.



(3) Upon the receipt of an application, the Institute shall examine whether the application contains the elements referred to in paragraph (1) of this Article.

(4) If an application does not contain elements referred to in paragraph (1) of this Article, the Institute shall invite the applicant in writing to correct the deficiencies due to which the application could not be entered in the respective register of applications within a period of 30 days which may not be extended, informing him that the application shall be rejected if the deficiencies are not corrected.

(5) If the applicant fails to correct the deficiencies within the period referred to in paragraph (4) of this Article, the Institute shall reject the application by a conclusion.

(6) If the applicant corrects the deficiencies within the period referred to in paragraph (4) of this Article, the Institute shall accord, by a conclusion, the date on which the applicant corrected the deficiencies detected as the filing date of the application.

(7) The application to which the filing date has been accorded shall be entered in the respective register of applications.

#### Article 25

(Register of Appellation of Origin Applications and Register of Geographical Indications Applications)

The data on the essential elements of the application referred to in Article 20 of this Law and other data prescribed by the implementing regulation shall be entered in the Register of Appellation of Origin Applications and the Register of Geographical Indications Applications.

#### Article 26

(Order of Examination of an Appellation of Origin or a Geographical Indication Application)

(1) The appellation of origin or geographical indication applications shall be examined in the order determined by their filing dates.

(2) By way of derogation from the provision of paragraph (1) of this Article, the application may be examined in an expeditious procedure:

a) in the case of a legal dispute or an initiated inspection control or customs procedure;

b) if a request for the international registration of an appellation of origin or a geographical indication is filed,

c) if, under other regulations, there is a requirement to have an appellation of origin or a geographical indication registered within a specified time limit, with the obligation of filing a special request for that;

(3) In the case referred to in paragraph (2) of this Article, a request for the examination of the application in an expeditious procedure shall be filed.

(4) The request for examination of the application in an expeditious procedure referred to in items b) and c) of paragraph (2) of this Article shall be subject to payment of the administrative fees and procedural charges.

#### Article 27

(Examination of Correctness of an Appellation of Origin or a Geographical Indication Application and the Rejection Thereof)

(1) The procedure for the examination of the correctness of an appellation of origin or a geographical indication application shall include the examination of all conditions prescribed by this Law and the implementing regulation.

(2) An application shall be correct if it contains the essential elements referred to in articles 20, 21, 22 and 23 of this Law, evidence of payment of the prescribed fee and procedural charges, and other prescribed data.

(3) If the Institute establishes that an application is not correct, it shall invite the applicant in writing, stating the reasons, to correct the application within a period which shall neither be less than 30 days nor more than 90 days.

(4) At a reasoned request of the applicant, and subject to payment of the fee and procedural charges, the Institute shall extend the time limit referred to in paragraph (3) of this Article for a period which it considers to be appropriate, but which shall neither be less than 15 days nor more than 90 days.

(5) If the applicant fails to correct the application or pay the fee and procedural charges for the correction thereof within a specified time limit, the Institute shall reject the application by a conclusion.

(6) In the case referred to in paragraph (5) of this Article, the applicant may, subject to payment of the prescribed fee and procedural charges, file a motion for *restitutio in integrum* within three months from the day of receipt of the conclusion on rejection.

#### Article 28

(Abandonment of Application)

(1) The applicant for an appellation of origin or a geographical indication may abandon the application during the entire course of the procedure.

(2) In the case where the applicant abandons his application, the Institute shall issue a special conclusion on suspension of the procedure.

(3) In the case referred to in paragraph (2) of this Article, the appellation of origin or geographical indication application shall cease to have effect on the day following the day on which the declaration on abandonment was delivered to the Institute.

#### Article 29

(Examination of the Conditions for the Registration of an Appellation of Origin or a Geographical Indication)

(1) If an appellation of origin or a geographical indication application is correct within the meaning of Article 27 paragraph (1) of this Law, the Institute shall examine whether the conditions for the registration of the appellation of origin or geographical indication are fulfilled.

(2) In the process of examining the conditions for the registration of an appellation of origin or a geographical indication, the Institute may obtain an opinion of a competent institution or an individual (hereinafter: the expert) concerning specific characteristics, reputation and quality of a product, indicated in the appellation of origin or a geographical indication application.

(3) The Director of the Institute shall be authorized to appoint the expert referred to in paragraph (2) of this Article, in each individual case.

(4) The expert referred to in paragraph (2) of this Article shall submit the requested opinion within 60 days from the day when it was requested from him.

(5) If the expert referred to in paragraph (2) of this Article fails to submit the requested opinion within 60 days from the day when it was requested from him, the Institute shall examine the fulfillment of the conditions for registration without such opinion.

### Article 30

#### (Decision on the Refusal of Registration of an Appellation of Origin or a Geographical Indication)

(1) If the expert referred to in Article 29 paragraph (2) of this Law gives a negative opinion concerning the fulfillment of conditions for the registration of an appellation of origin or a geographical indication or if the Institute finds that an appellation of origin or a geographical indication application does not fulfill the conditions for the registration of an appellation of origin or a geographical indication prescribed by this Law, it shall, on the basis of examination results, inform the applicant in writing of the grounds for which the appellation of origin or geographical indication shall not be registered and shall invite him to file his observations on those grounds, within a period which shall neither be less than 30 days nor more than 60 days.

(2) At a reasoned request of the applicant and subject to payment of administrative fee and procedural charges, the Institute shall extend once the time limit referred to in paragraph (1) of this Article for a period which it considers appropriate, but which shall neither be less than 15 days nor more than 90 days.

(3) If the applicant files within a specified time limit his observations on the grounds for which an appellation of origin or a geographical indication shall not be registered, the Institute shall obtain an opinion of the expert referred to in Article 29 paragraph (2) of this Law on applicant's observations.

(4) If the expert referred to in Article 29 paragraph (2) of this Law fails to submit the requested opinion within a period of 60 days from the day when it was requested from him, the Institute shall proceed with the examination of the fulfillment of conditions for registration without such opinion.

(5) The Institute shall refuse to register an appellation of origin or a geographical indications by decision if the applicant for an appellation of origin or a geographical indication fails to file his observations or if he files them, but nevertheless the Institute, or the expert referred to in Article 29 paragraph (2), continues to believe that the appellation of origin or geographical indication cannot be registered.

#### Article 31

##### (Conversion of an Appellation of Origin Application into a Geographical Indication Application and Vice Versa)

(1) At a request of the applicant for an appellation of origin or a geographical indication, and subject to payment of the prescribed fee and procedural charges, an appellation of origin application may be converted into a geographical indication application and vice versa, up to the completion of the procedure.

(2) In the examination procedure concerning the fulfillment of conditions for the registration of an appellation of origin, the Institute shall propose to the applicant for an appellation of origin to convert his application into a geographical indication application where the conditions for registration of an appellation of origin are not fulfilled, but the conditions for registration of a geographical indication are.

(3) Where, in the examination procedure concerning the fulfillment of conditions for the registration of a geographical indication, the Institute finds that the geographical indication fulfils or could fulfill the conditions to be registered as an appellation of origin, it shall propose to the applicant for a geographical indication to convert his application into an appellation of origin application.

(4) The Institute shall issue a special conclusion on the conversion of the respective application.

(5) The data on the conversion of an application shall be entered in the respective register of applications.

