

# **The Implementing Regulations under the Decree-Law No. 555 Pertaining to the Protection of Geographical Signs**

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## **PART ONE GENERAL PROVISIONS**

### **Section One Object, Scope, Foundation and Definitions**

#### *Object*

**1.** The object of this Regulation is to specify the procedures and the rules to be followed concerning the preparation of the application documents for registering a geographical sign, and other matters related with geographical signs as provisioned in The Decree-Law No. 555 Pertaining to the Protection of Geographical Signs.

This Regulation encompasses the principles, the rules and the conditions for the protection of geographical signs by the registration of the appropriate geographical signs.

#### *Legal Foundation*

**2.** This regulation has been prepared based on the provisions of The Decree-Law No. 556 Pertaining to the Protection of Geographical Signs.

## *Definitions*

### **3. For the purposes of this Regulation following shall mean:**

Geographical Sign:	Signs indicating the origin of a product which possesses a specific quality, reputation or other characteristics attributable to that place, area, region or country of origin.
Designation of origin:	The name of a place, an area or a region of a product originating from that particular place, area, region or in exceptional cases a country, of which the geographical boundaries have been defined, and that the quality or characteristics of the product are essentially or exclusively due to the inherent natural and human factors of this place, area or region, and that the production, processing and preparation activities of all of which take place within the defined boundaries of this place, area or region.
Geographical indication:	The name of a place, an area or a region of a product originating from that particular place, area or region of which the geographical boundaries have been defined, and that the product possesses a specific quality, reputation or other characteristics attributable to this place, area or region, and that at least one of the activities of production, processing or preparation of which take place within the defined boundaries of this place, area or region.
Institute:	Turkish Patent Institute
Circular:	Circular on the schedule of fees to be administered by the Turkish Patent Institute in accordance with Articles 6/f and 25 of the Decree-Law No. 544.

## **Section Two**

### **Application, Examination, Publication**

#### *Application*

**4.** Natural or legal persons who are producers of the product, consumers associations, public institutions related with the product or the geographical region may apply for the registration of a geographical sign.

#### *Conditions of Application*

**5.** When applying for the registration of a geographical sign, a petition, conforming to the sample form attached to this Regulation as Annex-1, shall be prepared on an A4 size plain

white paper using a typewriter or a computer printer, and all of the questions shall be answered.

The application petition must include information identifying the applicant, and information concerning the applicant's group as specified in Article 4 of this Regulation.

Following documents must be filed with the application:

- a) 15 copies of the (8x8) representation of the designation of origin or the geographical indication to be registered,
- b) the name of the product with respect to the designation of origin or the geographical indication to be registered,
- c) the original receipt for the payment of the application fee,
- d) the description of the product, technical information and documents explaining the physical, chemical, micro biological and similar characteristics of the product and if necessary of the raw material,
- e) production techniques of the product and if relevant the authentic and specific local techniques and conditions,
- f) information and documents evidencing that the product conform to the respective definition of the geographical sign,
- g) the definition of the geographical area, information and the documents clearly indicating the geographical boundaries,
- h) information detailing the labelling, marking and the means of using the registered designation of origin or geographical indication,
- i) information detailing the inspection structure,
- j) the original receipt for the payment of publication fee.

#### *Examination*

**6.** The application shall be examined by the Institute as to the compliance with Articles 3, 5, 7 and 8 of the Decree-Law No. 555. The applicant shall be asked to remedy the deficiencies, and if deemed necessary shall be requested to supply additional information and documents, and shall be allowed three months to comply. If the deficiencies are not remedied within this period the application shall be rejected by the Institute.

Institute may require that the application be examined by one or more public institutions or universities, or by independent private institutions to verify the technical information. The applicant shall be informed of the examination fees to be paid to these institutions and the fees for the services of the Institute as prescribed in the Circular, and requested to execute the payments within three months. The application shall be considered withdrawn where these fees are not paid within the prescribed period.

#### *Publication*

**7.** The applications which comply with the provisions of Articles 3, 5, 7 and 8 of the Decree-Law No. 555 shall be published in the Official Gazette and in two of the highest circulating national newspapers and in one local newspaper. Publication shall include the following:

- a) information on the identify of the applicant,
- b) name of the product,
- c) the designation of origin or geographical indication,
- d) conditions relating to the use of the registered geographical sign.

