

ACT ON GEOGRAPHICAL INDICATIONS AND DESIGNATIONS OF ORIGIN OF PRODUCTS AND SERVICES

And

ACT MENDING AND SUPPLEMENTING THE
GEOGRAPHICAL INDICATIONS AND
DESIGNATIONS OF ORIGIN OF PRODUCTS AND
SERVICES ACT*

NN 173/2003, in force from January 1, 2004

*NN 76/2007, in force from July 31, 2007

Zagreb September, 2007

I. GENERAL PROVISIONS

SUBJECT MATTER OF THE ACT

Article 1

- (1) This Act regulates the manner of acquisition, the system of protection and the exercise of the right to use a geographical indication and a designation of origin of products and services.
- (2) The provisions of this Act shall not apply to products and services in such part in which the system of protection and the exercise of rights to use a geographical indication and a designation of origin are governed by special regulations.

GEOGRAPHICAL INDICATION

Article 2

- (1) Geographical indication is the name of a region, a specific place or, in exceptional cases, of a country, used to describe products or services originating in that region, place or country, and possessing a specific quality, reputation or other characteristic attributable to that geographical origin and the production and/or processing and/or preparation of which take place in the specific geographical area.
- (2) Any other indication identifying a product or a service originating in a certain geographical area shall be a geographical indication, if it fulfils the requirements referred to in paragraph (1) of this Article.

DESIGNATION OF ORIGIN

Article 3

- (1) Designation of origin shall be the name of a region, a specific place or, in exceptional cases, a country, used to indicate products or services originating in that region, the specific place or country, and the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production, processing and preparation of which entirely take place in that specific geographical area.
- (2) Designation of origin shall also be considered a name, which is not the administrative geographical name of a

specific country, of a region or a place and which, due to its long-term use in trade, has become the common name of a product originating in that area, if it fulfils the requirements referred to in paragraph (1) of this Article.

TRADITIONAL NAMES

Article 4

Traditional geographical or non-geographical names used to identify a product or a service originating in a region or a specific place may be registered as designations of origin, where such a product or service fulfils the requirements provided for under Articles 3 and 5 of this Act.

ORIGIN OF RAW MATERIALS

Article 5

In exceptional cases, a product may be protected by a designation of origin where the designation has an established traditional characteristic, exceptional reputation and renown, where the raw materials for the production of this product originate from a region wider than or different from the processing area, provided that the production area of the raw materials is limited, that special conditions for the production of the raw materials exist, and that the system of inspection exists to ensure that those conditions are adhered to.

FORM

Article 6

- (1) A geographical indication and a designation of origin may be in a verbal form, and a geographical indication of origin may as well be in a figurative form.
- (2) A geographical indication and a designation of origin in verbal form may contain one word or a group of words corresponding to the name of a specific geographical area, including it or referring to it.
- (3) A geographical indication in a figurative form may be a cartographic representation or any other symbolic representation indicating that a product or a service originates in a specific geographical area.

EXCLUSION FROM PROTECTION

Article 7

A geographical indication and a designation of origin may not grant protection to the name of the place of origin of a product or a service:

1. if it creates confusion in the public as to the geographical origin of products or services;
2. if it suggests that the relevant product or service originates in a geographical area other than the true place of origin in a manner misleading the public as to the geographical origin thereof;
3. if it may, by its appearance or contents create confusion in trade in respect of the kind, origin, quality, manner of production or other characteristics of the products or services;
4. if it has, due to its long-term use in everyday speech, lost its geographical meaning and has become a generic name
5. if it is identical with the name of a plant variety or an animal breed, where it would mislead the public as to the geographical origin of a product or a service;
6. if it is contrary to public order and morality;
7. if it has not been protected or is no longer protected, or has fallen into disuse in the country of origin.

GENERIC NAMES

Article 8

- (1) A generic name means the name of a product or a service, which has become a common name of that product or service, although it relates to the place where the product or service was originally produced or put on the market.
- (2) The name of the place of origin protected by a geographical indication may not become a generic name during the period of protection defined by this Act.
- (3) To establish whether or not a name has become generic pursuant to paragraph (1) of this Article account shall be taken of all the factors, in particular the existing situation in the geographical area in which that name originated and in the areas of consumption of the product.

HOMONYMS

Article 9

- (1) Where the names of two or more places of origin of products or services are identical or almost identical in writing (homonyms), the protection of such names by a geographical indication or a designation of origin shall be granted to all the interested parties complying with the requirements provided for by this Act, and in the manner provided for by the Regulations on geographical indications and designations of origin of products and services governing the implementation of this Act (hereinafter referred to as: the Regulations), in accordance with the principles of equitable treatment of producers on the market, truthful informing of consumers, and doing business in good faith.
- (2) The user of a homonym shall provide sufficient information on the label or packaging material regarding the true origin of the product, so as to differentiate one homonym from another, and not to mislead the public.

