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# Geographical Indication Protection Act

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Amended by the following acts

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16.05.2000	RT I 2000, 40, 252	05.06.2000
21.02.2001	RT I 2001, 27, 151	20.04.2001
05.06.2001	RT I 2001, 56, 332	01.10.2001
06.06.2001	RT I 2001, 56, 335	01.09.2001
05.06.2002	RT I 2002, 53, 336	01.07.2002
19.06.2002	RT I 2002, 63, 387	01.09.2002
17.12.2003	RT I 2003, 88, 594	08.01.2004
10.03.2004	RT I 2004, 20, 141	01.05.2004
15.06.2005	RT I 2005, 39, 308	01.01.2006
07.12.2006	RT I 2006, 58, 439	01.01.2007
10.06.2009	RT I 2009, 34, 224	01.01.2010
07.12.2011	RT I, 28.12.2011, 1	01.01.2012
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, titles of ministers are replaced pursuant to subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
11.06.2015	RT I, 30.06.2015, 4	01.09.2015, on the basis of subsection 107 <sup>4</sup> (2) of the Government of the Republic Act the words 'Ministry of Agriculture' have been replaced with the words 'Ministry of Rural Affairs' in the appropriate case form
21.11.2018	RT I, 12.12.2018, 3	01.01.2019
20.02.2019	RT I, 19.03.2019, 4	29.03.2019, partially 01.04.2019
20.02.2019	RT I, 19.03.2019, 5	01.04.2019

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

(1) This Act regulates the legal protection of geographical indications used to designate goods and services of natural, agricultural, handicraft or industrial origin, except the geographical indications and designations of origin for agricultural products, foodstuffs and alcoholic beverages protected at Community level.

(2) The Ministry of Rural Affairs shall perform the national operations provided in Council Regulation (EU) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (OJ L 208, 24.7.1992, pp. 1-8) and the operations prescribed with regard to the geographical indications and designations of origin of alcoholic beverages protected at Community level.  
[RT I 2004, 20, 141 - entry into force 01.05.2004]

## **§ 2. Equality of rights and obligations of natural and legal persons of the Republic of Estonia and of foreign states**

The rights and obligations prescribed in legislation regulating the legal protection of geographical indications apply equally to natural and legal persons of the Republic of Estonia and of foreign states (hereinafter *person*), considering restrictions provided for in this Act.

## **§ 3. Geographical indication and geographical area**

(1) Geographical indication means:

- 1) the name of or a reference to a geographical area which indicates the specific geographical origin of a good or service if the given quality, reputation or other characteristic of the good or service so identified is essentially attributable to the geographical area where the good is produced, processed or prepared for sales or where the service is rendered;
- 2) another word, phrase or symbol that, resulting from long-term and consistent use, has become essentially attributable to the geographical area where the good is produced, processed or prepared for sales or where the service is rendered.

(2) For the purposes of this Act, a geographical area means the territory of a state, or a particular region or locality in that territory. A geographical area does not have to coincide with an administrative unit or settlement unit bearing the same name. The name of a geographical area serving as a geographical indication does not have to coincide with the current official name of that geographical area.

## **§ 4. Form of geographical indication**

(1) A geographical indication may be in word form or in figurative form.

(2) A geographical indication in word form may be a word or phrase that is the name of a geographical area, includes it or refers to it.

(3) A geographical indication in figurative form may be a cartographic representation or symbol of a geographical area referring to a particular geographical area.

# **Chapter 2 BASES FOR LEGAL PROTECTION OF GEOGRAPHICAL INDICATIONS**

## **§ 5. Provision of legal protection of geographical indication**

(1) Geographical indications shall be granted legal protection by registration in the state register of geographical indications (hereinafter *register*) pursuant to the procedure provided for in this Act.

(2) Legal protection to geographical indications shall be ensured by exercising state supervision (hereinafter *supervision*) and applying the enforcement powers of the state on the bases and pursuant to the procedure provided for in this Act.

## **§ 6. Extent of legal protection of geographical indications**

The extent of legal protection of a geographical indication shall be specified on the basis of the geographical indication registration (hereinafter *registration*) data.

## **§ 7. Term of legal protection of geographical indications**

Legal protection of geographical indications does not have a term.