### **PART THREE – OPPOSITION**

#### Article 32

##### (Publication of an Appellation of Origin or a Geographical Indication Application)

(1) If the expert referred to in Article 29 paragraph (2) of this Law has given a positive opinion on the fulfillment of conditions for the registration of an appellation of origin or a geographical indication or if he has failed to give it within the time limit referred to in Article 29 paragraph (4) of this Law, and if the Institute finds that an appellation of origin or a geographical indication application fulfils the conditions for the registration of an appellation of origin or geographical indication, as prescribed by this Law, the Institute shall publish the data on the appellation of origin or geographical indication application in the “Official Gazette of the Institute” (hereinafter: Official Gazette).

(2) The data contained in an appellation of origin or a geographical indication application to be published shall be regulated by the implementing regulation.

(3) The Institute shall, after publishing the application referred to in paragraph (1) of this Article, make available to the public all elements of the application, including the elaborate on specific characteristics of a product referred to in Article 21 paragraph (2) of this Law.

#### Article 33

##### (Opposition to an Appellation of Origin or a Geographical Indication Application)

(1) Upon publication of an appellation of origin or a geographical indication application, any interested person may, within 3 months from the publication of the application, submit to the Institute a written opposition containing an explanation of why the appellation of origin or geographical indication application does not fulfill conditions for the registration prescribed by this Law.

(2) The time limit for filing the opposition referred to in paragraph (1) of this Article shall not be extended for any reason, nor shall it be possible to submit, after the expiration of this time limit, any additions to the opposition, which includes submissions of additional evidence to justify the opposition.

(3) The holder of a trade name or a registered trademark may, within the time limit referred to in paragraph (1) of this Article, file an opposition to the published appellation of origin or geographical indication application if any of them is entirely or partially identical with that trade name or that trademark registered in good faith, provided that the registration of the appellation of origin or geographical indication may jeopardize the right in that trade name or that trademark, taking into account the actual likelihood of confusion on the part of the public.

(4) The holder of a trademark of high reputation (a famous trademark) and holder of a well-known trademark, within the meaning of Article 6bis of the Paris Convention for the Protection of Industrial Property, that have acquired their fame and reputation through prior long-term use in B&H, may, within the time limit referred to in paragraph (1) of this Article, file an opposition to the published appellation of origin or geographical indication application if the registration of the appellation of origin or geographical indication could mislead the consumers as to the true origin of the product.

(5) The opponent shall have the status of a party to the opposition procedure.

#### Article 34 (Opposition Content)

(1) An opposition shall contain, in particular:

- a) name and surname, or title of the opponent and his address or registered office,
- b) detailed explanation of all the grounds and evidence on which the opponent basis his opposition and by which he proves his status of an interested person,
- c) all the published data relating to the application against which an opposition is filed, including the number of the application, name, surname and address or title and registered office of the opponent,
- d) correct power of attorney if the opposition is filed through a representative.

2. An opposition shall be filed in two copies.

#### Article 35 (Opposition Procedure)

(1) Upon receipt of an opposition, the Institute shall examine whether the opposition complies in whole with Articles 33 and 34 of this Law.

(2) If the conditions referred to in paragraph (1) of this Article are not fulfilled, the Institute shall reject the opposition by conclusion.

(3) If the conditions referred to in paragraph (1) of this Article are fulfilled, the Institute shall send the opposition to the applicant and shall invite him to submit his written observations on it within 60 days.

(4) The time limit referred to in paragraph (3) of this Article shall not be extended, nor shall it be possible for the applicant to submit, after the expiration thereof, any additions to his response to the opposition, including additional evidence.

(5) If the applicant fails to submit his observations on the opposition within the time limit referred to in paragraph 3 of this Article, the Institute shall, by conclusion, suspend the procedure relating to an appellation of origin or a geographical indication application as filed.

(6) If the applicant submits his observations on the opposition within the time limit referred to in paragraph (3) of this Article, the Institute shall examine justifiability of allegations contained in the opposition, and may order oral proceedings or request an expert opinion from a relevant institution or individual on disputable matters contained in the opposition.

(7) Following the opposition procedure as carried out, the Institute shall, on the basis of established facts, issue a decision on the refusal of opposition or decision on the refusal of appellation of origin or geographical indication application.

#### Article 36

##### (Decision on Registration of an Appellation of Origin or a Geographical Indication)

(1) If an appellation of origin or a geographical indication application fulfils all the conditions prescribed by this Law and provided that no opposition is filed or the opposition is rejected or refused, the Institute shall issue a decision on the registration of the appellation of origin or geographical indication and it shall enter the appellation of origin or geographical indication concerned, together with the prescribed bibliographic data, in the Register of Appellations of Origin or the Register of Geographical Indications, and it shall publish the information on that in the Official Gazette.

(2) The data on the registered appellation of origin or registered geographical indication to be published shall be regulated by the implementing regulation.

#### Article 37

##### (Duration of an Appellation of Origin or a Geographical Indication)

Duration of a registered appellation of origin or a registered geographical indication shall not be limited.

### **PART FOUR – PROCEDURE UPON APPLICATION FOR THE GRANT OF THE STATUS OF THE AUTHORIZED USER OF AN APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION**

#### Article 38

(Initiation of the Procedure for the Grant of the Status of the Authorized User of an Appellation of Origin or Geographical Indication)

(1) The procedure for the grant of the status of an authorized user of appellation of origin or geographical indication shall be initiated by an application for the grant of the status of an authorized user of appellation of origin or geographical indication (hereinafter: application for an authorized user).

(2) The application for an authorized user may be filed by natural persons or legal entities, and their associations, producing in a specific geographical area such products to which the registered or applied for appellation of origin or geographical indication relates.

(3) Filing of the application for an authorized user shall be subject to payment of the prescribed fee and procedural charges.

Article 39  
(Essential Elements of an Application for Authorized User)

(1) Essential elements of the application for an authorized user shall be:

a) request for the grant of the status of an authorized user of appellation of origin or geographical indication,

b) evidence on the performance of a specific activity in a specific geographical area.

(2) The essential element of an application for the grant of the status of the authorized user of an appellation of origin shall also be evidence of the control of specific characteristics of a product carried out by an authorized accredited organization, indicated in the appellation of origin application.

Article 40  
(Request for the Grant of the Status of an Authorized User of Appellation of Origin or Geographical Indication)

(1) A request for the grant of the status of the authorized user of an appellation of origin or geographical indication shall contain:

a) information on the applicant,

b) geographical name protected by an appellation of origin or a geographical indication which the user wants to use,

c) type of product to be designated by a particular geographical name,

d) name of the area or place in which a product originates,

e) manner of marking a product,

f) appearance of a geographical indication or an appellation of origin,

g) indication of specific characteristics of a product,

h) signature of the applicant,

i) evidence of payment of the prescribed fee and procedural charges.

(2) A request for the grant of the status of the authorized user of an appellation of origin shall contain, in addition to the elements referred to in paragraph (1) of this Article, indication of an authorized accredited organization performing the control of specific characteristics of products.

#### Article 41

(Evidence on the Performance of a Specific Activity in a Defined Area)

Evidence on the performance of a specific activity or production of a specific product in a specific area shall be considered to be the documents and decisions issued by the competent authorities.