DOMESTIC AND FOREIGN PERSONS

Article 10

- (1) The rights and obligations provided under this Act shall refer to domestic legal and natural persons, and to foreign legal and natural persons, with hereby provided limitations for foreign persons.
- (2) Foreign persons may apply for protection of a geographical indication or a designation of origin and the entry of authorised users, if they have been granted such rights in the country of origin and if they comply with the requirements defined in this Act.
- (3) The term "country of origin" for the purpose of this Act shall cover likewise the regional system under which the registration of a geographical indication and a designation of origin have been carried out for products originating in the territory of one or several Member States.
- (4) A foreign person may use the rights referred to in paragraph (2) of this Article when emanating from bilateral or international treaties on mutual protection of geographical indications that the

Republic of Croatia has concluded or ratified.

II. PROTECTION GRANTING PROCEDURE

COMMON PROVISIONS

Article 11

- (1) The legal protection of geographical indications and designations of origin of products and services shall be established in the administrative procedure carried out by the State Intellectual Property Office (hereinafter: the Office).
- (2) The decision issued in the procedure referred to in paragraph (1) of this Article shall be final, and no appeal may be filed against these, but an administrative lawsuit may be initiated.

MANNER OF GRANTING PROTECTION

Article 12

- (1) The protection of the name or other indication of the place of origin of products or services by a geographical indication shall be established by the entry in the Register of geographical indications.
- (2) The protection of the name of the place of origin of products or services by a designation of origin shall be established by the entry in the Register of designations of origin.

PERSONS ENTITLED TO FILE AN APPLICATION

Article 13

The following shall have the right to file an application for the entry of a geographical indication or a designation of origin into the register:

1. Association of producers and/or processors of a specific product or providers of services, irrespective of the legal status thereof;
2. Individual producer and/or processor, irrespective of whether a natural person or a legal person, only in the case:
 - where he is, at the time of filing of such an application, the sole producer or processor of the product or provider of the service in respect of which he is applying for the registration of a

geographical indication or a designation of origin,

- where he is the only to use original and unchangeable local procedures, and
 - where a geographical area has characteristics which significantly differ from the characteristics of neighbouring areas and/or where characteristics of products differ;
3. Bodies of local and regional self-government, chambers and institutions interested in the protection of geographical indications or designations of origin within the scope and territory of their activities.

REPRESENTATION OF FOREIGN PERSONS

Article 14

- (1) Foreign legal and natural persons not having a principal place of business, a domicile or a habitual residence on the territory of the Republic of Croatia may initiate actions before the Office solely through authorised agents entered in the specific register with the Office.
- (2) The provision of paragraph (1) of this Article shall apply also to the nationals of the Republic of Croatia not having a domicile or a habitual residence on the territory of the Republic of Croatia.

RIGHT OF USE

HOLDERS OF THE RIGHT OF USE

Article 15

Persons complying with all the requirements provided for under this Act and who have been entered in the relevant Register of users may use a protected geographical indication or a protected designation of origin.

PROTECTION OF GEOGRAPHICAL INDICATIONS AND DESIGNATIONS OF ORIGIN

Article 16

- (1) Registered geographical indications and designations of origin shall be protected against:
 1. The use by a person not performing the required activity and who has not been entered in the relevant register;

2. Any use to identify products and services the quality, reputation or any other characteristic of which is of a lower quality than that entered in the register in respect of the protected indication;
 3. Any use to identify products or services which are not covered by the registration, but which are of the same kind as the products and services covered by the registration;
 4. Any use of false or misleading information as regards the geographical origin, nature or quality of a product or a service on the packaging, advertising materials, or other documents, suggesting a relation between the product or service and the protected name;
 5. Any use, though entirely authentic as regards the name of the territory, region or place in which a product or a service originates, misleading the public that the product or the service originate from another area;
 6. Any use of translation or transliteration, even where a true origin of products or services is indicated, and any use of the protected name, which is accompanied by a term: "style", "type", "manner", "according to process", "method", "produced in", "imitation", and the like;
 7. Any other practice liable to mislead the public as to the geographical origin of a product or a service.
- (1) The prohibition referred to in paragraph (1) of this Article shall not apply to the use of the name being a part of a company's name, except where such name is used with the aim to mislead the public.

RELATION TO TRADEMARKS

Article 17

- (1) A trademark for which an application has been filed or it has been registered or used in good faith before the filing of a request for the entry of a geographical indication or a designation of origin, and which is used to identify products and services identical with or of the same kind as a protected geographical indication or a designation of origin may continue its use,

- and shall not be invalidated for containing a geographical indication in its name.
- (2) A trademark consisting of or containing a geographical indication or a designation of origin, and applying to products or services not originating from the indicated area, shall be invalidated, if the use of such indications is liable to mislead the public as to the true origin of a product or a service.
- (3) The invalidation procedure shall be instituted *ex officio*, or at a request of an interested person.

INDICATION OF THE RIGHT OF USE

Article 18

A user of a geographical indication is entitled to add to a protected name the encircled sign "GO" for a geographical indication, or the encircled sign "I" for a designation of origin.

