

## Annexes

### **Annex I – National legal frameworks available for the protection of non-agricultural GI products**

#### **Non EU members**

#### **AUSTRIA**

##### **International Legal Framework**

Austria is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884 and the Madrid Protocol Concerning the International Registration of Marks since the 13 April 1999. Austria is a WTO Member since 1st January 1995.

Austria is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Austria has signed bilateral agreements on the protection of indications of source, denominations of origin, and denominations of agricultural which cover the protection on non-agricultural GI products:

- With Italy in 1952: [BGBl. Nr. 235/1954](#), additional protocol from 1969 focusing on the enlargement to other products [BGBl. Nr. 348/1972](#)
- With Greece in 1972 : [BGBl. Nr. 378/1972](#)
- With France in 1976 : [BGBl. Nr. 196/1976](#)
- With Spain in 1977 (actualised in 1999) : [BGBl. Nr. 593/1977](#)
- With CSSR (Czech Republic) in 1981: [BGBl. Nr. 75/1981](#)

##### **National Legal Framework**

<b>Type of Protection</b>	<p style="text-align: center;"><b><i>The protection of non-agricultural GI products can be obtained via:</i></b></p> <ul style="list-style-type: none"> <li>➤ <b><i>trade mark law</i></b></li> <li>➤ <b><i>the law Against Unfair Competition</i></b></li> </ul> <p style="text-align: center;"><b><i>Ex parte protection is available</i></b></p>
<b>Relevant Regulatory Framework</b>	<p><b>Austrian Trade mark protection Act 1970</b> Federal Law Gazette 1970/260 as amended by Federal Law Gazette 1977/350, 1981/526, 1984/126, 1987/653, 1992/418, 1992/773, 1993/109, I 1999/111, I 1999/191, I 2001/143, I 2004/149, I 2005/131, I 2005/151, I 2006/96, I 2007/81 and I 2009/126 <a href="http://www.patentamt.at/Media/MSchG_2010Englisch.pdf">http://www.patentamt.at/Media/MSchG_2010Englisch.pdf</a> <a href="http://www.wipo.int/wipolex/en/details.jsp?id=10266">http://www.wipo.int/wipolex/en/details.jsp?id=10266</a></p> <p><b>Federal Law amending the Trade mark Protection Act (Trade mark Amendment Act 1992)</b> <a href="http://www.wipo.int/wipolex/en/details.jsp?id=182">http://www.wipo.int/wipolex/en/details.jsp?id=182</a></p> <p><b>Law Against Unfair Competition of 1984 – UWG</b> Federal Law Gazette No. 448/1984 as amended by: Federal Law Gazette I No. 79/2007 date of the version: 1 February 2010 <a href="http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&amp;Dokumentnummer=ERV_1984_448">http://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Erv&amp;Dokumentnummer=ERV_1984_448</a> <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=124800">http://www.wipo.int/wipolex/en/text.jsp?file_id=124800</a></p>

Summary of  
the  
Operational  
Provisions

## 1. Trade mark Protection Act 1970 (entered into force on 1st July 1970)

As early as 1992 Austria (which entered the European Union on January 1 1995) implemented the Trade mark Harmonization Directive 89/104/EEC of December 21 1988(1) by enacting the Trade mark Protection (Amending) Act 1992. Austrian legislation has recently amended the act again. On August 21 1999 the Trade mark Protection (Amending) Act 1999 was published in the Federal Law Gazette (2). It came into force the day after publication (August 22 1999).

In Austria, the protection is available as individual trade mark, collective trade mark and Community trade mark: [http://www.patentamt.at/Alles\\_ueber/Geografische\\_Verbandsmarke/](http://www.patentamt.at/Alles_ueber/Geografische_Verbandsmarke/)

### Registration procedure

Applications for registration with the Austrian patent office that administers the trade mark register must be made in writing. The application must specify the goods and services the trade mark will protect. It is examined by the legal department of the patent office for formal irregularities and potential obstacles to registration. Such obstacles include a sign that constitutes a generic trade mark, an offensive trade mark, a deceptive trade mark or a trade mark that is not distinct. The patent office will also examine whether similar trade marks have already been registered. If so the applicant will be notified. Following notification, the applicant may still proceed with the registration. Prior conflicting trade marks are therefore not an obstacle to registration. However, the holder of the prior trade mark may start cancellation proceedings. Anyone can start such proceedings in the case of 'absolute' obstacles to registration. This also applies if a trade mark registered for five years or more has not been used to a reasonable extent in Austria during the last five years, either by the trade mark owner or by a third party with his consent, unless the trade mark owner can justify non-use.

### Opposition procedure

**29a.** (1) Within three months from the date the registration of the trade mark was published (section 17 (5)) the registration may be opposed. Such an opposition may be based on a trade mark only under the conditions of section 30 (1). This shall also apply to trade mark applications subject to their registration.

(2) If a trade mark is registered according to the Madrid Agreement concerning the International Registration of Marks, Federal Law Gazette No. 40/1973, and the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, Federal Law Gazette III No. 32/1999, the disclosure in the publication journal issued by the World Intellectual Property Organization (WIPO) shall supersede the publication referred to under subsection 1. The opposition period shall begin on the first day of the month, which follows the month listed as the issue month of the publication journal that includes the disclosure of the international trade mark.

(3) The well-founded opposition shall be received by the Patent Office no later than on the last day of the deadline. It and all of its attachments shall be submitted in writing in duplicate.

### Protection of non-agricultural GI products through the trade mark law

According to Section 1 of the Trade mark Act, trade marks are all signs that may be graphically represented which distinguish the goods or services of a company from the same goods and services of another company. This includes words, as well as personal names, pictures, letters, numbers and the form or the presentation of goods. Thus, service marks are granted protection. Section/Chapter VII (68a-68j) deals with GI but only for agricultural and foodstuff products, but not for non-agricultural products. However, non-agricultural GI products can make use of article 62 § 4 of the trade mark law which relates to "geographical" collective trade marks: "(4) In derogation from subsection 1 and section 4 (1) 4 collective trade marks may in trade consist exclusively of signs or indications that may serve to describe the geographical origin of the goods and services. Such a trade mark shall not entitle its proprietor or a member of the association which according to the regulations might be authorized to file a suit on its own to prohibit a third party from using this sign or indication in trade, provided such

	<p><i>use is in compliance with the proper customs in industry or trade; in particular, such a trade mark may not be invoked against a third party which is entitled to use a geographical name.”</i></p> <p style="text-align: center;"><b><u>Protection provided</u></b></p> <p>The scope of the protection of the Trade mark law is the protection against „confusion“. The holder of a trade mark right enjoys exclusive use of the name in the classes for which registration has been granted. However, nothing can prevent a third party to use the name of the trade mark in accordance with honest practices.</p> <p>The protection is limited to Austria and is given for a ten year period which can be renewed provided that renewal fees are paid.</p> <p style="text-align: center;"><b>2. Law Against Unfair Competition of 1984 – UWG</b></p> <p>The law which has been amended several times provides in its article 1 that: <i>“Anyone who in the course of business: 1. Resorts to an unfair commercial practice of another unfair practice which is likely to distort not on insignificantly (= materially) the competition to the detriment of enterprises or 2. Uses and unfair commercial practice contrary to the requirements of professional diligence and [which] is with regard to the respective product suitable to materially distort the economic behaviour of the average consumer whom it reaches or to whom it is addressed may be sued for a cease-and-desist order and in case of fault for payment of damages”.</i></p> <p>Interestingly, the law includes a specific article on geographical indications which sets out general principles: <i>“(1) On the protection of geographical indications within the meaning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Federal Law Gazette no. 1/1995, Annex 1C as amended in Federal Law Gazette no. 379/1995, the Sections 4 and 7 shall be applied - unless their protection is otherwise provided for pursuant to separate regulations - regardless of whether any actions referred to in such sections have been taken for competitive purposes. (2) Para 1 above shall be also applied to geographical indications to identify the origin of services.”</i></p> <p>Section 9 grants protection against the misuse of designations (including registered trade marks) of enterprises.</p> <p>The Austrian Unfair Competition Act (Bundesgesetz gegen den unlauteren Wettbewerb - UWG) provides for enforcement through court action. The scope of the protection of the Federal Law against Unfair Competition depends on how misleading each particular case is (question of proof). Only certain types of unfair practices as set out in Part 2 of the UWG (§§ 27-34) may be sanctioned by the Regional Administrative Authority with a fine up to EUR 2900 provided they do not fall within the scope of criminal court sanctions. The administrative authorities do not have an obligation to investigate.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p style="text-align: center;">A trade mark application must include at least:</p> <ul style="list-style-type: none"> <li>• Name and address of person / the applicant</li> <li>• the signature of / the applicant</li> <li>• the protected mark</li> <li>• where necessary, the brand image</li> <li>• the list of those goods and services for which the brand on the market will be used and protected as such.</li> </ul>

	Language of the application: <b>German</b>
<b>Relevant Supporting Documents</b>	<ul style="list-style-type: none"> <li>• Description of the trademark (5-fold, not relevant for pure word marks)</li> <li>• Associations statues (2-fold, for collective marks)</li> </ul>
<b>Administration Responsible for Registration</b>	Austrian patent office - Österreichisches Patentamt Kohlmarkt 8-10, 1010 Wien, Austria. Tel: ++43 1 534 24-0 - Telefax +43 (0)1 534 24 – 535 <a href="mailto:info@patentamt.at">info@patentamt.at</a> - <a href="http://www.patentamt.at/">http://www.patentamt.at/</a>
<b>Costs</b>	
<b>Costs of registration</b>	<p>The minimum fees for registration of a national trademark are 360 Euros.</p> <p>For the registration of a Community trade mark 900 Euro - for electronic filing (e-filing) or € 1.050, - to pay for paper filings. For applications for more than three classes of goods and services are in both cases for each additional class € 150 - to pay. The class fee amounts to 15 Euro There are also fees for publication and stamp duty to be paid.</p> <p>The costs of collective geographical trademark (geographische Verbandsmarke) amounts to 1620 Euro and 3000 Euro for extension.</p>
<b>Timeframe</b>	
<b>Registration</b>	3 to 6 months.
<b>Protection</b>	<b>Duration of the protection:</b> The period of protection is 10 years from the end of the month in which the trademark was registered. The period of protection can be indefinitely renewed for further 10-year periods subject to the payment of renewal fees. To maintain the exclusive rights to the trademark, the latter shall be used actively during this period of protection.
<b>Comments</b>	
As of 11 October 2012, no geographical collective trademark (geographische Verbandsmarke) has been registered in Austria. According to Mr Stangl of the department on legal aspects of trademarks at the Austrian patent office the enterprises do not perceive the interest yet for this kind of protection and the costs are very important.	

## BELGIUM

### International Legal Framework

Belgium is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884 and the Madrid Protocol Concerning the International Registration of Marks since the 1st April 1998. It is a WTO Member since 1st January 1995.

Belgium is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Belgium approved the protocol amending the uniform Benelux law on trade marks adopted on 7<sup>th</sup> August 1996 through a Belgian law of 3<sup>rd</sup> June 1999.

### National Legal Framework

<b>Type of Protection</b>	<p style="text-align: center;"><b><i>The protection of non-agricultural GI products can be obtained:</i></b></p> <ul style="list-style-type: none"> <li>➤ <b><i>via trade mark law</i></b></li> <li>➤ <b><i>via unfair competition law (UCL)</i></b></li> <li>➤ <b><i>at the level of the Walloon Region there is a sui generis GI law</i></b></li> </ul> <p><b><i>Ex parte</i></b> protection is available under the trade mark and unfair competition laws. <b><i>Ex officio</i></b> protection is available in the Wallonia region.</p>
<b>Relevant Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• Benelux Convention on Intellectual Property (Trade marks and Designs) of 25<sup>th</sup> February 2005, entered into force on 1<sup>st</sup> September 2006 The Decision, Executives Rules and Convention are all available (in French and in Dutch ) at: <a href="https://www.boip.int/wps/portal/site/juridical/regulations">https://www.boip.int/wps/portal/site/juridical/regulations</a></li> <li>• Law on market practices and the protection of consumers <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=91&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=91&amp;languageID=EN</a></li> <li>• Decree of the Walloon Regional Council of 7<sup>th</sup> September 1989 on Award of the Label of Quality, Local Designation of Origin and Walloon Designation of Origin <a href="http://www.wipo.int/wipolex/en/details.jsp?id=394">http://www.wipo.int/wipolex/en/details.jsp?id=394</a></li> </ul>
<b>Summary of the Operational Provisions</b>	<p><b>Trade mark Law</b></p> <p><b><i>Benelux Convention on intellectual property</i></b> signed in The Hague on 25 February 2005, adopted on 16 May 2006 and entered into force on 1 September 2006. The Benelux Trade mark Office and the Benelux Designs Office are replaced with one single office, the Benelux Organization for Intellectual Property (Trade marks and Designs).</p> <p><b>Registration procedure:</b> All application for registration shall be filed in either in French or Dutch. A description (in 50 words or less) of the distinctive elements of the trade mark shall be produced. The Office shall refuse to register a trade mark if it considers that the trade mark comprises only signs or indications which may be used in trade to indicate the kind, quality, quantity, intended purpose, value, geographical origin or time of manufacture of the product or provision of the service, or other characteristics thereof (Article 2.11 of the Convention). However, misleading trade marks in relation in particular to a geographical origin shall also be</p>

rejected.

Collective trade marks can be registered in accordance with chapter 8 of the convention. These trade marks refer specifically to signs that can be used to designate the geographical origin of the product. They can be registered provided that a regulation for use and for control of the requirements is available.

Applications for registration must be filed with the Office (Benelux filing) or the International Bureau (international filing). After examination, successful applications are published on the Register. The Register may also be consulted free of charge via the Belgian and Luxembourg.

**Opposition procedure:** Within 2 months from the first day of the month following publication, an objection may be raised with the Office against a Benelux filing or an international filing (Article 2.14 of the Law and Article 2.18 of the Convention)

### **Protection provided**

The scope of the protection of the Trade mark law is the protection against “confusion”. The holder of a trade mark right enjoys exclusive use of the name in the classes for which registration has been granted.