## **§ 8. Indications not protected as geographical indications**

Legal protection is not granted to an indication that:

- 1) misleads the public as to the geographical origin of the good or service;
- 2) designates a good or service where the given quality, reputation or other characteristic of the good or service is not essentially attributable to the geographical origin of the good or service;
- 3) although literally true as to the geographical origin of the good or service, may falsely represent to the public that the good or service originates in another geographical area;
- 4) is contrary to public order or accepted principles of morality;
- 5) has lost its original meaning of geographical origin and has become the common name of a good or service and is being used to designate the kind, quality, variety or other properties or characteristics of a good or service;
- 6) includes the name of an animal breed or a plant variety or is misleadingly similar to it;
- 7) has not been granted legal protection in the country of origin or the legal protection of which has been terminated in the country of origin, or which has fallen into disuse in that country.

## **§ 9. Right to apply for registration of geographical indication**

(1) The right to apply for the registration of a geographical indication is vested in:

- 1) a person who acts as the producer, processor or preparer for sales of the good designated with the indication, or as the renderer of the service in the geographical area specified in the indication;
- 2) an association of consumers or persons referred to in clause 1 of this subsection, regardless of its seat or legal form;
- 3) a competent authority of the country of origin of the good or service.

(2) The person referred to in subsection 1 of this section may only apply for the registration of an indication which meets the requirements prescribed for geographical indications and complies with the provisions of § 4 of this Act and which is not excluded from protection under § 8 of this Act.

(3) The list of Estonian administrative agencies competent for applying for the registration of geographical indications shall be approved by the Government of the Republic.

## **§ 10. User of geographical indication**

A registered geographical indication may be used for designating goods or services by a person who acts as the producer, processor or preparer for sales of the good specified in the registration or as the renderer of the service in the geographical area specified in the registration, and whose good or service has all the qualities, reputation or other characteristics specified in the registration.

## **§ 11. Unlawful use of geographical indication**

(1) The following shall be prohibited:

- 1) the use of a geographical indication or a misleadingly similar indication for designating goods or services by a person who does not act as the producer, processor or preparer for sales of the good specified in the registration or as the renderer of the service in the geographical area specified in the registration;
- 2) the use of a geographical indication or a misleadingly similar indication for designating goods or services if the good or service lacks any quality, reputation or other characteristic specified in the registration;
- 3) the use of a geographical indication or a misleadingly similar indication for designating goods or services that are not covered by the registration but which are of the same kind as the goods and services covered by the registration;
- 4) the use of a geographical indication or a misleadingly similar indication for designating other goods or services where it may constitute the use of the reputation of the protected geographical indication in bad faith;
- 5) the use of any misleading information about the origin, nature or basic characteristics of the good or service on the inner or outer packaging, in advertising materials or relevant documents of the good or service;
- 6) the use of an indication which, although literally true as to the geographical origin of the good or service, may falsely represent to the public that the good or service originates in another area, even if the true origin is indicated;
- 7) other transactions which may mislead the public as to the true origin of the good or service.

(2) The prohibition provided for in subsection 1 of this section shall not extend to the use, in the course of trade, of a person's trade name, except where such name is used in such a manner as to mislead the public.

(3) Trading with a good which is unlawfully designated with a registered geographical indication shall be prohibited, regardless of whether the distributor, vendor or consumer has been notified of the relevant specific character of the good. This does not affect the validity of the transaction entered into for the transfer of the good. [RT I 2002, 53, 336 - entry into force 01.07.2002]

## **§ 12. Right of prior use of trade mark containing geographical indication**

(1) A trade mark which has been filed for registration or registered in good faith before the date of entry into force of this Act or before the geographical indication becomes subject to legal protection in its country of origin shall not be declared invalid, shall not be refused registration or its use shall not be prohibited for the reason that the trade mark contains a registered geographical indication or is misleadingly similar to it, unless otherwise provided in this Act.

(2) A trade mark is filed for registration or registered in good faith if the person who filed for registration or registered the trade mark did not know nor should have known that the indication in question designates the good or service as originating in a specific geographical area and a given quality, reputation or other characteristic is essentially attributable to the geographical origin of the good or service.

### **§ 13. Warning notice**

The user of a registered geographical indication may add the warning notice "*Registreeritud geograafiline tähis*" ("Registered geographical indication") or the abbreviation "G" to the indication.

