



**Law No. 127—Z of the Republic of Belarus on
Geographical Indications of July 17, 2002
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This Law governs the relations arising out of the legal protection and use of geographical indications.

Basic Expressions Used in this Law and their Definitions

1.—(1) “Geographical indication” shall mean an indication which identifies a product as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of that product is essentially attributable to its geographical origin.

The expression “geographical indication” shall be construed as comprising the term “appellation of origin” and the term “indication of source”.



(2) “Appellation of origin” shall mean the name of a country, locality, region, or other geographical area, which serves to designate a product whose particular properties are determined exclusively or essentially by natural factors, other factors, or both natural and other factors characteristic of the geographical area concerned.

The historical name of a geographical area may constitute an appellation of origin.

A designation that, while representing or containing the name of a geographical area, has in the Republic of Belarus become the common designation of a product of a particular type, without there being any connection with the place of manufacture of that product, shall not be considered an appellation of origin.

(3) “Indication of source” shall mean an indication by which a place is directly or indirectly indicated as being the true place of origin or manufacture of a product.

An indication of source may be constituted by the name of a geographical area or an image or sign.

(4) “Geographical area” shall mean any territory that has officially established boundaries, namely a country, a region as a part of the country, a particular place or a locality.

(5) “Application for registration and the grant of the right of use of the appellation of origin” shall mean all the documents which are required for registration and the grant of the right of use of the appellation of origin or the grant of the right to use an appellation of origin already registered.

(6) “Applicant” shall mean the physical or legal person or a group of persons in whose name the application is filed.

(7) “Competent body” shall mean a governmental authority entitled by the Council of Ministers of the Republic of Belarus to establish boundaries of a geographical area of manufacture of a product whose particular properties are determined by natural factors, other factors or both natural and other factors characteristic of the geographical area concerned, which give the product specific quality, and also to make a statement to the effect that the applicant is located in the said geographical area.

(8) “Certificate attesting the right to use an appellation of origin” shall mean a document attesting the exclusive right of the owner of the certificate to use the appellation of origin.

Legal Protection of Geographical Indications

2.—(1) The legal protection of an appellation of origin in the Republic of Belarus shall be based on its registration with the National Center of Intellectual Property of the Committee on Science and Technologies to the Council of Ministers of the Republic of Belarus (hereinafter referred to as “the Patent Authority”) effected according to the provisions of this Law or by virtue of international treaties to which the Republic of Belarus is party. The



registration of an appellation of origin shall give rise to the issue of a certificate attesting the right to use the appellation of origin.

(2) Registration of an appellation of origin may be applied for by one or more persons collectively to designate a product manufactured by them in the territory of a defined geographical area, whose particular properties are determined exclusively or essentially by natural factors, other factors or both natural and other factors characteristic of the geographical area concerned. The right to use the appellation of origin shall belong to each of those persons.

The right to use the appellation of origin, registered according to the established procedure, may be granted to any natural or legal person who is located in the same geographical area and manufactures a product possessing the same properties.

(3) The legal protection of an indication of source shall be based on its exploitation and shall consist of preventing the use of false or deceptive indications of source, and also the use of indications misleading the consumer as to the true place of origin of a product.

The indication of source shall not be registered by the State.

Scope of Legal Protection of Geographical Indications

3.—(1) In the Republic of Belarus, those geographical indications shall be registered that are located in the territory of the Republic of Belarus.

(2) Appellations of origin located in a foreign country shall be granted legal protection in the Republic of Belarus where those appellations of origin are registered in the country of origin of a product and in the Republic of Belarus according to the applicable legislation.

(3) Indications of source located in a foreign country shall be granted legal protection in the Republic of Belarus where those indications of source are exploited in the country of origin of a product.

Application for Registration and the Right of Use of an Appellation of Origin

4.—(1) The application for registration and the grant of the right of use of an appellation of origin (hereinafter referred to as “the application”) shall be filed with the Patent Authority by the applicant or applicants either in person or through a patent agent registered with the Patent Authority.

(2) Natural persons residing outside the Republic of Belarus or legal persons having their headquarters in a foreign country, or their patent agents, shall be required, for the issue of certificates attesting the right to use the appellation of origin, to act through patent agents registered with the Patent Authority.

(3) The application shall relate to one appellation of origin only.

(4) The application shall contain:



4.1 a request for registration and the grant of the right of use of the appellation of origin or for the grant of the right to use an appellation of origin already registered in which the applicant or applicants shall be named and his or their headquarters or residences specified;

4.2 the designation in respect of which the application is filed;

4.3 the type of product for the designation of which registration and the right of use of the appellation of origin, or the right to use an appellation of origin already registered, is sought, with a mention of the place of manufacture thereof (limits of the geographical area);

4.4 a description of the particular properties of the product.

