

ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS OF GOODS

**Article 1 - Purpose of the Law**

This Law regulates relations associated with the registration, protection and use of appellations of origin and geographical indications of goods (services).

**Article 2 - Definition of terms used in the Law**

The terms used in this Law have following meanings:

- a) Sakpatenti – a legal entity under public law that provides legal support with respect to the rights of natural and legal persons in the field of intellectual property;
- b) State Register of Appellations of Origin and Geographical Indications of Goods – a set of data on the appellations of origin and geographical indications and on persons who are entitled to use registered appellations of origin or geographical indications;
- c) an application – a set of documents necessary to register appellations of origin or geographical indications or to obtain the right to use a registered appellation of origin or geographical indications;
- d) an applicant – a natural or legal person, a public authority or a legal entity under public law, or any association of entrepreneurs irrespective of its legal structure, which applies to register an appellation of origin or geographical indication and/or for the right to use an registered appellation of origin or geographical indication;
- e) organoleptic properties – the properties of goods that are assessed by human sense organs.

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**Article 3 - Appellations of origin and geographical indications**

1. An appellation of origin is a contemporary or historical name of a geographical location, district, region or, in exceptional cases, of a country ('geographical area), used to designate the goods:

- a) that come from the given geographical area;
- b) the specific quality or properties of which are essentially or exclusively determined only by the natural environment and human factors of the given geographical area;
- c) the production, processing or preparation of which takes place in the given geographical area;

2. A geographical indication is a name or sign which refers to a [specific] geographical location and which is used to designate the goods:

- a) that come from the given geographical area;
- b) the specific quality, reputation or other properties that are associated with this geographical area,
- c) whose production or, raw materials production or, processing takes place within the given geographical area.

3. If a traditional geographical or non-geographical name gives customers an idea of the origination of goods from a certain geographical place and if the requirements of Article 3(1) of this Law are satisfied, then this name may be considered as the appellation of origin of the goods.

4. Notwithstanding the requirements of Article 3(1) of this Law, an appellation of origin may be the name of a geographical area where the raw material used for the production of goods are received from outside the boundaries of that geographical area, provided that different boundaries are established for the geographical area where raw materials are produced and provided that the conditions of its production are established and that it is possible to check these conditions.

5. Only livestock, milk and meat are considered as the raw materials specified in paragraph 4 of this article.

**Article 4 - Protection of appellations of origin and geographical indications**

1. Appellations of origin and geographical indications shall be protected through their registration in the Sakpatenti or on the basis of international agreements.

2. Appellations of origin and geographical indications of another country shall be protected on the basis of interstate agreements.

3. Appellations of origin and geographical indications protected in Georgia on the basis of interstate agreements shall be registered in the Sakpatenti.



## **Article 5 - Grounds for refusal of registration of appellations of origin and geographical indications**

A name or sign may not be registered as an appellation of origin or geographical indication if it:

- a) does not satisfy the requirements of Article 3 of this Law;
- b) has become a generic name of the goods, even if it correctly refers to the geographical area where the goods have been produced or where its raw materials have been produced or processed;
- c) is likely to mislead customers as to the origin of the goods;
- d) insults or is contrary to national dignity, religion, traditions and moral standards;
- e) coincides with the name of species of plants or animals, which can mislead customers as to the origin of the goods.

## **Article 6 - Protection of homonymous appellations of origin and geographical indications**

If an appellation of origin or geographical indication registered in Georgia or the name of a geographical area of Georgia is a homonym of an appellation of origin and geographical indication protected in another country, the rules for protecting such appellations of origin or geographical indications and conditions for use in Georgia shall be defined by the relevant interstate agreements.

## **Article 7 - Application for the registration of appellations of origin or geographical indications**

1. An application for the registration of an appellation of origin or geographical indication shall be filed with the Sakpatenti by the applicant.
2. An application shall refer to only one appellation of origin or one geographical indication.
3. An applications shall be completed in Georgian.
4. An application shall include:
  - a) a request for registration of an appellation of origin or a geographical indication;
  - b) the full name (the designation) and address of the applicant;
  - c) the appellation of origin or geographical indication;
  - d) the name of the goods for which the registration of the appellation of origin and geographical indication is sought;
  - e) a description of the goods and raw materials with an indication of their chemical, physical, microbiological and/or organoleptic and other properties;
  - f) a description of the location of the geographical area of origin of the goods, with an indication of its exact boundaries;
  - g) a document issued by the trustee of the self-governing unit, which confirms the geographical area of origin of the goods;
  - h) a description of the production technology and of the specific conditions and methods of production that are characteristic of the given geographical area (if the latter are applicable);
  - i) documents confirming that the special quality or properties of goods are essentially or exclusively determined by the natural environment and human factors of the given geographical area or the specific quality, reputation or other properties of the goods are associated with the given geographical area;
  - j) a document confirming payment of the application examination fee;
  - k) a power of attorney issued by the applicant to the representative, if the application is filed by a representative;
  - l) the signature of the applicant or his/her representative.
5. The documents and data provided for by paragraph 4(e),( f),(h) and (i) of this article shall be prepared and confirmed according to the rules established by the legislation of Georgia.