Article 2.20 of the Convention provides that the holder of the trade mark has an exclusive right on it. This allows him/her to forbid the use of:

- An identical mark for similar products or services than the ones for which the mark is registered.
- A sign which is similar to the mark or the products and services covered by the mark, if there is a risk of misleading the public, notably if the risk of association between the sign and the mark exists.
- A identical or similar sign for products or services which are not similar to those for which the mark is registered, when this mark is well known within the territory of the Benelux and when the use of the sign unduly profits from the reputation of the mark or is prejudicial to it.
- A sign for other means than distinguishing the products or services, when the use of this sign unduly profits from the distinct characteristic or the reputation of the mark or is prejudicial to it.

However, nothing can prevent a third party to use the name of the trade mark in accordance with honest practices. Chapter 4 concerning the opposition procedure includes information on the possibility for prior rights’ holders to challenge the protection before registration. Article 2.14 provides that the holder of a previous mark can, during the 2 months from the 1<sup>st</sup> day of the month following the publication of the registration request, introduce a written opposition to the registration to the BOIP for a mark which can create a confusion with his/her well known mark. The licensee has the same right than the right holder. However, Article 2.24 provides that the holder of a previous mark which tolerated the use of a mark registered subsequently during a period of 5 years and which knew the use of this mark, can not anymore oppose the use of this subsequent mark for the products and services for which this mark was used, except if the registration request of this subsequent mark has been done in bad faith. However, the tolerance of the use of a subsequent mark does not give the holder of this mark the right to oppose the right of the previous mark.

### **Law Against Unfair Competition**

The law provides that misleading or unfair commercial practices shall be prohibited. According to article 88, *“A commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer in relation to one or more of the following elements, even if the information is factually correct, and in either case causes or is likely to cause him to take a transactional decision that he would not have taken otherwise:*

1. *the existence or nature of the product;*
2. *the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after-sale customer assistance and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin or the results to be*

	<p><i>expected from its use, or the results and material features of tests or checks carried out thereon;</i></p> <p>The general enforcement of the 1991 Unfair Trade Practices Act is handled by the Directorate General Control and Mediation (ADCB) which is part of the Federal Public Service of Economy, SMEs, Self-employed and Energy (FPS Economy). The ADCB proactively enforces the Unfair Trade Practices Act, and is also competent for receiving administrative complaints which can be filed by every natural or legal person. There is no need to prove a legitimate interest. Until December 2009, the ADCB investigated every complaint it received. However, as this took a lot of resources, the ADCB decided to launch a rationalisation programme which has already resulted in a dismissal of 40% of all complaints. Recently, the ADCB has also started to take into account the financial loss suffered by the complainant. If no financial loss, or only a very small financial loss, has been suffered, there is a high probability that the complaint will not be investigated by the ADCB. The administrative authorities do not have an obligation to investigate. Enforcement is also available through court action and depends on how misleading each particular case is.</p> <p><b>Sui generis Regional GI Law</b></p> <p>The Decree of the Walloon regional Council signed on September 7 1989 was later amended by other decrees on 19 December 2002 (M.B. 05/02/2003) and 29 April 2004 (M.B. 11/08/2004). It establishes a <i>sui generis</i> legal framework for the protection of appellations of origin.</p> <p>Registration procedure: the Walloon Regional Council has to adopt a decree for each product that asks for registration. It publishes a specification which lays down all the requirements that must be met for the product to be sold as an “appellation d’origine locale” or an “appellation d’origine wallone”. The Walloon Regional Council accredits a certification body responsible for issuing certificates of quality or origin in accordance with the decree. Any producer, manufacturer, processor or group of producers, manufacturers, processors of Walloon products may introduce on his behalf an application for the issuance of a quality certificate or a certificate of origin. This request must be filed with the certifying body, by registered mail.</p> <p>The procedure is not very detailed and does not seem to preview an administrative opposition procedure. The protection only applies to the Walloon region territory.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p><b>Benelux Convention:</b> point 4 of article 2.20 of the convention provides for the protection of names in other languages (name of the product used in translation): the national or regional languages of the territory of Benelux.</p> <p><b>Decree of the Walloon Region:</b> simply states that the Decree is in accordance with EU regulations on PDOs/PGIs which provides for an extensive protection, including of names in translation but also clearly states that generic names cannot be protected.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p><b>Benelux Convention:</b></p> <p>The application form for a trade mark registration notably includes:</p> <ul style="list-style-type: none"> <li>➤ The name, address and bank details of the person/company which asks for the registration,</li> <li>➤ Whether an accelerated registration is asked,</li> <li>➤ Whether it is an individual or a collective mark,</li> <li>➤ The type of mark: verbal, figurative, a combination of both,</li> <li>➤ The description of the distinctive elements of the mark,</li> <li>➤ The right of priority,</li> <li>➤ The representation of the mark,</li> <li>➤ The list of products or services,</li> <li>➤ The fees to be paid.</li> </ul>

	<p>The document must be dated and signed. The application form can be downloaded in French at <a href="https://www.boip.int/wps/wcm/connect/da502d80463aff9690ccbe52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=da502d80463aff9690ccbe52343c04a4">https://www.boip.int/wps/wcm/connect/da502d80463aff9690ccbe52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=da502d80463aff9690ccbe52343c04a4</a> and in Dutch at: <a href="https://www.boip.int/wps/wcm/connect/89b7e080463aff5490b5be52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=89b7e080463aff5490b5be52343c04a4">https://www.boip.int/wps/wcm/connect/89b7e080463aff5490b5be52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=89b7e080463aff5490b5be52343c04a4</a> The languages of application are Dutch and French.</p> <p><b>Decree of the Walloon Region:</b> Any producer, manufacturer, processor or group of producers, manufacturers, processors Walloon products may introduce on his behalf an application for the issuance of a certificate of origin. This request must be filed with the certifying body, by registered mail. The certificate is issued to the applicant, after verification of compliance of conditions stipulated by the specifications.</p> <p style="text-align: right;">The language of application is French.</p>
<b>Relevant Supporting Documents</b>	<p><b>Benelux Convention:</b> There is a explicative notice regarding the request, in French at: <a href="https://www.boip.int/wps/wcm/connect/5c818d00463b03af9110bf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=5c818d00463b03af9110bf52343c04a4">https://www.boip.int/wps/wcm/connect/5c818d00463b03af9110bf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=5c818d00463b03af9110bf52343c04a4</a> and in Dutch at: <a href="https://www.boip.int/wps/wcm/connect/410e8600463b039f910bbf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=410e8600463b039f910bbf52343c04a4">https://www.boip.int/wps/wcm/connect/410e8600463b039f910bbf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=410e8600463b039f910bbf52343c04a4</a></p>
<b>Administration Responsible for Registration</b>	<p><b>Benelux Convention:</b> The Benelux Office for Intellectual Property (BOIP) is the official body for trade mark registration in the Benelux. <a href="http://www.boip.int">www.boip.int</a></p> <p><b>Decree of the Walloon Region:</b> DGO6 - Direction Générale Opérationnelle de l'Economie, de l'Emploi et de la Recherche. Place de la Wallonie 1. B-5100 Namur. Tel. +32 81 33 39 11 Fax. +32 81 33 37 44</p>
<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Benelux Convention:</b></p> <p style="text-align: center;"><b>Filing charges</b></p> <ul style="list-style-type: none"> <li>- Basic fee for individual trade mark, up to 3 classes: 240</li> <li>- Basic fee for collective trade mark up to 3 classes: 373</li> </ul> <p style="text-align: center;"><b>Renewal</b></p> <ul style="list-style-type: none"> <li>- Basic fee for individual trade mark, up to 3 classes: 260</li> <li>- Basic fee for collective trademark, up to 3 classes: 474</li> </ul> <p><b>Other</b> <span style="float: right;"><b>fees:</b></span></p> <p><a href="https://www.boip.int/wps/wcm/connect/6b3cf080474b73a8b9ddb5f78c655cb7/BnlTariffs200701.pdf?MOD=AJPERES&amp;CACHEID=6b3cf080474b73a8b9ddb5f78c655cb7">https://www.boip.int/wps/wcm/connect/6b3cf080474b73a8b9ddb5f78c655cb7/BnlTariffs200701.pdf?MOD=AJPERES&amp;CACHEID=6b3cf080474b73a8b9ddb5f78c655cb7</a></p> <p><b>Decree of the Walloon Region:</b> The decree will determine the fees that certification bodies are allowed to claim for issuing certificates.</p>
<b>Timeframe</b>	
<b>Registration</b>	<p><b>Benelux Convention:</b> The procedure for trade mark registration takes about 4 months. If the trademark cannot be registered after all, the filing fees will not be refunded. An accelerate procedure for registration exists upon payment of an extra fee<sup>104</sup>.</p>

	<p><b>Decree of the Walloon Region:</b> the applicant is notified within 6 weeks of the receipt of the request.</p>
<p><b>Protection</b></p>	<p><b>Benelux Convention:</b>  Protection for a period of 10 renewable against payment of the fees due. To maintain the exclusive rights to the trade mark, the latter shall be used actively during this period of protection.</p> <p><b>Decree of the Walloon Region:</b>  A period of 10 years with effect from the date of filing, which may be renewed if explicitly asked by the applicant.</p>

## BULGARIA

### International Legal Framework

Bulgaria is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since 13 June 1921, the Madrid Protocol Concerning the International Registration of Marks since 1 August 1985, and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since 12 August 1975. Bulgaria is a WTO Member since 1<sup>st</sup> December 2006.

Bulgaria is a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958, since 12 August 1975.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>a sui generis geographical indications law</i></b></li> <li>➤ <b><i>the unfair competition law</i></b></li> <li>➤ <b><i>the provisions of the penal code</i></b></li> </ul> <p><b><i>Ex parte protection</i></b> is available under the trade mark and unfair competition laws.  <b><i>Ex officio</i></b> protection is available under the <i>sui generis</i> geographical indications law.</p>
<b>Relevant Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• Law on marks and geographical indications in force since 10 March 2010 and published in State Gazette No. 81/ 14.09.1999, amended No. 82/17.09.1999; amended No. 28/01.04.2005, amended No. 43/20.05.2005, amended No. 94/25.11.2005, amended No. 105/29.12.2005, amended No. 30/11.04.2006, amended No. 73/05.09.2006; amended, No. 59/20 July 2007; amended No36/04 April 2008, amended No12/13 February 2009, amended No32/28 April 2009, amended N019/09 March 2010-: Chapter III - GEOGRAPHICAL INDICATIONS (articles 51-68), CHAPTER V - PROTECTION OF RIGHTS IN MARKS AND GEOGRAPHICAL INDICATIONS (articles 74-88)  <a href="http://www1.bpo.bg/images/stories/laws/mgi_law2010">http://www1.bpo.bg/images/stories/laws/mgi_law2010</a></li> <li>• Law on the protection of competition in force as of November 28, 2008 and promulgated in State Gazette, Issue 102 of 28.11.2008  <a href="http://www.wipo.int/wipolex/en/details.jsp?id=10475">http://www.wipo.int/wipolex/en/details.jsp?id=10475</a></li> <li>• Penal code : chapter 2, section 7 on crimes against the intellectual property in force as of 1<sup>st</sup> June 1968 last amendment dating back to 9 March 2012  <a href="HTTP://WWW.VKS.BG/VKS_P04_04.HTM">HTTP://WWW.VKS.BG/VKS_P04_04.HTM</a></li> </ul>
	<p><b>1. Law on marks and geographical indications</b></p> <p>The law provides that geographical indications (appellations of origin and indication of source) shall be granted legal protection through registration with the Patent Office.</p> <p>The legal protection provided by the law is extensive. The following is prohibited: (i) any commercial use of the geographical indication for goods that are similar to those for which it is registered in so far as the renown of the registered geographical indication is exploited; improper use or counterfeiting of the geographical indication, even where the genuine origin of the goods is specified, use of a translation thereof or use in combination with terms such as "sort", "kind", "type", and the like; use of any other incorrect or deceptive indication of the source, origin, nature or essential properties of the goods designated on the packaging</p>

thereof in advertising material or papers concerning the goods, such indication being likely to mislead as to the genuine origin of the goods any other action that may mislead users as to the true origin of the goods. Registered geographical indications may not become generic names as long as they enjoy protection under this law.

The authority in charge of the registration of the geographical indications is the Patent Office of the Republic of Bulgaria. The registration procedure starts with filing of an application for the registration of a GI. The right to file an application belongs to any person who produces the product in the geographical locality indicated, provided that the goods he/she produces meet the specified to the properties or peculiarities concerned. A registered geographical indication may be used only by the person registered as the user thereof. The registered user may use the geographical indication only in respect of the goods for which it is registered. He/she may affix it to the goods or their packaging or use it in advertising material, business papers concerning the goods and other material.

The application shall be subject to examination for compliance with formal requirements and procedure of substantive examination according the Grounds for Refusal of Registration.

A name shall not be registered as a geographical indication if:

1. it has become a generic name in the territory of the Republic of Bulgaria to denote goods of a certain kind without any association with the place of production thereof;
2. it is identical to the name of a plant variety or animal breed registered earlier, where users are likely to be misled as to the true origin of the goods;
3. it is identical to a geographical indication or mark registered earlier for identical goods;
4. It is identical or similar to a geographical indication or mark registered earlier for identical or similar goods, where users are liable to be misled.

## **2. Law on the protection of competition**

The Bulgarian law on the protection of competition forbids unfair and misleading commercial practices which mislead or may mislead the consumer in relation to essential characteristics of the good or service, including its geographical origin (article 33). Article 35 forbids the marketing of goods or services whose appearance, packaging, marking, name or other features deceive or may deceive the consumers in respect notably of their origin, as well as the use of trade name, mark or geographical indication identical or similar to those of other persons, in a manner which may lead to hurting the interests of competitors.

The Consumers Protection Commission (CPC) (in Bulgarian: "Комисия за защита на потребителите") within the Ministry of the Economy, Energy and Tourism proactively enforces the Consumers Protection Act, and is also competent for receiving administrative complaints (article 38 of the Bulgarian law on the protection of competition). The Bulgarian law on the protection of competition provides for a mechanism of enforcement. Article 38 provides that the claims can be lodged by a decision of the Commission, request of the prosecutor, request of the persons whose interests are affected or threatened in violation of this Act or whose interests are affected by regulations inconsistent with this Act, request for immunity, notification to resolve the concentration of enterprises, request of another national competition authority of a Member State of the European Union or the European Commission, or a request for an opinion of a governmental authority, including the executive authority or a local authority. This article provides that the Commission can act *ex officio*, that is to say on its own initiative.

