

## *Law of Ukraine*

### **On Amendments to the Certain Legislative Acts of Ukraine Regarding the Improvement of the Legal Protection of Geographical Indications**

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The Verkhovna Rada of Ukraine **decrees:**

I. To amend the following legislative acts of Ukraine:

1. In the Article 160 of the Commercial Code of Ukraine (Bulletin of the Verkhovna Rada of Ukraine, 2003, No. 18-22, Article 144):

1) the second part shall be laid out in the following wording:

"2. The terms of use of geographical indications in the field of business shall be determined by law";

2) the third part shall be deleted.

2. The first part of Article 502 of the Civil Code of Ukraine (Bulletin of the Verkhovna Rada of Ukraine, 2003, No. 40-44, Article 356) shall be laid out in the following wording:

"1. Subjects of intellectual property right to geographical indication are manufacturers of goods, associations of producers, other persons defined by law."

3. In the Law of Ukraine "On Protection of the Rights to Indicate the Origin of Goods" (Bulletin of the Verkhovna Rada of Ukraine, 1999, No. 32, Article 267 with the subsequent changes):

1) The name and preamble shall be laid out in such wordings:

“On the Legal Protection of Geographical indications”

This Law sets out legal principles for the legal protection of geographical indications in Ukraine, and regulates relationship arising in the course of registration, use and protection thereof.

The special aspects of relations occurring in the course of preparing to registration, use and protection of geographical indications with respect to agricultural products (agricultural goods), foodstuff, wines, aromatized wine products, spirit drinks, and control with respect thereof shall be regulated by other laws”;

2) Articles 1 and 2 shall be laid out in the following wording:

“**Article 1.** Definition of terms

1. For the purposes of this Law, the terms mentioned below are used with the following meanings:

1) Appellate Chamber — the Institution’s collegiate body reviewing objections to the Institution’s decisions regarding accrual of rights to intellectual property and other matters included by this Law to the scope of its competence;

2) Bulletin — the Institution’s official electronic bulletin;

- 3) Geographical indication — appellation of origin identifying a product originating from certain geographical place and having special quality, reputation or other characteristics stemming mainly from this geographical place of origin, preserving that at least one of the stages of this product's manufacture (production (extraction) and/or processing and/or preparation) takes place in a certain geographical area;
- 4) geographical place — any geographical object with officially defined boundaries, in particular: country, region as part of a country, settlement, locality, etc.;
- 5) state system for legal protection of intellectual property — the Institution and the set of expert, research, educational, information and other appropriately specialized public establishments falling within the scope of the Institution's administration;
- 6) examination body — a public body (enterprise, organization) authorized by the Institution to examine and to proceed with expertise of applications;
- 7) application — a package of documents required for registration of a geographical indication;
- 8) applicant — a person or association of persons filing an application;
- 9) appellation of origin — a type of geographical indication meaning the name identifying a product originating from a certain geographical place and having special qualities or properties stemming, solely or mainly, from particular geographical environment with natural and human factors characteristic for this geographical place, if all stages of this product's manufacture (production (extraction) and/or processing and/or preparation) take place in a designated geographical area;
- 10) the name becoming generic — a product name which, although being the name of the geographical place in which the product of this type was first made and/or processed, has become generally used in Ukraine as the name of a certain product type irrespective to the specific place of that product's origin, including derivatives from that name;
- 11) person — natural or legal person;
- 12) registration — state registration of a geographical indication;
- 13) Register — the electronic State Register of Geographical Indications of Ukraine;
- 14) product specification — a set of information regarding a product concerning which a geographical indication has been used, approved by the authorized body;
- 15) authorized body — a central body of executive power designated by the Cabinet of Ministers of Ukraine and authorized to approve product specifications and amendments thereto and control special qualities and other characteristics of products marked with a geographical indications, and to designate boundaries of geographical places to which these special qualities or other characteristics are related and manufacturers of these goods within the boundaries of these geographical places;
- 16) Institution — the central body of executive power responsible for implementation of the national policy on intellectual property”;

**“Article 2.** Ukrainian legislation on the legal protection of geographical indications

Ukrainian legislation on the legal protection of geographical indications consists of this Law, Laws of Ukraine On the Protection against Unfair Competition, On the Protection of Rights to Trademarks, On the Protection of Consumer Rights, On Advertising, Laws of Ukraine regulating special aspects of relations occurring in the course of preparing to registration, use and protection of geographical indications with respect to agricultural products (agricultural goods), foodstuff, wines, aromatized wine products, spirit drinks, and control and other regulatory acts”;

3) in the **Article 3**

In the name the words "protection of rights" shall be replaced with the words "legal protection";

in para one:

in the first paragraph, the words "protection of rights" shall be replaced with the words "legal protection";

the third paragraph shall be laid out in the following wording:

"carries out state registration of geographical indications";

**“Article 5. Rights and duties of foreign and other persons**

1. Foreign and stateless persons have the same rights and duties as the rights and duties provided to Ukrainian citizens by this Law in accordance with international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine.