## **Chapter 3 DIFFERENCES OF LEGAL PROTECTION OF GEOGRAPHICAL INDICATIONS FOR ALCOHOLIC BEVERAGES**

### **§ 14. Homonymous geographical indications for wines**

(1) For the purposes of this Act, homonymous geographical indications for wines (hereinafter *homonymous indications*) mean the identical or misleadingly similar word or figurative indications which are used for identifying different wines.

(2) Homonymous indications in word form may have:

- 1) the same pronunciation and spelling;
- 2) the same pronunciation but different spelling;
- 3) different pronunciation but the same spelling.

### **§ 15. Criteria for differentiating homonymous indications**

Upon contestation, the following shall be taken into account in differentiating homonymous indications from each other:

- 1) the existence of differentiating information and its adequacy on the wine label with a homonymous indication;
- 2) the official recognition of the homonymous indication in its country of origin;
- 3) the duration of use of the homonymous indication;
- 4) the good faith of the use of the homonymous indication.

### **§ 16. Provision of legal protection of homonymous indications**

Legal protection shall be accorded to each homonymous indication independently.

### **§ 17. Stipulation upon using homonymous indications**

The user of a homonymous indication shall be obliged to provide the wine label with information sufficient to differentiate one homonymous indication from another with the purpose of avoiding misleading consumers.

### **§ 18. Unlawful use of registered geographical indication for designating alcoholic beverage**

In addition to the provisions of subsection 11 (1) and (3) of this Act, a registered geographical indication shall not be used for designating an alcoholic beverage not originating in the geographical area indicated by the geographical indication in question, including cases where the true origin of the alcoholic beverage is indicated or the geographical indication is used in translation or accompanied by expressions such as "kind", "type", "style", "imitation" or the like.

### **§ 19. Trade mark containing geographical indication misleading as to geographical origin of alcoholic beverage**

Any interested person may request that a trade mark registered for designating an alcoholic beverage be declared invalid before the date of entry into force of this Act if the trade mark contains a registered geographical indication or is misleadingly similar to it and the alcoholic beverage designated by the trade mark in question does not originate in the geographical area indicated by the geographical indication.

### **§ 20. Right of prior use of geographical indications of alcoholic beverage**

A citizen of Estonia or any person who has permanent residence or a permanent seat in Estonia and who has consistently and in good faith used a geographical indication registered for designating an alcoholic beverage before 15 April 1994 or used it consistently for not less than 10 years before the said date may continue, after registration of the indication, to use the indication in the same extent for goods or services which are identical or of the same kind.

## **Chapter 4**

# REGISTRATION OF GEOGRAPHICAL INDICATION

## § 21. Register

(1) The register is established and the statutes for maintenance of the register are approved by the Government of the Republic.

(2) The Ministry of Justice is the controller of the register and the Patent Office is the processor of the register. [RT I 28.12.2011, 1 – entered into force 01.01.2012]

(3) The Patent Office processes applications for registration of a geographical indication (hereinafter *registration application*), and makes decisions and entries in the register.

(4) The register shall be maintained in Estonian. Foreign-language documents shall be submitted to the register together with an Estonian translation.

[RT I 2003, 88, 594 - entry into force 08.01.2004]

## § 22. Register entry

(1) A register entry is an entry of registration application processing, an entry of registration data, an entry to amend a registration data entry and a deletion of a registration entry.

(2) A register entry shall enter into force on the date of making the entry.

(3) Notices of entries of registration data, entries to amend a registration data entry and deletions of a registration entry shall be published in the official gazette of the Patent Office.

(4) A state fee is payable for an entry to amend a registration data entry.

## § 23. Registration

(1) A registration shall be made on the basis of a decision to register a geographical indication.

(2) Registrations are numbered in the order in which geographical indications are registered.

(3) A registration enters into force retroactively from the filing date of the registration application.