The Chairman of the Committee appoints a member of the Committee and a team of staff to work on the claim (article 39). They have extensive powers: they are entitled to require information and material, written, digital and electronic evidence, regardless of the medium on which they are stored; to take oral or written statements; to do checks; to assign external experts to do an expertise; and require information or assistance from other national competition authorities of the Member States of the European Union and the European Commission (article 45).

	The Committee rules on the case and can impose fines (Article 60). Article 62 provides that the Committee has to issue a decision on the case which gives factual and legal grounds, states if an offence has been found, the rights and obligations of the parties, the type and amount of penalty or fine, if one is imposed, as well as the period to appeal the decision and the authority to which the appeal must be sent (article 62).
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	There are no special provisions with regard to the definition of a generic names nor criteria for establishing the generic character of a name
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>The application shall contain:</p> <ol style="list-style-type: none"> <li>1. the registration request form;</li> <li>2. the name and address of the applicant;</li> <li>3. the appellation of origin or the indication of source (which is the the name of a country, or of a region or locality in that country, that serves to designate goods originating therein;</li> <li>4. the designation of the goods concerned;</li> <li>5. the designation of the borders of the geographical locality enclosing a carte of the place concerned;</li> <li>6. description of the recognised properties or peculiarities of the goods and their relationship with the geographical environment or geographical origin. The description of the goods include information about physical, chemical, microbiological and/or organoleptic properties of the goods and if necessary of the raw material, description of the local traditional production method, characteristics of the goods related to the geographic area.</li> </ol> <p style="text-align: center;">Language of the application: Bulgarian</p>
<b>Relevant Supporting Documents</b>	<p>The application shall be accompanied by:</p> <ul style="list-style-type: none"> <li>- a copy of order by the central authority concerned defining the borders of the geographical locality and the properties or peculiarities of the goods, and also the relationship between those properties or peculiarities and the geographical environment or geographical origin and a document issued by the municipality concerned certifying that the applicant carries on his production activity in the geographical locality concerned and</li> <li>- document from the municipality concerned certifying that the applicant has his production activity within the defined geographical area</li> <li>- map on which are outlined the boarders of the geographical area.</li> </ul>
<b>Administration Responsible for Registration</b>	PATENT OFFICE OF THE REPUBLIC OF BULGARIA Sofia 1040, 52 b Dr. G.M. Dimitrov Blvd., Directorate Marks and Geographical Indications <a href="http://www.bpo.bg">www.bpo.bg</a>
<b>Costs</b>	
<b>Costs of registration</b>	<ol style="list-style-type: none"> <li>1. Filing and examination: <ol style="list-style-type: none"> <li>a) for registration of geographical indications – 200 BGN (100 EUR);</li> <li>b) for entry of subsequent users of geographical indications – 200 BGN (100 EUR).</li> </ol> </li> <li>2. Registration and entry of a first user – 40 BGN (10 EUR);</li> <li>3. Entry of a subsequent user – 40 BGN (20 EUR);</li> </ol>

	<p>4. Issuing of certificates – 60 BGN (30 EUR);</p> <p>5. Publication – 40 BGN (20 EUR).</p>
<b>Timeframe</b>	
<b>Registration</b>	The examination of a geographical indication includes the examination of the form and the substance. The examination of the substance must be carried out within 18 months.
<b>Protection</b>	The legal protection of a registered geographical indication is not limited in time. However, it shall be terminated where the relationship between the properties or peculiarities of the goods and the geographical environment no longer exists.

## CYPRUS

### International Legal Framework

Cyprus is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since 26 October 1984 and the Madrid Protocol Concerning the International Registration of Marks since 4 November 2003. Cyprus is a WTO Member from 30 July 1995.

Cyprus is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

### National Legal Framework

<b>Type of Protection</b>	<p><b><i>The protection of non-agricultural GI products can be obtained:</i></b></p> <ul style="list-style-type: none"> <li>➤ Via trade mark law</li> <li>➤ Via Unfair Competition Law (UCL)</li> </ul> <p><b><i>Ex parte protection</i></b> is available under the trade mark and unfair competition laws.</p>
<b>Relevant Regulatory Framework</b>	<p>Protection via Trade mark law:  <u>The Trade Marks Law</u> of 1962 amended by Law 63/1962, Law 69/1971, Law 206/1990, Law 176/2000 and Law 121/2006.  <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=224109">http://www.wipo.int/wipolex/en/text.jsp?file_id=224109</a></p> <p>Protection via UCL:          The Control of Misleading and Comparative Advertising Act 2007 and the unfair business-to-consumer commercial practices law of 2007.  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=468&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=468&amp;languageID=EN</a>  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=469&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=469&amp;languageID=EN</a></p>
<b>Summary of the Operational Provisions</b>	<p style="text-align: center;"><b>1. Trade mark law</b></p> <p><b>Registration procedure</b>          A trade mark application may be filed only through a lawyer who practises in Cyprus. An application covering multiple classes of goods or services will be rejected. Each application for protection in a different class will be treated as a separate application. The application process includes a formal examination and an examination of distinctiveness, but no search for prior trade marks. Once the application has been filed, the registrar will examine it for compliance with the legal requirements. The mark must be distinctive, not deceitful, should not violate prior rights and not be contrary to public law or morality.</p> <p><b>Opposition procedure</b>          Anyone may object to the registration of the mark within two months of the date of publication by giving notice to the registrar on Form TM5. Registration of a trade mark may be opposed on the grounds that the mark lacks distinctiveness, is deceptive or is confusingly similar to an earlier registered trade mark. Within two months of receipt of the notice of opposition, the applicant must submit to the registrar a counter-statement on Form TM6, responding to the opposition and setting out grounds in support of its application. Upon receipt of the counter-statement, the opponent has two months to submit evidence in support of its opposition to the registrar; the applicant must also be provided with a copy of this evidence as submitted. If the opponent files no evidence, the opposition will be considered abandoned. Otherwise, the applicant must file its own evidence with the registrar in the same manner and provide the opponent with a copy as submitted. The opponent has a further opportunity to respond to the</p>

	<p>applicant's evidence within one month. The registrar will then set a date for the hearing and inform the parties accordingly.</p> <p><b>Protection of non agricultural GI products through the trade mark law</b></p> <p>The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the district courts. The owner of the registered trade mark bears the burden of proving that the resemblance is deceptive. The owner of an unregistered mark may only take action for passing off, and not for infringement</p> <p><b>2. Unfair competition laws</b></p> <p>Law 103(I) of 2007 allows administrative complaints to be filed by any natural or legal person who may have a legitimate interest. The Consumer Protection Service is under a duty to examine an infringement of this Law, following complaints or acting on its own initiative.</p> <p>According to the law, a commercial practice shall be regarded as misleading when it contains false information and is therefore untruthful or when, in any way, including overall presentation, deceives or is likely to deceive the average consumer, in relation to notably the main characteristics of the product, such as its availability, benefits, risks, execution, composition, accessories, after-sale assistance to consumers and complaint handling, method and date of manufacture or provision, delivery, fitness for purpose, usage, quantity, specification, geographical or commercial origin.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	The necessary documents are Form TM2 and a power of attorney which has been duly signed and stamped
<b>Relevant Supporting Documents</b>	
<b>Administration Responsible for Registration</b>	<p><b>Department of Registrar of Companies and Official Receiver</b>  <b>Ministry of Commerce, Industry and Tourism</b>          Corner Makarios Av. &amp; Karpenisiou str. - "Xenios Building" - 1427 Nicosia  <a href="http://www.mcit.gov.cy/mcit/mcit.nsf/dmlregistar_en/dmlregistar_en?OpenDocument">http://www.mcit.gov.cy/mcit/mcit.nsf/dmlregistar_en/dmlregistar_en?OpenDocument</a>  <a href="mailto:deptcomp@drcor.mcit.gov.cy">deptcomp@drcor.mcit.gov.cy</a> - <a href="mailto:eterion@drcor.mcit.gov.cy">eterion@drcor.mcit.gov.cy</a>          Telephone: (357 22) 404 301 / 404 302 - Fax: (357 22) 304 887</p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>Trade marks fees:  <a href="http://www.mcit.gov.cy/mcit/drcor/drcor.nsf/All/099C6A15359E748FC2256E5B004D5210/\$file/fees%20tm%20en%20euro.pdf">http://www.mcit.gov.cy/mcit/drcor/drcor.nsf/All/099C6A15359E748FC2256E5B004D5210/\$file/fees%20tm%20en%20euro.pdf</a></p>
<b>Timeframe</b>	
<b>Registration</b>	
<b>Protection</b>	<b>Duration of the protection:</b> Trade marks are initially registered for seven years and may be renewed for further 14-year periods thereafter. Renewal must be effected during the three months before the registration expires.

## CZECH REPUBLIC

### International Legal Framework

Czech Republic is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 1<sup>st</sup> January 1993, the Madrid Protocol Concerning the International Registration of Marks since the 25 September 1996, and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since 1<sup>st</sup> January 1993. Czech Republic is a WTO Member from 1<sup>st</sup> January 1995.

Czech Republic is a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration since the 1<sup>st</sup> January 1993.

Czech Republic has signed bilateral agreements on the protection of indications of source, denominations of origin, and denominations of agricultural which cover the protection on non-agricultural GI products:

- Agreement between Austria and CSSR on Indications of Source on Goods, Appellations of Origin of Products and other Marking Concerning the Origin of Agricultural and Industrial Product
- Agreement between Government of Portugal and CSSR on Indications of Source on Goods, Appellations of Origin of Products and other Geographic Denomination
- Agreement between Switzerland and CSSR on Indications of Source on Goods, Appellations of Origin of Products and other Geographic Denomination
- Convention on trade between France and Tchechoslovaquia 2 July 1928  
<http://www.diplomatie.gouv.fr/traites/affichetraite.do?accord=TRA19700101>

### National Legal Framework

<b>Type of Protection</b>	<p><b>The protection of non-agricultural GI products can be obtained:</b></p> <ul style="list-style-type: none"> <li>➤ <i>via a sui generis geographical indications law</i></li> <li>➤ <i>via a trade mark law</i></li> <li>➤ <i>Via a specific law / Decree or law protecting a specific product</i></li> <li>➤ <i>via a unfair competition law</i></li> </ul> <p><b>Ex parte protection</b> is available under the trade mark and unfair competition laws. <b>Ex officio</b> protection is available under the <i>sui generis</i> geographical indications law.</p>
<b>Relevant Regulatory Framework</b>	<p>Act No. 452 of 29 November 2001 on the Protection of Designations of Origin and Geographical Indications and on the Amendment to the Act on Consumer Protection <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=126162">http://www.wipo.int/wipolex/en/text.jsp?file_id=126162</a></p> <p>Law No. 441/2003 Coll. of 3 December 2003, on Trade marks and on Amendments to Act No. 6/2002 on Judgements, Judges, Assessors and State Judgement Administration and on Amendments to Some Other Acts (Act on Courts and Judges) in the Wording of Later Regulations <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=126166">http://www.wipo.int/wipolex/en/text.jsp?file_id=126166</a></p> <p>Act No. 143 of April 4, 2001 on the Protection of Economic Competition and on Amendments to Certain Acts Act no. 36/2008 Coll., amending the Act no. 634/1992 Coll., on protection of consumers, as amended <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=68&amp;languageID=CS">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=68&amp;languageID=CS</a></p> <p>Collection of Laws of the Czech Republic, <a href="http://www.sbcr.cz">www.sbcr.cz</a></p>
<b>Summary of the Operational</b>	<p><b>1. Act No. 452 of 29 November 2001 on the Protection of Designations of Origin and Geographical Indications and on the Amendment to the Act on Consumer</b></p>

