

# LAW ON INDICATIONS OF GEOGRAPHICAL ORIGIN<sup>1</sup>

## I. GENERAL PROVISIONS

### Article 1

This Law shall regulate manner of acquisition and legal protection of indications of geographical origin.

Indications of geographical origin shall be appellation of origin and geographical indications.

Indications of geographical origin which have been registered for the territory of the Republic of Serbia on the basis of the Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration (henceforward: The Lisbon Agreement) have on the territory of the Republic of Serbia the same effect as if they had been directly applied for and registered in the Republic of Serbia.

Provisions of this Law shall not apply to wine and brandy (*rakija*) where acquiring and protection system as well as exercising the right to use indications of geographical origin for such products are governed by separate regulations.

### Article 2

Indications of geographical origin shall be used to mark natural, agricultural, food and industrial products, traditional handicrafts products and services.

### Appellation of Origin Definition

#### Article 3

Appellation of origin shall be geographical name of a region, locality, or country used to designate a product originating therein, the quality and specific characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors, and such product is produced, processed and prepared entirely within a specific geographical area.

### Geographical Indication Definition

#### Article 4

Geographical indications shall be indications which identify particular goods as goods originating from the territory of specific country, region or locality within such territory, where a given quality, reputation or other characteristics of such goods can be essentially attributed to their geographical origin, and such goods are produced and/or processed and/or prepared within a definite geographical area.

### Traditional and Historical Names

#### Article 5

Indication of geographical origin shall also be a name that is not a geographical name of a country, region or locality but where such name has become well-known through long-standing use in trade as traditional name of product originating from such area, or a historical name of such area, provided the requirements referred to in Articles 3 and 4 of this Law have been met.

3, April

### Homonymic Names

#### Article 6

---

<sup>1</sup> Adopted on March, 23 2010, entered into force on April, 3 2010 (Official Gazette of the Republic of Serbia No 18/2010).

Where the names of two or more places of origin of the product are identical or nearly identical in written or pronounced form (homonymic names), protection of such geographical names shall be granted to all interested persons meeting the requirements prescribed by this Law, based on the principles of just and equal treatment of producers on the market and of truthful consumer information, except where this may mislead the public as to the true geographical origin of the product.

#### Raw Material Origin Article 7

Exceptionally, a product may be protected by appellation of origin, given that it possesses a proven traditional feature, is of high repute and well known, even where raw material for production of such product originates from an area different from or broader than processing area, provided the area of production of raw material is definite and special requirements for producing such raw material are in place, as well as an inspection system ensuring supervision of meeting such special requirements.

With regard to agricultural and food products, raw materials shall only be live animals, meat and milk.

The requirements, manner and procedure of inspection of raw materials for production of agricultural and food products shall be prescribed by the Minister competent for agricultural activities.

#### Names Not Subject to Protection Article 8

The following names may not be protected by indication of geographical origin:

- 1) Names whose publication or use is contrary to public order or accepted moral principles;
- 2) Names of protected plant varieties or animal species, if they may mislead consumers as to the true origin of product;
- 3) Names whose appearance or content may mislead consumers as to the nature, origin, quality, manner of production or other characteristics of product;
- 4) Names identical or essentially similar to previously registered trademarks, if, in view of the reputation, renown, and long-standing use of such trademarks, they may mislead consumers as to the origin of such product;
- 5) Names that are exact names of the country, region or locality of origin of the products, which, however, cause false impression among consumers that product originates from another country, region or locality;
- 6) Names that, due to long-standing use, have become generic names, i.e. usual names for designating specific products;
- 7) Names that are not protected, or ceased to be protected in the country of origin, or ceased to be in use in that country.

## II. GENERAL PROVISIONS ON PROTECTION PROCEDURE

#### Protection of Indications of Geographical Origin Article 9

Legal protection of indications of geographical origin shall be exercised in administrative procedure before the public administration authority competent for intellectual property activities (hereinafter: the authority competent for intellectual property activities).

## Fees and Costs of the Procedure

### Article 10

Any fees and costs incurred in the administrative procedure before the authority competent for intellectual property activities shall be paid in accordance with separate regulations governing administrative fees and payments for costs of the procedure and costs of providing information services.

### Registers

### Article 11

The authority competent for intellectual property activities shall keep the Register of Applications for Recognition of Indications of Geographical Origin, Register of Applications for Recognition of Status of Authorized Users of Indications of Geographical Origin, Register of Indications of Geographical Origin, Register of Authorized Users of Indications of Geographical Origin.

The Register of Applications for Recognition of Indications of Geographical Origin, shall contain especially the following: application filing number and date; applicant's particulars; geographical name, or indication to be protected by indication of geographical origin; name of the area or place of origin of the product to be designated by indication of geographical origin; indication of the type of product to be marked by indication of geographical origin; manner of completion of administrative procedure; data on changes arising during administrative procedure.

The Register of Applications for Recognition of Status of Authorized Users of Indications of Geographical Origin shall contain especially the following: application filing number and date; applicant's particulars; geographical name, or indication to be protected by appellation of origin; indication of the type of product to be marked by indication of geographical origin; data on changes arising during administrative procedure.

The Register of Indications of Geographical Origin, shall contain especially the following: registration number; date of registration; filing number and date of application for recognition of appellation of origin; geographical name or indication to be protected by indication of geographical origin; indication of the type of product to be marked by indication of geographical origin; name of the area or place of origin of the product to be designated by indication of geographical origin; manner of completion of administrative procedure; data on changes arising during administrative procedure.

The Register of Authorized Users of Indications of Geographical Origin shall contain especially the following: registration number; date of registration; filing number and date of application; particulars of authorized user of indication of geographical origin; geographical name or indication to be protected by indication of geographical origin; indication of the type of product to be marked by indication of geographical origin; name of the area or place of origin of the product designated by indication of geographical origin; data on changes referring to authorized user.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of registers referred to in paragraph 1 of this Article.

### Article 12

The Registers referred to in Article 11 of this Law shall have the status of public records and any interested person may have access to them in the presence of an official.

The registered geographical indications files, except for the parts enjoying secrecy, may be examined by any interested person in the presence of an official.

Data on the quality, specific characteristics, way and manner of procedure of production of the products marked by the indication of origin or geographical appellation of origin are public and available to all the interested parties.

The authority competent for intellectual property activities shall issue copies of the documents and relevant attestations and certificates pertaining to facts subject to official records at the written request of an interested person and upon payment of the prescribed fee.

## Availability of Documentation

### Article 13

The competent authority shall make available its documentation related to indications of geographical origin to any interested person.

## International Registration of Indications of Geographical Origin and registration of the indications of geographical origin on the level of the European Community

### Article 14

The authorized user of indication of geographical origin or applicant for recognition of status of authorized user of indication of geographical origin may file an application for international registration in accordance with an international agreement binding on the Republic of Serbia.

The authorized user of indication of geographical origin or applicant for recognition of status of authorized user of indication of geographical origin related to agricultural products and foodstuffs may file an application for registration on the level of the European Community, in accordance with the European Community regulation governing the protection of indications of geographical indications for agricultural products and foodstuffs (hereinafter: European Community regulation).

Application for international registration referred to in paragraph 1 of this Article and application for registration on the level of the European Community, referred to in paragraph 2 of this article, shall be filed through the authority competent for intellectual property activities, on making the payment of the prescribed fee.

Application for international registration shall contain especially the following: geographical name to be protected and transliteration thereof, designation of the type of product to bear the geographical name with the translation to English, French or Spanish; particulars of the applicants, authorized user(s) of appellation of origin; attorney's particulars, if application is filed through an attorney; proof of fee paid; applicant's signature and stamp.