III. ENTRY PROCEDURE

REGISTERS

Article 19

- (1) The Office shall keep a register of filed applications for the protection of geographical indications, and a register of protected geographical indications acquired pursuant to the provisions of this Act.
- (2) The Office shall keep a register of filed applications for the protection of designations of origin and a register of protected designations of origin acquired pursuant to the provisions of this Act.
- (3) An entry in the register shall be made in the Croatian language, and a foreign person shall attach to the certified translation in the Croatian language a public document in the official language of the country of origin.
- (4) Information for the entry in the register shall be provided for in the Regulations.
- (5) The registers referred to in paragraphs (1) and (2) of this Article shall be public and available for inspection to any interested person free of any special fees or charges.
- (6) Any interested person may request the Office for a printout or an excerpt from the register subject to the payment of the prescribed fees.

INSTITUTION OF ENTRY PROCEDURE

Article 20

- (1) The procedure for the entry of a geographical indication or a designation of origin of products or services in the register shall be instituted upon a written application with a specific request.
 - (2) A request contained in the application may refer to the protection of only one geographical indication or designation of origin, relating to only one type of products or services.
 - (3) The application shall be filed to the Office in the form provided for in the Regulations.
 - (4) If an application has been filed by a facsimile, the applicant shall file its original not later than within 15 days as from the filing made by a facsimile.
- request and any producer, or provider of services belonging to that association;
 2. A geographical indication or a designation of origin intended to be protected;
 3. Data identifying the kind of a product or a service to be designated by a certain geographical name or any other indication;
 4. The evidence of the right to file an application, if the applicant is a natural person referred to in Article 13, paragraph 1, item 2 of this Act;
 5. A short summary of the description, corresponding to the content of the attached specification referred to in Article 21 of this Act;
 6. The data concerning the representative, or the authorised person, if any;
 7. A signature of the applicant, or the representative, or the authorised person.

APPLICATION

Article 21

An application for the entry of a geographical indication or a designation of origin in the register shall contain the following:

1. A request for the entry of a geographical indication or a designation of origin in the register;
2. A specification (description);
3. The evidence on the protection of a geographical indication or a designation of origin in the form of a true copy of a public document or other legal document in the official language of the country of origin or a certified translation into the Croatian language, if the applicant is a foreign person;
4. The evidence of the effected payment of the administrative fee and procedural charges;
5. A power of attorney, if the applicant is represented by an authorised representative or an authorised person;
6. A signature of the applicant, or his representative, or the authorised person.

REQUEST FOR ENTRY IN THE REGISTER

Article 22

A request for the entry of a geographical indication or a designation of origin in the register shall contain:

1. Data identifying the applicant, including the data identifying the association filing a

SPECIFICATION OF GEOGRAPHICAL INDICATION

Article 23

- (1) The specification of a geographical indication shall contain the following:
 1. The name of a product or a service;
 2. Special characteristics, with detailed and professional description, indicating that the products or services have a special quality, reputation or other special characteristics;
 3. Precise identification of a geographical region to which a request relates;
 4. Other data indicating that the products or services have a special quality, reputation or other special characteristics;
- (2) The specification may also contain data concerning special characteristics of raw materials or information on a special manner to use products or services, and other information considered necessary by the applicant to certify that the indications given in the application in fact concern the products and services of a special quality, reputation or any other special characteristics.
- (3) The specification shall give a clear and complete description of all the indications showing the link between special

characteristics of products and services for which geographical indication is requested and the geographical area in which they originate.

- (4) If the same geographical indication is used to identify several different products or services, a specification shall be submitted for each product or service separately.

SPECIFICATION OF DESIGNATION OF ORIGIN

Article 24

The specification of a designation of origin shall contain the following:

1. The name of the product or service;
2. A description of the product or service, including the raw material, clearly indicating that the specific quality and characteristics of a product or a service exclusively or decisively developed under the influence of special natural and human factors of a specific geographical area.
3. A definition of the geographical area and a definition of the area from which the raw materials may originate if different from the processing area, and in the latter case the evidence that the requirements under Article 5 of this Act have been complied with;
4. A description of the method for obtaining the product and, if appropriate, the authentic and unvarying local methods;
5. Specialties in providing services related to the geographical area.

PROCEDURE CONCERNING THE ENTRY OF USERS IN THE REGISTER

APPLICATION

Article 25

- (1) The procedure concerning the entry of users of a geographical indication or a designation of origin in the register shall be initiated by filing an application for the entry of the right of use. This application may be filed by a person likewise filing an application for the entry into the register of geographical indications or designations of origin referred to in Article 13 of this Act. If an association of producers or processors is the applicant for the entry of

the rights of use, the application shall be filed on behalf of the members of this association. In the case referred to in Article 13, paragraph (1), item 3, the process for the entry in the register of the right of use may be instituted by producers or processors of goods or persons performing services to which geographical indications or designations of origin apply, provided they comply with the requirements referred to in this Act and the Regulations.

- (2) An application for the entry of the right of use a geographical indication or a designation of origin in the register shall contain the following:
1. A request for the entry of the right of use of a geographical indication or a designation of origin in the register;
 2. Evidence of performing a specific activity;
 3. Evidence provided by the applicant that he has entrusted a competent inspection authority or any other professional body with regular control of compliance with the requirements for the right of use of a geographical indication as laid down in Article 23, or the right to use a designation of origin, as laid down in Article 24 of this Act.
 4. Evidence provided by the competent inspection authority or any other professional body regarding the control of products or services carried out in the manner laid down in Article 23 of this Act, for the entry of the right of use of the protected geographical indication, or in Article 24, for the entry of the right of use of the protected designation of origin in the register;
 5. Other information provided for by the Regulations.