<p><b>Provisions</b></p>	<p style="text-align: center;"><b>Protection</b> (entered into force on 1st April 2002)</p> <p><b><u>Definition:</u></b>  Article 2  a) designation of origin means the name of a region, a specific place or country (hereinafter referred to as “territory”) used for identification of the goods originating from this territory provided that quality or characteristics of this goods are exclusively or predominantly given by special geographical environment with its characteristic natural and human factors and provided that production, processing and preparation of such goods takes place within the defined territory; designation of origin for agricultural products or foodstuffs shall also mean traditional geographical or non-geographical indications for the goods originating from the defined territory if such goods fulfils other conditions according to this provision;  b) geographical indication means the name of a territory used for identification of the goods originating from this territory provided that this goods has certain quality, renown or other characteristics which are attributable to this geographical origin and provided that production or processing and/or preparation of such goods takes place within the defined territory</p> <p><b><u>Registration procedure is covered by the law</u></b>  The application must include statement of evidence from state administration body in the relevant territory in which the product production, processing and preparation takes place. This statement certifies that the establishment is situated on the given territory and that the applicant produces or processes the products</p> <p><b><u>Opposition procedure</u></b> is not provided for non-agricultural GI products</p> <p><b><u>Level of protection provided:</u></b>  (1) Registered indications are protected against  a) any direct or indirect business utilization of registered indication for the goods to which the registration does not relate, if such goods is comparable with the goods registered under this indication or  b) any misuse, imitation or suggestion, even if the real origin of goods is stated or the indication; protected indication is translated or accompanied by terms like “sort”, “type”, “method”, “style”, “imitated” or by similar terms;  c) any other false or deceptive data about geographical origin, nature or basic qualities of the goods stated on inward or outward packing, promotion materials or documents relating to respective goods, as well as against the use of transportation packing capable to evoke a false impression about its origin;  d) all other conduct which could lead to deceptive assumptions about true origin of goods.  (2) The registered indication may not become a generic indication of goods; if the registered indication itself includes also the name of goods, which is considered to be generic, the use of this generic name on the respective goods is not in conflict with paragraph 1 letter a) or b).</p> <p>Section 24 of the Act covers the enforcement of the rights. It states that anybody can claim, before the relevant court, that the use of a registered name should be prohibited for comparable goods, which do not fulfil the conditions for the utilisation of designation of origin or geographical indication, and that these goods should be withdrawn from the market. The holder of the registered name has the right to ask for the origin of a comparable product which is put or intended to be put on the market on which the product with a protected name is already marketed. In this case, the Court shall not acknowledge the right for information if the demand is disproportionate with the risk of infringement. The holder of the registered name also has the possibility to ask the Court to order the destruction of the goods infringing or jeopardising the intellectual property right. The Court shall not order the destruction of the goods if the infringement could be eliminated through another way and/or when the destruction would be inadequate to stop the infringement. If the infringement causes damage, the party which suffered the damage is entitled to ask for compensation. If the damage is immaterial, a reasonable monetary compensation should be given.</p> <p><b>2. Trade mark law</b>  Individual and collective marks can be registered in the Czech Republic.</p>
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	<p><b><u>Registration procedure</u></b>  The application for trade mark registration can be filed with the Industrial Property Office (the "Office") by any natural person or legal entity. The Office carries out a formal examination to find out whether the application has all the necessary particulars stipulated by the law and then the substantive examination to find out whether the designation applied for is not of such character that has no qualification to be registered: for instance whether it is not identical to already registered trade mark or whether it is not generic name or descriptive denomination, misleading or false indication and alike.</p> <p><b><u>Opposition procedure</u></b>  As the application is published in the Official Journal, third parties may file opposition within three months following the publication of the application</p> <p><b><u>Protection of non-agricultural GI products through the trade mark law</u></b></p> <p>By registering an individual or collective mark the owner acquires an exclusive right to use the trade mark. An infringement action must be filed before the district courts.</p> <p style="text-align: center;"><b>3. Act No. 143 of April 4, 2001 on the Protection of Economic Competition</b></p> <p>The law provides that misleading or unfair commercial practices shall be prohibited.</p> <p>Administrative enforcement is available under the unfair competition law and the protection as appellation of origin. Public authorities can act on their own initiative to protect the name. Administrative complaints can be filed by natural or legal person. There is no need to prove a legitimate interest. The Czech Trade Inspection Authority (CTIA) can open an investigation <i>ex officio</i> and in case the perpetrator continues breaking the law, CTIA acquires the evidence and proceeds against him. However, he administrative authorities do not have an obligation to investigate.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p>Under the law relating to the protection of designations of origin and geographical indications</p> <ul style="list-style-type: none"> <li>• There is no definition of generic geographical names and criteria for establishing a generic character of a geographical name for certain type of products</li> <li>• The protection granted after the registration of the name offers protection of this name in other languages as well (name of the product used in translation)</li> <li>• There is the possibility for prior rights' holders to challenge the protection AFTER registration</li> </ul>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p>Under the law relating to the protection of designations of origin and geographical indications, the content of the registration request covers:</p> <p><i>"a) wording of the designation of origin;</i>  <i>b) name or, as appropriate, business name and seat, or first name, surname and permanent address of the applicant or, as appropriate, of his representative;</i>  <i>c) geographical definition of the territory where production, processing and preparation of goods takes place;</i>  <i>d) specification of the place of business where the goods provided with designation of origin is produced, processed and prepared at the locality whose geographical name creates a part of designation of origin;</i>  <i>e) list of goods to which designation of origin should relate;</i>  <i>f) description of characteristics or qualitative features of goods, which are given by special geographical environment".</i></p> <p>The instructions how to fulfil the form are part of it.</p> <p>Specification, a text which explains how the product is produced, must also be provided. It must contain the (section 6 of the Act):</p>

	<p><i>“a) name of agricultural product or foodstuff, including the wording of designation of origin; b ) description of agricultural product or foodstuff, including raw-material, if any, and description of basic physical, chemical, microbiological and/or organoleptic qualities of agricultural product or foodstuff; c) geographical definition of territory or, if need be, the data which give the evidence about fulfilment of requirement according to Section 2 letter a) sentence after semicolon; d) data demonstrating that agricultural product or foodstuff originate from the defined territory; e ) description of a method used for acquisition of agricultural product or foodstuff or, if need be, description of trustworthy and unchangeable local methods of their acquisition; f) data confirming the connection between quality, characteristics or features of agricultural product of foodstuff and geographical origin within the meaning of Section 2 letter a).”</i></p> <p>The language of the application is Czech.</p> <p>Under the trade mark law, the application has to contain:</p> <ul style="list-style-type: none"> <li>➤ Firm or first name and surname and residence of the applicant</li> <li>➤ Wording and/or representation of the filed mark</li> <li>➤ The list of concrete goods or services filed for protection including the indication of classes</li> <li>➤ Power of Attorney, if the applicant is represented by an attorney. Please note that a person/entity with no address in the Czech Republic must be represented by a Czech attorney.</li> </ul> <p>All forms related to a trade mark application are available at: <a href="http://www.upv.cz/en/ip-rights/trade-marks.html">http://www.upv.cz/en/ip-rights/trade-marks.html</a></p>
<b>Relevant Supporting Documents</b>	Under the law relating to the protection of designations of origin and geographical indications, confirmation from the state administration that the applicant produces transforms and prepares the relevant goods in the delimited geographical area.
<b>Administration Responsible for Registration</b>	<p><b>Industrial Property Office</b>          Úřad průmyslového vlastnictví - Antonína Čermáka 2a - 160 68 Prague 6 - Bubeneč          Tel/Fax: 220 383 111 / 224 324 718 - E-mail: <a href="mailto:posta@upv.cz">posta@upv.cz</a> - <a href="http://www.upv.cz">www.upv.cz</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>Under the law relating to the protection of designations of origin and geographical indications, the application fee is set at: 4000- CZK (160 EUR)</p> <p>Under the trade mark law, the fees are set at: for an individual mark not exceeding three classes of goods and services: CZK 5.000 (app. EUR 180); for an collective mark not exceeding three classes of goods and services: CZK 10.000 (app. EUR 360). The fee for each class of goods exceeding three classes: CZK 500 (app. EUR 18).</p>
<b>Timeframe</b>	
<b>Registration</b>	<p>Under the law relating to the protection of designations of origin and geographical indications, there is no timeframe relating to the registration procedure. It depends a lot on the complexity of the case and the quality of the application for registration's content. It is estimated approximately between 6 months and 2 years.</p> <p>The usual period for trade mark registration is 6 months.</p>
<b>Protection</b>	<p>As an appellation of origin or geographical indications, the duration of the protection is not limited in time.</p> <p>A trade mark registration in Czech Republic is valid for 10 years and starts with registration date. The registration is renewable for periods of 10 years.</p>

## DENMARK

### International Legal Framework

Denmark is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since 1<sup>st</sup> October 1894 and the Madrid Protocol Concerning the International Registration of Marks from 13 February 1996. It is a WTO Member since 1<sup>st</sup> January 1995.

Denmark is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>The trade mark law</b></li> <li>➤ <b>The Marketing Practices Consolidation Act</b></li> </ul> <p><b>Ex parte protection</b> is available under these two laws.</p>
<b>Relevant Regulatory Framework</b>	<p><b>The Consolidate Trade Marks Act (2012) and the Order on Application and Registration, etc. of Trade Marks and Collective Marks, Order No. 364 of 21 May 2008</b>  <a href="http://www.dkpto.org/media/20491797/the%20consolidate%20trade%20marks%20act%202012.pdf">http://www.dkpto.org/media/20491797/the%20consolidate%20trade%20marks%20act%202012.pdf</a></p> <p><b>Order on Application and Registration, etc. of Trade Marks and Collective Marks, Order No. 364 of 21 May 2008</b>  <a href="http://www.dkpto.org/media/13339103/order_trademarks.pdf">http://www.dkpto.org/media/13339103/order_trademarks.pdf</a></p> <p><b>The 2009 Marketing Practices Consolidation Act</b>  <a href="http://www.consumerombudsman.dk/Regulatory-framework/Danish-Marketing-Practices-Act/~media/Consumerombudsman/dco/Guidelines/regulation/Consolidated%20Marketing%20Practices%20Act%20202.pdf">http://www.consumerombudsman.dk/Regulatory-framework/Danish-Marketing-Practices-Act/~media/Consumerombudsman/dco/Guidelines/regulation/Consolidated%20Marketing%20Practices%20Act%20202.pdf</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>Trade mark Law</b></p> <p>A non-agricultural GI product can secure protection as an individual or a collective trade mark.</p> <p><b>Registration procedure</b>          The application shall be sent to the Danish Patent and Trade mark Office, which examines it. The Office examines whether the mark has the necessary distinctive character (i.e. that it does not describe any characteristic of the goods or services, such as the kind, quality or intended purpose) and that it is not misleading or contrary to law or public order. If the application is valid, it issues a registration certificate and publishes the mark in the Danish Trade mark Gazette (Dansk Varemærketidende).</p> <p><b>Opposition procedure</b>          The publication by the Office opens an opposition period of two months, during which opposition can be filed against the mark. If no opposition is filed, the applicant receives a final statement about his/her registration.</p> <p><b>Level of protection provided</b>          The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p>

	<p><b>Marketing Practices Consolidation Act</b></p> <p>The law provides that misleading and improper marketing practices shall be prohibited. According to section 3: <i>“traders may not use misleading or improper statements or omit material information if this is likely to materially distort consumers’ or other traders’ economic behaviour in the market. Marketing whose content, form or method used is misleading, aggressive or subjects the consumers or traders to improper influence, and which is likely to materially distort their economic behaviour, is not permitted. Where factual statements are made, these must be capable of being documented”</i></p> <p>Administrative complaints can be filed by anyone for instance consumers, competitors or other traders even anonymously towards the Consumer Ombudsman who can also act on his own initiative. The Consumer Ombudsman assesses all complaints filed and decides if a complaint should be investigated further or not. He does not have obligation to investigate the complaint.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	There is the possibility for prior rights’ holders to challenge the protection before (article 7) and after registration (article 8, 9 &10) under the Consolidate Trade Marks Act (2012).
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>The application form are available at: <a href="http://iprights.dkpto.org/trademark/forms.aspx">http://iprights.dkpto.org/trademark/forms.aspx</a></p> <p>The trade mark registration should contain the following information;</p> <ul style="list-style-type: none"> <li>- A reproduction of the trade mark,</li> <li>- The applicant's name or company.</li> <li>- The goods or services in respect of which registration of the trade mark is applied for.</li> </ul> <p>The following documents must be given with the application:</p> <ul style="list-style-type: none"> <li>- a power of attorney,</li> <li>- a proof of the registration of the mark in the home country, if applicable.</li> </ul> <p>The application must be sent to the Danish Patent and Trade mark Office either online (form and payment) or by e-mail, fax or post.</p> <p>The application can be filed in Danish, English, Swedish or Norwegian (art.5 of the Order).</p> <p>There is no requirement to appoint a representative in Denmark.</p>
<b>Relevant Supporting Documents</b>	<p>The trade mark application form is not available in English, but it is possible to file online by using the following link: <a href="http://forms.dkpto.dk/apps/int.evm/indledning.asp?step=1">http://forms.dkpto.dk/apps/int.evm/indledning.asp?step=1</a></p> <p>A Customer Service Center can be contacted on Mon - Thursday 9H-16H (GMT+1), Friday 9H-15H (GMT+1): Tel: +45 4350 8301; e-mail: <a href="mailto:pvs@dkpto.dk">pvs@dkpto.dk</a></p>
<b>Administration Responsible for Registration</b>	<p><b>Danish Patent and Trade mark Office</b>  Helgeshøj Allé 81 - 2630 Taastrup, DK  E-mail: <a href="mailto:pvs@dkpto.dk">pvs@dkpto.dk</a> - Tel: +45 43 50 80 00 - Fax: +45 43 50 80 01</p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>The fee structure for trade mark is available at: <a href="http://iprights.dkpto.org/trademark/prices-and-payment.aspx">http://iprights.dkpto.org/trademark/prices-and-payment.aspx</a></p> <p>The basic application fee is set at 2,350 DKK</p>
<b>Timeframe</b>	
<b>Registration</b>	No timeframe is given in the law.
<b>Protection</b>	A trade mark registration in Denmark is valid for 10 years and starts with registration date. The registration is renewable for periods of 10 years. A trade mark is subject to requirement of use.

## ESTONIA

### International Legal Framework

Estonia is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since 24 August 1994 and the Madrid Protocol Concerning the International Registration of Marks since 18 November 1998. Estonia is a WTO Member since 13 November 1995.