(4) Registration data are:

1) the registration number;

2) the date of making the entry of registration data;

3) the representation of the geographical indication;

4) the list of goods and services designated with the geographical indication;

5) the identification of the geographical area;

6) the description showing the link of a given quality, reputation or other characteristic of a good or service with the geographical origin of the good or service and identifying the geographical area (hereinafter *description*);

7) the short summary of the description;

8) the data of the protection of the geographical indication in its country of origin or the data of the competent agency of the country of origin that has certified the link of a given quality, reputation or other characteristic of a good or service with the geographical origin of the good or service, and the data of the competent agency of the country of origin that has certified the right of the applicant for registration of a geographical indication (hereinafter *applicant*) to apply for registration of the geographical indication pursuant to the provisions of subsection

9 (1) of this Act;

9) the name and address of residence or seat of the applicant;

10) the name of the representative of the applicant, if the applicant has a representative;

11) the registration application number;

12) the filing date of the registration application.

## § 24. Registration application

(1) In one registration application, the applicant may apply for the registration of only one geographical indication.

(2) A registration application shall comprise the following documents:

1) a request for the registration of a geographical indication;

2) a description;

- 3) a certificate of the protection of the geographical indication in its country of origin, or a certificate issued by the competent agency of the country of origin certifying the link of the given quality, reputation or other characteristic of the good or service with the geographical origin of the good or service, and a certificate issued by the competent agency of the country of origin of the right of the applicant to apply for registration of a geographical indication pursuant to the provisions of subsection 9 (1) of this Act;
- 4) a document certifying payment of the state fee;
- 5) an authorisation document if the applicant has a representative.

(3) The list of Estonian agencies competent to issue a certificate specified in clause 3 of subsection 2 of this section and the procedure for issuing certificates is approved by the Government of the Republic.

(4) The formal requirements of registration application documents are established by the minister responsible for the area.

[RT I 28.12.2011, 1 – entered into force 01.01.2012]

## **§ 25. Request for registration of geographical indication**

- (1) A request for the registration of a geographical indication shall set out:
- 1) a statement requesting the registration of a geographical indication;
  - 2) a representation of the geographical indication;
  - 3) the name and address of residence or seat of the applicant and other contact data;
  - 4) information about the possession of the right to apply for the registration of the geographical indication pursuant to the provisions of subsection 9 (1) of this Act;
  - 5) a short summary of the description which shall comply with the content of the description;
  - 6) the name of the representative, if the applicant has a representative;
  - 7) the signature of the applicant or the representative of the applicant.

## **§ 26. Description**

- (1) A description shall set out:
- 1) the name of the good or service;
  - 2) the features characterising the good (a list of physical, chemical, microbiological, organoleptic or other qualities according to the particular good);
  - 3) the features characterising the service or the method of producing the good;
  - 4) the identification of the geographical area;
  - 5) the particulars certifying the link of a given quality, reputation or other characteristic of the good or service with the geographical origin.

(2) The description may contain features characterising the raw material, the data about the use of a warning notice and other data which the applicant considers necessary to submit.

(3) The description shall give a complete and exact idea of the link of the given quality, reputation or other characteristic of the good or service with the geographical origin of the good or service.

(4) If the same geographical indication is used to designate goods or services with different features, the description shall be submitted for each good or service separately.

## **§ 27. Filing of registration application**

(1) Registration applications are filed with the Patent Office by delivery by hand, by post or by facsimile.

(2) The original documents of registration applications filed by facsimile shall be filed within one month after the date of receipt of the facsimile.

(3) The document certifying payment of the state fee shall be submitted within one month after the date of receipt of the registration application at the latest.

(4) The authorisation document shall be submitted within two months after the date of receipt of the registration application at the latest.

## **§ 28. Representation of applicant**

(1) The procedures related to the registration of a geographical indication and to the continued validity of the registration shall be performed by an applicant or a patent attorney authorised by the applicant.

(2) If the residence or seat of the applicant is outside the Republic of Estonia, the registration application shall be filed by the applicant or the patent attorney. After the filing of the registration application, procedures related to the registration and to the continued validity of the geographical indication shall be performed only by a patent attorney authorised by the applicant.

(3) If several applicants file a registration application jointly, they shall authorise a patent attorney or choose a representative from among themselves (hereinafter *joint representative*), whose residence or seat is in the

Republic of Estonia, to perform any procedures related to the registration or to the continued validity of the geographical indication.

(4) An authorisation document shall set out the following:

- 1) the name and address of the residence or seat of the applicant;
- 2) in case of a patent attorney, the given name and surname of the patent attorney;
- 3) in case of a joint representative, the name and address of the residence or seat of the representative;
- 4) the scope of the authorisation;
- 5) the right to delegate authorisation, if the principal grants such right to the representative;
- 6) the term of validity of the authorisation;
- 7) the signature of the principal;
- 8) the place and date of issue of the authorisation document.