2. Foreign and other persons permanently residing or permanently staying outside Ukraine shall exercise their rights in the relationship with the Institution directly by return to the institution or via representatives for intellectual property affairs (patent attorneys) registered according to a provision approved by the central body of executive power responsible for formation of the national policy on intellectual property”;

**Article 6. Providing legal protection to geographical indications**

1. This Law provides legal protection to geographical indications on the basis of their registration according to the procedure provided by this Law or according to international treaties of Ukraine.

Legal protection of geographical indications has unlimited period, except in the cases of early termination of a geographical indication mentioned in Article 21 of this Law.

2. The scope of legal protection of a geographical indication is determined by the product’s characteristics and the boundaries of the geographical appellation of its origin stated in the Register”;

**Article 7. Conditions for provision of legal protection**

1. Legal protection is provided to geographical indications, if the declared name meets requirements of the indent four, Article 1 of this Law, and the grounds for denial of legal protection set out in this Law do not apply to this name.

2. Legal protection is provided to a geographical indication appellation of origin, if the declared name meets requirements of the indent ten of Article 1 of this Law and the grounds for denial of legal protection set out in this Law do not apply to it.

Irrespectively of the provisions of the indent ten of Article 1 of this Law, the name of geographical place shall be considered the appellation of origin, if raw materials used to manufacture this product originate from a geographical place other than the geographical place of the product's manufacture, if geographical place of the production (extraction) of raw materials is designated, there are special conditions for the production of these raw materials and observance of these conditions is controlled.

For the purposes of this part, only living animals, meat and milk can be considered as raw materials.

3. Legal protection is provided to a geographical indication fully or partially homonymous with a geographical indication registered in Ukraine under condition of bona fide local and traditional use and if this use rules out the possibility of confusing or deceiving consumers as regards the product's actual origin.

Homonymous geographical indications may be registered, if there is a difference during the use between this indication and a previously-registered geographical indication without giving preference to a particular manufacturer and if measures were taken to avoid deception of consumers.

A homonymous indication correctly indicating geographical place of the product's manufacture but creating wrong impression in consumers that the product was made in another geographical place cannot be registered”;

5) in the first part of Article 8.

paragraph b) shall be deleted;

paragraph c) shall be laid out in the following wording:

“c) represents a name that became generic;”

paragraph d) shall be deleted;

paragraph e) shall be laid out in the following wording:

“e) includes or reproduces a name of plant variety or animal breed, and therefore, can deceive consumers as regards the product's actual origin. This paragraph does not apply in the cases when:

- a) a product contains or originates from the relevant plant variety or animal breed;
- b) consumers are not deceived;
- c) the name of plant variety or animal breed is used in good faith;

the product's manufacture and sales went beyond the boundaries of its appellation of origin before the date of filing a geographical indication registration application;

in paragraph f) the words “with the label for goods and services, rights to which”, “this label”, and “identity” shall be respectively replaced with “the trademark, rights to which”, “this trademark”, and “authenticity”;

6) Article 9 shall be laid out in the following wording:

**“Article 9. The right to registration of a geographical indication**

1. The right to state registration of a geographical indication is granted to the association of persons which, in a designated geographical place, manufacture the product and/or produce and/or process raw materials of a product whose special quality, reputation or other characteristics stem from this geographical place.

For the above purpose, association of persons means any set of persons regardless of its legal form or composition.

One natural or legal person may have the right to register a geographical indication only if:

- a) this person is the sole manufacturer which, in a designated geographical place, manufactures the product and/or produce and/or process raw materials of a product and is desirous of filing an application for registration of a geographical indication;
- b) the geographical area in which the product is manufactured (extracted) and/or processed and/or prepared has characteristics significantly different from the adjacent areas, or if the product’s characteristics are different from products made in the adjacent areas”;

7) supplements the Article 9<sup>1</sup> with following content:

**Article 9<sup>1</sup>. Product specification**

1. For registration of a geographical indication, the product for which this indication is filed must meet the product specification approved by the authorized body.