(5) The application shall be accompanied by the following:

5.1 in the case of a national applicant (whether a natural or a legal person), a statement from the competent body to the effect that the applicant is located in the geographical area specified and manufactures a product whose particular properties are determined by natural factors, other factors or both natural and other factors characteristic of the geographical area concerned;

5.2 in the case of a foreign applicant, proof of his right to use the appellation of origin in respect of which the application is filed in the country of origin of the product;

5.3 a document proving payment of the prescribed fee.

(6) The date of filing of the application with the Patent Authority shall be the date on which the elements specified in the fourth paragraph of this Article were received by the Patent Authority or, where the elements have been filed on different dates, the date on which the last of the missing elements is received by the Patent Authority.

(7) The conditions to be satisfied by the elements of the application shall be specified by the Patent Authority.

Examination of Applications

5.—(1) The examination of an application, which shall consist in a preliminary examination and an examination of the claimed designation, shall be carried out by the Patent Authority in accordance with this Law and the implementing regulations established by the Patent Authority.

(2) During the examination of the application, and before a decision is taken thereon, the applicant shall have the right to supplement, detail or correct elements of the application, on condition that the substance of the application is not modified.

Additional elements modifying the substance of the application shall not be taken into consideration and the applicant may file them in the form of a separate application.

(3) During the examination of the application, the Patent Authority shall have the right to invite the applicant to submit additional documents without which the examination is not possible.



Additional documents submitted at the invitation of the Patent Authority shall be filed within two months of receipt of the invitation to do so. The time limit may be extended at the applicant's request, on condition that the request reaches the Patent Authority before the expiry of the time limit. If the applicant has not complied with the prescribed time limit or has not replied to the examiner's invitation, the application shall be deemed withdrawn and the applicant shall be informed accordingly.

(4) An application may be withdrawn by the applicant at any time during the examination procedure.

(5) An application shall be subject to preliminary examination within two months of the date of receipt by the Patent Authority of the elements required for the examination.

The purpose of the preliminary examination shall be to verify the contents of the application, the presence of the necessary elements, the compliance of those elements with the specified conditions and the payment of the prescribed fee.

Depending on the results of the preliminary examination, the Patent Authority decides whether to take or not to take the application into consideration. The applicant shall be informed of the results of the preliminary examination.

(6) Where the application is taken into consideration in accordance with the sixth paragraph of Article 4 of this Law, the filing date of the application shall be determined.

(7) The application which has been taken into consideration shall undergo examination of the claimed designation, the purpose of which shall be to verify where the claimed designation is the name of a country, locality, region or other geographical area, or the historical name of a geographical area, that serves to designate a product whose particular properties are determined exclusively or essentially by natural factors, other factors or both natural and factors characteristic of the geographical area concerned.

A designation shall not be considered an appellation of origin, despite the fact that it represents or contains the name of a geographical area, if it is in everyday use in the Republic of Belarus to designate a product of a given type, irrespective of its place of manufacture.

(8) Depending on the results of the examination, the Patent Authority shall decide as follows:

- to register the appellation of origin and grant the right to use it;
- to refuse registration of the appellation of origin and the right to use it;
- to grant the right to use an appellation of origin already registered;
- to refuse the right to use an appellation of origin already registered.

Appeal Against a Decision Relating to the Application

6.—(1) In the event of disagreement with the decision taken as a result of the preliminary examination or the examination of the claimed designation, the applicant shall



have the right, within three months of the date on which he received the decision, to appeal against that decision to the Examination Appeal Board of the Patent Authority (hereinafter referred to as “the Appeal Board”).

(2) The appeal shall be considered within four months of the date on which it was received at the Appeal Board. The procedure for the examination of appeals by the Appeal Board shall be laid down by the Patent Authority.

(3) The applicant may appeal to the Supreme Court of the Republic of Belarus against the ruling of the Appeal Board within a period of six months from the date of receipt thereof.

Registration of the Appellation of Origin and Issue of the Certificate Attesting the Right to Use the Appellation of Origin

7.—(1) On the basis of the decision by the examiner, the Patent Authority shall effect the registration of the appellation of origin in the State Register of Appellations of Origin of the Republic of Belarus (hereinafter referred to as “the Register of Appellations of Origin”). The Register of Appellations of Origin shall record the particulars concerning the registration and the right of use of the appellation of origin, and also any amendment subsequently made to those particulars. The list of the particulars shall be prescribed by the Patent Authority.

(2) The certificate attesting the right to use the appellation of origin (hereinafter referred to as “the certificate”) shall be issued by the Patent Authority following the registration of the appellation of origin in the Register of Appellations of Origin, on condition that the prescribed fee has been paid.