### **§ 29. Notation of receipt**

(1) Every document of the registration application shall be marked with a notation of receipt which shall contain the date of receipt of the registration application and the sequence number of receipt of the registration application (hereinafter *registration application number*).

(2) If a registration application is filed by post or by facsimile, the date of receipt of the registration application is deemed the true date of receipt of the application.

### **§ 30. Acceptance of registration application for processing**

(1) The filing date of a registration application shall be deemed the date of receipt of the registration application if the following documents are filed:

- 1) a statement requesting the registration of a geographical indication;
- 2) a representation of the geographical indication;
- 3) a list of goods and services which are designated by the geographical indication;
- 4) the identification of the geographical area;
- 5) the name and address of the residence or seat of the applicant and other contact information.

(2) A filed registration application shall be accepted for processing if the following have been filed: a document certifying payment of the state fee, an authorisation document, if it is required, and original documents if the registration application is filed by facsimile.

### **§ 31. Refusal to accept registration application for processing**

A decision shall be made to refuse to accept a registration application for processing and the state fee shall be refunded if:

- 1) the document certifying payment of the state fee is not filed within one month after the date of receipt of the registration application;
- 2) an authorisation document is required and it is not filed within two months after the date of receipt of the registration application;
- 3) a registration application has been sent by facsimile and the original documents are not filed within one month after the date of receipt of the facsimile.

### **§ 32. Examination of registration application**

(1) During processing, the compliance of the geographical indication with the provisions of clauses 1 to 3 and 5 to 7 of § 8 of this Act and the correctness of the facts presented in the registration application shall not be examined.

(2) The applicant shall be notified in writing of formal or substantive deficiencies of the registration application or if any other circumstances are revealed which hinder the processing and a term of two months shall be set for elimination of the deficiencies or provision of relevant explanations.

(3) On the basis of a request from the applicant, the term for elimination of deficiencies in a registration application or for provision of explanations shall be extended by up to six months from the beginning of the term specified in subsection 2 of this section. The request with a document certifying payment of the state fee shall be filed before the end of the term set in subsection 2 of this section.

### **§ 33. Correction and supplementation of registration application**

An applicant may correct and supplement a registration application during processing provided that no alterations are made to the representation of the geographical indication which was presented in the registration application on the filing date of the registration application and the identification of the geographic area or the given list of goods or services is not extended.

#### **§ 34. Withdrawal of registration application**

(1) An applicant may withdraw a registration application during processing by filing a corresponding written request. A registration application is deemed withdrawn upon receipt of such request by the Patent Office.

(2) A registration application is deemed withdrawn if the applicant has failed to eliminate deficiencies in the registration application or to provide relevant explanations by the end of the term established pursuant to subsections 32 (2) and (3) of this Act.

#### **§ 35. Termination of processing**

If a registration application is withdrawn or deemed withdrawn, a decision is made on the termination of processing.

#### **§ 36. Resumption of processing**

Terminated processing shall be resumed on the basis of a decision of the Industrial Property Board of Appeal (hereinafter Board of Appeal) or court order.

#### **§ 37. Decision to register geographical indication**

If a registration application complies with the requirements provided for in §§ 4, 24, 25 and subsections 26 (1) and (4) of this Act and is not contrary to public order or accepted principles of morality, a decision shall be made without delay to register the geographical indication.

#### **§ 38. Decision to refuse registration of geographical indication**

If a registration application does not comply with at least one of the requirements provided for in §§ 4, 24, 25 and subsections 26 (1) and (4) of this Act or is contrary to public order or accepted principles of morality, a decision shall be made without delay to refuse registration of the geographical indication.

#### **§ 39. Decision and appealing decision**

(1) Decisions referred to in §§ 31, 35, 37 and 38 of this Act shall set out:

- 1) the date of the decision;
- 2) the grounds for the decision;
- 3) the conclusion;
- 4) information on the procedure and term for appealing the decision;
- 5) the name and signature of the official who makes the decision.

(2) Decisions referred to in §§ 31, 35, 37 and 38 of this Act enter into force on the date on which they are made.