Estonia is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection for non-agricultural geographical indications can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>a <i>sui generis</i> geographical indications law: Geographical Indication Protection Act (Geograafilise tähise kaitse seadus).</b></li> <li>➤ the trade mark law</li> <li>➤ via the unfair competition law and the advertising act</li> </ul> <p><b>Ex parte protection</b> is available under the trade mark and unfair competition laws.  <b>Ex officio</b> protection is available under the GI protection act.</p>
<b>Relevant Regulatory Framework and Source</b>	<p><b>Geograafilise tähise kaitse seadus (Geographical Indication Protection Act).</b> – RT I 1999, 102, 907 ... RT I, 28.12.2011, 1. Entered into force on 10.01.2000. The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/128122011002">https://www.riigiteataja.ee/akt/128122011002</a> (21.04.2012). Unofficial English translation (not necessarily up to date) available at <a href="http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=XXXXXX03K1&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Geograafilise+t%E4hise+kaitse+seadus">http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=XXXXXX03K1&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Geograafilise+t%E4hise+kaitse+seadus</a> (21.04.2012)</p> <p><b>The following government regulations are also relevant to protection of geographical indications:</b></p> <ul style="list-style-type: none"> <li>➤ <b>Riiklik geograafiliste tähiste register</b> (State register of geographical indications). – RT I 2000, 38, 236 ... RT I, 29.12.2011, 132. Entered into force on 13.05.2000 (the Government of the Republic). The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/129122011154">https://www.riigiteataja.ee/akt/129122011154</a> (21.04.2012);</li> <li>➤ <b>Ametiasutuste pädevus «Geograafilise tähise kaitse seaduse» rakendamisel</b> (Competence of administrative agencies in implementing Geographical Indication Protection Act). – RT I 2000, 45, 282. Entered into force on 01.06.2002 (the Government of the Republic). The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/72068">https://www.riigiteataja.ee/akt/72068</a> (21.04.2012);</li> <li>➤ <b>Geograafilise tähise registreerimise tunnistuse vorminõuded ja vormistamise kord</b> (Formal requirements for and procedure of formalising certificates of registration of geographical indications). – RT I, 10.01.2012, 6. Entered into force on 13.01.2012 (the Minister of Justice). The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/110012012006">https://www.riigiteataja.ee/akt/110012012006</a> (21.04.2012);</li> <li>➤ <b>Geograafilise tähise registreerimise taotluse dokumentide vorminõuded</b> (Formal requirements for documents of geographical indication registration application). - RT I, 10.01.2012, 5. Entered into force on 13.01.2012 (the Minister of Justice). The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/110012012005">https://www.riigiteataja.ee/akt/110012012005</a> (21.04.2012).</li> </ul> <p><b>Kaubamärgiseadus (Trade Marks Act).</b> - RT I 2002, 49, 308 ... 28.12.2011, 1. . Entered into force on 01.05.2004. The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/128122011004">https://www.riigiteataja.ee/akt/128122011004</a> (16.06.2012). Unofficial English translation (not</p>

	<p>necessarily up to date) available at  <a href="http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=X50063K3&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Kaubam%E4rgiseadus">http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=X50063K3&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Kaubam%E4rgiseadus</a> (16.06.2012).</p> <p><b>Konkurentsiseadus (Competition Act).</b> – RT I 2001, 56, 332 ... 23.02.2011, 3. Entered into force on 01.10.2001. The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/123022011011">https://www.riigiteataja.ee/akt/123022011011</a> (16.06.2012). Unofficial English translation (not necessarily up to date) available at:  <a href="http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=X50066K7&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Competition+Act">http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=X50066K7&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Competition+Act</a> (16.06.2012).</p> <p><b>Reklaamiseadus (Advertising Act).</b> – RT I 2008, 15, 108 ... 25.04.2012, 1. Entered into force on 01.11.2008. The official text in Estonian available at <a href="https://www.riigiteataja.ee/akt/125042012006">https://www.riigiteataja.ee/akt/125042012006</a> (16.06.2012). Unofficial English translation (not necessarily up to date) available at:  <a href="http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=XXX0044K2&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Reklaamiseadus">http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&amp;dok=XXX0044K2&amp;keel=en&amp;pg=1&amp;ptyyp=RT&amp;tyyp=X&amp;query=Reklaamiseadus</a> (16.06.2012).</p>
<p><b>Summary of the Operational Provisions</b></p>	<p><b><u>General information on the GI law:</u></b></p> <p>The Geograafilise tähise kaitse seadus (Geographical Indication Protection Act) was passed on 15 December 1999 and it entered into force 10 January 2000. It contains provisions on the basis for legal protection of geographical indications, a definition of geographical indication and geographical area (article 3), the form of a GI, differences of legal protection of geographical indications for alcoholic beverages, registration of geographical indication, contestation and protection of rights and supervision. It establishes a GI register.</p> <p><b>Registration procedure:</b>  Application for GI registration can be submitted by a person or an association who acts as the producer, processor or preparer for sales of the good designated with the indication, or as the renderer of the service in the geographical area specified in the indication; an association of consumer, a competent authority of the country of origin of the good or service, or Estonian administrative agencies competent approved by the Government  The following indications cannot be protected. Those that mislead the public as to the geographical origin of the good or service; designate a good or service where the given quality, reputation or other characteristic of the good or service is not essentially attributable to the geographical origin of the good or service; those that although literally true as to the geographical origin of the good or service, may falsely represent to the public that the good or service originates in another geographical area; are contrary to public order or accepted principles of morality; have become generic; include the name of an animal breed or a plant variety or is misleadingly similar to it; are not protected in their country of origin.  Registration applications are filed with the Estonian Patent Office. It is important to note that the law specifically states that the Estonian Patent Office should not examine the elements mentioned in the paragraph above but will only examine whether an indication is contrary to public order or accepted principles of morality and whether the applicant has fulfilled all formal requirements and the state fee is paid.</p> <p><b>Opposition procedure:</b>  Any interested person or supervisory agency who considers that the applicant had no right to file a registration application, may submit a petition in court against the applicant, his successor or legal successor to declare the registration unlawful. Any interested person who considers that a registered geographical indication is not in word or figurative form, there were deficiencies in registration application, or it is contrary to public order or accepted principles of morality, may file an appeal with a county court as proceedings on petition to declare the registration unlawful and require that the Patent Office restore the processing and make a new decision (Geographical Indication Protection Act § 43).</p> <p><b>Level of protection:</b></p>

The legal protection is extensive. The following is prohibited:

- 1) the use of a geographical indication or a misleadingly similar indication for designating goods or services by a person who does not act as the producer, processor or preparer for sales of the good specified in the registration or as the renderer of the service in the geographical area specified in the registration;
- 2) the use of a geographical indication or a misleadingly similar indication for designating goods or services if the good or service lacks any quality, reputation or other characteristic specified in the registration;
- 3) the use of a geographical indication or a misleadingly similar indication for designating goods or services that are not covered by the registration but which are of the same kind as the goods and services covered by the registration;
- 4) the use of a geographical indication or a misleadingly similar indication for designating other goods or services where it may constitute the use of the reputation of the protected geographical indication in bad faith;
- 5) the use of any misleading information about the origin, nature or basic characteristics of the good or service on the inner or outer packaging, in advertising materials or relevant documents of the good or service;
- 6) the use of an indication which, although literally true as to the geographical origin of the good or service, may falsely represent to the public that the good or service originates in another area, even if the true origin is indicated;
- 7) other transactions which may mislead the public as to the true origin of the good or service (Geographical Indication Protection Act § 11).

Furthermore, legal protection to geographical indications is ensured by exercising state supervision and applying the enforcement powers of the state. Supervision is exercised over the lawfulness of the use of a protected geographical indication, including the compliance of the good or service designated with the geographical indication with the description contained in the register. A supervisory agency exercises supervision on its own initiative or on the basis of a request from an interested person. Supervision over the fulfilment of the requirements provided for in Geographical Indication Protection Act is exercised by the following agencies according to their competence: Agricultural Board; Consumer Protection Board; Veterinary and Food Board.

#### **Trade Marks Act**

Individual, collective and guarantee marks can be registered in Estonia.

#### **Registration**

A registration application must be filed with the Patent Office to obtain protection for a trade mark. A registration application can be electronically filed via the portal of electronic filing. Registration documents must be filed in typewritten form (typed on a computer or typewriter). Each application may include only one trade mark. A person who applies for a trade mark registration may perform procedures relating to the registration of a trade mark either by himself or through Estonian patent attorneys. A person with no residence, seat, or commercial or industrial enterprise operating in Estonia must authorise a patent attorney to perform acts related to the legal protection of a trade mark. Registration applications must be filed in Estonian.

In case that the examiner considers that the trade mark is distinctive for certain goods or a service of a trader and that it is not deceptive, he gives the approval for publication of the mark in the Official Trade mark Gazette.

#### **Opposition**

After publication in the Official Gazette, there is a period of 2 months in which any person who has previous rights and/or who has reasons to believe that he would be damaged by the registration of a pending trade mark may file an opposition. This period is not extendable. The opposition must be filed in writing and accompanied by payment of the official opposition fee. If the fee is not paid, the opposition is not taken into consideration by the Office.

#### **Protection provided**

The owner of a registered trade mark holds an exclusive right to a trade mark. The owner of a trade mark has the right to prohibit third parties from using the trade mark which is identical or similar with the trade mark which is granted legal protection where such mark is used to

	<p>designate goods or services which are identical or similar with those for which the trade mark is protected.</p> <p>Article 9 (11) states that signs which contain a registered geographical indication or are confusingly similar thereto if it may result in unlawful use of the geographical indication pursuant to the provisions of the Geographical Indications Protection Act.</p> <p><b>Competition Act (Unfair competition) and the Advertising Act</b></p> <p>The laws provide that misleading, notably with regard to the origin and unfair commercial practices as well as unfair competition are prohibited. Only consumer may submit the complaint directly or through a representative. Consumers may submit a complaint to the person or institution which settles corresponding disputes, to the consumer complaints committee through the Consumer Protection Board. The administrative authorities have an obligation to investigate</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p><b>Under the Geographical Indication Protection Act</b>, generic terms cannot be protected.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms and Relevant Supporting Documents</b></p>	<p><b>Under the Estonian Geographical Indication Protection Act</b></p> <p><b>Registration application</b></p> <p>A registration application shall comprise the following documents:</p> <ol style="list-style-type: none"> <li>1) a request for the registration of a geographical indication which must contain: a statement requesting the registration of a geographical indication; a representation of the geographical indication; the name and address of residence or seat of the applicant and other contact data; information about the possession of the right to apply for the registration of the geographical indication pursuant to the provisions of subsection 9 (1) of this Act; a short summary of the description which shall comply with the content of the description; the name of the representative, if the applicant has a representative; the signature of the applicant or the representative of the applicant;</li> <li>2) a description that includes: the name of the good or service; the features characterising the good (a list of physical, chemical, microbiological, organoleptic or other qualities according to the particular good); the features characterising the service or the method of producing the good; the identification of the geographical area; the particulars certifying the link of a given quality, reputation or other characteristic of the good or service with the geographical origin. The description may contain features characterising the raw material, the data about the use of a warning notice and other data which the applicant considers necessary to submit. The description shall give a complete and exact idea of the link of the given quality, reputation or other characteristic of the good or service with the geographical origin of the good or service. If the same geographical indication is used to designate goods or services with different features, the description shall be submitted for each good or service separately.</li> <li>3) a certificate of the protection of the geographical indication in its country of origin, or a certificate issued by the competent agency of the country of origin certifying the link of the given quality, reputation or other characteristic of the good or service with the geographical origin of the good or service, and a certificate issued by the competent agency of the country of origin of the right of the applicant to apply for registration of a geographical indication pursuant to the provisions of subsection 9 (1) of this Act</li> <li>4) a document certifying payment of the state fee;</li> <li>5) an authorisation document if the applicant has a representative.</li> </ol> <p>Foreign-language documents have to be submitted to the register together with an Estonian translation</p> <p><b>Under the trade mark act</b></p> <p>Forms are available at: <a href="http://www.epa.ee/client/default.asp?wa_id=1045&amp;wa_id_key=">http://www.epa.ee/client/default.asp?wa_id=1045&amp;wa_id_key=</a></p>

<b>Administration Responsible for Registration</b>	The Estonian Patent Office is available at <a href="http://www.epa.ee/">http://www.epa.ee/</a> Contact information: Toompuiestee 7 - Tallinn 15041 - Estonia
<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Under the Estonian Geographical Indication Protection Act</b> According to the State Fees Act a state fee of 102,25 euros shall be paid upon submission of an application for registration of a geographical indication (§ 148 (12)).</p> <p><b>Under the trade mark act</b> For filing of an application for registration of a trade mark for one class of goods and services according to the international classification of goods and services: 140.60€ For filing of an application for registration of a trade mark for each additional class of goods and services according to the international classification of goods and services: 44.73€</p>
<b>Timeframe</b>	
<b>Registration</b>	<p>In case all documents required for the registration of a GI are submitted to the Estonian Patent Office it should not take more than 3 months. Approximately it takes 1 month.</p> <p>Trade mark registration should take about 6 months.</p>
<b>Protection</b>	<p>According to section 7 of the Estonian Geographical Indication Protection Act “[l]egal protection of geographical indications does not have a term”.</p> <p>Trade mark protection is granted for a period of 10 years renewable.</p>

## FINLAND

### International Legal Framework

Finland is a member of the World Intellectual Property Organization since 8 September 1970. It is a signatory to the Paris Convention for the Protection of Industrial Property which entered into force on 20 September 1921 and the Madrid Protocol concerning the International Registration of Marks from 1 April 1996. Finland is a WTO Member since 1<sup>st</sup> January 1995.

Finland is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection for non-agricultural geographical indications can be obtained via;</p> <ul style="list-style-type: none"> <li>➤ a Trade mark law</li> <li>➤ Unfair Competition Law (UCL)</li> </ul> <p>No <i>ex officio</i> protection is available; protection is provided <i>ex parte</i>.</p>
<b>Relevant Regulatory Framework</b>	<p><b>Trade marks Act No. 7 of 10 January 1964</b> as last amended on November 26, 2010 (hereinafter, referred as “the Law”). <b>Trade marks Decree No. 296 of 29 May 1964</b>, as last amended on April 13, 2000 (hereinafter, referred as “the Decree”). <b>Act on Collective Marks No. 795 of 5 December 1980</b>, as amended by Act No. 40 of 25 January 1993.  <a href="http://www.prh.fi/en/tavaramerkit/tavaramerkkilehti.html">http://www.prh.fi/en/tavaramerkit/tavaramerkkilehti.html</a></p> <p><b>Unfair Competition Law:</b> Act amending Chapter 2 of the Consumer Protection Act &amp; Government decree on practices in marketing and customer relationships considered unfair to the consumer.  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=55&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=55&amp;languageID=EN</a>  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=64&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=64&amp;languageID=EN</a></p>
<b>Summary of the Operational Provisions</b>	<p><b><u>Trade mark Law</u></b>          Individual, certification and <i>collective</i> marks are available in Finland.</p> <p><b><u>Registration procedure</u></b>          Application for registration of a trade mark shall be filed in writing with the registering authority. A filing fee shall be paid on the filing of the application. Marks indicating the kind, quality, quantity, use, price or place or time of manufacture of the goods shall not, as such, be regarded as distinctive and therefore cannot be registered. In case of the conversion of a Community trade mark, the applicant must submit the registering authority a translation in Finnish or Swedish of the conversion request and the accompanying annex.          The National Board of Patents and Registration (NBPR) makes a decision to register and publishes the registration in the Trade mark Gazette.</p> <p><b><u>Opposition procedure</u></b>          Any opposition to the registration of the trade mark shall be filed in writing with the registering authority within two months of the date of the public notice. (Section 20 of the Law)</p>

	<p><b>Level of protection provided</b> Registration shall confer exclusive rights in a trade mark as a special symbol for distinguishing goods to be offered for sale, or otherwise purveyed in business, from those of others. A collective body may obtain the exclusive right to a trade mark intended to be used by the members of the body in their professional activities (Section 1 of the Act on Collective Marks).</p> <p><b>Unfair Competition Law</b> The Law prohibits unfair practices in marketing and customer relationships. Administrative complaints can be filed by every natural or legal person to Regional Administrative Offices which have an obligation to investigate.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	None
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	The forms for trade mark applications can be downloaded on the website of the National Board of Patents and Registration of Finland : <a href="http://www.prh.fi/en/tavaramerkit/hakemus.html">http://www.prh.fi/en/tavaramerkit/hakemus.html</a>
<b>Relevant Supporting Documents</b>	Applications for registration of a collective mark shall include the following documents: <ul style="list-style-type: none"> <li>- an excerpt from the association</li> <li>- trade or institution register</li> <li>- the association's bylaws and stipulations regarding the use of the mark</li> </ul> (Section 3 of the Act on Collective marks)
<b>Administration Responsible for Registration</b>	<p><b>National Board of Patents and Registration of Finland</b>  <a href="http://www.prh.fi">http://www.prh.fi</a>  Arkadiankatu 6 A - P.O. Box 1140 - 00101 Helsinki - FINLAND  <a href="mailto:registry@prh.fi">registry@prh.fi</a>  Tel: (358 9) 6939 500 - Fax: (358 9) 6939 5328</p>
<b>Costs</b>	
<b>Costs of registration</b>	<p><b><u>Fees relating to trade mark applications and registrations</u></b><sup>105</sup></p> <p>Fee for a trade mark application includes three classes of goods or services 215 €  Fee for a collective mark application includes three classes of goods and/or services 290€</p>
<b>Timeframe</b>	
<b>Registration</b>	The processing time of trade mark applications is an average of 5 months
<b>Protection</b>	The protection shall apply for 10 years from the date of registration, and shall be renewed for successive periods of 10 years within 12 months before or later than six months after expiry (Section 2 of the Law).