Application for registration on the level of the European Community referred to in paragraph 2 of this Article shall contain particularly the following: particulars of the applicant; indication of the type of product to be marked by indication of geographical origin; proof of payment of the prescribed fee.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of application referred to in paragraphs 1 and 2 of this Article.

## Representation

### Article 15

In the procedure before the authority competent for intellectual property activities, any foreign natural or legal person must be represented either by an agent listed in the register of agents kept by the competent authority or by an attorney-at-law.

Any natural or legal person meeting the requirements specified by the law governing patents shall be recorded in the Register of Agents kept by the authority competent for intellectual property activities.

## Quality Control and the Control of the specific characteristics of the product

### Article 16.

For the purposes of this law, the quality control and the control of the specific characteristics of the product shall mean the control of compliance of the quality and specific characteristics of the product, the method of production and the raw material origin, with the specification or study.

Quality control and the control of the specific characteristics of the product shall be performed by a certification body accredited by the national accreditation body in accordance with appropriate standards regulations.

Quality control and the control of the specific characteristics of the agricultural products and foodstuffs shall be performed by certification bodies authorized by the Ministry competent for

agricultural activities and accredited by the national accreditation body in accordance with appropriate standards and regulations.

The Minister competent for agricultural activities shall further specify requirements, manner and procedure of quality control and the control of the specific characteristics control of quality and specific characteristics of agricultural and food products.

With regard to the indications of geographical origin marking the products from the geographical area of the Republic of Serbia, where the request for the registration has been filed for the level of the European Community in compliance with the Regulations EU 510/2006 the quality control and the control of the specific characteristics of those products is performed by the certification bodies from paragraph 3 of this article.

#### Proof on the Quality Control and the Control of the Specific Characteristics of the Product

##### Article 17.

Certificate confirming that quality control and the control of the specific characteristics of the product has been performed, issued by certification body referred in Article 16 paragraphs 2 and 3 of this law shall be deemed to be proof of product quality control performed.

The certificate referred to in paragraph 1 of this Article must not be older than three months.

### III. APPLICATION FOR RECOGNITION OF INDICATION OF GEOGRAPHICAL ORIGIN PROCEDURE

#### Initiation of Procedure for Registration of Appellation of Origin or Geographical Indication

##### Article 18

The procedure for registration of indication of geographical origin shall be initiated by application for recognition of indication of geographical origin (hereinafter: application).

Applications may be filed by the following:

- 1) National natural or legal persons who, within a specified geographical area, produce products that are designated by the name of such geographical area;
- 2) Associations of persons referred to in item 1 of this paragraph, chambers of commerce, associations of consumers and state authorities that are, within their activities, interested in protection of appellation of origin or geographical indication;
- 3) Where it results from the international agreements, foreign natural or legal persons or foreign associations, if appellation of origin or geographical indication is recognized in the country of origin.

Application for appellation of origin or geographical indication may refer only to one indication or name of the geographical area and only to one type of product.

The prescribed fee shall be payable for filing an application for appellation of origin or geographical indication.

#### Essential Elements of Application

##### Article 19

The following elements shall be essential elements of application:

- 1) Request for registration of appellation of origin or geographical indication;
- 2) Geographical area description;
- 3) Data on specific characteristics of the product.

##### Article 20

A request for registration of appellation of origin or geographical indication shall include:

- 1) Applicant's particulars;
- 2) Geographical name to be protected;
- 3) Type of product to be designated by a specific geographical name;
- 4) Geographical name of the area or place of origin of the product to be designated by a specific geographical name;
- 5) Designation of the authorized certification body performing product quality control and control of the specific characteristics of those products;
- 6) Applicant's signature;
- 7) Proof of payment of the prescribed fee.

Where an applicant is a foreign natural or legal person or a foreign association, the request referred in paragraph 1 of this Article shall be accompanied by a public document issued by a competent authority in the country of origin verifying that such appellation of origin or geographical indication is recognized in the country of origin.

Request for registration of geographical indication, along with the elements referred to in paragraph 1 of this Article, may include also the appearance of geographical indication if it is made up of words and potential figurative elements, or figurative elements only, which are suitable to identify geographical origin of specific goods.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of request referred to in paragraph 1 of this Article.

#### Article 21

Geographical area description referred to in Article 19 item 2) shall comprise information on geographical area of origin of the product and shall include detailed definition of boundaries of such area, geographical map of such area, and information on geographical and human factors causing specific characteristics, qualities or reputation of the relevant product.

Geographical area boundaries referred to in paragraph 1 of this Article shall be defined by precisely listing settlements and natural geographical objects (mountains, mountain ranges, rivers, plateaus, etc.) enabling delineation from other areas.

#### Article 22

Data on specific characteristics of the product referred to in Article 19 item 3) in case of application for geographical indication, shall be submitted in the form of specification containing the following:

- 1) Particulars on the applicant for geographical indication and the person authorized to represent the applicant;
- 2) Indication to be protected;
- 3) Description of manner of production of the product;
- 4) Precise designation of specific characteristics or qualities of the product, or data on reputation acquired;
- 5) Details bearing out the link between the qualities or reputation or other product characteristics and the described geographical area, as well as proof that the product originates from the described geographical area;
- 6) Evidence that the product originates in the defined geographical area referred in Article 19 item 2);
- 7) Data on the method of marking the product.

Where specific characteristics of product are related to the quality or other specific features of the product, the specification referred to in paragraph 1 of this Article shall be accompanied by certificate confirming that control of the quality and specific characteristics of the product has been performed.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of specification referred to in paragraph 1 of this Article.

### Article 23

In case of an application for appellation of origin, data on specific characteristics of the product shall be submitted in the form of a study containing the following:

- 1) Particulars on the applicant for appellation of origin and the person authorized to represent the applicant;
- 2) Geographical name to be protected;
- 3) Data on customary manner and method of production of such product;
- 4) Data on specific characteristics and qualities of the product;
- 5) Data on causal relationship between the specific characteristics and qualities of the product and the described geographical area, as well as proof that the product originates from the described geographical area;
- 6) Evidence that the product originates in the defined geographical area referred in Article 19 item 2);
- 7) Proof of the performed control of raw material in the meaning of article 7 of this Law;
- 8) Data on the method of marking the product.
- 9) Data on quantity of the product produced in one year.

Study referred to in paragraph 1 of this article shall be accompanied by certificate confirming that control of the quality and specific characteristics of the product has been performed.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of study referred to in paragraph 1 of this Article.

### Conditions for Recognition of the Application Filing Date

#### Article 24

Application for appellation of origin or geographical indication shall be entered in the relevant Register referred to in Article 11, paragraph 1 of this Law only if it contains the essential application elements referred to in Article 19 of this Law.

Filing number and date of receipt by the authority competent for intellectual property activities shall be indicated on the application containing the elements referred to in Article 19 of this Law, and the applicant will be issued a certificate to that effect.

Where the application does not contain the essential elements referred to in Article 19 of this Law, the authority competent for intellectual property activities shall invite the applicant to correct the deficiencies within 30 days of the day of the receipt of such notification, with the warning that the application will be rejected.

If the applicant corrects the deficiencies within the time period specified, the filing date of such application will be recognized, and the filing date of the application shall be the date when the authority competent for the intellectual property matter has been forwarded the addition to the application and the applicant gets a certificate to that extent, and the application is entered in the appropriate Register of the Applications.

If the applicant does not correct the deficiencies within the time period specified, the authority competent for intellectual property activities will reject the application by way of a decision.