2. Product specification shall include at least the data on:

- a) name applied for registration as the name of the product’s appellation of origin or geographical indication, in the form and language used during the product’s sales or the language historically used to mark the product in the relevant geographical area;
- b) name and description of the product, including (if appropriate) raw materials (key characteristics, physical, chemical, microbiological and organoleptic characteristics of the product);
- c) boundaries of geographical place where the product is manufactured and, if appropriate, area where raw materials are produced, if it is greater than or different from the area where the product is manufactured;
- d) description of the product manufacturing methods, for instance, specific conditions and invariable local methods of product’s manufacture (if any), and also, packaging information, if the applicant decides and substantiates that the product must be packaged in a designated geographical place for the purpose of preserving quality, or guaranteeing the product’s authenticity, or ensuring control;
- e) information regarding relation of the product’s specific quality or other characteristics to geographical environment mentioned in the indent ten of Article 1 of this Law, or relation of the product’s special quality, reputation or other characteristics to its geographical place of origin mentioned in the indent four of Article 1 of this Law;
- f) special product labelling rules (if available).

3. Special requirements to specifications for agricultural products, foodstuff, wines, aromatized wine products, spirit drinks might be defined by the special laws in the appropriate spheres. The requirements to specifications and to procedures on approval thereof shall be approved by the

regulatory acts approved specially authorised bodies designated by the Cabinet of Ministers of Ukraine.

8) part one of the **Article 10** shall be laid out in the following wording:

“1. An application shall be filed with the Institution by a person or association of persons who have the right to registration of a geographical indication under Article 9 of this Law.

An application may be filed in paper or electronic form at the applicant’s choice.

Electronic applications are processed in accordance with the law regulating electronic documents and electronic document flow, this Law and the rules set by the central body of executive power responsible for formation of the national policy on intellectual property. Electronic applications may be filed upon identification of the applicant (applicant’s representative for intellectual property affairs or another authorized representative) using an electronic digital signature.

In part three the words “(patent attorney)” shall be deleted;

4. An application shall be completed in the Ukrainian language and contain:

- a) application for registration of geographical indication (the product’s appellation of origin), stating the applicant’s (applicants’) name(s) and address(es) and the authorized bodies checking the product’s conformity with product specification.
- b) product’s specification mentioned in the Article 9<sup>1</sup> of this Law;
- c) a document stating:
  - key aspects of the product specification: declared name, product description, including (if appropriate) special rules for product’s packing and marking, and brief description of the boundaries of the geographical place where the product is manufactured and/or processed;
  - description of the product’s relation to geographical environment or geographical place of the product’s origin defined in the indents four and ten of Article 1 of this Law, respectively, including special aspects of the product’s description or manufacturing methods confirming this relation.

Part five shall be deleted

Part six shall be laid out in the following wording:

“6. Instead of the product specification mentioned in the paragraph b) of part four of this Article, foreigners shall submit, along with the application, documents confirming legal protection of filed geographical indication in the relevant foreign country or accrual of rights to this indication on the basis of use in good faith, if provided by that country’s law. Such documents shall meet the minimum requirements for data in the specification stated in article 9<sup>1</sup>.

The documents mentioned in this part may be submitted in a foreign language, in which case, the Institution must receive their Ukrainian translation within two months after application filing date.”;

Parts seven and eight shall be replaced with three new parts of the following wording:

“7. Applications must be completed and filed according to the rules set by the central body of executive power responsible for formation of the national policy on intellectual property.

8. A fee is charged for filing an application. This fee must be paid before expiration of two months after application filing date. This period may be extended by up to six months, if a relevant request was filed before expiration of that period and the applicable filing fee paid.

9. Application filing date is the date when the Institution receives an application for registration of a geographical indication, if all documents and information mentioned in the parts four and six of this Article are available”;

9) **Article 11** shall be laid out in the following wording:

“**Article 11.** Examination of applications

1. Examination of applications has the status of scientific-technical examination, and is performed by the expertise establishment in accordance with this Law and the rules set on the basis of this Law by the central body of executive power responsible for formation of the national policy on intellectual property.

The expertise establishment conducts information activities necessary for examination of applications, and is a center for international exchange of publications in accordance with the Convention concerning the International Exchange of Publications adopted on 3 December 1958 by the General Conference of the United Nations Educational, Scientific and Cultural Organization.

2. The end results of examination of an application not considered withdrawn or which has not been withdrawn shall be laid down in the application examination report which enters into force upon approval thereof by the Institution. Based on this report, the Institution will decide on registration of a geographical indication or denying registration of a geographical indication. The Institution’s decision will be sent to the applicant.

An applicant has the right to request copies of materials contradicting the application within one month after receiving the Institution’s decision. These copies will be sent to the applicant within one month after receiving a request.

3. The applicant has the right to participate, personally or via a representative, in accordance with the applicable procedure, in the review of matters arising during examination.

4. The applicant has the right to correct errors in his application and change his name and correspondence address, the correspondence address, name and address of his representative, and clarify product description or boundaries of geographical place of the product’s origin.

Changes related to clarification of product description or boundaries of geographical place of the product’s origin shall not concern the product’s essential characteristics or change boundaries of geographical place.