REQUEST FOR THE ENTRY OF THE RIGHT OF USE IN THE REGISTER

Article 26

A request for the entry of the right of use of a geographical indication or a designation of origin in the register shall contain:

1. Information identifying the applicant;

2. The name of a product or a service for which the entry is sought;
3. Evidence of the payment of fees, or charges;
4. A signature of the applicant, or the representative or the authorised person.

IV. PROCEDURE FOR EXAMINATION OF AN APPLICATION

FORMAL EXAMINATION

Article 27

- (1) The Office shall carry out formal examination of the correctness of the filed application in order to establish whether the requirements, provided for in Articles 21 to 26 of this Act have been complied with.
- (2) If the Office establishes that the application is not correct, it shall deliver to the applicant the examination results containing reasons owing to which the application may not be considered correct, and invite him to remedy the deficiencies within the time limit of 30 days.
- (3) At a reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article, which shall not exceed six months as from the first invitation to correct.
- (4) If the applicant fails to remedy the application or fails to pay the prescribed fee and charges within the provided time limit, the Office shall issue a decision on the rejection of the application for the protection of a geographical indication or a designation of origin, or the application for the entry of the right of use of a geographical indication or a designation of origin.

SUBSTANTIVE EXAMINATION

Article 28

- (1) After formal examination of the filed application referred to in Article 21 or 25 of this Act has been concluded, and if the application is correct, the Office shall carry out substantive examination of the filed application.
- (2) If established that the application does not comply with the necessary requirements, the Office shall deliver to the applicant the

examination results with the reasons owing to which the protection of the geographical indication or the designation of origin shall not be granted, or the right of use thereof shall not be granted, and shall invite him to make observations on the mentioned reasons within a specific time limit.

- (3) At a reasoned request of the applicant, the Office may extend the time limit referred to in paragraph (2) of this Article, which shall not exceed six months as from the invitation to make observations.
- (4) If the applicant makes no observation at all or if he does, and the Office considers that a geographical indication or a designation of origin as applied for shall not be protected, or that a specific person shall not be granted the right of use, the Office shall refuse a request for the protection of a geographical indication or a designation of origin, or a request for the grant of the right of use of a geographical indication, or a designation of origin.
- (5) If the Office establishes in the procedure carried out that the application for the protection of a geographical indication or a designation of origin complies with the formal and substantive granting requirements it shall publish the application and thus make it available to public.

PUBLICATION OF AN APPLICATION

Article 29

- (1) An application for the protection of a geographical indication or a designation of origin shall be published in the official gazette of the Office.
- (2) The contents of information contained in the application to be published shall be provided for by the Regulations.

OPPOSITION

OPPOSITION PROCEDURE

Article 30

- (1) Any interested person having its principle place of business or domicile in the territory of the Republic of Croatia may file, within a prescribed time limit, an opposition to the published application for a geographical indication or a designation

- of origin, if he/she considers that it does not comply with the requirements provided for by this Act.
- (2) The owner of a trade name or a registered trademark may file, within the prescribed time limit, an opposition to the published application of a geographical indication or a designation of origin, if it is in its entirety or in part identical with that trade name registered in good faith and if its protection would jeopardise the right of that trade name or trademark, having regard to the actual likelihood of confusion.
 - (3) The right of opposition shall pertain to the owner of a trademark having acquired special reputation and renown through prior continuous use, if the protection of a geographical indication or a designation of origin, may mislead the consumer as to the true origin of the product.
 - (4) The opposition to the acquisition of the right of use shall not be filed.
 - (5) The opposition shall be filed with the Office within three months from the date of publication of the application in the official gazette of the Office, and shall contain the relevant evidence proving that the geographical indication or designation of origin applied for shall not be protected under this Act.
 - (6) If the Office establishes that the opposition does not comply with the formal requirements referred to in this Article, because the opponent did not file the opposition within the prescribed time limit, or has not submitted any of the required evidence, it shall issue a decision on the rejection of the opposition and shall inform the applicant and the opponent thereof.
 - (7) If the Office establishes that the opposition is in compliance with the necessary formal requirements, it shall continue with the opposition procedure.
- opposition and supporting evidence, within the time limit of 30 days as from the date of the delivery thereof.
- (2) At a request of the applicant, who shall prove that the request is justified, the Office may extend the time limit for not more than another 30 days.
 - (3) If the applicant fails to submit his observations on the opposition within the prescribed time limit, the Office shall suspend the procedure on the filed application.
 - (4) Upon the receipt of the observations on the opposition, the Office shall examine whether it is justified.
 - (5) If established necessary for issuing a decision on the opposition, the Office may consult a relevant institution or an individual expert, on open issues addressed in the opposition.
 - (6) If the Office finds the opposition unjustified, the opposition shall be refused, and a decision to that effect shall be delivered to the opponent, and to the applicant.
 - (7) If the Office establishes in the opposition examination procedure that the opposition is justified, it shall refuse the application for a geographical indication or a designation of origin, and notify the decision to that effect to the opponent and to the applicant.