<sup>105</sup> National Board of Patents and Registration of Finland - <http://www.prh.fi/en/tavaramerkit/hinnasto/hakemusmaksut.html>

## FRANCE

### International Legal Framework

France is a member of the World Intellectual Property Organization. France is a signatory to the Paris Convention for the Protection of Industrial Property since 7 July 1884, the Madrid Protocol Concerning the International Registration of Marks from 7 November 1997, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892 and the Lisbon Agreement for the protection of Appellations of Origin and their registration since 25 September 1966.

France is a WTO Member since the 1<sup>st</sup> January 1995.

#### **Bilateral agreements covering non-agricultural GI products:**

- Agreement between French Republic and Federal Republic of Germany for the protection of indications of source, appellations of origin and other geographical denominations 8 March 1960  
Non-agricultural products covered by this Agreement : Dentelle du Puy, Emaux de Limoges, Mouchoirs et toile de Cholet, Poterie de Vallauris  
<http://www.diplomatie.gouv.fr/traites/affichetraite.do?accord=TRA19600038>
- Agreement between France and Italy for the protection of appellations of origin and denominations of certain products – 28 April 1964  
Non-agricultural products covered by this Agreement : Dentelle du Puy, Mouchoirs et toile de Cholet, Poterie de Vallauris, Galoches d'Aurillac (shoes)  
<http://www.diplomatie.gouv.fr/traites/affichetraite.do?accord=TRA19640056>
- Convention between French Republic and Spanish State for the protection of appellation of origin, indications of source and denomination of certain products, 27 June 1973  
Non-agricultural products covered by this Convention : Dentelle du Puy, Emaux de Limoges, Mouchoirs et toile de Cholet, Poterie de Vallauris  
<http://www.diplomatie.gouv.fr/traites/affichetraite.do?accord=TRA19730122>
- Treaty between Swiss Confederation and French Republic for the protection of indications of source, appellations of origin and other geographical denominations – 14 May 1974, entry in force 10 October 1975.  
Non-agricultural products covered by this Treaty : Dentelle du Puy, Emaux de Limoges, Mouchoirs et toile de Cholet, Poterie de Vallauris  
<http://www.admin.ch/ch/f/rs/i2/0.232.111.193.49.fr.pdf>
- Agreement between French Republic and Austrian Republic for the protection of indications of source, appellations of origin and denomination of agricultural and industrial products – 10 May 1974  
Non-agricultural products covered by this Agreement: Dentelle du Puy, Emaux de Limoges, Procelaine de Limoges, Mouchoirs et toile de Cholet, Poterie de Vallauris  
[http://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede\\_document.php](http://basedoc.diplomatie.gouv.fr/exl-php/util/documents/accede_document.php)
- Convention on trade between France and Tchecoslovaquia 2 July 1928  
<http://www.diplomatie.gouv.fr/traites/affichetraite.do?accord=TRA19700101>
- Agreement between France and Costa Rica for the mutual protection of industrial property and appellations of origin – 10 July 1933  
<http://www.diplomatie.gouv.fr/traites/affichetraite.do?accord=TRA19330015>

### National Legal Framework

<p><b>Type of Protection</b></p>	<p><b>The protection of non-agricultural products bearing a geographical name can be obtained in France:</b></p> <ul style="list-style-type: none"> <li>➤ <b>via a sui generis appellations of origin law</b> : Articles L.115-1 and (suivants) Code of consumption codified by the Law 93-949 from 26/07/2993 and coming from the Law n°1919-06-05 from 6 may 1919 on the Protection of Appellation of Origin</li> </ul> <p><b>Law currently not used for non-agricultural products</b>  <b>Geographical indications are not covered by this regulation</b> (A project of a new law including GIs for non-agricultural product is pending at the Senate)  Articles L.721-1 and (suivants) Code of Intellectual Property (definition and civil actions-proceedings)</p> <ul style="list-style-type: none"> <li>➤ <b>Via a specific law / Decree or law protecting a specific product</b> <ul style="list-style-type: none"> <li>- Decree n° 73-357 from the 14 March 1973 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the textile products trade: Article 18</li> <li>- Decree n° 76-492 from the 28 May 1976 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the tin/pewter products trade: Article 3</li> <li>- Decree n° 82-223 from the 25 february 1982 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the enamel and the enamelled or glazed products: Article 5</li> </ul> </li> <li>➤ <b>via a trade mark law</b>: Articles L.711-1 and (suivants) Intellectual Property Code – 7th Book on trade marks.</li> <li>➤ <b>Via consumers protection law</b>: Consumer Code.  Articles L.111-1 : General obligation on information ; Articles L.115-27 &amp; etc : Certification of services and non-agricultural products ; Article L.121-1 : Advertising ; Articles L.213-1 &amp; etc : Frauds and misleading practices</li> <li>➤ <b>Via unfair competition law</b>: Article 1382 Civil Code</li> </ul> <p><b>Ex officio protection</b> is available only under the <i>sui generis</i> appellations of origin law.  <b>Ex parte protection</b> available under the other legal frameworks.</p>
<p><b>Relevant Regulatory Framework</b></p>	<ul style="list-style-type: none"> <li>• Articles L.115-1 and (suivants) Code of consumption codified by the Law 93-949 from 26/07/2993 and coming from the Law n°1919-06-05 from 6 may 1919 on the Protection of Appellation of Origin  <a href="http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006291890&amp;idSectionTA=LEGISCTA000006179120&amp;cidTexte=LEGITEXT000006069565&amp;dateTexte=20120329">http://www.legifrance.gouv.fr/affichCode.do?idArticle=LEGIARTI000006291890&amp;idSectionTA=LEGISCTA000006179120&amp;cidTexte=LEGITEXT000006069565&amp;dateTexte=20120329</a></li> <li>• Articles L.711-1 and (suivants) Intellectual Property Code – 7<sup>th</sup> Book on trade marks.  <a href="http://www.legifrance.gouv.fr/affichCode.do;jsessionid=2123830A0AE4AB04D71D03D4DA50D8BB.tpdjo12v_2?idSectionTA=LEGISCTA000006161690&amp;cidTexte=LEGITEXT000006069414&amp;dateTexte=20120329">http://www.legifrance.gouv.fr/affichCode.do;jsessionid=2123830A0AE4AB04D71D03D4DA50D8BB.tpdjo12v_2?idSectionTA=LEGISCTA000006161690&amp;cidTexte=LEGITEXT000006069414&amp;dateTexte=20120329</a></li> <li>• Articles L. 721-1, L.722-1 and (suivants) Intellectual Property Code 7<sup>th</sup> Book on trade marks – Title II Geographical indications  <a href="http://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006161706&amp;cidTexte=LEGITEXT000006069414&amp;dateTexte=20120329">http://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006161706&amp;cidTexte=LEGITEXT000006069414&amp;dateTexte=20120329</a>  <a href="http://www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006179071&amp;cidTexte=LEGITEXT000006069414&amp;dateTexte=20120329">www.legifrance.gouv.fr/affichCode.do?idSectionTA=LEGISCTA000006179071&amp;cidTexte=LEGITEXT000006069414&amp;dateTexte=20120329</a></li> <li>• Law n°1919-06-05 from 6 may 1919 on the Protection of Appellation of Origin:  <a href="http://www.wipo.int/wipolex/fr/text.jsp?file_id=127193">http://www.wipo.int/wipolex/fr/text.jsp?file_id=127193</a></li> <li>• Law No. 91-7 of January 4, 1991 on Trade marks and Service Marks  <a href="http://www.wipo.int/wipolex/en/details.jsp?id=5838">http://www.wipo.int/wipolex/en/details.jsp?id=5838</a></li> <li>• Counterfeiting: Act No. 94-102 of 5 February 1994 Article 13 (Official Journal of 8 February 1994), Order No. 2000-916 of 19 September 2000, Article 3 (Official Journal of 22 September 2000, in force on 1 January 2002), Act No. 2004-204 of 9 March</li> </ul>

	<p>2004, Article 34 VII (Official Journal of 10 March 2004)  <a href="http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000364284&amp;fastPos=2&amp;fastReqId=1171172408&amp;categorieLien=cid&amp;oldAction=rechTexte">http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000364284&amp;fastPos=2&amp;fastReqId=1171172408&amp;categorieLien=cid&amp;oldAction=rechTexte</a></p> <ul style="list-style-type: none"> <li>• Article 39 Code of customs: prohibitions relative to the protection of trade marks and indications of origin – Control on the origin of the products (against false and misleading origin)  <a href="http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006615370&amp;cidTexte=LEGITEXT000006071570&amp;dateTexte=20120513&amp;oldAction=rechCodeArticle">http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006615370&amp;cidTexte=LEGITEXT000006071570&amp;dateTexte=20120513&amp;oldAction=rechCodeArticle</a></li> <li>• Article 1382 Civil Code  <a href="http://www.legifrance.gouv.fr/affichCode.do;jsessionid=4B270BAFD4CAEC07195D01A83EDFFA05.tpdjo06v_1?idSectionTA=LEGISCTA000006136352&amp;cidTexte=LEGITEXT000006070721&amp;dateTexte=20120601">http://www.legifrance.gouv.fr/affichCode.do;jsessionid=4B270BAFD4CAEC07195D01A83EDFFA05.tpdjo06v_1?idSectionTA=LEGISCTA000006136352&amp;cidTexte=LEGITEXT000006070721&amp;dateTexte=20120601</a></li> <li>• Decree n° 73-357 from the 14 March 1973 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the textile products trade:  <a href="http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000495103&amp;fastPos=1&amp;fastReqId=375497702&amp;categorieLien=cid&amp;oldAction=rechTexte">http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000495103&amp;fastPos=1&amp;fastReqId=375497702&amp;categorieLien=cid&amp;oldAction=rechTexte</a></li> <li>• Decree n° 76-492 from the 28 May 1976 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the tin/pewter products trade:  <a href="http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000304893&amp;fastPos=1&amp;fastReqId=1999898741&amp;categorieLien=cid&amp;oldAction=rechTexte">http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000304893&amp;fastPos=1&amp;fastReqId=1999898741&amp;categorieLien=cid&amp;oldAction=rechTexte</a></li> <li>• Decree n° 82-223 from the 25 february 1982 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the enamel and the enamelled or glazed products:  <a href="http://www.legifrance.gouv.fr/jopdf/common/jo_pdf.jsp?numJO=0&amp;dateJO=19820305&amp;numTexte=00773&amp;pageDebut=00773&amp;pageFin=">http://www.legifrance.gouv.fr/jopdf/common/jo_pdf.jsp?numJO=0&amp;dateJO=19820305&amp;numTexte=00773&amp;pageDebut=00773&amp;pageFin=</a></li> </ul>
<p><b>Summary of the Operational Provisions</b></p>	<p><b>1/ Appellation of origin:</b> Adoption of the Law on 6 May 1919.</p> <p><u>Definition of the AO:</u> the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors. (Definition of Lisbon Agreement)</p> <p><b>Registration procedure:</b></p> <ol style="list-style-type: none"> <li>1) A <b>decree from the State Council</b> can define the geographical area and the qualities or characteristics of a product bearing an appellation of origin. This decree can prevent any use that can cause confusion on the origin of the products. or</li> <li>2) A <b>judge decision</b> can define the geographical area and the qualities or characteristics of a product bearing an appellation of origin on the basis of local, fair and steady uses.</li> </ol> <p><b>Opposition procedure:</b> the Decree is adopted after a “public investigation/survey” in accordance with general rules</p> <p><b>Level of protection provided :</b></p> <ul style="list-style-type: none"> <li>- The AO cannot be considered as generic or falling in the public domain. Use of the AO prohibited for any similar products or any products or services liable to weaken the notoriety of the AO</li> <li>- Any use liable to mislead the consumer as to the nature, the identity and the true origin of the product.</li> <li>- Civil actions</li> </ul>

No definition of applicant.

The law provides some penalties in case of infringements of the AO regulations.

### **2/ Via a specific law / Decree or law protecting a specific product**

- Decree n° 73-357 from the 14 March 1973 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the textile products trade: Article 18
- Decree n° 76-492 from the 28 May 1976 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the tin/pewter products trade: Article 3
- Decree n° 82-223 from the 25 february 1982 concerning the enforcement of the Law of August 1st, 1905 on the frauds and the misuses in products or in services related to the enamel and the enamelled or glazed products: Article 5

These decrees give definition to this type of products and have the same article on protection which prohibits any use of indication or signs liable to mislead the consumer, mostly on the nature, qualities, composition, mode of manufacture, quantity, **origin** of the product.