Corrections and changes will be taken into account, if the expertise establishment receives them before receiving a document confirming payment of the state duty for state registration of geographical indication.

A fee is charged for filing a request for correction of errors or making any of the aforementioned changes, if an error is not obvious or technical and the change has occurred due to circumstances within the applicant’s control.

5. An expertise establishment may require applicants to provide additional materials, if examination of an application is impossible without them or if there are reasonable doubts as regards the accuracy of any information or elements contained in the application’s materials.

An applicant shall submit additional materials within two months after receiving an expertise establishment's notice or conclusion or copies of materials contradicting the application. If the applicant fails to submit additional materials by the required deadline, his application shall be considered withdrawn and the relevant notice will be served to the applicant.

The deadline for submission of additional materials may be extended for up to six months, if a relevant request was filed before expiration of that period and the applicable filing fee paid.

If the deadline for submission of additional materials is missed for valid reasons, the applicant's rights concerning application shall be restored, if a relevant request along with additional materials was submitted within six months after expiration of that period and the applicable filing fee paid.

6. Within three months after the date of publication in the Bulletin of information regarding the application and product specification mentioned in Article 9<sup>1</sup> of this Law, any person may submit a reasonable objection to an expertise establishment concerning nonconformity of declared indication with the conditions for legal protection set out in Articles 7 and 8 of this Law, or breach of conditions set out in Article 9 of this Law.

A fee is charged for filing an objection.

Requirements to objections are set by the central body of executive power responsible for formation of the national policy on intellectual property. An objection shall be submitted together with a copy thereof.

The expertise establishment will send a copy of objection to the applicant.

The applicant may inform the expertise establishment about his opinion regarding the objection within two months after receiving it. The applicant may refute the objection and leave the application unchanged, make changes in the application or recall it

Examination body within two months after receiving the objection invites a person filed an objection and an applicant for consultations within the reasonable time, but not more than three months.

A person which filed an objection and an applicant shall start such consultations immediately. They shall provide each other with relevant information for evaluation of the application's conformance with the requirements indicated in articles 7,8,10 of this Law, or product specification's conformance with the requirements of the article 9<sup>1</sup> of this Law. If the agreement is not reached, such information shall be provided to examination body.

At any time within these 3 months the examination body may, under request of the applicant, extend consultations additionally, but not more than for 3 months.

7. During examination:

- a) the application filing date is determined in accordance with part nine of the Article 10 of this Law;
- b) the application is checked for conformance with formal requirements of Articles 9 and 10 of this Law and the rules set on its basis by the central body of executive power responsible for formation of the national policy on intellectual property;
- c) the fee paid for application filing is checked for conformance with the applicable requirements;



d) the declared indication is checked for conformance with the conditions for legal protection set out in Articles 7 and 8 of this Law.

8. If all documents and information required for an application by the parts four to six of Article 10 of this Law are available and the application filing fee is paid, the applicant will be sent a notice of determined application filing date.

9. If any of the materials required by the parts four to six of Article 10 of this Law are unavailable, the applicant shall be immediately notified about it.

If the applicant submits the required materials within two months after receiving the expertise establishment's relevant notice, the application filing date shall be considered date when the expertise establishment receives the last of required materials. Otherwise, the application shall be considered not filed and the application shall be notified appropriately.

10. If requirements of Article 10 (8) of this Law are not met, an application shall be considered withdrawn and the applicant shall be notified accordingly.

11. If an application is compliant with Article 10 of this Law and the rules set on its basis by the central body of executive power responsible for formation of the national policy on intellectual property, and the fee paid for application filing is conformant with the applicable requirements, the applicant will be notified accordingly and information regarding the application and product specification mentioned in Article 9<sup>1</sup> of this Law or equivalent document in accordance with part 6, article 10 of this Law will be published in the Bulletin.

After publication of information regarding the application and product specification, any person may have access to the application's materials according to the procedure set by the central body of executive power responsible for formation of the national policy on intellectual property. A fee is charged for access to the application's materials.

12. If an application is noncompliant with formal requirements of Article 10 of this Law and the rules set on its basis by the central body of executive power responsible for formation of the national policy on intellectual property, or the fee paid for application filing is not conformant with the applicable requirements, the applicant will be notified accordingly and offered to fix deficiencies.

The applicant shall fix deficiencies by the deadline and according to the procedure set out in the part five of this Article for additional materials.

13. Objections filed under the part six of this Article will be reviewed during verification of conformity of declared indication with the conditions for legal protection set out in Articles 7 and 8 of this Law.

An objection will be reviewed on the basis of reasons stated therein and the applicant's response (if provided by the required deadline).