The publication fee shall be requested from the applicant. A published application shall be provisionally entered in the geographical signs register.

### **Section Three** **Opposition, Registration, Payment of Fees**

#### *Objections and Examination*

**8.** Within six months of the publication of the application of a geographical sign, anybody legitimately concerned may object to the registration by filing an objection at the Institute as to the invalidity of the sign with respect to the Articles 3, 5, 7 and 8 of the Decree-Law No. 555. The opposition fee prescribed in the Circular has to be paid before the examination can start. After receiving the opposition if the Institute finds it necessary to have the objection examined by one or more of the public institutions or universities or independent private institutions which have the expertise in the related subject matter, the applicant shall be informed of this decision and requested to pay within three months the examination fee and the fee for the Institute's services as prescribed in the Circular.

Oppositions by Public Institutions are not subject to the opposition fee prescribed in the Circular.

#### *Registration and Recording in the Register*

**9.** If no objection is filed within six months of the publication at the Official Gazette, the geographical sign or name shall become effective as of the publication date and shall be recorded in the geographical sign register.

The following particulars are entered in the geographical sign register:

- a) application date and number,
- b) registration date and number,
- c) the identity and address of the holder of the right to the geographical sign,
- d) conditions relating to the use of the registered geographical sign.

Applications which have undergone changes with respect to form and content during the examination process shall be re-published within the framework of the provisions of Article 9 of the Decree-Law No. 555, and shall become effective as of the new publication date. This status will be recorded in the geographical sign register.

#### *Payment of Fees*

**10.** The filing, registration and publication fees, the examination fees to be paid to outside institutions, and fees due to the Institute shall be payable by the applicant or his agent. The applicant or his agent shall be notified by the Institute with regard to the dates of payment of fees. Where the fees are not paid within the prescribed periods the application shall be considered withdrawn.

## **Section Four Copy and Register**

### *Copy*

**11.** A copy of the Geographical Sign Certificate shall be supplied upon the request of the trademark proprietor or of the agent. Following documents have to be submitted for obtaining a copy:

- a)* a petition,
- b)* the original receipt for the payment of the fee

### *Register*

**12.** Upon request and payment of the prescribed fee a copy of the register shall be available to the any requesting party.

## **PART TWO**

### **Section One Use of Geographical Names and Inspection**

#### *Use of the Registered Name*

**13.** The geographical names registered in compliance with the conditions specified in the Decree-Law No. 555, shall be used only on products they are registered for.

The provisions of Article 15 of the Decree-Law No. 555 shall not extend to geographical signs which have been continuously used in good faith for minimum period of ten years prior to 15 April 1994.

Provided that the sign has not been used to mislead the public, the use of the names of the right holder and of the successor in title during business intercourse shall not be considered breach of Article 15. However, where the use of the name within the meaning of the provision of Article 15 of Decree-Law No. 555, is liable to mislead the public as to the actual geographical origin of the product, the Institute shall request that the necessary measures are taken to prevent the public from being misled.

#### *Inspection*

**14.** Any association, irrespective of its legal form, of the producers or the processors of the product which has registered the related geographical sign within the provisions of this Decree Having the Power of Law, shall possess sufficient qualified staff, equipment and resources to inspect the production, marketing, medium of use of registered designation of origin or geographical indication, labelling details of the product bearing the protected geographical sign. Co-operation of the related experts and independent bodies may be enlisted.

The scope and the form of inspection procedures shall be ruled by the Implementing Regulation.

## **Section Two**

### **Invalidity of the Geographical Sign**

**15.** Where a claim of invalidity has been made under Article 23 within the provisions of Article 21 of the Decree-Law No. 555, and upon which a geographical sign has been declared invalid by the court, the decision of invalidity shall have effect against all third parties. The Institute shall record the court decision in the register and make the decision public by publishing.

## **Section Three**

### **Last Provisions**

**Transitional Article 1.** The fees which have not been paid before coming into force of this Regulation and of the Circular of Fees to be Administered by The Turkish Patent Institute in accordance with the provisions of Articles 6/f and 25 of the Decree-Law No. 544, shall be paid within two months of the Institute's notice to the applicant. The applications shall be considered withdrawn if the fees are not paid within this period

### *Entry into Force*

**16.** These Regulations shall enter into force on the day of publication.

### *Execution*

**17.** These Regulations shall be executed by the President of the Turkish Patent Institute.

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