#### Article 42

(Evidence of Exercised Control of Specific Characteristics of a Product)

(1) Evidence of the control of specific characteristics of a product carried out shall be considered a document (attestation, certificate, verification document, report) on the control of specific characteristics of a particular product carried out, issued by the authorized accredited organization which was indicated in a request for the registration of an appellation of origin and a request for the grant of the status of the authorized user of an appellation of origin, as the organization carrying out the control of products, certifying that the controlled product has all those specific characteristics and quality as are indicated in the elaborate on the manner of product manufacture, specific characteristics and quality of a product referred to in Article 23 paragraph (2) of this Law.

(2) The document referred to in paragraph (1) of this Article shall be valid for one year from the date of issuance.

#### Article 43

(Filing Date of an Application for an Authorized User)

(1) The accordance of the filing date of an application for an authorized user shall require that the application filed with the Institute on such a date contains the essential elements referred to in Article 39 of this Law.

(2) The Institute shall acknowledge the receipt of the application on the applicant's copy thereof.

(3) Upon the receipt of the application, the Institute shall examine whether the application contains the elements referred to in paragraph (1) of this Article.

(4) If the application does not contain the elements referred to in paragraph (1) of this Article, the Institute shall invite the applicant in writing to correct, within a period of 30 days which may not be extended, the deficiencies due to which the application could not be entered in the respective Register of Applications for Authorized Users,



(5) If the applicant fails to correct the deficiencies within the period referred to in paragraph (4) of this Article, the Institute shall reject the application by a conclusion.

(6) If the applicant corrects the deficiencies within the period referred to in paragraph (4) of this Article, the Institute shall accord the date on which the applicant corrected the found deficiencies as the filing date of the application by a conclusion.

#### Article 44

(Register of Applications for Authorized Users of Appellations of Origin and Register of Applications for Authorized Users of Geographical Indications)

The data on the essential elements of an application for an authorized user referred to in Article 39 of this Law, and other data prescribed by the implementing regulation shall be entered in the Register of Applications for Authorized Users of Appellations of Origin and the Register of Applications for Authorized Users of Geographical Indications.

#### Article 45

(Order of Examination of an Application for an Authorized User)

(1) The applications for authorized users shall be examined in the order determined by their filing dates.

(2) By way of derogation from the provision of paragraph (1) of this Article, an application may be examined in an expeditious procedure:

a) in the case of judicial proceeding or an inspection control as initiated or customs procedure,

b) if a request for the international registration of an appellation of origin or a geographical indication is filed,

c) if it is necessary, according to other regulations, to have an appellation of origin or a geographical indication registered and acquire the status of authorized users thereof, within a specified time limit, with the obligation to file a special request for that.

(3) In the case referred to in paragraph (2) of this Article, a request for the examination of an application in an expeditious procedure shall be filed.

(4) Request for the examination of an application in an expeditious procedure referred to in paragraph (2) items b) and c) of this Article shall be subject to payment of the administrative fee and procedural charges.

#### Article 46

(Examination of the Correctness of an Application for an Authorized User)

(1) A procedure for examination of the correctness of an application for an authorized user shall include examination of all the conditions prescribed by this Law and implementing regulation.

(2) An application shall be correct if it contains the essential elements referred to in articles 39, 40, 41 and 42 of this Law, evidence of payment of the fee and procedural charges and other prescribed data.

(3) If the Institute finds that an application is not correct, it shall invite the applicant in writing, stating the reasons, to correct the application within the time-limit which shall neither be less than 30 days and not more than 90 days.

(4). At a reasoned request of the applicant, and subject to payment of the prescribed fee and procedural charges, the Institute shall extend the time limit referred to in paragraph (3) of this Article for a period it considers to be appropriate, but which shall neither be less than 15 days nor more than 90 days.

(5) If the applicant fails to correct the application or pay the fee and procedural charges for its correction within a specified time limit, the Institute shall reject the application by conclusion.

(6) In the case referred to in paragraph (5) of this Article, the applicant may, subject to payment of the prescribed fee and procedural charges, file a motion for *restitutio in integrum*, within three months from the day of receipt of the conclusion on rejection.

#### Article 47

##### (Examination of Conditions for the Grant of the Status of an Authorized User)

If an application for the grant of the status of an authorized user is correct, in accordance with the provisions of articles 39 to 42 of this Law, the Institute shall examine whether the conditions for the grant of the status of an authorized user of appellation of origin or geographical indication are fulfilled.

#### Article 48

##### (Decision on the Refusal of the Grant of an Authorized User Status)

(1) If the Institute finds that the application for an authorized user does not fulfill conditions for the grant of the status of an authorized user of appellation of origin or geographical indication prescribed by this Law, it shall inform the applicant for the status of an authorized user in writing of the grounds for which the status of the authorized user of the appellation of origin or geographical indication cannot be granted and shall invite him to file his observations on those grounds within the period of 60 days.

(2) At a reasoned request of the applicant for an authorized user and subject to payment of the prescribed fee and procedural charges, the Institute may extend the time-limit referred to in paragraph (1) of this Article for a period which it considers to be appropriate, but which shall neither be less than 15 days nor more than 90 days.

(3) If the applicant files, within a specified time limit, his observations on the grounds for which he shall not be granted the status of an authorized user of appellation of origin or geographical indication, the Institute shall obtain an opinion of the expert referred to in Article 29 paragraph (2) of this Law on his observations.

(4) If the expert referred to in Article 29 paragraph (2) of this Law fails to submit the requested opinion within the period of 60 days from the day when it was requested from him, the Institute shall proceed with the examination of the fulfillment of conditions for the grant of the status of an authorized user of appellation of origin or geographical indication without such opinion.

(5) The Institute shall refuse the request for the grant the status of an authorized user of appellation of origin or geographical indication by a decision if the applicant for an authorized user fails to file his observations or if he files them, but nevertheless, the Institute or the expert referred to in Article 29 paragraph (2) continues to believe that the applicant for an authorized user cannot be granted the status of the authorized user of an appellation of origin or a geographical indication.

#### Article 49

(Conversion of an Application for the Grant of the Status of an Authorized User of Appellation of Origin into an Application for the Grant of the Status of an Authorized User of Geographical Indication and Vice Versa)

(1) If in the course of procedure upon an application for an authorized user, an appellation of origin application has been converted into a geographical indication application, or a geographical indication application has been converted into an appellation of origin application, in accordance with the provision of Article 31 of this Law, the applicant for the grant of the status of an authorized user of the appellation of origin or geographical indication, the conversion of which has been carried out, shall, subject to payment of the prescribed fee and procedural charges, file a request for the conversion of the application for the grant of the status of an authorized user of the appellation of origin into the application for the grant of the status of an authorized user of the geographical indication, or vice versa.

(2) The Institute shall inform, without delay, all the applicants for an authorized user that a request for the conversion of an appellation of origin or a geographical indication application has been filed in accordance with the provision of Article 31 of this Law.

(3) The Institute shall issue a special conclusion on the conversion of the application concerned and it shall enter the data on the application as converted in the respective registers.

#### Article 50

(Conclusion on Payment of the Fee for the Grant of the Status of an Authorized User)

(1) If an application for an authorized user fulfils the conditions prescribed by this Law for the applicant to be granted the status of an authorized user of an appellation of origin or a geographical indication, the Institute shall invite the applicant for an authorized user status by a conclusion to pay the fee and procedural charges for the grant of the status of an authorized user of the appellation of origin or geographical indication for the first three years and charges for publication of the data on the authorized user of the appellation of origin or geographical indication, and to submit evidence of the payments thereof.