Decision referred to in paragraph 5 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

## Order of Application Examination Article 25

Applications shall be examined in the order determined by their filing dates.

Notwithstanding paragraph 1 of this Article, an application shall be decided upon in an expedited procedure:

- 1) Where the procedure before the court, customs authorities or inspection authorities has been initiated at the request of the court, customs authorities or competent inspectorate;
- 2) If the application for international registration of appellation of origin or geographical indication or the application for registration in the European Community in accordance with the European Community Regulation or the request for the registration of the indication of geographical origin on the level of the European Community, in compliance with the regulation of the European Community has been filed.

## Formal Examination of the Application Article 26

Application shall be regular if it contains all the elements referred to in Articles 19 through 23 of this Law.

If the competent authority finds that the application is not complete, it will notify the applicant in writing, stating the reasons, and invite the applicant to finalize the application within 30 days.

Upon the substantiated request of the applicant and on payment of the prescribed fee, the competent authority may extend the time period referred to in paragraph 2 of this Article for a period of time it deems reasonable, but not longer than 90 days.

Where the applicant fails to regularize the application or does not pay the regularization fee within the prescribed time limit, the authority competent for intellectual property activities shall decide to reject the application.

Decision referred to in paragraph 4 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

## Examination of Conditions for Registration of Indication of Geographical Origin Article 27

If the application is regular within the meaning of Article 26, paragraph 1 of this Law, the competent authority shall examine whether registration requirements for appellation of origin or geographical indication have been met.

During the procedure of examination of registration requirements for appellation of origin or geographical indication, the authority competent for intellectual property activities shall obtain an opinion of the competent authority of the Republic of Serbia authorized for the field concerning the products or services protected by the appellation of origin or geographical indication (henceforward: the competent authority) with regard to the compliance with the registration requirements for appellation of origin or geographical indication.

The competent authority referred to in paragraph 2 of this Article shall provide the requested opinion within 60 days from the day such opinion was requested.

If the competent authority referred to in paragraph 2 of this Article should fail to provide the requested opinion within 60 days from the day such opinion was requested, the authority competent for intellectual property activities shall examine the fulfillment of registration requirements without having obtained such opinion.

Paragraphs 2, 3 and 4 of this Article shall not apply to the procedure concerning international applications for appellation of origin filed under the Lisbon Agreement.

## Decision to Deny Registration Article 28

If the competent authority has provided a negative opinion concerning the fulfillment of registration requirements for appellation of origin or geographical indication, or if the competent authority should find that the application for appellation of origin or geographical indication fails to meet the requirements prescribed by this Law for registration of appellation of origin or geographical indication, the authority competent for intellectual property activities will notify the applicant in writing of the reasons for denial to register such appellation of origin or geographical indication, and invite the applicant to submit its observations about those reasons within 60 days.

Upon the applicant's substantiated request, and on making the payment of the prescribed fee, the authority competent for intellectual property activities may extend the time period referred to in paragraph 1 of this Article for a period of time it deems reasonable, but not longer than 90 days.

If the applicant submits commentary on the reasons due to which appellation of origin or geographical indication may not be registered, the authority competent for intellectual property activities shall obtain the opinion on the applicant's commentary by the competent authority referred to in Article 27, paragraph 2 of this Law.

If the competent authority referred to in Article 27, paragraph 2 of this Law should fail to provide its opinion within 60 days from the day such opinion was requested, the authority competent for intellectual property activities will continue to examine the fulfillment of registration requirements without having obtained such opinion.

The authority competent for intellectual property activities will deny registration of appellation of origin or geographical indication by way of decision if the applicant for appellation of origin or geographical indication fail to comment at all, or if the commentary was provided but the authority competent for intellectual property activities or the competent authority still finds that appellation of origin or geographical indication may not be registered.

Decision referred to in paragraph 5 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

## Conversion of Application for Appellation of Origin into Application for Geographical Indication and *Vice Versa* Article 29

Upon the request of the applicant for appellation of origin or geographical indication submitted before the end of the procedure, and upon payment of the prescribed fee, the application for appellation of origin may be converted into the application for geographical indication, and *vice versa*.

Converted application keeps the filing date of the initially filed application.

In the procedure of examination of fulfillment of registration requirements for appellation of origin, the authority competent for intellectual property activities shall suggest to the applicant for appellation of origin to convert such application into application for geographical indication, if registration requirements for appellation of origin have not been met but registration requirements for geographical indication have.

In the procedure of examination of fulfillment of registration requirements for geographical indication, if the authority competent for intellectual property activities should find that geographical indication meets or may meet the requirements to be registered as appellation of origin, the authority competent for intellectual property activities shall suggest to the applicant for geographical indication to convert such application into application for appellation of origin.

The competent authority shall issue a separate decision on conversion of the relevant application.

## Registration Decision and Entry into Relevant Register

### Article 30

If the competent authority has provided a positive opinion on fulfillment of registration requirements for appellation of origin or geographical indication, or if it has failed to provide an opinion within the time period referred to in Article 27, paragraph 3 of this Law, and if the authority competent for intellectual property activities finds that application for appellation of origin or geographical indication meets the registration requirements for appellation of origin or geographical indication prescribed by this Law, the authority competent for intellectual property activities will issue a decision on registration of appellation of origin or geographical indication, and such appellation of origin or geographical indication, along with the prescribed bibliographical data, shall be entered into the Register of Indications of Geographical Origin.

Decision referred to in paragraph 1 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

Registered appellation of origin or registered geographical indication shall be published in the official publication of the competent authority.

In the Official Gazette of the body competent for the intellectual property subject matter the following data is published: registration number of indication of geographical origin; date of registration; geographical name or indication to be protected by indication of geographical origin; indication whether it concerns the appellation of origin or geographical indication; name of the area or place of origin of the product to be marked by indication of geographical origin; indication of the type of product to be marked by indication of geographical origin; data concerning the termination of the indication of geographical origin and the grounds for termination.

## Period of Validity of Appellation of Origin or Geographical Indication

### Article 31

Period of validity of the registered appellation of origin or registered geographical indication shall not be limited.

## IV. APPLICATION FOR RECOGNITION OF STATUS OF AUTHORIZED USER OF INDICATION OF GEOGRAPHICAL ORIGIN PROCEDURE

### Article 32

Status of the authorized user of the indication of geographical origin can be granted to any natural or legal person as well as associations of those natural and legal persons, if, on the specific geographical area, they produce products named after that geographical area which possess the quality, specific characteristics or reputation in compliance with the data on specific characteristics of products from article 22 or article 23 of this Law.

## Initiation of Procedure for Recognition of Status of Authorized User

### Article 33.

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

The application for recognizing the status of authorized user may be filed by natural or legal persons who, within a particular geographical area, produce products designated by the name of such geographical area, as well as by associations of such natural and legal persons.

Prescribed fee shall be payable for filing an application for recognition of the status of authorized user of appellation of origin or geographical indication.

#### Essential Elements of Application for Recognizing the Status of Authorized User Article 34

Essential elements of the application for recognition of the status of authorized user shall be the following:

- 1) Request for recognition of the status of authorized user indication of geographical origin;
- 2) Proof of particular business activity performed within the particular geographical area;
- 3) Proof of product quality control performed by authorized certification body listed in the application for recognition of indication of geographical origin for appellation of origin.

#### Request for Recognition of Status of Authorized User Article 35

The request for recognition of status of authorized user of appellation of origin or geographical indication shall include the following:

- 1) Applicant's particulars;
- 2) Geographical name to be protected;
- 3) Type of product to be marked by a particular geographical name;
- 4) Name of area or place of origin of the product;
- 5) Manner of marking the product;
- 6) Appearance of geographical indication or appellation of origin;
- 7) Designation of specific characteristics of the product;
- 8) Applicant's signature;
- 9) Proof of payment of the prescribed fee.