V. ENTRY IN REGISTER AND THE RIGHTS EMANATING THEREFROM

ENTRY IN THE REGISTER OF GEOGRAPHICAL INDICATIONS AND DESIGNATIONS OF ORIGIN

Article 32

- (1) If the application for a geographical indication or a designation of origin complies with all the requirements, and if no opposition has been filed or the opposition has been refused or rejected, the Office shall issue a decision on the protection of a geographical indication or a designation of origin, and shall enter the protected geographical indication in the Register of Geographical Indications, and the protected designation of origin in the Register of Designations of Origin.

EXAMINATION OF THE OPPOSITION

Article 31

- (1) The Office shall deliver the opposition supported with evidence to the applicant for the entry of a geographical indication or a designation of origin in the register, and shall invite him to give his observations regarding allegations in the

- (2) If the application for the entry of the right of use of a geographical indication or a designation of origin complies with the prescribed requirements, the Office shall invite the applicant to pay the prescribed fee and charges for the first ten years of use of the indication and to pay charges for the publication of information concerning the right of use, and to provide evidence on the effected payments.
 - (3) If the applicant fails to pay the prescribed fee and charges within the fixed time limit, and fails to provide evidence on the effected payment, the Office shall reject the application for the entry of the right of use of a geographical indication or a designation of origin.
4. Authorised users of geographical indications or designations of origin;
 5. Other information prescribed by the Regulations.

REGISTER OF AUTHORISED USERS

Article 36

The following data shall be entered in the Register of Authorised Users of Geographical Indications or Designations of Origin:

1. Name and surname or name and address, i.e. establishment of the authorised user of a geographical indication or a designation of origin;
2. A geographical name protected by a geographical indication or a designation of origin.
3. The registration number of a geographical indication or a designation of origin;
4. Other information prescribed by the Regulations.

ENTRY IN THE REGISTER OF AUTHORISED USERS

Article 33

When the applicant has provided evidence on the effected payments referred to in Article 33, paragraph (2) of this Act, the Office shall issue a decision on the grant of the right of use of a geographical indication or a designation of origin, and shall enter the right of use of a geographical indication in the Register of Authorised Users of Geographical Indications, and the right of use of a designation of origin in the Register of Authorised Users of Designations of Origin.

SECOND INSTANCE PROCEEDING

Article 34

Against final decisions of the Office on granting or refusing the entry in the register pursuant to Articles 32 and 33 of this Act, an administrative lawsuit may be initiated before the Administrative Court of the Republic of Croatia.

CONTENTS OF THE ENTRY IN REGISTER

Article 35

The following data shall be entered in the Register of Geographical Indications or Designations of Origin:

1. The geographical name protected by a geographical indication or by a designation of origin;
2. The kind of the product or service protected by a geographical indication or a designation of origin;
3. Appearance (form) of a geographical indication;

PUBLICATION

Article 37

- (1) Information on a protected geographical indication or a designation of origin shall be published in the official gazette of the Office.
- (2) The information to be published in the official gazette of the Office shall be prescribed by the Regulations.
- (3) The publication of a protected geographical indication or a designation of origin shall be subject to the payment of prescribed publication charges, laid down in a special regulation

MANNER OF USE

Article 38

- (1) An authorised user of a geographical indication or a designation of origin shall be entitled to use the protected name only for identifying the kind of the product to which it relates.
- (2) The right referred to in paragraph (1) of this Article shall also comprise the use of a geographical indication or a designation of origin on packaging, catalogues, brochures, advertisements, and other forms of business documentation, and the import and export of products identified by

such a geographical indication or a designation of origin.

CERTIFICATE

Article 39

- (1) After the entry of the right of use of a protected geographical indication or a designation of origin in the relevant register and after the payment of prescribed charges for issuing a certificate, the Office shall issue a certificate of the right of use of a geographical indication or a designation of origin to the authorised user.
- (2) The form and content of the certificate shall be provided for by the Regulations.

LIMITATIONS AS TO DISPOSITION

Article 40

- (1) A geographical indication or a designation of origin shall not be the subject matter of a contract on the transfer of rights, a license contract, a pledge, a franchising contract or any other form of assignment of rights.
- (2) If a geographical indication or a designation of origin is the subject matter of an applied for or registered trademark, such a trademark shall not be transferred, assigned, given in pledge, and the like.
- (3) A geographical indication or a designation of origin having several authorised users shall be the subject matter only of a collective trademark.

DURATION OF PROTECTION

Article 41

The duration of a geographical indication and a designation of origin of products and services shall not be limited.

DURATION AND RENEWAL OF THE RIGHT OF USE AND THE ENTRY OF CHANGES

Article 42

- (1) The right of use of a geographical indication shall last for ten years as from the date of entry of an authorised user in the Register of Authorised Users of Geographical Indications or in the Register of Authorised Users of Designations of Origin.