(3) The layout of the certificate and the list of particulars appearing therein shall be determined by the Patent Authority.

Term of the Certificate

8.—(1) The term of the certificate shall be ten years as from the date of receipt of the application by the Patent Authority.

(2) The term of the certificate may be extended for a period of ten years at the request of the owner of the certificate, filed in the course of the last year of validity of the current term of the certificate, provided that the conditions for granting the right to use the appellation of origin are maintained. The term may be extended an unlimited number of times.

(3) For the purposes of the extension of the term of the certificate, the owner may, on request and subject to payment of an additional fee, be granted an additional period of six months after the term of the certificate expires.

(4) Any extension of the term of the certificate shall be recorded in the Register of Appellations of Origin. Where requested by the owner, any such extension may likewise be recorded on the certificate.

(5) The request for the extension of the term of the certificate shall be accompanied by:



- in the case of the owner of the certificate (whether a natural or a legal person of the Republic of Belarus)—a statement of the competent body to the effect that the owner of the certificate is located in the geographical area in question and manufactures a product having the properties specified in the certificate;
- in the case of the foreign owner of the certificate—proof of his right to use the appellation of origin in question in the country of origin of the product;
- a document proving payment of the prescribed fee.

Recording of Amendments in the Register of Appellations of Origin and on the Certificate

9.—(1) The owner of the certificate shall notify the Patent Authority of any amendment to his family name, forename or patronymic, and also of any other amendment concerning the registration and the grant of the right of use of the appellation of origin.

(2) Any amendment shall be recorded in the Register of Appellations of Origin and, at the request of the owner, on the certificate against payment of a fee.

(3) The Patent Authority may, acting *ex officio*, record any amendment concerning a grammatical error or other obvious error in the Register of Appellations of Origin. Any such amendment may, at the request of the owner of the certificate, be also recorded on the certificate.

Publication of Particulars Concerning the Registration and the Grant of the Right of Use of the Appellation of Origin

10. The particulars concerning the registration and the grant of the right of use of the appellation of origin that have been recorded in the Register of Appellations of Origin shall be published by the Patent Authority in its Official Bulletin.

Registration of the Appellation of Origin Abroad

11.—(1) Any natural or legal person of the Republic of Belarus shall have the right to have the appellation of origin registered abroad.

(2) The filing of an application for the registration of the appellation of origin abroad shall not occur until after the registration and the acquisition of the right of use of the said appellation of origin in the Republic of Belarus.

Fees

12.—(1) Fees shall be payable for the performance of legal acts relating to the registration of appellations of origin. Fees may be paid to the Patent Authority by the applicant, the owner of the certificate or any other natural or legal person by agreement with them.



(2) The amounts of the fees, the procedure and the time limits for paying them shall be determined by the Council of Ministers of the Republic of Belarus.

(3) The manner of using the fees shall be governed by the applicable legislation of the Republic of Belarus.

Exploitation of Geographical Indications

13.—(1) The use of the geographical indication on a product or on packaging thereof, on advertising material, in prospectuses, on invoices or in any other way associated with the marketing of the product shall be deemed to constitute exploitation of the appellation of origin.

(2) Persons who are not owners of a certificate shall not be authorized either to exploit a registered appellation of origin, even if the true origin of the product is indicated or if the appellation of origin is used in translated form or accompanied by terms such as “kind”, “type”, “make”, “imitation”, or the like, or to exploit, for products of the same type, a similar designation liable to mislead the consumer as to the place of origin and specific properties of the product.

(3) Any person who has exploited in good faith the name of a geographical area which is identical with, or similar to, a registered appellation of origin within at least six months before the date of its first registration shall preserve the right to its further exploitation within a period which shall be specified by the Patent Authority, but which shall not exceed two years counting from the date of the said registration.

(4) The owner of a certificate may not transfer to, or license, third parties the right to exploit the geographical indication.

Warning Notice

14. The owner of a certificate may accompany the appellation of origin by a warning notice in the form of a letter R or a letter R within a circle or by wording “appellation of origin” or “registered appellation of origin” to the effect that the designation used is an appellation of origin registered in the Republic of Belarus.

Invalidation of the Registration of the Appellation of Origin and of the Certificate

15.—(1) The registration of the appellation of origin may be invalidated if, when it was effected, the conditions required by this Law were not complied with.

(2) The certificate may be invalidated where the conditions required by this Law were not complied with at the time of the issue thereof.



(3) Any person may file opposition with the Appeal Board to the registration of the appellation of origin and the issue of the certificate attesting the right to use the appellation of origin.