(3) The applicant shall be notified in writing of the decisions referred to in §§ 31, 35, 37 and 38 of this Act.

(4) An applicant may appeal the decisions referred to in §§ 31, 35, 37 and 38 of this Act in the Board of Appeal within two months as of the date of making the decision.

[RT I 2004, 20, 141 - entry into force 01.05.2004]

#### **§ 40. Access to and release of data from register**

(1) During processing, only the following information shall be released: the registration application number, the filing date, the representation of the geographical indication, the identification of the geographical area, the list of goods or services, the name of the applicant and the name of the representative of the applicant.

(2) After a decision is made on the registration of a geographical indication, the information and documents pertaining to the geographical indication in the register shall be public.

(3) A state fee is paid for the release of information from the register with the exception of releasing information to supervisory agencies, the Board of Appeal or to a court.

#### **§ 41. Certificate of registration of geographical indication**

(1) A certificate of registration of a geographical indication (hereinafter *certificate*) is a document which certifies the registration.

(2) Certificates are issued in the name of the Republic of Estonia.

(3) The registration number is also the certificate number.

(4) The formal requirements and the procedure for completing of certificates are established by the minister responsible for the area.

[RT I 28.12.2011, 1 – entered into force 01.01.2012]



#### **§ 42. Issue of certificate**

(1) After making a registration, the Patent Office shall issue a certificate to the applicant within ten working days.

(2) [Repealed - RT I 2004, 20, 141 - entered into force 01.05.2004]

## **Chapter 5 CONTESTATION AND PROTECTION OF RIGHTS**

#### **§ 43. Contestation of registration**

(1) Any interested person or supervisory authority finding that the applicant had no right to file a registration application pursuant to subsection 9 (1) of this Act, may file a request with the Board of Appeal against the applicant, his or her successor or legal successor to declare the registration unlawful.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) The request specified in subsection 1 of this section may be filed within one year from the publication date of the notice of entry of registration data.

(3) Any interested person or supervisory authority finding that the applicant had no right to file a registration application pursuant to subsection 9 (2) of this Act, may file a request with the Board of Appeal against the applicant, his successor or legal successor to declare the registration unlawful.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(4) The request specified in subsection 3 of this section may be filed during the validity period of the registration.

(5) Any interested person who considers that a registration is contrary to the requirements of § 4, 24, 25 or subsection 26 (1) or (4) of this Act, or to public order or accepted principles of morality, may file a request with the Board of Appeal to declare the registration unlawful and require that the Patent Office restore the processing and make a new decision.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(6) The request specified in subsection (5) of this section may be filed within three months from the publication date of the notice of entry of registration data.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(6<sup>1</sup>) A participant in a processing concerning the request specified in subsection (1), (3) or (5) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing within the term specified in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act to declare the registration unlawful or to ascertain the non-existence of the circumstances providing grounds therefor.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(7) The Patent Office shall make an entry in the register on the basis of the decision of the Board of Appeal or court judgment which has entered into force if the person specified in subsection (1), (3) or (5) of this section submits a request including information on the decision or judgment which has entered into force, to the Patent Office.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

#### **§ 44. Contestation of registration for amending registration data**

(1) Any interested person or supervisory authority finding that the list of goods or services, identification or description of the geographical area in the registration are inaccurate or insufficient, may file a request with the Board of Appeal against the applicant, his or her successor or legal successor for amending registration data.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) The request specified in subsection 1 of this section may be filed during the validity period of the registration.

(2<sup>1</sup>) A participant in a processing concerning the request specified in subsection (1) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing within the term specified in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act to change the registration data or to ascertain the non-existence of the circumstances providing grounds therefor.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) The Patent Office shall make an entry in the register on the basis of the decision of the Board of Appeal or court judgment which has entered into force if the person specified in subsection (1) of this section submits a request including information on the decision or judgment which has entered into force, to the Patent Office.  
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

#### **§ 45. Legal remedies in case of unlawful use of registered geographical indication**

In case of unlawful use of a registered geographical indication, an interested person may demand:

- 1) compensation for the damage caused by the unlawful use of a registered geographical indication pursuant to § 1043 of the Law of Obligations Act;
- 2) termination of the unlawful use of a registered geographical indication and that the person refrains from further violation pursuant to § 1055 of the Law of Obligations Act;
- 3) transfer of that which is received from the person by means of the unlawful use of a registered geographical indication pursuant to §§ 1037 and 1039 of the Law of Obligations Act.