An objection to an application may be granted only if it:

- proves nonconformity of a declared indication with the conditions for legal protection set out in Articles 7 and 8 of this Law, or breaches Article 9 of this Law;
- proves that registration of a declared indication would damage a registered partially or fully homonymous geographical indication, or trademark, or existence of products marketed in good faith within at least five years prior to the publication date of product specification mentioned in Article 9<sup>1</sup> of this Law;

- contains the proof that a declared indication became a generic name.

The results of reviewing an objection will be stated in the application examination report. A copy of the Institution's decision made on the basis of this report will be sent to the person who filed the objection.

14. If no objections were received or if objections were deemed unfounded, and if a declared indication is compliant with the conditions set out in Articles 7 and 8 of this Law and the conditions set out in Article 9 of this Law are met, the Institution will approve registration of a geographical indication based on examination report.

15. If examination made by taking into account an objection (if any) establishes that a declared indication is not compliant with the conditions for legal protection set out in Articles 7 or 8 of this Law, or if an application was filed by a person not entitled to registration of a geographical indication under Article 9 of this Law, the expertise establishment will send a relevant substantiated preliminary conclusion to the applicant with an offer to provide a reasonable response regarding the grounds for denial of legal protection to the declared indication.

The applicant's response shall be provided by the deadline and according to the procedure set out in the part five of this Article for additional materials, and will be taken into account when preparing the application examination report”;

10) in **Article 12** the word “day” shall be replaced with the word “date”;

11) in **Article 13**

In part one:

Paragraph one after the words “Institution's decision” shall be added with the words and numbers “or copies of materials requested in accordance with Article 11 (2) of this Law”;

Shall be added with the paragraph two with the following wording:

“A person filing an objection, who received a copy of the Institution's decision in accordance with Article 11 (13) of this Law may appeal the Institution's decision with the Appellate Chamber within two months after receiving a copy thereof.

Part two shall be deleted

Part three shall be laid out with the following wording:

“3. The applicant's right to appeal an Institution's decision at the Appellate Chamber becomes void after payment of the state duty for registration of a geographical indication”;

In part four:

In the first sentence the words “the central body of executive power responsible for formation of the national policy on intellectual property” shall be replaced with the words “the Institution”;

In the third sentence the word “applicant” shall be replaced with the words “person, filing the objection”;

In part five:

In the first paragraph the words “document about payment” shall be replaced with the word “payment”;

Shall be added with the second paragraph with the following wording:

“If objection to the Institution’s decision regarding an application was filed by the person who filed objection under Article 11 (6) of this Law, the applicant shall be immediately notified about the receipt of this objection and sent a copy thereof. The applicant may submit to the Appellate Chamber a substantiated response to the objection within two months after receiving a copy of the objection and participate in the review thereof”;

In the first sentence of part six the words “document about payment” and “provided by the applicant in objection and during review thereof” shall be respectively replaced with the words “payment” and “stated in the objection and during review thereof, and taking into account the applicant’s response (if received by the required deadline)”;

In part seven:

After the paragraph one shall be added with the new paragraph with the following wording:

“If the Institution’s decision is appealed by a person who filed objection under Article 11 (6) of this Law, a copy of the Appellate Chamber’s decision shall be sent to that person”;

With regard to the abovementioned, paragraph two shall be considered paragraph three.

Paragraph three shall be laid out with the following wording:

“If an objection is granted due to breach of the expertise procedure, the fee for filing an objection shall be refunded and the application returned to the expertise establishment for re-examination”;

Part eight shall be deleted.

In part nine the words “the Applicant may” shall be replaced with the words “Persons who filed objections under this Article may”;

Add with the part ten with the following wording:

“10. The Appellate Chamber’s decisions enter into force as of the date of their approval by an order of the Institution, and require publication in full on the Institution’s official website”;

12) **Articles 14 and 15** shall be laid out with the following wording:

“**Article 14.** Registration of a geographical indication

1. The Institution proceeds with state registration of a geographical indication on the basis of decision approving registration of a geographical indication and availability of a document confirming payment of the state fee for registration and payment of the fee for publication of a registration notice by including to the Register information required by the central body of executive power responsible for formation of the national policy on intellectual property. The Register keeping procedure and composition of information filed in the Register are determined by the central body of executive power responsible for formation of the national policy on intellectual property.

The aforementioned duty and fee are payable after the applicant receives decision approving registration of a geographical indication.

If an expertise establishment does not receive a document confirming payment of the state fee for registration and the fee for publication of a registration notice in the amount and according to the procedure required by law within three months after the applicant receives decision approving registration of a geographical indication, the state registration of a geographical indication will not be filed and the application will be considered withdrawn.

The deadline for receipt of a document confirming payment of the state fee for registration and payment of the fee for publication of a registration notice may be extended for up to six months, if a relevant request was filed before expiration of that period and the applicable filing fee paid.