- (2) The right referred to in paragraph (1) of this Article may be renewed for unlimited number of times, under the prescribed requirements.
- (3) The renewal of the right of use of a geographical indication or a designation of origin shall be granted upon the payment of the prescribed fees and maintenance charges.
- (4) The entry in the Register of the renewal of the right of use shall be carried out in the manner provided for by the Regulations.
- (5) At the request of an authorised user the Office shall enter in the Register the status changes and other changes referring to the authorised user of a geographical indication or a designation of origin.
- (6) The procedure for the entry of changes shall be provided for by the Regulations.

VI. CANCELLATION OF ENTRY IN THE REGISTER

EXPIRATION OF THE RIGHT OF USE

Article 43

The right of use of a geographical indication or a designation of origin shall expire before the expiration of the time limit referred to in Article 42, paragraph of this Act in the following cases:

1. If the authorised user waived his right of use – on the day following the day of submission of the notice of waiver to the Office;
2. On the basis of a final court decision or any other decision of a competent authority in the cases provided for by this Act – on the date specified by those decisions;
3. If a right holder who is a legal person ceased to exist, or a natural person deceased – on the date of the respective event.

DECLARATION OF A DECISION ON THE PROTECTION OF A GEOGRAPHICAL INDICATION AND A DESIGNATION OF ORIGIN NULL AND VOID

Article 44

- (1) A decision on the protection of a geographical indication or a designation of origin shall be declared null and void, if established that
 1. There were no conditions for the protection of a geographical indication

- or a designation of origin provided for by this Act,
2. An obstacle laid down in the provisions of Article 7 paragraph (1), items 1 to 7 of this Act existed,
 3. The procedure for the declaration of a decision null and void shall be regulated by the Regulations
 4. An unauthorised person filed the application for the entry in register.
- (2) Procedure for the declaration of a decision null and void referred to in paragraph (1) of this Article may be initiated by the Office ex officio, at a proposal of an interested person or at a proposal of the State Attorney for the whole duration of the protection.
- (3) Procedure for the declaration of a decision null and void shall be in detail provided for by the Regulations.
- (4) Declaration of a geographical indication or a designation of origin null and void shall be entered in the register and published in the official gazette of the Office.

REVOCATION OF A DECISION ON THE GRANT OF THE RIGHT OF USE

Article 45

- (1) A decision on the grant of the right of use by an authorised user may be revoked, if established that the conditions for the grant of such right provided for by this Act have ceased to exist. In the procedure concerning the request for revocation of a decision on the grant of the right of use, the authorised user shall prove the existence of the conditions for the grant of the right of use.
- (2) The revocation procedure referred to in paragraph (1) of this Article shall be carried out before the Office, and shall be instituted ex officio, at a proposal of an interested person or at a proposal of the State Attorney.
- (3) The procedure referred to in paragraph (2) of this Article shall be in detail provided for by the Regulations.

LEGAL EFFECTS OF REVOCATION OF DECISION

Article 46

For the person entered in the Register of Authorised Users of a Geographical Indication or a Designation of Origin, the right of use shall cease after the administrative decision, revoking a decision granting the capacity of authorised user, has become final.

VII. EXERCISE OF RIGHTS

CIVIL PROTECTION

INFRINGEMENT

Article 47

Any unauthorised use of a geographical indication or a designation of origin or the use of any other sign, or practice, prohibited pursuant to Article 16 of this Act, shall be considered infringement of a geographical indication or a designation of origin.

LEGAL ACTION

Article 48

- (1) A legal action against the infringement of a protected geographical indication, or a designation of origin, may be instituted by the person who registered the indication/designation, authorised users of the geographical indication or the designation of origin, associations in the field of industry and trade, and by the State Attorney.
- (2) In a legal action referred to in paragraph (1) of this Article the following may be claimed:
 1. Establishment of the existence of infringement
 2. Prohibition of activities infringing a protected geographical indication or a designation of origin.
 3. Seizure and destruction of products resulting from or obtained by infringing a protected geographical indication or a designation of origin.
 4. Seizure and destruction of materials and implements predominantly used to produce the infringing goods.
 5. Publication of a judgment at defendant's expenses.
- (3) The responsibility for infringing a protected geographical indication or a designation of origin under this Act shall not exclude the responsibility for infringing a right and

other actions pursuant to the provisions relating to unfair market competition.

DAMAGE

Article 49

Authorised users may claim compensation for damages pursuant to the general rules on the compensation for damages.

COMPETENT COURT

Article 50

In a legal action instituted against the infringement of a geographical indication or a designation of origin, territorial jurisdiction shall be with the commercial court on the territory of which the authorised users of such a geographical indication or a designation of origin have a domicile or an establishment.

TIME LIMIT FOR INITIATING LEGAL ACTION

Article 51

A legal action against the infringement of a protected geographical indication or a designation of origin may be instituted within the period of three years as from the date on which any infringement and perpetrator have become known, and not later than within five years from the date on which particular infringement occurred.