The procedure for considering oppositions shall be laid down by the Patent Authority.

The decision taken by the Appeal Board may be appealed from to the Supreme Court of the Republic of Belarus within a period of six months from the date of receipt of the decision.

Termination of the Validity of the Registration of the Appellation of Origin and of the Certificate

16.—(1) The validity of the registration of the appellation of origin may be terminated where the factors characteristic of the geographical area concerned are no longer present, making it impossible to manufacture a product with the properties specified in the Register of Appellations of Origin.

(2) The validity of the registration of the appellation of origin effected in the name of a foreign natural or legal person shall also be terminated where that person has lost the right to the said appellation of origin in the country of origin of the product.

The validity of the certificate may be terminated:

- where the product no longer has the specific properties recorded in the Register of Appellations of Origin in relation to the appellation of origin in question;
- in the event of invalidation of the registration of the appellation of origin;
- on request by any person, filed with the Patent Authority, where the physical person owning the certificate dies and the successor in title is absent or where the legal person owning the certificate is liquidated;
- on renunciation by the owner of the certificate, notified to the Patent Authority.

(4) Any person may, on the grounds specified in the first and second paragraphs or the first subparagraph of the third paragraph of this Article, file opposition with the Appeal Board against the registration of the appellation of origin or the issue of the certificate. The procedure for considering appeals by the Appeal Board shall be laid down by the Patent Authority.

The decision taken by the Appeal Board may be appealed from to the Supreme Court of the Republic of Belarus within a period of six months from the date on which the decision was received.

(5) The registration of the appellation of origin shall be cancelled and the certificate revoked by the Patent Authority if they have been invalidated, and also on the grounds specified in the first and third paragraphs of this Article.



The Patent Authority

17. The Patent Authority shall receive applications for the registration of appellations of origin, effect the examination thereof, maintain the State Register of Appellations of Origin of the Republic of Belarus, issue certificates having effect throughout the territory of the Republic of Belarus, ensure, within the limits of its competence, compliance with geographical indication legislation, interpret and clarify the provisions thereof, provide, in respect of the above matters, methodological assistance and services to interested parties.

Liability for Infringement of Geographical Indication Legislation

18.—(1) Any person who displays a warning notice of reserved rights alongside an appellation of origin that is not registered in the Republic of Belarus shall be liable under the legislation of the Republic of Belarus.

(2) Any person who unlawfully uses a geographical indication shall be obliged, at the request of the person having the right to use the geographical indication, to discontinue the said use, to remove from the product or the packaging thereof, headed paper, or any other document, the unlawfully used geographical indication or the designation misleadingly similar to it, or to destroy any existing reproductions of the geographical indication or the designation misleadingly similar to it, or, where that is not possible, to seize and destroy the products and/or the packaging thereof.

Any person having the right to use the geographical indication shall be entitled to seek compensation from the infringer of that right for damages sustained.

Hearing Disputes Arising from Infringements of Geographical Indication Legislation

19. Disputes arising from infringements of geographical indication legislation shall be heard by the Appeal Board and the Supreme Court of the Republic of Belarus within their competence.

International Treaties

20. Where an international treaty to which the Republic of Belarus is party contains provisions that differ from those laid down in this Law, the provisions of the international treaty shall prevail.

Rights of Foreign Natural and Legal Persons and of Stateless Persons

21. Foreign natural and legal persons and stateless persons shall enjoy the rights provided by this Law and other legislative texts on geographical indications of the Republic of Belarus, and have liability, on the same footing as natural and legal persons of the Republic of Belarus, except as otherwise provided in the legislative acts of the Republic of Belarus and in international treaties.



Entry into Force of this Law

22.—(1) This Law shall enter into force six months after the date of its official publication, except for Article 23.

(2) Article 23 of this Law shall enter into force on the day of the official publication thereof.

(3) Until the legislation of the Republic of Belarus has been adapted to this Law, the hitherto applicable normative law acts of the Republic of Belarus shall continue to apply where it is not contrary to this Law, except as otherwise provided in the Constitution of the Republic of Belarus.

Adaptation of Legislation of the Republic of Belarus to this Law

23. The Council of Ministers of the Republic of Belarus shall, within six months following the day of publication of this Law:

- draw up and submit as prescribed to the House of Representatives of the National Assembly of the Republic of Belarus proposals to bring the legislative texts of the Republic of Belarus into compliance with this Law;
- bring the decisions of the Government of the Republic of Belarus into compliance with this Law;
- ensure that the Ministries and other authorities of the State subordinate to the Council of Ministers of the Republic of Belarus repeal or revise normative texts contrary to this Law;
- secure the adoption of normative texts for the implementation of this Law.