(2) If the applicant fails to submit evidence of payment referred to in paragraph (1) of this Article within 30 days, the Institute shall issue a special conclusion on the suspension of the application procedure.

(3) In the case referred to in paragraph (2) of this Article, the applicant for an authorized user may, subject to payment of the prescribed fee and procedural charges, file a motion for restitutio

in intergrum within three months from the day of receipt of the conclusion on the suspension of the procedure.

#### Article 51

(Decision on the Grant and Entry of the Status of an Authorized User in the Respective Register)

(1) Where the applicant for an authorized user submits evidence of the payments referred to in Article 50 paragraph (1) of this Law, the Institute shall issue a decision on the grant of the status of an authorized user of appellation of origin or geographical indication, and it shall enter the granted status of the applicant for an authorized user, together with the prescribed bibliographic data, in the Register of Authorized Users of Appellations of Origin or the Register of Authorized Users of Geographical Indications.

(2) The data referred to in paragraph (1) of this Article to be entered in the respective register shall be regulated by the implementing regulation.

#### Article 52

(Issuance of the Certificate and Publication of the Data on the Status of an Authorized User)

(1) The Institute shall issue to an authorized user of appellation of origin or geographical indication, a certificate of the status of an authorized user of appellation of origin or geographical indication, and it shall publish the prescribed data on the granted status of an authorized user in the Official Gazette.

(2) The contents of the certificate of the status of an authorized user and the data to be published in the Official Gazette referred to in paragraph (1) of this Article shall be regulated by the implementing regulation.

#### Article 53

(Duration of the Status of an Authorized User)

(1) The status of an authorized user of appellation of origin or geographical indication shall last for three years as of entry of the granted status in the Register of Authorized Users of Appellations of Origin or the Register of Authorized Users of Geographical Indications, respectively.

(2) The status of an authorized user of appellation of origin or geographical indication may, at the request of an authorized user and subject to submitting evidence of fulfillment of the conditions prescribed by this Law and payment of the prescribed fee and procedural charges, be renewed for an unlimited number of times, as long as the respective appellation of origin or geographical indication is in force.

(3) The contents of the request referred to in paragraph (2) of this Article shall be regulated by the implementing regulation.

### **PART FIVE – CONTENTS AND SCOPE OF RIGHTS OF AN AUTHORIZED USER OF APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION**

#### Article 54

(Use of Registered Appellation of Origin or Registered Geographical Indication)

- (1) A registered appellation of origin or a registered geographical indication may be used only by persons having been granted the status of authorized users of such an appellation of origin or such geographical indication and having been entered in the respective register.
- (2) The authorized users of an appellation of origin or a geographical indication shall have the exclusive right to use such appellation of origin or geographical indication to designate products to which the appellation of origin or geographical indication relates.
- (3) The authorized users of an appellation of origin shall have the exclusive right to designate their product by an indication "controlled appellation of origin".
- (4) The rights referred to in paragraphs (2) and (3) of this Article shall also include the use of an appellation of origin or a geographical indication on packaging, catalogues, brochures, advertisements, posters and other forms of offer, on instructions, invoices, in business correspondence and other forms of business documents, as well as importation and exportation of the products marked by such an appellation of origin or geographical indication.

Article 55  
(Prohibited Acts)

- (1) The use of registered appellation of origin or registered geographical indication shall not be allowed in the following cases:
  - a) use by person not performing and not registered for required activity in respective register,
  - b) any use to mark products of whose quality, reputation and any other characteristic are inferior to that entered in the register in respect of an appellation of origin or geographical indication,
  - c) any use to mark products not covered by registration, but which are of the same kind as products covered by registration,
  - d) any use of false or deceptive information as regards geographical origin, nature and quality of a product on the packaging, advertising material or other documents, conveying an impression of a relation between the product and protected geographical name,
  - e) any use, though authentic as regards the name of the territory, region or place in which product originates, misleading the public that the product originates in another area,
  - f) any use of translation, transcription or transliteration even if true origin of a product is indicated, and use of name accompanied by expressions such as "style", "type", "method", "according to a process", "manner", "imitation", "as produced in" and the like,
  - g) any other act that could mislead the public as to the geographical origin of a product.

(2) The prohibited acts referred to in paragraph (1) of this Article shall not apply to the use of the name which is a part of company's name in the course of its business activity, unless such a name is used with the aim to mislead the public.

Article 56  
(Relation to an Earlier Registered Trademark)

The provisions of this Law shall be without prejudice to the eligibility for registration, the validity of a trademark registration or the right to use a trademark on the basis of the fact that such a trademark is identical with or similar to a registered geographical indication, if the trademark concerned is applied for or registered in good faith, or the trademark rights have been acquired through use in good faith prior to the date of entry of this Law into force, or before the geographical indication is protected in its country of origin.

Article 57  
(Use of Personal Name)

The provisions of this Law shall be without prejudice to any person using his personal name or the name of his business predecessor in his business activity, unless such a name is used in the way to mislead the public.

Article 58  
(Prohibition of Transfer)

(1) A registered appellation of origin and a registered geographical indication shall not be subject of a contract on the transfer of rights, a license, a lien, a franchise and the like.

(2) If a registered appellation of origin or registered geographical indication is a subject of an applied for or registered trademark, such a trademark shall not be transferred, assigned, given in lien and the like.

(3) A registered appellation of origin and a registered geographical indication having several authorized users shall only be subject of collective trademark or guarantee trademark.

**PART SIX – TERMINATION OF AN APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION**

Article 59  
(Termination of an Appellation of Origin or a Geographical Indication in the Country of Origin)

(1) A registered appellation of origin or registered geographical indication shall be terminated if the protection thereof in their country of origin expires.

(2) At the request of an interested person, and subject to filing of an attestation issued by the competent authority of the country of origin of a particular appellation of origin or geographical indication, or upon receipt of the notification made by the competent authority of the country of origin of a particular appellation of origin or geographical indication, to the effect that the protection of such an appellation of origin or geographical indication has expired in the country of origin, the Institute shall issue a decision on the termination of the appellation of origin or geographical indication concerned.

(3) The Institute shall enter the decision referred to in paragraph (2) of this Article in the respective register and shall publish the prescribed data on the termination of the appellation of origin or geographical indication in its Official Gazette.

(4) The data referred to in paragraph (3) of this Article to be published shall be regulated by implementing regulation.

#### Article 60

##### (Termination of a Geographical Indication on the Basis of a Judicial Decision)

(1) An interested person may, by bringing an action before relevant court, initiate procedure to determine whether certain geographical indication has become generic or common name for a particular product.

(2) A registered geographical indication shall be terminated on the basis of the final judicial decision, establishing that it has become generic or common name for a particular product.

(3) A registered geographical indication, which is registered and protected in its country of origin as an appellation of origin, shall not be declared generic or common name for a particular product as long as such protection lasts in the country of origin.

(4) Upon receipt of the court decision referred to in paragraph (2) of this Article, the Institute shall enter the decision in the respective registers and shall publish the prescribed data on the termination of the geographical indication in its Official Gazette.

(5) The data referred to in paragraph (4) of this Article to be published shall be regulated by implementing regulation.