The authority competent for intellectual property activities shall prescribe further details concerning request referred to in paragraph 1 of this Article.

#### Proof of Specific Activity Performed within Specific Area Article 36

Appropriate certificates and decisions issued by competent authorities shall be deemed to be proof of specific activity performed or of production of specific product within a specific area.

Certificates and decisions referred to in paragraph 1 of this Article must not be older than three months.

The authority competent for intellectual property activities shall prescribe further details concerning the content of the proofs referred to in paragraph 1 of this Article.

#### Proof of Product Quality Control Performed Article 37

Certificate confirming that control of the quality and specific characteristics of product has been performed, issued by certification body referred in Article 16 paragraphs 2 and 3 of this law listed as organization performing product quality control in the request for registration of appellation of origin or geographical indication and in the request for recognition of status of authorized user of appellation of origin or status of authorized user of geographical indication, and which document verifies that the product subject to control has all the specific characteristics and qualities listed in the data on specific characteristics of the product referred to in Article 22 and Article 23 of this Law, shall be deemed to be proof of product quality control performed.

The certificate referred to in paragraph 1 of this Article must not be older than three months.

#### Conditions for Recognition of the Application Filing Date Article 38

Application for recognition of status of authorized user shall be entered in the relevant register of applications referred to in Article 11, paragraph 1 of this Law only if it contains the essential elements referred to in Article 34 of this Law.

The application filing number and date will be indicated on the application referred to in paragraph 1 of this Article and containing the essential elements referred to in Article 34 of this Law, and the applicant shall be issued a certificate to that effect.

If the application for recognition of the status of authorized user does not contain the essential elements referred to in Article 34 of this Law, the authority competent for intellectual property activities shall invite such applicant to correct the deficiencies within 30 days from the date of receipt of notification, with the warning that the application will be rejected.

If the applicant for recognition of the status of authorized user corrects the deficiencies within the time period specified, the date of the receipt by the authority competent for intellectual property activities of such document correcting the deficiency will be recognized, by a separate decision, to be the filing date of such application, and the application will be entered in the relevant register of applications.

If the applicant for recognition of the status of authorized user does not correct the deficiencies within the specified time period, the authority competent for intellectual property activities will reject the application by way of a decision.

Decision referred to in paragraph 5 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

#### Order of Examination of Applications for Recognizing the Status of Authorized User Article 39

Applications for recognizing the status of authorized user shall be examined in the order determined by their filing dates.

Notwithstanding paragraph 1 of this Article, application shall be decided upon in expedited procedure:

- 1) Where the procedure before the court, customs authorities or inspection authorities has been initiated at the request of the court, customs authorities or competent inspectorate;
- 2) If the application for international registration of indication of geographical origin or the application for registration in the European Community in accordance with the European Community Regulation or the request for the registration of the indication of geographical origin on the level of the European Community, in compliance with the regulation of the European has been filed.

#### Formal Examination of Application Article 40

Application for recognition of the status of authorized user shall be regular if it contains all the relevant elements referred to in Articles 35 through 37 of this Law, proof of payment of the application fee, and other prescribed data.

If the authority competent for intellectual property activities find that the application referred to in paragraph 1 of this Article is not complete, it will notify the applicant in writing, stating the reasons, and invite the applicant to finalize the application within 30 days.

Upon the substantiated request of the applicant for recognition of the status of authorized user of appellation of origin or geographical indication and on the payment of the prescribed fee, the authority competent for intellectual property activities may extend the time period referred to in paragraph 2 of this Article for a period of time it deems reasonable, but not longer than 90 days.

If the applicant does not correct the application within the given time period or to pay the prescribed fee, the authority competent for intellectual property activities will reject the application by way of a decision.

Decision referred to in paragraph 4 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

Examination of Requirements for  
Recognition of Status of Authorized User  
Article 41

If the application for recognition of the status of authorized user is regular, as referred to in Article 40, paragraph 1, the authority competent for intellectual property activities shall examine whether the requirements for recognition of the status of authorized user of appellation of origin or geographical indication have been met in the meaning of article 32 of this Law.

During the examination of requirements for recognition of the status of authorized user of appellation of origin or geographical indication, the authority competent for intellectual property activities shall obtain an opinion of the competent authority of the Republic of Serbia on the fulfillment of requirements for recognition of the status of authorized user of appellation of origin or geographical indication.

The competent authority of the Republic of Serbia referred to in paragraph 2 of this Article shall provide the requested opinion within 60 days from the day it was requested.

If the competent authority of the Republic of Serbia referred to in paragraph 2 of this Article should fail to provide its opinion within 60 days from the day it was requested, the authority competent for intellectual property activities will examine the fulfillment of requirements for recognition of the status of authorized user of appellation of origin or geographical indication without having obtained such opinion.

Decision to Deny Status of Authorized User  
Article 42

If the competent authority of the Republic of Serbia has provided a negative opinion on fulfillment of requirements for the recognition of the status of authorized user of appellation of origin or geographical indication, or if the authority competent for intellectual property activities finds that application for recognition of the status of authorized user of appellation of origin or geographical indication fails to meet the requirements for recognition of status of authorized user of appellation of origin or geographical indication prescribed by this Law, the authority competent for intellectual property activities will notify the applicant in writing of the reasons for denial to recognize the status of authorized user of appellation of origin or geographical indication, and invite the applicant to submit its observations about such reasons within 60 days.

Upon the substantiated request of the applicant for the recognition of the status of an authorized user of appellation of origin or geographical indication and on the payment of prescribed fee, the authority competent for intellectual property activities may extend the time period referred to in paragraph 1 of this Article for a period of time it deems reasonable, but not longer than 90 days.

If the applicant provides commentary concerning the reasons leading to denial to recognize the status of authorized user of appellation of origin or geographical indication, the authority competent for intellectual property activities shall obtain the opinion on such commentary of the competent authority of the Republic of Serbia.

If the competent authority of the Republic of Serbia referred to in Article 38, paragraph 2 of this Law should fail to provide its opinion within 60 days from the day it was requested, the authority competent for intellectual property activities will continue to examine the fulfillment of requirements for recognition of the status of authorized user of indication of geographical origin without having obtained such opinion.

The authority competent for intellectual property activities will decide to deny recognition of the status of authorized user if the applicant fail to comment at all or, if the comment was provided, and the authority competent for intellectual property activities or the competent authority of the Republic of Serbia is still of the opinion that the status of authorized user of appellation of origin or geographical indication cannot be granted to the applicant.

Decision referred to in paragraph 5 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

Conversion of Application for Recognition of Status of Authorized User of Appellation of Origin into Application for Recognition of Status of Authorized User of Geographical Indication and *Vice*

*Versa*

Article 43

If, during the procedure related to application for recognition of the status of authorized user of indication of geographical origin, in accordance with Article 26 of this Law, the conversion of application for appellation of origin into application for geographical indication took place, or of application for geographical indication into application for appellation of origin, the applicant for recognition of status of authorized user of appellation of origin or geographical indication whose application has been converted shall, along with the payment of the prescribed fee, submit the request to convert the application for recognition of status of authorized user of appellation of origin into application for recognition of status of authorized user of geographical indication, or *vice versa*.

Converted application keeps the filing date of the initially filed application.

The authority competent for intellectual property activities shall notify without delay all the applicants for recognition of status of authorized user of appellation of origin or geographical indication that the request for conversion of application for appellation of origin or for geographical indication has been submitted, in accordance with Article 29 of this Law.