However, these regulations are not used to protect the origin of the product but the product definition. Some of them disappeared. It is interesting to point out the Limoges Enamels needed this decree to protect the product despite the existence of the appellation of origin.

### **3/ Trade mark** Adoption of the law on 4 January 1991

Kind of trade marks: Individual trade marks, Collective trade marks, Collective certification trade marks

Registration procedure: The applicant has to fulfil the application form and give it or send it to the INPI or at the Trade Court. In case of a collective mark, the applicant must join also specifications with the application form. Within 6 weeks after the reception of the application, the application is published at the BOPI and the opposition procedure opened for 2 months.

Then the INPI examines the application and registers or reject the trade mark application.

If the trade mark is registered, it will be registered at the National Register of Trade marks. The certificate sent to the applicant constitutes the title of property for the trade mark.

Opposition procedure: The publication of the application opens a delay of 2 months to oppose the application. The opponent can be an owner or an exclusive licencié of a trade mark registered or applied previously or of a previous and notorious trade mark. The procedure lasts 6 months

Level of protection provided:

#### **Intellectual property Code**

- **Article L713-1** "Registration of a mark shall confer on its owner a right of property in that mark for the goods and services he has designated"

-**Article L713-2** "The following shall be prohibited, unless authorized by the owner:

- a) The reproduction, use or affixing of a mark, even with the addition of words such as: "formula, manner, system, imitation, type, method," or the use of a reproduced mark for goods or services that are identical to those designated in the registration;
- b) The suppression or modification of a duly affixed mark."

-**Article L713-3** "The following shall be prohibited, unless authorized by the owner, if there is a likelihood of confusion in the mind of the public:

- a) The reproduction, use or affixing of a mark or use of a reproduced mark for goods or services that are similar to those designated in the registration;
- b) The imitation of a mark and the use of an imitated mark for goods or services that are identical or similar to those designated in the registration."

- **Article L716-9** "Any person, who, for the purpose of selling, supplying, offering for sale or lending goods under an infringing mark,

- a) imports, under any customs regime, exports, re-exports or tranships goods presented under an infringing mark.

b) reproduces industrially goods presented under an infringing mark,

c) gives instructions or orders to commit the acts provided for at (a) and (b) shall be liable to a four-year imprisonment and a fine of € 400.000.

Where the offences provided for under this article have been committed by an organised criminal group, the penalties will be increased to a five-year imprisonment and a fine of € 500.000”

**- Article L716-10** “A person who:

a) holds without legitimate reason, imports under all customs procedures or exports goods presented under a infringing mark;

b) offers for sale or sells goods presented under an infringing mark;

c) reproduces, imitates, uses, affixes, removes, modifies a mark, a collective mark or a collective mark of certification in violation of the rights conferred by its registration and of prohibitions which rise from this;

d) delivers knowingly a product or provides a service other than that which is required of him under a registered mark shall be liable to a three-year imprisonment and a fine of € 300.000. The infringement, under the conditions provided for at (d), shall not be considered constituted if a pharmacist exercises the faculty of substitution provided for under Article L. 5125-23 of the Public Health Code.

Where the offences provided for at (a) to (b) have been committed by an organised criminal group, the penalties shall be increased to a five-year of imprisonment and a fine of € 500 000”

#### **4/ Consumer Code**

**- Article L.111-1 : General obligation on information**

All business suppliers of goods or services must, prior to conclusion of the contract, ensure that the consumer is made aware of the essential characteristics of the goods or services.

**- Article L115-30** The following are punishable by the penalties provided for in article L. 213-1:

1° Advertising, labelling or presentation of any product or service, as well as in commercial documents of any kind relating thereto, of referring to a certification which has not been issued in accordance with the terms defined by articles L. 115-27 and L. 115-28;

2° Issuing, in breach of the provisions provided for in articles L. 115-27 and L. 115-28, a title, a certificate or any other document attesting to the fact that a product or a service presents certain characteristics which have been the subject of certification;

3° Using any means likely to lead to the erroneous belief that an organisation satisfies the terms defined in articles L. 115-27 and L. 115-28;

4° Using any means likely to mislead a consumer or a user into thinking that a product or a service has been certified;

5° Falsely presenting any product or service which has been certified as being guaranteed by the government or by a public body.

**Article L115-33** “Proprietors of trade marks, manufacturer’s brands or service marks may oppose the circulation of publicity texts referring to their mark by name where the use of this mark aims to mislead the consumer or where it is used with a lack of good faith.”

**Article L.121-1:** All advertising comprising, in any form whatsoever, representations, information or presentations which are false or likely to mislead, is prohibited, where the latter cover one or more of the items listed hereinafter: existence, nature, composition, substantial qualities, content in useful principles, species, origin, quantity, mode and date of manufacture, properties, price and terms of sale of goods or services which are the subject of advertising, conditions for their use, results which may be expected from their use, reasons for sale or service provision, sale or service provision procedures, scope of obligations undertaken by the advertiser, the identity, qualities or aptitude of the manufacturer, retailers, promoters or service providers.

**Article L. 231-1:** Anyone, whether or not they are party to the contract, who may have deceived or attempted to deceive the contractor, by any procedural means whatsoever, even if this is through the intermediary of a third party, shall be punished by two years imprisonment and a € 37,500 fine:

1° either in respect of the nature, species, origin, material qualities, composition or content in terms of useful principles of any merchandise;

	<p>2° or on the quantity of items delivered or on their identity by delivery of merchandise other than the determined item to which the contract relates; 3° or on the fitness for use, the risks inherent in use of the product, the checks carried out, the operating procedures or precautions to be taken.</p> <p><b>Article L217-1</b> “Anyone who has, either affixed, or displayed by addition, deletion or by any alteration whatsoever, on manufactured objects, the name of a manufacturer other than that of its author, or the trade name of a plant other than that where the said objects were manufactured, or finally, the name of place other than that where the said objects were manufactured, shall be punished by the penalties provided for in article L. 216-9, without prejudice to compensation, where appropriate. Any vendor, commission agent or retailer shall be liable to the effects of the proceedings where the latter has knowingly displayed for sale or brought into circulation objects marked with forged or altered names.”</p> <p><b>Article L217-3</b> “Those who have knowingly displayed, put on sale or sold merchandise altered in this way or who are found to be storing said merchandise on their premises shall be punished by the penalties covered by article L. 213-4”</p> <p>Level of protection: An administrative protection is granted under the Consumers protection regulations. These allow any person to make an administrative complaint about commercial practices to the Frauds and consumers protection authority (DGCCRF) and request that it investigates the complaint. Enforcement agencies are not under an obligation to investigate administrative complaints.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	No specific provision
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p><b>1/ Appellations of origin</b> No application forms for Appellation of Origin system.</p> <p><b>2/ Trade marks (Cerfa n°55-1280)</b> For trade marks system, the following information are required :</p> <ul style="list-style-type: none"> <li>- Name and address of the applicant or proxy</li> <li>- Legal nature of the applicant</li> <li>- Number of registration (for firms)</li> <li>- Trade mark</li> <li>- Description the trade mark applied</li> <li>- Products and services (classes)</li> <li>- Priority applied (if any)</li> <li>- Collective certification trade mark</li> <li>- Scope of registration : French trade mark or French part of an international trade mark</li> </ul> <p>Language : French</p>
<b>Relevant Supporting Documents</b>	
<b>Administration Responsible for Registration</b>	<p><b>1/ Appellations of origin</b> The Ministry of Economy should be responsible for this in principle. However, in practice, it is not clear who manages this scheme.</p> <p><b>2/ Trade marks</b> <b>French Institute of Intellectual Property : INPI</b> <a href="http://www.inpi.fr">www.inpi.fr</a> - <a href="mailto:contact@inpi.fr">contact@inpi.fr</a> - INPI Direct : +33 820 210 211</p>
<b>Costs</b>	

<b>Costs of registration</b>	<p><b>1/ Appellations of origin</b> No costs of registration for AO system.</p> <p><b>2/ Trade marks</b></p> <ul style="list-style-type: none"> <li>- 1<sup>st</sup> application and 3 classes of products/services-paper form : 225€</li> <li>- 1<sup>st</sup> application and 3 classes of products/services-electronic form: 200€</li> <li>- Renewal : 240€</li> <li>- Beyond 3 classes of products/services and for a new class: 40€</li> <li>- Opposition : 310€</li> </ul>
<b>Timeframe</b>	
<b>Registration</b>	<p><b>1/ Appellations of origin</b> No timeframe foreseen in the law.</p> <p><b>2/ Trade marks</b> Around 6 months</p>
<b>Protection</b>	<p><b>1/ Appellations of origin</b> Undefined protection</p> <p><b>2/ Trade marks</b> 10 years from the application</p>
<b>Other relevant information</b>	
<b>Other tools of valorisation for non agricultural products</b>	<p>National level</p> <ul style="list-style-type: none"> <li>• Ville et Métiers d'Art / Arts and Crafts City Label</li> </ul> <div data-bbox="347 1003 539 1070" style="text-align: center;">  </div> <p>Created on the initiative of local elected officials concerned about promoting the cultural wealth and diversity of Arts and Crafts in their city, the Arts and Crafts City label (« Ville et Métiers d'Art ») groups together a selection of 64 towns and villages for which excellence and authenticity are top priorities.</p> <p>No information on the attribution of the label. <a href="http://www.vma.asso.fr/">http://www.vma.asso.fr/</a></p> <ul style="list-style-type: none"> <li>• Entreprise du Patrimoine vivant</li> </ul> <div data-bbox="347 1411 466 1601" style="text-align: center;">  <p style="font-size: small; color: red;">Entreprise du Patrimoine Vivant</p> </div> <p>The Entreprise du Patrimoine Vivant (Living Heritage Company, or EPV) label is a trade mark owned by the French Ministry of the Economy, Industry and Employment, set up to reward French firms for the excellence of their traditional and industrial skills. <a href="http://www.patrimoine-vivant.com/">http://www.patrimoine-vivant.com/</a></p> <ul style="list-style-type: none"> <li>• Origine France Garantie /France source guarantee</li> </ul> <div data-bbox="347 1848 518 1982" style="text-align: center;">  </div> <p>Origine France Garantie is a national label. It aimed at promoting the products (every kind of</p>

products) that are elaborated in the French territory. This label is linked to specifications and a control processed by a certification organism.

[www.profrance.org](http://www.profrance.org)

- Collective trade mark : « Parc Naturel Régional »



This trade mark belongs to the Federation of Natural Regional parks in France.

There is no protection granted via this trade mark but a possible communication on different aspects and among them the “Know how” present in the Park. The use of this trade mark covers 3 main aspects : link with the territory, human factor and respect of the environment.

<http://www.parcs-naturels-regionaux.fr/fr/decouvrir/savoir-faire.asp>

#### Regional level

- Lorraine, terre de luxe: collective trade mark for local crafts with know-how and history.



#### ***Draft Law n°4141 modified by the Senate to reinforce rights, protection and information of consumers***

*2<sup>nd</sup> reading at the Parliament pending*

*Article 7: Extension of the geographical indication system for non-agricultural products.*

So the future system would comprise: Appellation of origin as defined above (recognised by case law) and Geographical indications.

GIs would be recognised and not registered.

These GIs, whose application contains specifications, would be recognised by a decree.

The specifications should contain:

- The name of the product
- The definition of geographical area
- The quality, reputation or characteristics attributable to the geographical origin
- Production process
- Control system

An opposition procedure is also foreseen (public inquiry) before the recognition.

GIs procedure of recognition will be integrated inside the Code of Intellectual Property.

The legal provisions contained in the Code of Consumers providing protection for appellations of origin are not extended for now to geographical indications. So no protection for GIs on non-agricultural products is foreseen at the moment.

#### **Other relevant regulation :**

Local authorities will be informed on the use of their geographical name when a trade mark or a GI is applied for (right of opposition).

The coexistence principle between a prior trade mark and a GI is also foreseen.

Source : <http://www.assemblee-nationale.fr/13/projets/pl4141.asp>, [http://www.assemblee-nationale.fr/13/dossiers/protection\\_information\\_consommateurs.asp](http://www.assemblee-nationale.fr/13/dossiers/protection_information_consommateurs.asp)

The new French government decided to withdraw this draft and will propose a new Law on Consumption in the beginning of 2013. Provisions of GIs of non-agricultural products seem to be included in this new draft. The drafting is under the competency of the Ministry of Economy and Finances – Social Economy and Consumption.

**Draft Law pending**

## GERMANY

### International Legal Framework

Germany is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since 1<sup>st</sup> May 1903, to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks since the 20 March 1996 and to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 12 June 1925. Germany is a WTO Member since 1<sup>st</sup> January 1995.

Germany is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

**Bilateral agreements covering non-agricultural GI products:**

Bilateral agreements with France (8.3.1960), Italy (23.7.1963), Greece (16.4.1964), Swiss (7.03.1967) and Spain (11.9.1970).