## **PART SEVEN – TERMINATION AND CANCELLATION OF THE STATUS OF AN AUTHORIZED USER OF APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION**

#### Article 61

##### (Termination of the Status of an Authorized User of Appellation of Origin or Geographical Indication)

The status of an authorized user of appellation of origin or geographical indication shall be terminated even before the expiration of the prescribed time limit referred to in Article 53 paragraph (1) of this Law:

- a) if an authorized user of appellation of origin or geographical indication renounces his status – on the day following the day of submission of the declaration of renouncement to the Institute;
- b) if, under Article 59 or Article 60 of this Law, an appellation of origin or geographical indication has expired on the basis of a judicial decision or a decision issued by the Institute – on the day specified by the decision;

c) if a legal entity or a natural person, who has the status of an authorized user, ceased to exist or died - on the day the legal person ceased to exist or the natural person died, unless the status has been transferred to legal successors of the legal entity;

#### Article 62

(Cancellation of the Decision on the Grant of the Status of an Authorized User)

(1) At the request of an interested person, the Institute may cancel the decision on the grant of the status of an authorized user of appellation of origin or geographical indication, if it finds that the conditions for the grant of the status of an authorized user of appellation of origin or geographical indication, as prescribed by this Law, have ceased to exist.

(2) In the procedure concerning the request for the cancellation of decision on the grant of the status of an authorized user of appellation of origin or geographical indication, the authorized user shall prove that the conditions for the grant of the status of an authorized user, prescribed by law, exist.

(3) If the applicant for the cancellation of a decision on the grant of the status of an authorized user of appellation of origin or geographical indication withdraws his request in the course of procedure, the Institute may continue the procedure *ex officio*.

(4) In the procedure concerning the request for the cancellation of a decision on the grant of the status of an authorized user of appellation of origin or geographical indication, the provisions of articles 34 and 35 of this Law shall apply accordingly.

(5) The status of an authorized user of appellation of origin or geographical indication that belongs to a person entered in the respective register as an authorized user of appellation of origin or geographical indication shall be terminated on the day following the day on which decision on cancellation of a decision on the grant of the status of an authorized user of appellation of origin or geographical indication becomes final.

### **PART EIGHT - DECLARATION OF A DECISION ON THE REGISTRATION OF AN APPELLATION OF ORIGIN OR A GEOGRAPHICAL INDICATION OR A DECISION ON THE GRANT OF THE STATUS OF AN AUTHORIZED USER OF APPELLATION OF ORIGIN OR GEOGRAPHICAL INDICATION NULL AND VOID**

#### Article 63

(Condition for the Declaration of a Decision on the Registration of an Appellation of Origin or a Geographical Indication or of a Decision on the Grant of the Status of an Authorized User Null and Void)

A decision on the registration of an appellation of origin or a geographical indication or a decision on the grant of the status of an authorized user of appellation of origin or geographical indication may be declared null and void if it is established that the conditions for the registration of an appellation of origin or a geographical indication or for the grant of the status of an authorized user of appellation of origin or geographical indication, as prescribed by this Law, were not fulfilled at the time of the issuance thereof.

#### Article 64



(Motion for the Declaration of a Decision on the Registration of an Appellation of Origin or a Geographical Indication or a Decision on the Grant of the Status of an Authorized User of Appellation of Origin or Geographical Indication Null and Void)

(1) A decision on the registration of an appellation of origin or a geographical indication or a decision on the grant of the status of an authorized user of appellation of origin or geographical indication may be declared null and void *ex officio* or upon motion filed by an interested person, State Attorney of BIH or Ombudsman of BIH, for the whole duration of an appellation of origin or a geographical indication or the status of an authorized user of appellation of origin or geographical indication.

(2) If an opposition to a filed appellation of origin or geographical indication application has been filed on the grounds prescribed in Article 33 paragraphs (3) and (4) of this Law, and the decision on the refusal of the opposition becomes final, the same person may not file a motion for the declaration of a decision null and void on the basis of the same grounds as indicated in the opposition as refused, unless the person filing the motion submits new evidence which would by itself, or in combination with already used evidence, result in different decision in the opposition procedure.

(3) A motion for the declaration of a decision shall be accompanied by appropriate evidence.

Article 65  
(Procedure for the Declaration of a Decision Null and Void)

(1) The procedure for the declaration of a decision null and void shall be initiated by written motion for the declaration of a decision null and void.

(2) The contents of the motion referred to in paragraph (1) of this Article, as well as attachments accompanying the motion, shall be regulated by implementing regulation.

(3) A motion for the declaration of a decision null and void is correct if it contains the prescribed data.

(4) If a motion for the declaration of a decision null and void is not correct, the Institute shall invite the person filing the motion to correct it within a period of 30 days from the day of receipt of the invitation.

(5) At a reasoned request of the person filing the motion, and subject to payment of the fee and procedural charges, the Institute shall extend the time-limit referred to in paragraph (4) of this Article for a period which it considers it to be appropriate, but which shall neither be less than 15 days nor more than 60 days.

(6) If the person filing a motion fails to comply with the invitation within the time limit referred to in paragraph (4) of this Article, the Institute shall reject the motion by a conclusion.

(7) The Institute shall send the correct motion to the opposing party, and shall invite the opposing party to submit his response within a period of 30 days from the day of receipt of the invitation.

(8) At a reasoned request of the opposing party, and subject to payment of the fee and procedural charges, the Institute shall extend the time-limit referred to in paragraph (7) of this

Article for a period which it considers appropriate, but which shall neither be less than 15 days nor more than 60 days.

(9) If the opposing party fails to respond to the motion for the declaration of a decision null and void within specified time-limit, the Institute shall declare a decision on the registration of an appellation of origin or a geographical indication or a decision on the grant of the status of an authorized user of appellation of origin or geographical indication null and void.

(10) The Institute may order oral proceedings concerning a filed motion for the declaration of a decision null and void should it deem it necessary.

(11) After the completion of the procedure concerning a motion for the declaration of a decision null and void, on the basis of the motion referred to in Article 64 paragraph (1) of this Law, the Institute may issue, at any time, a decision on the declaration of a decision on the registration of an appellation of origin or a geographical indication null and void or on the declaration of a decision on the grant of the status of an authorized user of appellation of origin or geographical indication null and void.

(12) The Institute shall publish in the Official Gazette a decision on the declaration of a decision on the registration of an appellation of origin or a geographical indication null and void or on the declaration of a decision on the grant of the status of an authorized user of appellation of origin or geographical indication null and void, which has become final in the administrative procedure.

Article 66  
(Effects on the Final Judicial Decision)

The declaration of a decision on the registration of an appellation of origin or a geographical indication or a decision on the grant of the status of an authorized user of appellation of origin or geographical indication null and void shall not affect judicial decisions pertaining to the establishment of the infringements of rights, which were final at the time of issue of such a decision, provided that the plaintiff or the authorized user of an appellation of origin or a geographical indication acted in good faith.

## **PART NINE – APPELLATE PROCEDURE**

Article 67  
(Right of Appeal)

(1) The party whose request was not met in whole or in part shall have the right to appeal a first-instance decision of the Institute, within 15 days from the day of receipt of the decision.

(2) Other parties to the procedure that was ended by the appealed decision shall be considered as parties to the appellate procedure.