ORDERING OF PROVISIONAL MEASURE

Article 52

- (1) In the course of a legal action against the infringement of a geographical indication or a designation of origin, the court may be claimed to order a provisional measure to prohibit the infringing actions and temporarily seize the products allegedly infringing a geographical indication or a designation of origin, and to preserve relevant evidence regarding the alleged infringement.
- (2) A provisional measure may be claimed even before instituting a legal action, provided that the action is instituted within the time limit of 20 days, or 31 calendar days, whichever is longer, as from the day of applying for the ordering of a provisional measure.
- (3) Where any delay in adopting a provisional measure is likely to cause an irreparable harm to a registrant or authorised users of a geographical indication or a designation

of origin, or where there is an evident risk of evidence being destroyed, the provisional measure shall be adopted without hearing a defendant. In such a case the defendant shall be notified without delay. A review, including a right to be heard, shall take place at the request of a defendant, with a view to decide, within a reasonable time limit after the notification of the measures, whether these measures shall be revoked, modified or conformed.

- (4) An appeal against a decision ordering a provisional measure shall not delay the enforcement of the decision.
- (5) The court shall apply emergency procedure to legal actions against infringement of a geographical indication or a designation of origin.

MISDEMEANOUR PROCEDURE

Article 53

- (1) Any legal entity shall be punished by a fine of HRK 20,000 to 100,000 for:
 1. Using directly or indirectly, and without authorisation, geographical indications or designations of origin for products being identical with or comparable to registered products for the purpose of acquiring economic benefit, even if a true geographical origin of the product is indicated, or where a geographical indication or a designation of origin is translated or accompanied by additional terms;
 2. Using geographical indications or designations of origin in a way prejudicial to the reputation or exploiting the reputation of the protected geographical indication;
 3. Using false or misleading information as to the geographical origin, nature or quality of a product or a service on the packaging, advertising material or other documents liable to convey the impression of connection between a product or a service, and a protected geographical indication or a designation of origin;
 4. Performing other actions liable to mislead the public as to the geographical origin of a product or a service;

- (1) A natural person and a responsible person in a legal person shall be punished by a fine amounting from HRK 2,000 up to 8,000 when found to be in possession of products illegally produced or put into circulation and when refusing to give information about the origin and the manner of obtaining such products.
 - (2) A responsible person in a legal person shall be punished by a fine amounting from HRK 5,000 up to 10,000, for the misdemeanour referred to in paragraph (1) of this Article.
 - (3) A natural person shall be punished by a fine amounting from HRK 2,000 to 8,000 for the misdemeanour referred to in paragraph (1) of this Article.
 - (4) The products intended for or used for the commitment of misdemeanours referred to in paragraphs (1), (2), (3) and (4) of this Article shall be seized and destroyed upon the final decision of a judicial body.
- (2) Instituted but pending procedures relating to the products the protection of which shall be exercised under special regulations and concluded before the Office pursuant to the provisions of the Act on Geographical Indications of Products and Services ('Official Gazette No. 78/99.').
 - (3) Geographical indications and designations of origin which have been granted and entered in the relevant register kept by the Office, relating to the products the protection of which is exercised under special provisions, shall be entered in the relevant registers established pursuant to the respective regulations.
 - (4) The same shall apply to the structure and entry in the Register of Authorised Users of the Protected Geographical Indications or Designations of Origin for the products the protection of which is exercised under special regulations.

VIII. APPLICATION OF SPECIAL PROVISIONS

OTHER PROVISIONS APPLIED TO THE PROCEDURE BEFORE THE OFFICE

Article 54

For specific subject matters from the procedure not regulated by this Act, the Act on General Administrative Procedure shall apply.

FEES AND PROCEDURAL CHARGES

Article 55

The payment of fees and procedural charges shall be effected in compliance with the special provisions for the procedures provided for under this Act.

IX. TRANSITIONAL AND FINAL PROVISIONS

APPLICATION OF THE ACT TO PENDING PROCEDURES

Article 56

- (1) This Act shall apply to all pending procedures related to the protection of geographical indications or designations of origin, or the acquisition of the rights of use, except for those relating to the

products the protection of which shall be exercised under special provisions.

IMPLEMENTING REGULATIONS

Article 57

The competent Minister shall, at the proposal of the director of the Office, enact the Regulations for the implementation of this Act up to the commencement of application of this Act.

CESSATION OF VALIDITY OF A PREVIOUS LEGAL ACT

Article 58

With the date of commencement of application of the present Act, the Act on Geographical Indications of Products and Services (Official Gazette No. 78/99) shall cease to be valid, except for the provision on representation (Article 14), which shall apply up to the enactment of a special law.

ENTRY INTO FORCE

Article 59

This Act shall enter into force on the eighth day from the date of its publication in the Official Gazette of the Republic of Croatia, and shall apply as of 1 January 2004.

ACT MENDING AND SUPPLEMENTING THE
GEORGRAPHICAL INDICATIONS AND
DESIGNATIONS OF ORIGIN OF PRODUCTS
AND SERVICES ACT

Article 1

In the Geographical Indications and Designations of Origin of Products and Services Act (Official Gazette No. 173/03) Article 11 is amended to read:

"(1) The State Intellectual Property Office (hereinafter: the Office) shall carry out the administrative proceedings for the registration of geographical indications and designations of origin of products and services and the proceedings for their invalidation, and shall perform other administrative and professional tasks concerning the protection of geographical indications and designations of origin of products and services.