The competent authority shall issue a separate decision on conversion of the relevant application.

Decision on Payment of Fee for Recognition  
of Status of Authorized User

Article 44

If application for recognition of the status of authorized user of appellation of origin or geographical indication meets the requirements prescribed by this Law for granting recognition of the status of authorized user of appellation of origin or geographical indication to the applicant, the authority competent for intellectual property activities shall invite, by way of a decision, the applicant to pay the fee for recognition of the status of authorized user of appellation of origin or geographical indication for the first three years, as well as the costs of publication of information on the authorized user of appellation of origin or geographical indication, and to furnish proof of such payments made.

If the applicant should fail to furnish proof of payments referred to in paragraph 1 of this Article within 30 days, the application will be considered to be withdrawn, and a decision shall be issued to that effect.

In the case referred to in paragraph 2. of this article, the authority competent for intellectual property activities shall issue the separate decision on the termination of the procedure.

Decision referred to in paragraph 3 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

Decision to Recognize Status of Authorized User and Entry into Relevant Register

Article 45

Where the applicant for recognition of the status of authorized user has furnished proof of payments referred in Article 44, paragraph 1 of this Law, the authority competent for intellectual property activities shall issue a decision on recognition of the status of authorized user of appellation of origin or geographical indication, and the recognized status of the applicant, along with the

prescribed bibliographical data, shall be entered into the Register of Authorized Users of Appellations of Origin or the Register of Authorized Users of Geographical Indications, as appropriate.

Decision referred to in paragraph 1 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

#### Issuance of Certificate and Article 46

Authorized user of appellation of origin or geographical indication shall be issued a certificate verifying the status of authorized user of appellation of origin or geographical indication, and the prescribed data on recognized status shall be published in the official publication.

Certificate verifying the status of authorized user referred to in paragraph 1 of this Article shall include particularly the following: registration number of the authorized user of indication of geographical origin and application number; application filing date; date of entry into the Register of Authorized Users of Indications of Geographical Origin; particulars of the authorized user of indication of geographical origin; data on period of validity of status of authorized user of indication of geographical origin; date of issuance of the certificate.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of the certificate referred to in paragraph 1 of this Article.

#### Publication of Data on Status of Authorized User of the indications of geographical origin

#### Article 47.

The recognized status of the authorized user of the indication of geographical origin is published in the official gazette of the body competent for tasks of intellectual property.

In the official gazette of the body competent for the tasks of intellectual property the following data is published: registration number of the authorized user of indication of geographical origin; particulars of the authorized user of indication of geographical origin; date of entry into the Register of Authorized Users of Indications of Geographical Origin; registration number of indication of geographical origin; designation whether it concerns the authorised user of the appellation of origin or geographical indication; geographical name or indication to be protected by indication of geographical origin; name of the area or place of origin of the product to be marked by indication of geographical origin; data on period of validity of status of authorized user of indication of geographical origin; data on the termination of status of the authorised user of the indication of geographical origin as well as the basis for the termination, data on the changes referring to the authorised user of the indication of geographical origin.

#### Period of Validity of Authorized User Status Article 48

Status of authorized user of appellation of origin or geographical indication shall be valid for three years of the date of entry of recognized status into the Register of Authorized Users of Indications of Geographical Origin.

Upon the request of the authorized user, on submitting evidence on meeting the requirements prescribed by this Law and on making the payment for the prescribed fee, the status of authorized user of appellation of origin or geographical indication may be renewed for an unlimited number of times, for as long as the relevant appellation of origin or geographical indication is in place.

Request for renewal of the status of authorized user of indication of geographical origin shall include particularly the following: registration number of the authorized user of indication of geographical origin; date of end of validity of entry into the Register of Authorized Users of Indications of Geographical Origin; applicant's business name and principal office, or name and address of natural person (according to the situation in the registers); data on performed control of

quality and specific characteristics of product (number of certificate confirming that control of the quality and specific characteristics of product has been performed.).

The authority competent for intellectual property activities shall prescribe further details concerning the contents of request referred to in paragraph 2 of this Article.

Procedure following the request for the renewal of status of the authorized user of the indication  
of geographical origin  
Article 49

Request for the renewal of the status of the authorized user of the indication of geographical origin is considered complied with the formal requests if it contains elements from article 48 of this Law, proof on the payment of fees for the request and other prescribed data.

If it is established that the request from paragraph 1 of this article does not comply with the formal requirements, the body competent for the tasks of intellectual property shall inform accordingly the applicant and invite him to correct the established mistakes in the request in the term of 30 days from the receipt of the information.

At the grounded request of the person filing the request for the renewal of the status of the authorized user of the indication of geographical origin, with the payment of the prescribed fee, the body competent for the intellectual property tasks can prolong the term from paragraph 2 of this article for the time he considers appropriate, and at the latest for 90 days.

If the person filing the request for the renewal of the status of the authorized user does not correct the request in the provided time limit, or does not pay the prescribed fee, the body competent for the tasks of intellectual property shall pass a conclusion rejecting his request.

Against the conclusion from paragraph 4 of this article, an appeal can be filed to the Government in the term of 15 days from the reception date of the conclusion.

Against the decision on appeal passed by the Government, administrative suit may be instituted in the term of 30 days from the receipt of the decision of the Government.

Article 50

If the request for the renewal of the status of the authorized user of the indication of geographical origin is complied with the formal requirements, the body competent for intellectual property tasks examines whether the conditions have been complied with for the renewal of the status of the authorized user of the indication of geographical origin, in the meaning of article 32 of this Law.

If the body competent for the intellectual property tasks establishes that the request for the renewal of the status of the authorized user of the indication of geographical origin does not comply with the conditions prescribed by this Law, it shall inform accordingly the person filing the request and invite him to state his opinion on the reasons why the status of the authorized user of the indication of geographical origin can not be reinstated in the term of 30 days from the receipt of the notification.

At the grounded request of the person filing the request for the renewal of the status of the authorized user of the indication of geographical origin, with the payment of the prescribed fee, the body competent for intellectual property tasks can extend the term from paragraph 2 of this article for the time considered appropriate, and at the latest for 90 days.

Body competent for intellectual property tasks shall pass a decision to refuse the request for the renewal of the status of the authorized user of the indication of geographical origin if the person filing the request does not send notification at all, or if he sends notification but the body competent for intellectual property tasks stays with his attitude that the person filing the request can not be renewed the status of the authorized user of the indication of geographical origin.

Against the decision from paragraph 4 of this article, an appeal can be filed to the Government in the term of 15 days from the date of the receipt of the decision.

Against the decision of the Government on appeal, an administrative suit may be initiated in the term of 30 days from the date of the receipt of the decision of the Government.

Registration of the renewal of the status of the authorized user of the indication of geographical origin in the appropriate Register

#### Article 51

If conditions from article 48, paragraph 2 of this law have been fulfilled, the body competent for intellectual property tasks enters the data concerning the renewal of the status of the authorized user of the indication of geographical origin into the Register of authorized users of indications of geographical origin.

### V. CHANGES RELATED TO AUTHORIZED USERS OF INDICATIONS OF GEOGRAPHICAL ORIGIN

#### Article 52

Body competent for the intellectual property tasks, at the request of the authorized user of the indications of geographical origin or the person filing a request for the recognition of the status of the authorized user, can pass a decision on the entry in the appropriate register of the competent body of the change in status, change in the form of organization and other changes referring to the authorised user of the indications of the geographical origin or the person filing a request for the recognition of the status of the authorised user.