Article 68  
(Contents of an Appeal)

In addition to the data which any submission must contain, an appeal shall contain:

- a) indication of the administrative act appealed,

- b) statement to the effect whether an administrative act is contested in whole or in part,
- c) grounds for appeal,
- d) statement of the grounds of appeal with all the evidence supporting the appellant's allegations contained in the appeal,
- e) signature of appellant,
- f) a power of attorney if the appeal is filed through a representative.

Article 69  
(Board of Appeal)

- (1) The Board of Appeal shall be established as an independent body, responsible to decide on appeals in accordance with the provisions of this Law.
- (2) The Board of Appeal shall be composed of three members, one of whom shall be Chairman, and three alternate members, one of whom shall be Deputy Chairman.
- (3) Members of the Board of Appeal shall be appointed by the Council of Ministers of Bosnia and Herzegovina (hereinafter: Council of Ministers) from among the independent experts in the field of industrial property rights and employees of the Institute, in the manner as regulated by the decision of the Council of Ministers.
- (4) The seat of the Board of Appeal shall be at the Institute.
- (5) The Institute shall provide working space and equipment necessary for the work of the Board of Appeal, as well as performance of clerical and administrative tasks.
- (6) The Board of Appeal shall have its own seal.
- (7) The Chairman of the Board of Appeal shall administer its activities.
- (8) The Chairman of the Board of Appeal, when absent, shall be replaced by Deputy Chairman, and a member shall be replaced by an alternate member of the Board.
- (9) The Chairman and members of the Board of Appeal shall be independent in their work, not bound by any instructions of the Director of the Institute, and shall perform their tasks impartially, in accordance with the law and professional standards.
- (10) The Chairman and members of the Board of Appeal shall have the status of independent experts, and shall receive compensation for their service in accordance with the implementing regulation on compensations for the service on the Board of Appeal.
- (11) Members of the Board of Appeal and alternate members participating in the first-instance decision making, or where other reasons for their exclusion exist, shall not participate in the appellate procedure concerning the same case.
- (12) The Board of Appeal shall enact the rules of procedure.

Article 70  
(Deciding on an Appeal)

- (1) The Board of Appeal shall decide by majority vote at a session.
- (2) The Board of Appeal shall decide on the basis of lodged appeal, and if it considers it necessary, it may order oral proceedings.
- (3) The provisions of articles 27, 30, 35, 46, 48 and 65 of this Law shall apply *mutatis mutandis* to the procedure of deciding on an appeal.

**PART TEN – CIVIL PROTECTION**

Article 71  
(An Action for Infringement of Rights)

(1) In the case of infringement of a registered appellation of origin or a registered geographical indication, the plaintiff may claim in an action:

- a) establishment of the infringement of right,
- b) prohibition of the continuation of infringement as committed, and of future similar infringements by means of cessation or omission of acts which are infringing such right,
- c) rectification of the situation caused by the infringement,
- d) recall of the objects of infringement from the channels of commerce, respecting the interests of third parties who acted in good faith,
- e) definitive removal of the objects of infringement from the channels of commerce,
- f) destruction of infringing objects,
- g) destruction of the means which are exclusively or predominantly intended or used for infringing acts, and which are owned by the infringer,
- h) surrender of the objects of infringement to the right holder on reimbursement of the production costs,
- i) monetary compensation and reimbursement of reasonable expenses of the proceedings,
- j) publication of the judgment at the expense of the defendant.

(2) When deciding on the claims referred to in paragraph (1) items c), d), e), f), g) and h) of this Article, the court shall take into account all the circumstances of the case, in particular the proportionality between seriousness of the infringement and the claim, as well as interest of the entitled person in ensuring the effective protection of rights.

(3) In the proceedings against person whose services have been used for the infringement of rights, when the infringement has already been validly established in the proceedings against a third party, the infringement shall be presumed to exist.

(4) The procedure concerning the action referred to in paragraph (1) of this Article shall be expeditious.

#### Article 72

##### (Infringement of an Appellation of Origin or a Geographical Indication)

Any unauthorized use of an appellation of origin or a geographical indication within the meaning of Article 54 of this Law, and performance of any of the unauthorized acts within the meaning of Article 55 of this Law shall be considered as infringement of an appellation of origin or a geographical indication.

#### Article 73

##### (Indemnification)

(1) General rules governing indemnification and liability for damages shall apply to all infringements of rights under this Law, unless otherwise provided by this Law.

(2) A person who has infringed an appellation of origin or a geographical indication shall pay all the persons having the status of authorized users of such an appellation of origin or such a geographical indication the indemnification in the amount determined pursuant to the general rules governing indemnification.

#### Article 74

##### (Penalty)

(1) If an appellation of origin or a geographical indication is infringed intentionally or by gross negligence, the plaintiff may claim compensation against the person having infringed the appellation of origin or geographical indication up to the treble amount of the actual damage and lost profit.

(2) When deciding the claim for the payment of penalty, the court shall take into account all circumstances of the case, in particular the extent of the incurred damage, the degree of guilt of the infringer, and preventive purpose of the penalty.

#### Article 75

##### (Right of Action)

(1) An action for the infringement of an appellation of origin or a geographical indication may be brought by: the person referred to in Article 19 who has established an appellation of origin or a geographical indication, an authorized user of an appellation of origin or a geographical indication, association of consumers and the State Attorney of BIH.

(2) If the procedure referred to in articles 60, 62 or 64 of this Law has been initiated before the Institute or court, the court acting on the action referred to in Article 71 of this Law shall stay the proceedings up to the final decision issued by the Institute or the court.

Article 76  
(Time Limit for Bringing an Action)

An action for the infringement of a registered appellation of origin or a registered geographical indication may be brought within three years from the day on which the plaintiff learned about the infringement and the infringer, and not later than five years from the day on which the infringement has been committed for the first time.

Article 77  
(Provisional Measures)

(1) The court shall order a provisional measure to secure claims under the provisions of this Law, if the applicant demonstrates as probable:

- a) that he is the right holder under this Law, and
- b) that his right has been infringed or that there is an actual threat of infringement.

(2) The right holder shall also demonstrate as probable one of the following assumptions:

- a) danger that the enforcement of claim will be made impossible or considerably more difficult,
- b) that provisional measure is necessary in order to prevent damage which will be difficult to repair later, or
- c) that adoption of provisional measure, which would later in the course of the proceedings prove to be unfounded, would not have more detrimental consequences for the alleged infringer than the non-adoption of such provisional measure would have for the right holder.

(3) The right holder who proposes adoption of provisional measure without prior notification and hearing of the opposing party shall, in addition to the requirements under paragraphs (1) and (2) of this Article, demonstrate as probable that any delay in adoption of the provisional measure would cause to the right holder damage difficult to repair.

(4) Where provisional measure is adopted under provisions of paragraph (3) of this Article, the court shall serve the decision on provisional measure to the opposite party immediately after the execution thereof.

(5) The right holder shall not have to prove the existence of danger that the enforcement of claim will be made impossible, or considerably more difficult if he demonstrates as probable that proposed provisional measure will cause only insignificant damage to the alleged infringer.

(6) The danger shall be deemed to exist when the claims are to be enforced abroad.

(7) To secure claims under paragraph (1) of this Article, the court may order any provisional measure with which the purpose of security can be achieved, but it may in particular:

- a) prohibit the alleged infringer to proceed with actions which infringe the right under this Law,
- b) to seize, remove from circulation and take into custody the objects of infringement and the means of infringement, which are exclusively or predominantly intended or used for the commission of infringements.