If the deadline for receipt of a document confirming payment of the state fee for registration and payment of the fee for publication of a registration notice is missed for valid reasons, the applicant's rights concerning application shall be restored, if a relevant request along with additional materials was submitted within six months after expiration of that period, along with a document confirming payment of the state fee for registration and payment of the fee for publication of a registration notice, and the applicable filing fee paid.

If decision regarding registration of a geographical indication was made on the basis of an application to which an objection was filed under Article 11 (6) of this Law, the timeframe for receipt of a document confirming payment of the state fee for registration and payment of the fee for publication of a registration notice shall stop until expiration of the period for appealing of this decision by the person filing the objection, set by the indent two of the part one, Article 13 of this Law.

2. After information regarding registration of a geographical indication is filed in the Register, any person may have access to this information according to the procedure set by the central body of executive power responsible for formation of the national policy on intellectual property, and receive, upon request, an abstract from the Register concerning geographical indication by paying a fee for filing this request.

3. Errors in information filed in the register may be corrected at the request from persons mentioned in the Register or from the Institution.

At the request from a person mentioned in the Register, change of the name and address, correspondence address or representative's name and address may be filed in the Register.

4. After information regarding registration of a geographical indication is filed in the Register, persons or associations of persons concerned who meet requirements of Article 9 of this Law may file changes in product specifications after approval of such amended specifications by the specially authorized body.

These changes may concern product manufacturing methods, taking into account scientific and technological progress or revision of boundaries of the geographical place mentioned in Article 9<sup>1</sup> (2) (c) of this Law.

An application for changes in product specifications shall describe the requested changes and substantiate the need for them.

If changes in product specifications require one or several changes in information filed in the Register, an application for changes shall be reviewed according to the procedure set out in Article 11 (11), (13) to (15) of this Law.

If requested changes in product specifications are insignificant and do not require filing changes in information contained in the Register, the Institution may file these changes without applying the procedure set out in Article 11 (11), (13) to (15) of this Law, if these changes are

confirmed by the authorized body or, if a geographical indication is located in another country, proof of filing relevant changes in that country.

Changes are considered insignificant, if they do not:

- a) concern the product's essential characteristics;
- b) change the relation between the product's quality or other characteristics and geographical environment;
- c) change a geographical indication or part thereof;
- d) change boundaries of a geographical place;
- e) enhance restrictions on sales of the product or its raw materials.

If changes concern temporary changes in product specifications occurring as a result of obligatory sanitary or phytosanitary measures applied by public authorities, the Institution may file these changes without applying the procedure set out in Article 11 (11), (13) to (15) of this Law.

A fee is charged for filing a request for correction of errors or for making any of the aforementioned changes, if an error is not obvious or technical and the change has occurred due to circumstances within the applicant's control.

Information regarding changes made in the Register and/or product specifications shall be published in the Bulletin.

5. Any natural or legal person who/which meets requirements of Article 9 of this Law and is desirous of having information about him/it as a person authorized to use a registered geographical indication and possessing other rights provided by Article 17 of this Law to be additionally filed in the Register may file a relevant request with the Institution along with a document issued by the authorized body and confirming that that person manufactures the product in a geographical place mentioned in the Register and the product's characteristics are conformant with the relevant product specifications.

A fee is charged for filing a request for filing information in the Register regarding a person entitled to use a registered geographical indication.

The request shall be reviewed according to the procedure set by the central body of executive power responsible for formation of the national policy on intellectual property.

If requirements of Article 9 of this Law are met, a request for filing information in the Register regarding a person entitled to use a registered geographical indication shall be granted and the relevant information filed in the Register, and a notice regarding the above shall be published in the Bulletin. Otherwise, this request shall be denied.

Information regarding geographical indications protected in Ukraine under international treaties of Ukraine may be filed in the Register.

#### **Article 15.** Publication regarding state registration

At the same time with the state registration of a geographical indication, information regarding state registration of a geographical indication shall be published in the Bulletin, containing a reference to a publication of the product specification or equivalent document thereto made in accordance with Article 11 (11) of this Law”;

13) **Article 16** after the word “its” shall be added with the word “state”

14) **Article 17** shall be laid out with the following wording:

**“Article 17. Rights arising from the registration of a geographical indication**

1. The rights arising from the registration of a geographical indication shall be valid from the date of registration of a geographical indication.

2. Registration of a geographical indication shall entitle the persons referred to in Article 9 of this Law to:

- a) use a geographical indication;
- b) take measures to prohibit the use of geographical indication by persons not entitled to do so;
- c) carry out the activities to ensure the conformity of the product, for which the geographical indication is registered, with the product specification approved by the specially authorized body;
- d) disseminate information and carry out other activities aimed at informing consumers about specific features of the product for which the geographical indication is registered;
- e) other rights defined by this Law and in the separate laws regulating special aspects of relations occurring in the course of registration, use and protection of geographical indications with respect to agricultural products, foodstuff, wine, aromatized wine products, alcoholic beverages.