Decision referred to in paragraph 1 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

#### Procedure for the entry of changes referring to the authorized users of the indications of geographical origin

#### Article 53

Procedure for the entry of changes referring to the authorized users of the indications of geographical origin is initiated by a written request which is filed to the body competent for intellectual property matter. The procedure for recording the change related to authorized users of indications of geographical origin shall be initiated on the basis of a written request filed with the authority competent for intellectual property matter.

The request referred to in paragraph 1 of this Article shall be filed with the following:

- 1) proof of legal title for the registration requested
- 2) power of attorney if the procedure is initiated through an representative
- 3) proof of payment of the prescribed fee.

The request referred to in paragraph 1 of this Article shall include in particular: registration number of the authorized user of indication of geographical origin or number of application for recognizing the status of authorized user; registration number of indication of geographical origin; particulars of the authorized user of indication of geographical origin, or particulars of the applicant for recognizing the status of authorized user; designation of the kind of change which entry is requested .

The authority competent for intellectual property activities shall prescribe further details concerning the content of the request referred to in paragraph 1 of this Article.

#### Article 54

The request for recording the change related to the authorized user of indication of geographical origin shall be regular if it contains the data referred to in Article 53 of this Law.

If the request for recording the change related to the authorized user of indication of geographical origin is not regular, the authority competent for intellectual property activities shall invite the

applicant in writing to remedy the deficiencies within 30 days from the date of receipt of the notification.

Upon the substantiated request of the applicant for recording the change and upon the payment of the prescribed fee, the authority competent for intellectual property matter / activities may extend the time period referred to in paragraph 2 of this Article for a period of time it deems reasonable, but not longer than 90 days.

If the applicant does not correct the application within the given time period or to pay the prescribed fee, the authority competent for intellectual property activities will reject the application by way of a decision.

Decision referred to in paragraph 4 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

#### Article 55.

If the request for recording the change is complied with the formal requirements the authority competent for intellectual property activities shall examine the legal title the application is based on for conformity with the statutorily prescribed conditions and the compliance of the data arising from the request with the data in registers.

If the legal title constituting grounds for the request for recording the change related to the authorized user of indication of geographical origin does not conform to the statutorily prescribed conditions or if the data arising from the application are not in compliance with the data in the registers, the authority competent for intellectual property activities shall notify the applicant in writing about that and shall invite the applicant to submit his observations regarding the reasons, within 30 days from the date of the receipt of the notification.

Upon the substantiated request of the applicant for recording the change, and upon the payment of prescribed fee, the authority competent for intellectual property activities may extend the time period referred to in paragraph 2 of this Article for a period of time it deems reasonable, but not longer than 90 days.

The authority competent for intellectual property activities shall issue a decision refusing a request for recording the change if the applicant fails to submit his observations, within the set time limit, regarding the reasons for which the recording of the change cannot be granted, or if the applicant submits his/her observations but the authority competent for intellectual property activities still considers that recording of the change cannot be granted.

Decision referred to in paragraph 4 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

## VI. CONTENT AND SCOPE OF RIGHTS HELD BY USER OF INDICATION OF GEOGRAPHICAL ORIGIN

### Use of Registered Appellation of Origin or Geographical Indication Article 56

Registered appellation of origin or geographical indication may be used only by persons who were recognized the status of authorized user of such appellation of origin or geographical indication, which were entered in the relevant Register.

Authorized users of appellation of origin or geographical indication shall have the right to use appellation of origin or geographical indication to mark the product to which the appellation of origin or geographical indication relates.

Authorized users of appellation of origin shall have an exclusive right to mark their product with the indication “controlled appellation of origin”.

Authorized users of geographical indication which marks the product whose specific characteristics refer to the quality or special properties, shall have an exclusive right to mark their product with the indications “controlled geographical indication”.

Rights referred to in paragraphs 2, 3 and 4 of this Article shall include also the right to use appellation of origin or geographical indication on packaging, catalogues, brochures, advertisements, posters and other forms of offer, on instructions, invoices, business correspondence and other forms of business documentation, as well as imports or exports of goods bearing such appellation of origin or geographical indication.

The Minister competent for agricultural activities shall prescribe further details of the form and content of indication, as well as the manner of control of designating agricultural and food products bearing an indication of geographical origin.

#### Prohibited Actions

##### Article 57

Persons that do not have the status of the authorized user of indication of geographical origin shall not be allowed to:

1) use registered appellation of origin or registered geographical indication in respect of products not covered by the registration in so far as those products are comparable to the products registered under that name or in so far as using the name hinders the reputation of the protected name

2) make copies or counterfeit registered indication of geographical origin as well as to use its translation, transcription or transliteration even if such appellation of origin or geographical indication is supplemented with the words such as: "kind", "type," "method," "imitation", "as produced in", and the like, even where true geographical origin of the product is given;

3) use the false or misleading indication as to the provenance, origin, nature or quality of the product, on the packaging, advertising material or documents, liable to cause confusion concerning the origin of the products

4) perform any other acts liable to cause confusion in the course of trade concerning the true origin of the products.

Regulation from paragraph 1 of this article refers also to the indications of geographical origin which are registered at the level of the European Community in compliance with the regulation of the European Community.

Persons that do not have the status of the authorized user of the indication of geographical origin must not use the trademark which consists of, or contains in itself the name which is identical or similar to the indication of geographical origin which is registered on the level of the European Community in compliance with the regulation of the European Community, which refers to the comparable products that do not fulfill the condition for the use of the indication of geographical origin.

#### Relation to Previously Registered Trademark

##### Article 58

Provisions of this Law will not influence registration requirements, validity of registration or of right to use trademark identical or similar to registered geographical indication, if application for registration or registration of such trademark was filed or done in good faith, or if trademark rights were acquired through use in good faith prior to filing an application for geographical indication.

Provisions of this Law will not influence registration requirements, validity of registration or of right to use trademark identical or similar to geographical indication registered on the level of the European Community, if registration of such trademark was done in good faith, or if trademark rights were acquired through use in good faith prior to registration of geographical indication on the level of the European Community in compliance with the regulations of the European Community.

#### Use of Personal Name

##### Article 59

Provisions of this Law will in no way influence any person using his/her personal name in business activities, or that of his/her predecessor in business, except where such name is used in such a manner as to mislead consumers.

## Prohibition of Assignment

### Article 60

Registered appellation of origin or registered geographical indication may not be subject to agreements on assignment of rights, license, pledge, franchise, or the like.

If registered appellation of origin or registered geographical indication is subject to trademark applied for or registered, such trademark may not be assigned, transferred, pledged, etc.

## Amendments of Data on Specific Product Characteristics

### Article 61

Any person referred to in Article 18, paragraph 2, as well as any person whose status of authorized user of appellation of origin or geographical indication has been recognized and who has legal interest, may request approval for amendment to data on specific product characteristics, if such amendments result from scientific and technical achievements, or where amendment results from applying mandatory veterinary, sanitary or phytosanitary measures introduced by separate regulations.

Request referred to in paragraph 1 of this Article shall include description of the requested amendment and argued reasons for requesting such amendment.

Under conditions referred to in paragraph 1 of this Article, the authority competent for intellectual property activities may approve amendment to data on specific product characteristics only if it does not change essential physical, chemical and organoleptic properties of the product.

Provisions of Article 27 of this Law shall apply *mutatis mutandis* to the procedure for the request referred to in paragraph 1 of this Article.

The authority competent for intellectual property activities shall prescribe further details concerning the contents of the requirement referred to in paragraph 1 of this Article.