(8) If the measure was ordered before the filing of the claim, the court shall in its decision specify a time-limit within which the claimant must bring an action for the justification of this measure.

(9) The time-limit referred to in paragraph (8) of this Article shall not be longer than 20 working days or 31 calendar days from the day of delivery of the decision to the applicant, depending on which expires later.

(10) The court shall decide on the opposition against the decision on provisional measure within 30 days following the filing of the answer to the opposition, or the expiry of time-limit for the filing of that answer.

(11) Procedure concerning adoption of provisional measure shall be expeditious.

#### Article 78 (Preservation of Evidence)

(1) The court shall issue a decision on the preservation of evidence if the applicant offers to the court reasonable proof that:

- a) he is the right holder under this Law,
- b) his right has been infringed or that there is an actual threat of infringement,
- c) the evidence of infringement shall be destroyed or that it shall be impossible to present it later.

(2) The right holder who applies for the issuance of decision on the preservation of evidence without prior notification and hearing of the opposite party shall, in addition to the requirements under paragraph (1) of this Article, demonstrate as probable that there is a danger that the evidence of infringement shall be destroyed, or impossible to present later, due to the acts of the opposite party.

(3) Where a decision on the preservation of evidence is issued, pursuant to the provisions of paragraph (2) of this Article, the court shall serve the decision on the preservation to the opposite party immediately after the evidence is presented.

(4) The court may order, by the decision referred to in paragraph (1) of this Article, presentation of any evidence, and in particular:

- a) inspection of premises, business records, inventory, databases, computer memory units or other material objects,
- b) seizure of samples of the objects of infringement,
- c) examination and surrender of documents,
- d) appointment and examination of experts;
- e) hearing of witnesses.

(5) The preservation of evidence may also be sought after validly ended proceedings if that is required for the institution of proceedings on the grounds of extraordinary remedies or during such proceedings.

(6) In the proceedings for the preservation of evidence, in accordance with the provisions of this Article, relevant provisions of the law on civil procedure, pertaining to provisional measures, shall be applied, unless otherwise stipulated by this Law.

(7) The proceedings for the preservation of evidence shall be expeditious.

(8) Where subsequently found that a claim for the preservation of evidence is unjustified or if the right holder does not justify such claim, the opposite party may request:

- a) return of the seized objects;
- b) prohibition of the use of information obtained;
- c) indemnification.

(9) The court shall ensure protection of confidential information pertaining to the parties in the proceedings for the preservation of evidence under the provisions of this Article, and take care that the court proceedings are not abused solely for the purpose of obtaining confidential information of the opposite party.

#### Article 79 (Obligation to Furnish Information)

(1) During the lawsuit in the matter of infringement of right under this Law, and on the basis of a justified claim of one of the parties, the court may order the infringer of right to provide information on the source and distribution channels of the goods or services infringing the right under this Law.

(2) The court may order that the information referred to in paragraph (1) of this Article be provided to the court also by persons who, within the scope of commercial activity:

- a) possess the goods presumed to infringe the right under this Law,
- b) use services presumed to infringe the right under this Law; or
- c) render services presumed to infringe the right under this Law.



(3) It shall be considered that an act has been carried within the scope of commercial activity, when carried out for acquiring direct or indirect economic benefit.

(4) The concept of commercial activity shall not include acts of bona fide ultimate consumers.

(5) The court may order that the information referred to in paragraph (1) of this Article is provided to the court also by the person indicated by any of the persons referred to in paragraph (2) of this Article as involved in manufacturing, making and distribution of goods or rendering of services presumed to infringe the right under this Law.

(6) The information requested on the grounds of paragraph (1) of this Article may include, in particular:

a) name, address or company name and corporate seat of the manufacturer, maker, distributor, supplier and other former possessors of goods or service providers, as well as intended wholesalers and retailers;

b) information on the quantities of manufactured, made, delivered, received or ordered goods or services, as well as prices obtained for the goods and services concerned.

#### Article 80 (Presentation of Evidence)

(1) Where the court decides to allow the proposed evidence held by the opposite party to be presented, that party shall surrender such evidence at the request of the court.

(2) Paragraph (1) of this Article pertains also to banking, financial and business documents controlled by the opposite party if the infringement was committed on a commercial scale.

(3) Relevant provisions of the law regulating civil procedure shall apply in the procedure for the presentation of evidence, unless otherwise stipulated by this Law.

(4) Following the presentation of evidence, according to paragraph (1) of this Article, the court shall ensure protection of confidential information pertaining to the parties and take care that judicial proceedings are not abused solely with intention to obtain confidential information of the opposite party.

#### Article 81 (Security Instrument for the Opposing Party)

At the request of the person against whom a procedure for ordering a provisional measure or preservation of evidence has been initiated, the court may determine the appropriate amount of money as security instrument in the event that the claim is unfounded, at the expense of the applicant.

### **PART ELEVEN – CUSTOMS MEASURES**

#### Article 82 (Request Filed by the Right Holder)

(1) The holder of the exclusive rights under this Law, who reasonably believes that the importation, transit or exportation of goods manufactured in contravention of the provisions of this Law shall take place, may apply for protection of his rights with the relevant customs authority (hereinafter: the customs authority) by means of customs measures of temporary impounding of the goods.

(2) The application for the protection of rights under paragraph (1) of this Article shall contain:

- a) details of the applicant and the holder of the exclusive right under this Law if they are not the same persons,
- b) detailed description of goods enabling its identification,
- c) proof that the applicant or a person authorized by him is the holder of the exclusive right under this Law in connection with such goods,
- d) proof that the exclusive right is likely to have been infringed,
- e) other details held by the applicant relevant for deciding on the application, such as details on the location of goods and its destination, expected date of arrival or dispatch of the package, means of transportation, details of the importer, exporter or recipient, and the like,
- f) time period within which customs authorities shall act on such application, which may not be longer than two years from the date of its filing.

(3) The customs authority may, before issuing its decision by which the application referred to in paragraph (1) of this Article is granted, request from the right holder to deposit security for the costs of storage and transportation of the goods, as well as for the compensation of damage, which may be incurred by the customs authority in connection with the goods and by the party against which the application referred to in paragraph 1 of this Article is upheld.

(4) If the customs authority complies with the application referred to in paragraph (1) of this Article, it shall inform all customs outposts, and the right holder about it.

#### Article 83 (Procedure Following the Temporary Impounding of Goods)

(1) Where in the course of customs procedure a customs outpost finds the goods matching the description of the goods indicated in the decision of the relevant customs authority, it shall temporarily impound such goods.

(2) The decision on the temporary impounding of the goods shall be served to its importer.

(3) It shall be specified in the decision referred to in paragraph (2) of this Article that the owner of the goods or a person entitled to manage the goods may declare, within ten working days from the day of temporary impounding, whether the goods are counterfeit or whether another infringement of right under this Law is involved.

(4) Where the customs authority does not receive a written declaration of the owner or a person entitled to dispose of the goods, within the time-limit mentioned in paragraph (3) of this Article, the customs authority may seize and destroy the temporarily impounded goods at the request of the right holder, and at his expense.

(5) Where the owner of the goods or a person entitled to dispose of the goods submits the declaration, within the time period mentioned in paragraph (3) of this Article, that the goods are not counterfeit or that no other infringement of right under this Law exists, the right holder may, within ten working days from receipt of the notification of such declaration, bring an action for the infringement of rights.