3. The use of a registered geographical indication shall be deemed to be:

- a) applying it to the product or to the label;
- b) applying it to the packaging of the product, the use in advertisement;
- c) recording on letterheads, invoices and other documents accompanying the product.

4. Registered geographical indications shall be protected against the following actions unless otherwise is provided by this Law:

- a) any direct or indirect commercial use of a registered geographical indication for a product not covered by the geographical indication registration, and such a product is similar to the product for which a geographical indication is registered, or when such use leads to the abuse of reputation of the geographical indication, including if this product is used as a component of another product;
- b) any unlawful use or imitation or other embodiment of the registered geographical indication, even if the true place of origin of the product is indicated, or if the registered indication is translated, provided in transcription or transliteration, or accompanied by an expression such as "style", "type", "method", "made in", "imitation", "taste", "similar", etc., including if this product is used as a component of another product;
- c) any other false or otherwise misleading, as to the source, the substance or essential qualities of the product, use of the geographical indication on the inner or outer packaging, promotional materials or documents relating to the product in question, as well as the packaging of the product in a container which can mislead as to its origin;
- d) any other use that may mislead the consumer as to the true origin of the product.

Taking into account the interest of interested producers and in order to prevent misleading the consumers as to the substance of the product, geographical place of origin of the product or its

boundaries, the registered homonymous geographical indications shall be used in accordance with the practical terms of use commonly defined by the interested producers, according to which such geographical indications shall differ from each other.

If registered geographical indication is contained in the application for the trademark (label for goods and services), or in the respective certificate, this is the ground for the rejection in providing the legal protection of the trademark (label for goods and services) or the ground for invalidation thereof in the order prescribed by legislation .

Measures for protection of registered geographical indications shall be undertaken by the state authorities within their competence, as well as by persons entitled to use a registered geographical indication.

5. Person entitled to use a registered geographical indication shall not be entitled to prohibit other person to:

- a) use the geographical indication for a product placed with this indication into a civilian circulation by a person who has the right to use a registered geographical indication;
- b) use their names or addresses in good faith;
- c) use the names of a plant variety or animal breed in good faith;
- d) use the unregistered homonymous geographical indication:
  - within five years from the date following the date of registration of a geographical indication, if the objection has been filed in accordance with part six of Article 11 of this Law, which indicates the problem arising due to the identity of geographical indications, and if such registration may endanger the existence of a product that was continuously and in good faith placed into a civilian circulation within at least five years before the date of publication of the product specification, as provided in part 11 of Article 11 of this Law;
  - within fifteen years from the date following the date of registration of a geographical indication, if an objection has been filed in accordance with part six of Article 11 of this Law, which indicates the problem arising due to the identity of geographical indications, and if the homonymous name has been used continuously and in good faith within not less than twenty five years before the date of filing an application for registration of the relevant geographical indication and there is evidence that the purpose of such use was not to make profit at the expense of the reputation of the registered geographical indication and that the consumer was not or could not be misled as to the true origin of the goods.

The use of an unregistered geographical indication shall only be permitted if the appellation of origin is clearly and visibly indicated on the label;

- e) use a trademark that was registered in good faith or filed for registration in Ukraine on behalf of another person for the same or related products and services before the date of filing an application for registration of this geographical indication, if such use falls even under one of cases envisaged by items a) to d) of part four of this article.

6. The persons entitled to use a registered geographical indication shall be entitled to place a warning marking next to the geographical indication for information that this indication has been registered in Ukraine.

For the warning marking of the place of origin of goods the abbreviation (NPO) ringed by an oval shall be used. Instead of that marking or along with it the following text may be applied: "Appellation of origin of goods registered in Ukraine".

For the warning marking of a geographical indication the abbreviation (GI) ringed by an oval shall be used. Instead of that marking or along with it the following text may be applied: “Geographical indication registered in Ukraine”.

7. The persons entitled to use a registered geographical indication may not:

- a) issue a license to use a geographical indication;
- b) prohibit (prevent) the specially authorized bodies to exercise control over presence in the goods of special qualities and other characteristics, on the basis of which a geographical indication is registered.
- c) prohibit other persons referred to in Article 9 of this Law from exercising the rights established by this article.

8. Specially authorized bodies shall have the right to exercise control over presence in the goods of special qualities and other characteristics, the details of which are entered in the Register.