Decision referred to in paragraph 3 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

## VII. CANCELLATION OF DECISION TO REGISTER INDICATION OF GEOGRAPHICAL ORIGIN OR DECISION TO RECOGNIZE AUTHORIZED USER STATUS

### Conditions for the invalidation of a decision

#### Article 62

Upon a written claim of an interested person, the authority competent for intellectual property activities may cancel the decision to register indication of geographical origin or decision to recognize authorized user status if it determines that registration requirements for indication of geographical origin or for recognition of authorized user status were not met at the time such decision was issued.

### Claim for Cancellation of Decision to Register Indication of Geographical Origin or Decision to Recognize Authorized User Status

#### Article 63

The claim referred to in Article 62 of this Law shall be submitted in two copies and shall include the following:

- 1) Claimant's particulars;
- 2) Indication that cancellation of decision to register indication of geographical origin or decision to recognize authorized user status is being requested;
- 3) Registration number of indication of geographical origin whose cancellation is being requested, or registration number of indication of geographical origin against whose authorized user request is being submitted;

- 4) Particulars of authorized user of indication of geographical origin whose cancellation is being requested;
- 5) Reasons for cancellation being requested;
- 6) Evidence supporting the reasons;
- 7) Duly executed power-of-attorney, where the procedure is initiated through attorney, and
- 8) Proof of payment of the prescribed claim fee.

If a claim to cancel decision to register indication of geographical origin or decision to recognize authorized user status should fail to meet the requirements referred to in paragraph 1 of this Article, the authority competent for intellectual property activities shall invite the claimant in writing to finalize the claim within 30 days from the date of the receipt of such notification.

If the claimant should fail to finalize the claim within the time limit referred to in paragraph 2 of this Article, the authority competent for intellectual property activities will reject the claim by way of a decision.

Decision referred to in paragraph 3 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

#### Procedure for Regular Claims

##### Article 64

Regular claim referred to in Article 62 of this Law will be served to the respondent by the authority competent for intellectual property activities and the respondent will be invited to respond within 30 days from the date of the receipt of such summons.

The authority competent for intellectual property activities may schedule an oral hearing in the procedure concerning the claim referred to in Article 62 of this Law.

If the claimant asking for cancellation of decision to register indication of geographical origin or decision to recognize authorized user status should withdraw the claim, the authority competent for intellectual property activities may continue the procedure *ex officio*.

Provisions of Article 27, paragraphs 2, 3 and 4, Article 28, Article 41, paragraphs 2, 3 and 4 and Article 42 of this Law shall apply *mutatis mutandis* to the procedure concerning the claim for cancellation of decision to register indication of geographical origin.

##### Article 65

Upon the completion of procedure referred to in Article 62 of this Law, the authority competent for intellectual property activities may issue decision to cancel decision to register indication of geographical origin or decision to recognize authorized user status, or issue decision to refuse such claim.

Decision referred to in paragraph 1 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

In the period of 90 days from the final decision which declares null the decision on the grant of the indication of geographical origin or the decision on the recognition of a status of an authorized user of the indication of geographical origin shall be published, with all the prescribed data from the decision, by a body competent for intellectual property activities in its official gazette.

##### Article 66

Cancellation of decision to register indication of geographical origin or decision to recognize authorized user status shall not affect any court decision related to infringement of rights that is final and enforceable at the time of issuance of such decision, provided that claimant or authorized user of indication of geographical origin acted with due care.

## VIII. TERMINATION OF INDICATION OF GEOGRAPHICAL ORIGIN

### Termination of Appellation of Origin or Geographical Indication in Country of Origin Article 67

Registered appellation of origin or registered geographical indication shall cease to be valid if protection in the country of origin should terminate.

At the request of an interested person, accompanied with certificate issued by competent authority of the country of origin of relevant appellation of origin or geographical indication, or on receiving notification by competent authority of the country of origin of the relevant appellation of origin or geographical indication that protection of such appellation of origin or geographical indication is no longer in effect in the country of origin, the authority competent for intellectual property activities will issue a decision on termination of validity of appellation of origin or geographical indication.

Decision referred to in paragraph 2 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

The decision referred to in paragraph 2 of this Article shall be entered by the competent authority in the relevant register, and it will publish in its official publication the prescribed data on termination of validity of appellation of origin or geographical indication.

### Termination of Geographical Indication by Court Decision Article 68

Any interested person may instigate a procedure by filing a suit in order to establish that a specific geographical indication has become a generic name, i.e. usual name for a specific product.

The procedure referred in paragraph 1 of this Article shall be administered by the competent court.

Registered geographical indication shall cease to be valid by a final and enforceable court decision establishing that it has become a generic name, i.e. usual name for a specific product.

Registered geographical indication that is registered and protected in its country of origin as appellation of origin may not be declared to be a generic name, i.e. usual name for a specific product, for as long as such protection is valid in the country of origin.

After the authority competent for intellectual property activities receives the court decision referred to in paragraph 3 of this Article, the authority competent for intellectual property activities will enter the decision in the relevant register and publish in its official publication the prescribed information on termination of geographical indication.

## IX. TERMINATION AND REVOCATION OF AUTHORIZED USER STATUS

### Termination of Status of Authorized User of Appellation of Origin or Geographical Indication Article 69

Status of authorized user of appellation of origin or geographical indication shall terminate before the time period referred in Article 48, paragraph 1 of this Law expires, as follows:

- 1) If authorized user of appellation of origin or geographical indication should renounce his status – on the first day following the day of submitting document of renunciation to the authority competent for intellectual property activities;
- 2) If, pursuant to Articles 67 or 68 of this Law, appellation of origin or geographical indication should be terminated by the decision of the competent authority – on the day specified by that decision;
- 3) If authorized user status holder who is a legal or natural person has terminated or died - on the date of termination or death, except where such status transfers to legal successors of legal person.

## Revocation of Decision to Recognize Authorized User Status

### Article 70

Upon a request of an interested person, or the competent authority, the authority competent for intellectual property activities may revoke the decision to recognize the status of authorized user of appellation of origin or geographical indication if it finds that the conditions provided for by this Law for recognition of the status of authorized user of appellation of origin or geographical indication have ceased to be in place.

In the procedure concerning the request for revocation of decision to recognize the status of authorized user of appellation of origin or geographical indication, authorized user of appellation of origin or geographical indication shall bear the burden of proving that the conditions prescribed by law for recognition of the status of authorized user of appellation of origin or geographical indication are in place.

If the applicant for revocation of decision to recognize the status of authorized user of appellation of origin or geographical indication should withdraw such request during the procedure, the authority competent for intellectual property activities may continue such procedure *ex officio*.

Provisions of Article 41, paragraphs 2, 3 and 4 and Article 42 of this Law shall apply *mutatis mutandis* to the procedure concerning the request for revocation of decision to recognize the status of authorized user of an appellation of origin or geographical indication.

Decision referred to in paragraph 1 of this Article may be appealed to the Government within 15 days of the day of the receipt of the decision.

The Government decision on the appeal may be subject to administrative dispute, which is to be instigated within 30 days from the day of the receipt of the Government decision.

The status of a person entered in the relevant register as authorized user of appellation of origin or geographical indication shall be terminated on the first day following the day the decision to revoke a decision to recognize the status of authorized user of appellation of origin or a geographical indication became final and enforceable.