[RT I 2002, 53, 336 - entry into force 01.07.2002]

#### **§ 46. Specifications for resolution of disputes relating to geographical indications**

(1) Appeals and actions related to the registration of geographical indications, validity of a registration and unlawful use of registered geographical indications, petitions for the securing of an action and petitions for provisional legal protection, as well as other appeals and actions specified in this Act shall be heard by Harju County Court.

[RT I, 19.03.2019, 4 – entry into force 01.04.2019]

(1<sup>1</sup>) [Repealed – RT I, 19.03.2019, 4 – entry into force 01.04.2019]

(2) The court shall notify of the submission of the requests specified in subsections 43 (1) and (3) and subsection 44 (1) of this Act in the official gazette *Ametlikud Teadaanded* and establishes a term during which the users of a geographical indication may file a petition with a court to intervene in the proceedings in support of the plaintiff or the defendant, whereby the term shall be no less than two months from the publication date of the notice.

(3) The court shall send a transcript of the resolution, made in a dispute relating to the protection of a geographical indication, to the Patent Office for information even if the Patent Office has not participated in the proceedings.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

(4) A person against whom an action has been filed pursuant to § 45 of this Act, is entitled to file a counterclaim with a claim specified in subsection 43 (1), (3) or (5) or 44 (1).

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

#### **§ 47. Representatives in court disputes relating to geographical indications**

(1) Patent attorneys may act as representatives in a county court and in a circuit court in disputes relating to geographical indications.

(2) [Repealed - RT I 2004, 20, 141 - entered into force 01.05.2004]

(3) Upon protection of rights, a lawful user of a geographical indication may be represented by a representative organisation with passive legal capacity of which the user is a member.

[RT I 2005, 39, 308 - entry into force 01.01.2006]

## **Chapter 6 STATE SUPERVISION**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

#### **§ 48. Bases for exercising supervision**

[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

#### **§ 49. State supervision**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

State supervision over fulfillment of the requirements provided for in this Act is exercised by:

- 1) Consumer Protection and Technical Regulatory Authority;  
[RT I, 12.12.2018, 3 - entry into force 01.01.2019]
- 2) the Veterinary and Food Board over proper use of the names of registered geographical indications, and conformity with the requirements provided for in the descriptions of registered geographical indications.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

## **§ 50. Special state supervision measures**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

A law enforcement agency may apply special state supervision measures provided for in §§ 30, 49, 50 and 52 of the Law Enforcement Act on the bases and according to the procedure provided for in the Law Enforcement Act for the purpose of exercising the state supervision provided for in this Act.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

## **§ 51. Maintaining confidentiality of business secrets**

[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

# **Chapter 7**

§ 52.–§ 55.[Repealed - RT I 2002, 63, 387 - entered into force 01.09.2002]

# **Chapter 8 Final provisions**

## **§ 56. State fees**

(1) State fees are charged for the performance of transactions provided for in this Act pursuant to the rates provided for in the State Fees Act.

[RT I 2006, 58, 439 - entry into force 01.01.2007]

(2) State fees shall be paid by applicants or persons who have the right to use a protected geographical indication, or by third parties who have an interest in the performance of transactions and issue of documents prescribed in this Act. If the state fee is paid by a third party, the consent of the applicant or the user of a protected geographical indication is required.

(3) The state fee is deemed paid upon receipt of a document by the Patent Office certifying payment of the state fee.

(4) Paid state fees are not refunded, except in cases provided for in § 31 of this Act.

## **§ 56<sup>1</sup>. Proceedings concerning appeals, petitions and actions filed with court before 1 April 2019**

(1) Proceedings concerning a petition filed with a court pursuant to this Act before 1 April 2019 shall be conducted by a court even in case mandatory pre-trial procedure in the Board of Appeal is prescribed for the settlement of the respective dispute starting from said date.

(2) Proceedings concerning an appeal, petition or action filed with a court pursuant to this Act before 1 April 2019 shall be conducted by a county court other than Harju County Court even in case Harju County Court has exclusive jurisdiction over adjudication of the respective appeal, petition or action starting from said date.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

§ 57.–§ 63.[Omitted from this text]