*Law of Georgia No 5293 of 24 November 2011 – website, 8.12.2011*

*Law of Georgia No 5664 of 28 December 2011 – website, 12.1.2012*

## **Article 8 - Examination, publication, registration**

1. The Sakpatenti shall check whether an application complies with the requirements of Article 7 of this Law, whether there are the grounds provided for by Article 5(b – e) of this Law and search the databases of trademarks, appellations of origin and geographical indications.



2. If there are grounds provided for by Article 5(b – e) of this Law, the Sakpatenti shall make a decision refusing further examination of the application.
3. If an application does not comply with the requirements provided for by Article 7(4) (e), (f), (g), (h) and (j), then the application is forwarded to the ministry of the corresponding sector for the purpose of further examination of the application materials.
4. If an application complies with the requirements provided for by Article 7 of this Law and there are no grounds provided for by Article 5(b-e), then the Sakpatenti shall publish the application materials in the Official Bulletin of the Industrial Property of Georgia ('the Bulletin') and in one central and one local newspaper.
5. If additional information relating to the application materials is submitted to the Sakpatenti within three months after the publication of the application materials, this information shall be forwarded to the ministry of the corresponding sector for examination.
6. If no additional information relating to the application materials is provided to the Sakpatenti within three months after the publication of the application materials, the Sakpatenti shall make a decision to register the application, and shall enter the information in the State Register of Appellations of Origin and Geographical Indications of Goods ('the Register') and publish the data in the Bulletin.
7. The following data shall be published in the Bulletin:
  - a) the appellation of origin of geographical indication;
  - b) the name of the goods for which the registration of an appellation of origin or geographical indication is sought and a description of their special properties;
  - c) a description of the geographical area, indicating its exact boundaries;
  - d) the full name(the designation) and address of the applicant;
8. The registration of appellations of origin and geographical indications is permanent.

#### **Article 9 - Fee**

A fee determined under the rule established by the legislation of Georgia shall be paid for the examination of applications for an appellation of origin and geographical indication, for making changes to the Register, for publication, or for issuance of an extract from the Register and for other actions associated with the registration of appellations of origin and geographical indications.

#### **Article 10 - Registration and protection of appellations of origin and geographical indications in another state**

1. Natural and legal persons of Georgia may submit for registration an appellation of origin or geographical indication in another State only after their registration in Georgia.
2. If at the time of the registration of the appellations of origin and geographical indications in the Sakpatenti the applicant is a public authority or a legal entity under public law, the Sakpatenti is entitled to carry out the measures necessary for the registration and protection in another State of the appellation of origin and geographical indication registered in Georgia.

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#### **Article 11 - Scope of protection of appellations of origin and geographical indications**

1. In view of the registration of an appellation of origin and geographical indication the following is prohibited:
  - a) any direct or indirect commercial use of the registered appellations of origin and geographical indications in relation to such goods that are not subject to registration because these goods are similar to the registered ones; or, any such use of the registered name that benefits from the reputation of the registered appellation of origin or geographical indication.
  - b) such use of the registered appellations of origin and geographical indications that word-for-word, exactly refers to the place of production, processing or preparation of the goods, but gives a wrong idea as to the origin of the goods.
  - c) the use of such names or signs which represent imitation of the registered appellations of origin and geographical indications, even in translation, or together with such words as: 'type of', 'style of', 'similar', 'like', 'by method', etc.;
  - d) the use of such signs on the packing of goods, in documents related to goods or, in advertisements that mislead customers as to the origin special properties or quality of the goods;
  - e) such packing or presentation of goods that may mislead customers as to their origin.
2. If a registered appellation of origin or geographical indication includes a generic name of the goods, the prohibitions under this article shall not apply to the use of the generic name.
3. The protected appellation of origin or geographical indications may not transformed into a generic name.



## **Article 12 - Use of registered appellations of origin and geographical indications**

1. Any natural or legal person that obtains or processes raw materials or has an operating enterprise within the boundaries of the geographical area corresponding to the registered appellation of origin or geographical indication and the special quality, properties and reputation of the produced goods essentially or exclusively are determined by this geographical area or are associated with this geographical area, may submit to the Sakpatenti an application for the right to use the registered appellation of origin or geographical indication.
2. The Sakpatenti shall enter into the Register the data on persons entitled to use the registered appellations of origin or geographical indications
3. The right to use may be revised on the basis of an inspection. The rule and frequency of inspections shall be determined by the legislation of Georgia.
4. Persons who are not registered as the persons entitled to use the registered appellation of origin or geographical indication are prohibited from using this name.

## **Article 13 - Cancellation of the registration of appellations of origin and geographical indications**

1. The registration of appellations of origin or geographical indications may be cancelled if:
  - a) the registration has been carried out in violation of the requirements of this Law;
  - b) due to the change or disappearance of the natural environment or human factor characteristic to the given geographical area it is impossible to produce such goods that would have the same quality or properties as indicated in the Register.
2. The protection of an appellation of origin or geographical indication of another country shall be terminated according to the rules determined by the relevant interstate agreements.