(6) Where particular circumstances of the case justify it, the customs authority may allow, at the request of the right holder, additional time for bringing an action referred to in paragraph (5) of this Article, which may not be longer than ten working days.

(7) During the temporary impoundment of the goods, the right holder or a person entitled by him may carry out inspection and control of the goods and accompanying documents to the extent necessary for establishing his claims and for the realization of judicial protection of his rights, with protection of confidential information ensured.

(8) The importer shall also be entitled to carry out inspection and control of the goods.

(9) If the right holder fails to bring the action referred to in paragraph (5) of this Article, the temporarily impounded goods shall be released to the requested customs approved use or circulation

(10) Where the right holder institutes judicial proceedings, the customs authority shall order confiscation of goods until the final judicial decision.

#### Article 84 (Ex-Officio Procedure)

(1) Where in the course of customs procedure in connection with the importation, transit or exportation of the goods, a customs unit reasonably believes that the rights under this law are infringed by certain goods; it shall temporarily impound the goods and inform the customs authority about it.

(2) The customs authority shall inform the right holder in writing on the impoundment of the goods, of the suspicion that his rights are infringed and the possibility of filing the application under Article 82 of this Law, within five working days from the day when goods were impounded.

(3) Where the right holder files the application in accordance with paragraph (2) of this Article, the goods shall be temporarily impounded until the decision of the customs authority.

(4) If the customs authority grants the application referred to in Article 82 of this Law, the goods shall be temporarily impounded for another ten working days.

(5) The right holder shall carry out the actions specified in Article 83 paragraph (7) of this Law within the time-limit referred to in paragraph (4) of this Article.

(6) The provisions of Articles 83 and 84 of this Law shall not apply to importation, transit or exportation of small quantities of goods intended for private and non-commercial use, which are brought into or taken out of the country as part of traveler's personal luggage or sent in small consignments.

Article 85  
(Application of Other Customs Regulations)

(1) Other customs regulations shall apply mutatis mutandis to the customs procedure in connection with the goods infringing the rights under this Law.

(2) More detailed regulations on the implementation of customs measures from this part of the Law shall be brought by the Council of Ministers, upon the motion of the Indirect Taxation Authority of BIH.

(3) Customs procedure in connection with the goods infringing rights under this Law shall be expeditious.

**PART TWELVE – PENAL PROVISIONS**

Article 86  
(Misdemeanors)

(1) A legal ENTITY and an entrepreneur who infringe a registered appellation of origin or a registered geographical indication in the manner mentioned in Article 72 of this Law shall be punished by fine in the amount from KM 5.000 to KM 200.000.

(2) A responsible person in a legal entity or employed by an entrepreneur shall also be punished by fine for the misdemeanor referred to in paragraph (1) of this Article, in the amount from KM 3.000 to KM 20.000.

(3) A natural person shall be fined for the misdemeanor referred to in paragraph (1) of this Article in the amount from KM 3.000 to KM10.000.

(4) Objects resulting from the commitment of the misdemeanor referred to in paragraph (1) of this Article shall be seized and destroyed, whereas objects or devices intended or used for the commitment of such misdemeanors shall be seized.

(5) Misdemeanor procedure based on the provisions of this Article shall be expeditious.

Article 87  
(Protective Measure)

(1) A legal entity and an entrepreneur who commit misdemeanors referred to in Article 86 paragraph (1) of this Law in the course of their business activities, may be imposed the protective measure involving prohibition of business activities or parts thereof, infringing a registered appellation of origin or a registered geographical indication, for the maximum duration of one year, if the misdemeanor committed is exceptionally serious regarding the manner in which it was committed, consequences of the act, or other circumstances of the misdemeanor committed.

(2) A legal entity and an entrepreneur who repeat the commission of the misdemeanor referred to in Article 86 paragraph (1) of this Law shall be imposed the protective measure involving prohibition of business activities or parts thereof infringing a registered appellation of origin or a registered geographical indication, for a period of at least one year.

#### Article 88

##### (Inspection Control in Connection with Misdemeanors)

(1) Inspection control in connection with misdemeanors sanctioned under Article 86 of this Law and imposing of the protective measure prescribed by Article 87 of this Law shall be performed by the inspection office in charge of the market control in the Federation of BiH, Republika Srpska and the Brčko District of BiH.

(2) The inspection procedure shall be expeditious.

### **PART THIRTEEN – TRANSITIONAL AND FINAL PROVISIONS**

#### Article 89

##### (Rights Granted Before the Application of This Law and Implementing Regulations for the Enforcement of This Law)

(1) Registered geographical indications that are valid on the day on which this Law enters into force shall remain valid and the provisions of this Law shall apply to them.

(2) The director of the Institute shall bring implementing regulations for the implementation of this Law within a period of six months from the day on which this Law shall enter into force, with the exception of regulations referred to in Article 85 paragraph (2) of this Law.

(3) The implementing regulations within the meaning of paragraph (2) of this Article are: Regulations on the Procedure for the Grant of an Indication of the Origin of a Product, Appellation of Origin and Geographical Indication, Decision on Special Costs of the Procedure for Acquiring and Maintaining Industrial Property Rights, Decision on the Conditions for the Entry in the Registers of Representatives for Protection of Industrial Property, Regulations on the Professional Examination for Industrial Property Protection Representatives and the Decision on the Compensation for the Service on the Board of Appeal.

#### Article 90

##### (Cessation of Validity of Other Legal Provisions and Pending Procedures for the Grant of Trademarks)

(1) On the date of the commencement of application of this Law, the provisions of CHAPTER II – TYPES OF INDUSTRIAL PROPERTY RIGHTS Section 4 – GEOGRAPHICAL INDICATION (articles 116 to 126) of the Law on Industrial Property in Bosnia and Herzegovina (Official Gazette of BiH volumes 3/02 and 29/02) pertaining to geographical indications, as well as the provisions which may be applied to geographical indications accordingly, shall cease to have effect.

(2) By way of derogation from the provision of paragraph (1) of this Article, the Law on Industrial Property in Bosnia and Herzegovina shall continue to apply to all administrative procedures

relating to geographical indications that are not completed up to the day on which the application of this Law shall start.

Article 91  
(Application of International Treaties)

The provisions of international treaties in relation to indications of geographical origin, appellations of origin and geographical indications, which Bosnia and Herzegovina acceded to, shall apply to subject-matters treated by this Law and in the case of conflict with the provisions of this Law, the provisions of international treaties shall apply.

Article 92  
(Unified Application of the Provisions on the Board of Appeal in the Patent Law, Trademark Law and the Law on Industrial Designs)

The provisions of articles 69 and 70 of this Law and relevant provisions of the Patent Law, Trademark Law and the Law on Industrial Designs, governing the Institute's Board of Appeal, shall be applied in the manner that one board of appeal shall be established.

Article 93  
(Entry of this Law into Force)

This Law shall enter into force on the eight day following the day of its publication in the "Official Gazette of BiH" and shall be applied as of January 1, 2011.

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Parliamentary Assembly of BiH, No. 515/10  
May 28, 2010  
Sarajevo

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Speaker  
House of Representatives  
Parliamentary Assembly of BiH  
**Dr. Milorad Živković**, signed

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Speaker  
House of Peoples  
Parliamentary Assembly of Bosnia and Herzegovina  
**Sulejman Tihić**, signed