## X. CIVIL LAW PROTECTION

### Protection in Case of Event of Infringement of Registered Indication of Geographical Origin

#### Article 71

In the event of infringement of registered appellation of origin or geographical indication, the claimant may file a suit requesting the following:

- 1) Determination of infringement of appellation of origin or geographical indication;
- 2) Termination of infringement of appellation of origin or geographical indication;
- 3) Destruction or alteration of objects infringing appellation of origin or geographical indication;
- 4) Subtraction, destruction or alteration of tools and equipment used to manufacture objects infringing appellation of origin or geographical indication, if it is necessary for preventing infringement;
- 5) Compensation of damage to property and reasonable costs and expenses of the procedure;
- 6) Publication of judgment at defendant's expense;
- 7) Supplying information on third parties participating in infringing the appellation of origin or geographical indication.

Any person infringing appellation of origin or geographical indication shall be liable for damages in accordance with general rules on damages.

If infringement of registered appellation of origin or geographical indication was intentional, claimant may request from defendant compensation amounting to up to three times of amounts of actual damage and lost profit.

Procedure concerning the action referred to in paragraph 1 of this Article shall be expedited.

## Infringement of Registered Appellation of Origin or Geographical Indication

### Article 72

Any unauthorized use of appellation of origin or geographical indication by any economic operator within the meaning of Articles 56 and 57 of this Law shall be deemed to constitute infringement of registered appellation of origin or geographical indication.

Any imitation of registered appellation of origin or geographical indication shall also be deemed to constitute infringement of such appellation of origin or geographical indication.

### Right to File Suit

#### Article 73

Suit for infringement of registered appellation of origin or a geographical indication referred to in Article 71 of this Law may be filed by any person referred to in Article 18, paragraph 2 of this Law, authorized user of appellation of origin or geographical indication, and by public or state prosecutor.

If a procedure referred to Articles 62, 67, 68. and 70. of this Law has been initiated before the competent authority or court, the court deciding the case concerning the suit referred to in Article 71 of this Law shall stay the procedure pending the final decision of the competent authority or the court.

### Time Limit to File Suit

#### Article 74

Suit for infringement of registered appellation of origin or geographical indication may be filed within a period of three years of claimant's learning of infringement and identity of infringer, but not later than five years of the day of first infringement.

## XI. PROVISIONAL MEASURES

### Provisional Measure of Seizure or Removal from Circulation

#### Article 75

At the request of person that makes it probable that registered appellation of origin or geographical indication has been infringed or is about to be infringed, the court may order a provisional measure of seizure or removal from circulation of infringing products as well as means for production of those products, and/or an injunction prohibiting continuation of activities already commenced that infringe or might infringe the registered appellation of origin or geographical indication.

### Securing of Evidence

#### Article 76

At the request of person that makes it probable that registered appellation of origin or geographical indication has been infringed or may be infringed, or that there is risk of irreparable damage, as well as that there is reasonable doubt that evidence thereof will be destroyed or that it will be impossible to obtain at a later time, the court may decide to secure evidence without prior notification or hearing of the person from whom evidence is to be collected.

Inspection of premises, vehicles, books and documents, as well as seizure of objects, hearing of witnesses and expert witnesses shall be deemed to be securing of evidence within the meaning of paragraph 1 of this Article.

The person from whom the evidence is being collected shall be served the court decision on ordering a provisional measure to secure evidence at the time of collection of evidence, and absent person shall be served such decision as soon as it is possible.

### Time Limit to Request Provisional Measures

#### Article 77

Provisional measure referred to in Article 75 of this Law and securing evidence referred to in Article 76 of this Law may also be requested prior to filing a suit for infringement of registered appellation of origin or geographical indication, provided that suit is filed within 30 days from the date of execution of provisional measure or measure to secure evidence.

Appeal against a court decision ordering a provisional measure referred to in Article 75 of this Law and a measure to secure evidence referred to in Article 76 of this Law shall not stay execution of the decision.

### Security

#### Article 78

At the request of a person against whom procedure for infringement of registered appellation of origin or geographical indication, or procedure for ordering a provisional measure has been initiated, the court may order an appropriate amount of money to be deposited by the claimant as security in the event that the request is unfounded.

### Obligation to Provide Information

#### Article 79

A court may order a person having infringed registered appellation of origin or geographical indication to provide information on any third parties participating in infringement of registered appellation of origin or geographical indication and on their distribution channels.

Person referred to in paragraph 1 of this Article who fails to observe the obligation of providing such information shall be held liable for any damage arising therefrom.

## XII. PENAL PROVISIONS

### Article 80

Any company or other legal person infringing registered appellation of origin or registered geographical indication in the manner referred to in Article 72 of this Law shall be fined in the amount from RSD 100,000.00 to RSD 3,000,000.00 for economic offence.

Responsible person in a company, enterprise or other legal person shall also be fined for economic offence for actions referred to in paragraph 1 of this Article in the amount from RSD 50,000.00 to RSD 200,000.00.

### Article 81

An entrepreneur infringing registered appellation of origin or registered geographical indication or right referred to in the application in the manner referred to in Article 61 of this Law shall be fined for minor offence in the amount from RSD 60,000.00 to RSD 500,000.00.

Other natural person shall also be fined for actions referred to in paragraph 1 of this Article in the amount from RSD 10,000.00 to RSD 50,000.00.

### Article 82

Any legal person representing other persons without authorization in exercising of rights under this Law shall be fined for minor offence in the amount from RSD 100,000.00 to RSD 1,000,000.00.

Responsible person in a legal person shall be fined for actions referred to in paragraph 1 of this Article in the amount from RSD 10,000.00 to RSD 50,000.00.

Any natural person representing foreign natural or legal persons without authorization shall be fined for minor offence in the amount from RSD 10,000.00 to RSD 150,000.00 (Article 15).

### XIII. TRANSITIONAL AND FINAL PROVISIONS

#### Article 83

Registers established in compliance with the previously valid regulations in this field continue to be kept as the Register of the Applications for the Grant of the Indications of Geographical Origin, Register of Applications for the Grant of the Status of the Authorized User of the Indications of Geographical Origin, Register of the Indications of Geographical Origin and Register of the Authorized Users of the Indications of Geographical Origin, in compliance with this Law.

Registered appellations of origin and registered geographical indications valid on the day of coming into effect of this Law shall remain in effect and be subject to provisions of this Law.

Provisions of this Law will apply also to recognizing indications of geographical origin and to applications for recognition of status of authorized user of indication of geographical origin submitted prior to the day of coming into effect of this Law where administrative procedure has not been completed, as well as to other already initiated procedures related to indications of geographical origin which were not completed prior to the time of coming into effect of this Law.

#### Article 84.

Regarding indications of geographical origin which are registered on the level of the European Community in compliance with the regulation of the European Community and which are customary terms in common use in the Republic of Serbia for designating certain products, the provision referred to in Article 57 paragraph 1 of this Law, shall be applied 3 years after the entry into force of the Interim Agreement on Trade and Trade-Related Matters Between the European Community, of the one part, and the Republic of Serbia, of the Other Part.

The provision referred to in Article 57 paragraph 3 of this Law shall be applied 3 after the entry into force of the Interim Agreement on Trade and Trade-Related Matters Between the European Community, of the one part, and the Republic of Serbia, of the Other Part.

#### Article 85

Implementing regulations for this Law shall be enacted within four months from the day of coming into effect of this Law.

By the time the implementing regulations envisaged by this Law are enacted, the provisions of regulations issued based on the Law on Indications of Geographical Origin (“Official Journal of the Serbia and Montenegro”, no. 20/06) shall apply, except for provisions contrary to this Law.

#### Article 86

On the day this Law enters into force, the Law on Geographical Indications of Origin (“Official Journal of the Serbia and Montenegro”, no. 20/06) shall cease to be in effect.

#### Article 87

This Law shall enter into force on the eighth day after the day of its publication in the “Official Gazette of the Republic of Serbia”.