## **Article 14 - Relationship between appellations of origin or geographical indications and trademarks**

1. If after an application is filed with the Sakpatenti for the registration of an appellation of origin or geographical indication, another application is filed with the Sakpatenti for a trademark that is identical or similar to the appellation of origin or geographical indication and one of the conditions provided for by Article 11 of this Law will exist as a result of the registration of the appellation of origin and geographical indication, the procedure with respect to the application for the trademark shall be suspended until a decision is made on the registration of the appellation of origin and geographical indication.
2. If at the time of filing an application with the Sakpatenti for the registration of an appellation of origin or geographical indication, another application has already been filed at the Sakpatenti for a trademark that is identical or similar to the appellation of origin or geographical indication, but the decision on the registration of the trademark has not been made yet, and one of the conditions provided for by Article 11 of this Law will exist as a result of the registration of the appellation of origin and geographical indication, the procedures with respect to the application on trademark shall be suspended until a decision is made on the registration of the appellation of origin and geographical indication.
3. If the Sakpatenti makes a decision to refuse the registration of an appellation of origin or geographical indication, the procedures with respect to the application for a trademark suspended according to paragraph 1 and 2 of this article shall continue, at the request of the applicant, with retention of the filing date of this application.
4. If one of the conditions provided for by Article 11 of this Law has been violated by the use or registration of a trademark, a claim may be filed with a court within 5 years after the day of violation of the rights on the appellation of origin or geographical indication or the registration of the trademark, if the trademark has already been published by that day and this date is earlier than the date when the violation of the rights was recognised.
5. If one of the conditions of Article 11 of this Law is violated by using a trademark that is registered before the registration of an appellation of origin or geographical indication, an interested person may file a claim with a court to terminate the use of such trademark within 5 years after the recognition of the violation of rights on the appellation of origin or geographical indication. In the case of disagreement between the parties, the use of the registered trademark may be continued temporarily, but not longer than the period of validity of the registration.
6. If a trademark has been registered in violation of the requirements of paragraph 1 and 2 of this article, the registration of such trademark shall be annulled by a court decision.
7. Registration of a trademark and its fair use is not terminated if it had been registered before the appellation of origin or geographical indication became protected in the country of origin, or before this Law entered into force. In addition, coexistence of the trademark and the appellation of origin or geographical indication should not give a wrong idea to customers as to the origin of the goods.
8. Article 11 of this Law shall not apply to a trademark that was in continuous use for at least 10 years before 15 April 1994 (until the day of signing the agreement of the World Trade Organisation).
9. Taking into consideration the good reputation, recognition and duration of the use of a registered trademark, it is permissible not to register the appellation of origin or geographical indication if such registration misleads customers as to the true origin of the goods.

## **Article 15 - Liability for a violation of rights with respect to the registration of appellations of origin and geographical indications**

A violation of rights with respect to the registration of appellations of origin and geographical indications shall give rise to civil, administrative and criminal liability in accordance with the legislation of Georgia.



## **Article 16 - Demands presented in a claim**

A person entitled to use the appellations of origin or geographical indications may file a claim with a court against the breaching party and require:

- a) termination of the actions that violate their rights;
- b) payment of damages;
- c) seizure and destruction of goods produced in violation of the rights and the equipment used in the production of such goods;
- d) destruction of all labels, drawings, imprints, packaging, packaging materials and advertisements.

## **Article 17 - Transitional provisions**

1. The Sakpatenti, within 3 months after entry into force of this Law, shall develop and approve, according to the established rules, instructions on the procedures for submission, consideration and registration with the Sakpatenti of applications for appellations of origin and geographical indications.
2. The Sakpatenti, together with the relevant ministries and departments, shall develop and submit for approval to the President of Georgia before 1 October 1999 the regulations on establishing boundaries of geographical areas corresponding to the appellations of origin and geographical indications, studying, identifying and controlling the relation of the properties of goods to the geographical areas.
3. The Sakpatenti together with the relevant ministries and departments shall develop and submit for approval to the President of Georgia before 1 October 1999 the list of the appellations of origin and geographical indications of goods produced in the country for the purpose of taking them into consideration into the interstate agreements.
4. The Sakpatenti, before 31 October 2011, shall ensure compliance with Article 10 of this Law of the Regulations of the National Intellectual Property Centre of Georgia - Sakpatenti, a legal entity under public law, approved by the Ordinance of the Government of Georgia No 181 of 3 July 2010 on the approval of the Regulations of a legal entity under public law, the National Intellectual Property Centre of Georgia - Sakpatenti.

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## **Article 18 - Entry into force**

This Law shall enter into force from 1 November 1999.

**President of Georgia**

**Eduard Shevardnadze**

**Tbilisi,**

**22 June 1999**

**No 2108-II**