Such control provides for:

- a) checking the goods for compliance with the product specification specified in Article 9<sup>1</sup> of this Law;
- b) tracking the use of registered geographical indications on goods placed into a civilian circulation in order to prevent cases envisaged by part four of Article 17 of this Law
- c) other forms of control provided in the separate laws regulating special aspects of relations occurring in the course of registration, use and protection of geographical indications with respect to agricultural products, foodstuff, wine, aromatized wine products, spirit drinks and in other applicable legislation of Ukraine.

15) **Article 18** shall be deleted.

16) in **Article 20**:

In the name the word “invalid” (*single*) shall be replaced with the word “invalid” (*plural*)

In part one:

In paragraph one the words and number “in case of its inconformity with the conditions of granting the legal protection provided by the article 7” shall be replaced with the words and numbers “if it is was made in violation of the conditions provided for in Articles 7 to 9 of this Law”;

Paragraph two shall be laid out with the following wording:

“The invalidated registration of a geographical indication shall be considered as not having entered into force from the date of its registration”;

Part two shall be laid out with the following wording:

“2. When declaring the geographical indication to be invalid, the Institution shall notify this in the Bulletin”;

17) in **Article 21**:

Part one shall be laid out with the following wording:



“1. The registration of a geographical indication may be terminated by the court if:

- a) it has been established by the specially authorized body that due to the change or loss of specific natural and/or human factors typical for the geographical territory determined by the fourth and tenth paragraphs of Article 1 of this Law, it became impossible to produce goods that conform to the specification of the goods;
- b) the geographical indication is not used within seven years from the date of publication of information on the registration of a geographical indication or from another date after this publication. Such termination shall be made upon application of any interested person.

Part two shall be added with the words “or on the basis of an international treaty of Ukraine”;

Part three shall be deleted.

18) **Article 22** shall be deleted;

19) In the name of Section VI the words “For Use Of The Name Of The Origin Of The Goods” shall be replaced with the words “Arising From Registration Of A Geographical Indication”

20) **Article 23** shall be laid out with the following wording:

“**Article 23.** Infringement of rights arising from registration of a geographical indication

1. Any encroachment on the rights arising from the registration of a geographical indication, as provided for in Article 17 of this Law, shall entail liability in accordance with the laws.

2. Such infringement should be stopped on demand of any person who has the right to use the geographical indication, and the infringer shall be obliged to compensate *the inflicted damage*.”

21) in paragraph five of part two of the **Article 25** the words “owner of the certificate for registration of right to use the the qualified denomination of the origin of the goods shall be replaced with the words “arising from the registration of a geographical indication”; Methods of protection of rights

22) **In the Article 26:**

In part one the words “issuing a certificate” shall be replaced with the words “registration of a geographical indication”;

Part two shall be laid out with the following wording:

“Revenues from the state duty for registration of geographical indications shall be remitted to budgets according to the procedure provided by the Budget Code of Ukraine”;

23) in the text of the Law the words “qualified denomination of the origin of goods”, “denomination of the origin of goods”, “denomination of the origin of goods and/or rights to their use”, “qualified denomination of origin and/or right to use already registered qualified denomination of origin of goods”, “qualified denomination of the origin and/or rights to its use”, “qualified denomination of the origin of goods and/or right to use qualified denomination of the origin of goods”, “qualified denomination of the origin of goods and/or right to use this denomination”, “qualified denomination of the origin of goods and right to its use” in all cases and numbers shall be replaced by the words “geographical indication” in the corresponding case and number.

4. Paragraph eleven sub-point “y” of point 6 of Article 3 of Decree of the Cabinet of Ministers of Ukraine of January 21, 1993 No. 7-93 "On State Duty" (Verkhovna Rada of Ukraine, 1993, No. 13, Article 113, as amended) shall be laid out with the following wording:

"for registration of a geographical indication".

## *II. Final and transitional provisions*

1. This Law shall enter into force on January 1, 2020, with the exception of paragraph 5 of this section, which shall enter into force on the day of the publication of this Law.

2. Prior to bringing the normative-legal acts adopted before the entry into force of this Law, they shall act in accordance with this Law in a part that does not contravene this Law.

3. Examination of applications for registration of a qualified indication of origin of goods and / or the right to use a registered qualified indication of origin of goods received by the Office prior to the entry into force of this Law, not completed at the time of entry into force of this Law, shall be conducted in accordance with the procedure established by this Law.

4. Certificates issued on applications received by the Office prior to the entry into force of this Law shall be valid.

5. The Cabinet of Ministers of Ukraine shall, within three months from the day this Law enters into force:

- bring its normative legal acts in compliance with this Law;
- ensure that ministries and other central executive bodies bring their normative-legal acts into compliance with this Law.

<b>President of Ukraine</b>	<b>V. ZELENSKYY</b>
<b>Kyiv</b> September 20, 2019 No. 123-IX	