(2) The administrative decisions issued by the Office in the first instance may be appealed and the appeals shall be decided on by the Board of Appeal in accordance with the provisions of this Act. The filing of an appeal shall be subject to payment of the administrative fee and procedural charges in accordance with special regulations. If the administrative fee and procedural charges are not paid timely, the appeal shall be considered as not filed.

(3) The provisions of the General Administrative Proceedings Act shall apply to particular matters concerning the procedure referred to in paragraphs 1 and 2 of this Article, not regulated by this Act.

(4) The administrative decisions rendered by the Board of Appeal in the second instance may be challenged in the administrative dispute according to the Administrative Dispute Act."

Article 2

Headings above article 34 and the provision of Article 34 shall be deleted.

Article 3

Below Article 46 a new Part Seven: "APPEAL" and new Articles 46a and 46d are inserted to read:

"RIGHT TO APPEAL"

Article 46a

(1) A party whose request has been fully or partially refused has the right to appeal the decision within 30 days from the day the decision was received.

(2) Other parties to the proceedings ended by the decision which is appealed have the right to be parties to the appeal proceedings.

CONTENTS OF AN APPEAL

Article 46b

In addition to the data which every written submission has to contain, the appeal has to contain:

1. identification of the decree which is appealed,
2. specified statement on whether the decree is appealed in full or in certain part,
3. grounds for appeal,
4. reasons for appeal, and all the evidence which the appellant proposes as a proof for the appeal,
5. appellant's signature,
6. power of attorney if the appeal is submitted through an attorney.

DECIDING ON APPEAL

Article 46d

(1) The Boards of Appeal shall decide at the meetings, by majority vote.

(2) The Boards of Appeal shall make the decision on the basis of parties' written submissions, and, if they consider necessary or when a party to the proceedings requests so, they may hold a hearing. The parties shall be informed of the hearing not less than 10 days prior to its holding.

THE BOARDS OF APPEAL

Article 46d

(1) The appeals referred to in article 46a of this Act shall be decided on by the Boards of Appeal in the field of industrial property.

(2) The composition and constitution of the Board of Appeal referred to in Article 46a of this Act shall be subject to the provisions of the Patent Act."

Present Part Seven shall become Part Eight.

Article 4

Headings above Article 48 are amended to read: "PERSONS AUTHORISED TO CLAIM ENFORCEMENT OF A RIGHT".

Article 48 is amended to read:

"Protection of the right under this Act may be claimed by a person who registered an indication of origin, authorised users of an indication of origin, associations in the field of industry and trade and the State Attorney."

Article 5

Headings above Article 49 are amended to read: "THE APPLICATION *MUTATIS MUTANDIS* OF THE PROVISIONS OF THE TRADEMARK ACT".

Article 49 is amended to read:

"The provisions of the Trademark Act concerning the civil enforcement of trademarks shall apply *mutatis mutandis* to civil enforcement of

geographical indications and designations of origin of products and services, as regulated under this Act."

Article 6

Headings above Articles 50 to 52 and Article 50 to 52 shall be deleted.

Article 7

In Article 53, paragraph 2 and paragraph 4 number "8,000" is replaced by number: "10,000". Following the paragraph 4, a new paragraph 5 is added to read:

"(5) A natural person – a craftsman, or a self-employed person committing a misdemeanour referred to in paragraph 1 of this Article, in the course of their business activity, shall be punished by a fine from HRK 5.000 to 50.000." In the former paragraph 5, which shall become paragraph 6, numbers "1, 2, 3 and 4" are replaced by numbers "1, 2, 3, 4 and 5".

Article 8

The former Part Eight shall become Part Nine.

Article 9

Headings above Article 54 and Article 54 shall be deleted.

Article 10

The former Part Nine shall become Part Ten.

TRANSOTORY AND FINAL PROVISIONS

Article 11

(1) The administrative disputes initiated before the Administrative Court prior to 1 January 2008, shall be completed before the Administrative Court in accordance with the provisions which were applicable before that date.

(2) A party which instituted a legal action before the Administrative Court prior to 1 June 2008 in accordance with the provisions that were applicable until that date, may request the Administrative Court to stay the proceedings if within 30 days from that day it has submitted an appeal based on the same grounds and same reasons as in the legal action, if an appeal against such an administrative decision is allowed pursuant to the provisions of this Act. The second-instance administrative decision rendered on the basis of that appeal may be challenged in the administrative dispute according to the provisions of the Administrative Dispute Act.

Article 12

The proceedings for the enforcement of the geographical indications and designations of

origin of products and services pending on the day this Act enters into force shall be completed pursuant to the rules in force before the entry into force of this Act.

Article 13

The Regulations referred to in Article 57 of the Geographical Indications and Designations of Origin of Products and Services Act (Official Gazette, No. 173/03) shall be harmonised with the provisions of this Act by the Minister competent for the work of the Office, at the proposal of the Director General of the Office, not later than three months following the entering into effect of this Act.

Article 14

This Act shall enter into force on the eight day following the day of its publication in the Official Gazette, except for Articles 1 and 3 which will enter into force on 1 June 2008.