[http://www.zoll.de/DE/Fachthemen/Verbote-Beschraenkungen/Gewerblicher-Rechtsschutz/Geografische-Herkunftsangaben/Schutzrechte/Bilaterale-Abkommen-und-Vertraege/bilaterale-abkommen-und-vertraege\\_node.html](http://www.zoll.de/DE/Fachthemen/Verbote-Beschraenkungen/Gewerblicher-Rechtsschutz/Geografische-Herkunftsangaben/Schutzrechte/Bilaterale-Abkommen-und-Vertraege/bilaterale-abkommen-und-vertraege_node.html)

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural geographical indications can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>a trade mark law</i></b></li> <li>➤ <b><i>a specific law / Decree or law protecting a specific product</i></b> – in the case of Solingen</li> <li>➤ <b><i>unfair competition law</i></b></li> </ul> <p><i>Ex parte</i> protection is available.</p>
<b>Relevant Regulatory Framework</b>	<ul style="list-style-type: none"> <li>- Act on the Protection of Trade Marks and other Symbols of 25 October 1994 (Federal Law Gazette [BGBl.] Part I p. 3082, as last amended by Art. 3 of the Act of 31 July 2009, Federal Law Gazette (Bundesgesetzblatt) Part I p. 2521; <a href="http://www.gesetze-im-internet.de/englisch_markeng/index.html">http://www.gesetze-im-internet.de/englisch_markeng/index.html</a></li> <li>- Regulation for the Protection of the Solingen Name (Solingen Decree); <a href="http://www.gesetze-im-internet.de/solingenv/index.html">http://www.gesetze-im-internet.de/solingenv/index.html</a></li> <li>- Act Against Unfair Competition in the version published on 3 March 2010 (Federal Law Gazette [BGBl.] Part I p. 254; <a href="http://www.gesetze-im-internet.de/englisch_uwg/index.html">http://www.gesetze-im-internet.de/englisch_uwg/index.html</a>)</li> </ul>
<b>Summary of the Operational Provisions</b>	<p><b>Act on the Protection of Trade Marks and other Symbols</b></p> <p>The following trade mark types are registrable: individual trade marks, service marks and collective marks</p> <p><b>Registration procedure:</b></p> <p>The German Patent and Trade Mark Office examines the trade mark application for so-called absolute grounds for refusal. Signs or indications are excluded from registration if they merely describe the kind, quality or other characteristics of the goods or services claimed. It does not check whether similar or identical trade marks have already been registered. If the application complies with the legal requirements and if there is no obstacle to registration, the German Patent and Trade Mark Office enters the trade mark in the register. The registration is published in the electronic Markenblatt (trade mark journal). The owner receives a certificate of registration.</p>

### **Opposition procedure**

After the publication of the trade mark, holders of earlier rights have the opportunity to object to the registration. Opposition can be raised on principle if the owner of an earlier mark deems that there is a risk of confusion with his own trade mark registered or applied for - including Community trade marks and international marks. Notice of opposition must be filed in writing within three months after the publication of the registration (the form is available at: <http://www.dpma.de/docs/service/formulare/marke/w7202.pdf>). The opposition fee of EUR 120 must be paid within this time limit too. A decision is taken within the scope of an opposition procedure. It may be that the newly registered trade mark will be cancelled in the register.

### **Scope of protection**

Registration of a trade mark confers to its owner the exclusive right to use the trade mark in relation to the protected goods and/or services. An infringement action must be filed before the courts.

**Chapter 6 of the trade mark regulation relates to indications of geographical origin** and contains a definition: "names of places, areas, territories or countries, as well as other indications or signs which are used in the course of trade to identify the geographical origin of goods or services".

The Act underlines that:

1) Indications of geographical origin may not be used in the course of trade for goods or services which do not originate from the place, area, territory or country which is designated by the indication of geographical origin if it is likely to mislead concerning the geographical origin should such names, indications or signs for goods or services of different origin be used.

(2) If the goods or services marked by an indication of geographical origin have special properties or a special quality, the indication of geographical origin may only be used in the course of trade for the corresponding goods or services of this origin if the goods or services have these properties or this quality.

(3) If an indication of geographical origin enjoys a particular reputation, it may not be used in the course of trade for goods or services of a different origin even if it is not likely to mislead concerning the geographical origin if use provides without good cause an opportunity for goods or services of a different origin to take unfair advantage of, or be detrimental to, the reputation of the indication of geographical origin or its distinctive character.

(4) The above subsections shall also apply if names, indications or signs are used which are similar to the protected indication of geographical origin or if the indication of geographical origin is used

### **Section 137 More detailed provisions on the protection of individual indications of geographical origin**

(1) The Federal Ministry of Justice is herewith empowered to make more detailed provisions, in agreement with the Federal Ministry of Economics and Technology and the Federal Ministry of Food, Agriculture and Consumer Protection, by means of a legal ordinance with the consent of the Federal Council on individual indications of geographical origin.

(2) The legal ordinance can regulate

1. by referring to political or geographical borders, the region of origin

2. the quality or other properties within the meaning of section 127 subs. 2, as well as the circumstances relevant thereto, such as in particular the procedure or the nature of the manufacture or production of the goods or of the provision of the services or quality or other properties of the basic material used such as their origin, and

3. the nature of the use of the indication of geographical origin.

The previous fair practices, habits and customs in the use of the indication of geographical origin shall be taken into consideration when preparing regulations.

### **Act Against Unfair Competition and misleading practices**

The Act defines and prohibits unfair and misleading commercial practices which can include untruthful information on the essential characteristics of the goods or services, such as geographical or commercial origin.

<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p><b>Act on the Protection of Trade Marks and other Symbols</b></p> <ul style="list-style-type: none"> <li>• <u>Definition of generic geographical names and criteria for establishing a generic character of a geographical name for certain type of products</u> under Section 126 on Names, indications or signs protected as indications of geographical origin: “(2) Names, indications or signs within the meaning of subs. 1 which are generic names shall not be eligible for protection as indications of geographical origin. Designations shall be regarded as generic names which contain an indication of the geographical origin within the meaning of subs. 1 or are derived from such an indication, but which have lost their original significance and serve as the name of goods or services or as designations or indications of the nature, quality, variety or other properties or characteristics of goods or services.”</li> </ul> <p><b>Specific provisions for geographical collective trade marks</b>  <b>Section 99 Eligibility for registration of indications of geographical origin as collective marks</b>  In derogation from section 8 subs. 2 No. 2, collective marks may consist exclusively of signs or indications which in the course of trade may serve as a designation of the geographical origin of the goods or services.</p> <p><b>Section 102:</b>  If the collective mark consists of an indication of geographical origin, the regulations must provide that any person whose goods or services originate from the corresponding geographical territory and comply with the conditions contained in the regulations governing use of the mark for the use of the collective mark may become a member of the association and is to be included in the group of persons entitled to use the collective mark</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p>The application form is available at:  <a href="http://www.dpma.de/docs/service/formulare/marke/w7005.pdf">http://www.dpma.de/docs/service/formulare/marke/w7005.pdf</a></p> <p>It should contain, at least:</p> <ul style="list-style-type: none"> <li>- An illustration of the trade mark for which protection is sought</li> <li>- the list the goods and services in relation to which the person intends to use the trade mark.</li> </ul>
<p><b>Relevant Supporting Documents</b></p>	<p>The application form is in German.</p>
<p><b>Administration Responsible for Registration</b></p>	<p>Deutsches Patent- und Markenamt  Technisches Informationszentrum Berlin  Gitschiner Straße 97 - 10969 Berlin - Germany  Phone: +49 30 25 992-0 - Fax: +49 30 25 992-404 - E-mail: <a href="mailto:info@dpma.de">info@dpma.de</a></p>
<p><b>Costs</b></p>	
<p><b>Costs of registration</b></p>	<p>Under the trade mark Act:  Application for the protection of a trade mark: minimum of 300 €  Renewal of the protection of a trade mark: minimum of 750 €</p>
<p><b>Timeframe</b></p>	
<p><b>Registration</b></p>	<p>The registration procedure is usually concluded after 7 to 8 months. If you file a request for accelerated examination (section 7 on the application form), registration of a protectable trade mark takes place in less than 6 months from filing the application.</p>
<p><b>Protection</b></p>	<p>Duration of the protection as a trade mark : 10 years renewable</p>

## GREECE

### International Legal Framework

Greece is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 2 October 1924 and the Madrid Protocol Concerning the International Registration of Marks since the 10 August 2000. It is a WTO Member since 1st January 1995.

Greece is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods.

Greece has signed a bilateral agreement on the protection of indications of source, denominations of origin, and denominations of agricultural and non-agricultural products with Austria in 1972 : BGBl. Nr. 378/1972

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural geographical indications can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>the trade mark law.</b></li> <li>➤ <b>the law on unfair competition</b></li> <li>➤ <b>the law on consumer protection</b></li> </ul> <p>No <i>ex officio</i> protection is available; protection is provided only at the request of a third party.</p>
<b>Relevant Regulatory Framework</b>	<p><b>The Trade mark Law 4072/2012</b> published in the Government's Gazette on 11.4.2012 abolished the Trade marks Law No. 2239/1994. It entered into force as of 11.10.2012. An English version of the law is available at <a href="http://www.investingreece.gov.gr/files/FT/FEK_N4072_en.pdf">http://www.investingreece.gov.gr/files/FT/FEK_N4072_en.pdf</a></p> <p><b>The Law 146 of 26th December 1913/27th January 1914 on Unfair Competition</b> entered into force on 27 January 1914. An English version of the law is available at <a href="http://www.wipo.int/clea/docs_new/pdf/en/gr/gr215en.pdf">http://www.wipo.int/clea/docs_new/pdf/en/gr/gr215en.pdf</a></p> <p><b>The Law 3587 Amendment and supplementation of Law 2251/1994 on "Consumers" protection</b> in force since 10 July 2007 An English version of the law is available at <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=77&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=77&amp;languageID=EN</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>The Trade mark Law:</b> individual and collective marks can be registered</p> <p><b>Registration procedure</b> According to the Law, a trade mark shall be registered by means of an application filed with the competent department of the Ministry of Commerce. The application shall be filed in 4 copies and must contain the following: a request for registration with a representation of the trade mark, a printed copy of the latter, the full details of the business concerned, a list of goods or services which the trade mark is intended to distinguish and the designation of a lawyer as authorized representative. After registration, the trade mark is published in the Government Gazette. A collective body can register their trade mark under the collective trade mark system of protection. The new trade mark law provides that Geographical indications for wine, spirits and agricultural products are now explicitly provided for as absolute grounds for refusal. It does not cover non-agricultural GI products.</p> <p><b>Opposition procedure</b> The opposition period is 3 months after publication of the decision accepting the application.</p>

	<p><b>Level of protection provided</b> The registration confers the right of exclusive use of a trade mark. An infringement action must be filed before the courts.</p> <p><b>The Law on Unfair Competition</b> Unfair competition in Greece is mainly regulated by Law No. 146/1914 on Unfair Competition. The law is intended to protect individual traders from unfair practices by their competitors contravening "bonos mores" (in the Greek legal order, the concept of "bonos mores" denotes the moral and social principles prevailing at a certain time in society as these are felt by the fair and honest average citizen). The law prohibit such behaviour which includes false origin.</p> <p><b>The consumer protection law</b> The law prohibits unfair commercial practice/ Under the law, any natural or legal person may file a complaint towards the Secretariat General for Consumers which has an obligation to deal with the complaint. A court action can be initiated by a consumer or/and a consumer association to stop an unfair commercial practice and to impede it from being repeated in the future</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<p>Collective mark may be cancelled:</p> <ul style="list-style-type: none"> <li>- if the mark is contrary to the purpose of the partnership, union, association</li> <li>- if the mark is contrary to the conditions and regulations deposited on registration</li> </ul>
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>An application of a national trade mark is available on the website of the Greek Trade mark Office (only in Greek): <a href="http://www.gge.gr/4/organ.asp?1699">http://www.gge.gr/4/organ.asp?1699</a></p> <p>The application shall be filed in 4 copies and must contain the following: a request for registration with a representation of the trade mark, a printed copy of the latter, the full details of the business concerned, a list of goods or services which the trade mark is intended to distinguish and the designation of a lawyer as authorized representative.</p> <p><b>NB: all the application forms must be filled in Greek</b></p>
<b>Relevant Supporting Documents</b>	N/A
<b>Administration Responsible for Registration</b>	<p><b>Trade mark Office</b> Directorate of Commercial and Industrial Property General Secretary for Commerce Kanning Square 101 81 Athens – GREECE - Tel: (30 210) 38 08 068 - Fax: (30 210) 38 21 717 <a href="mailto:egkrimpa@gge.gr">egkrimpa@gge.gr</a> / <a href="mailto:st.kouvari@gge.gr">st.kouvari@gge.gr</a></p> <p><b>Industrial Property Organization (OBI)</b> <a href="http://www.obl.gr">http://www.obl.gr</a> 5 Pantanassis St. Paradissos Amaroussiou - 151 25 Athens - GREECE Tel: (30 210) 61 83 500 - Fax: (30 210) 68 19 231 - <a href="mailto:info@obi.gr">info@obi.gr</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	Trade mark Registration Request: 1 Class (735 €) - Additional Class (66 €)
<b>Timeframe</b>	
<b>Registration</b>	The trade mark application process (from first filing to registration) takes between 10 to 18 months.
<b>Protection</b>	Duration of the protection as a trade mark : 10 years renewable

## HUNGARY

### International Legal Framework

Hungary is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 1<sup>st</sup> January 1909, the Madrid Protocol Concerning the International Registration of Marks since the 3 October 1997, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 5 June 1934, and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration since the 23 March 1967. Hungary is a WTO Member since 1<sup>st</sup> January 1995.

Hungary has signed a bilateral agreements:

- With Switzerland on the protection of indications of source, denominations of origin, and other geographical denominations (14 December 1979).
- With the Republic of Portugal on the Protection of Indications of Source, Appellations of Origin & other Geographical Names (1986)

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural geographical indications can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>the sui generis geographical indications law as part of the Protection of Trade marks and Geographical Indications law</i></b></li> <li>➤ <b><i>The trade mark section of the law on the Protection of Trade marks and Geographical Indications</i></b></li> <li>➤ <b><i>The competition and the consumer protection laws</i></b></li> </ul> <p><i>Ex officio</i> protection is available under the <i>sui generis</i> part of the law on trade mark and GIs  <i>Ex parte</i> protection is available under the other legal frameworks</p>
<b>Relevant Regulatory Framework</b>	<p>Act No. XI of 1997 on the Protection of Trade marks and Geographical Indications  <a href="http://www.sztnh.gov.hu/jogforras/1997_XI_Vt.pdf">http://www.sztnh.gov.hu/jogforras/1997_XI_Vt.pdf</a>            Act No. LVII of 1996 on Competition  <a href="http://www.gvh.hu/domain2/files/modules/module25/129678A2868BD0C90.pdf">http://www.gvh.hu/domain2/files/modules/module25/129678A2868BD0C90.pdf</a>            Act No. CLV of 1997 on Consumer Protection  <a href="http://ec.europa.eu/internal_market/finances/docs/actionplan/transposition/hungary/d15.4-hu.pdf">http://ec.europa.eu/internal_market/finances/docs/actionplan/transposition/hungary/d15.4-hu.pdf</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>1. Act No. XI of 1997 on the Protection of Trade marks and Geographical Indications</b></p> <p>In the <b>section relating to geographical indications</b>, the law provides two definitions:  <b>Geographical indication</b> means the geographical name of a region, locality or, in exceptional cases, a country which serves to designate a product originating therein the specific quality, reputation or other characteristics of which are due essentially to that geographical origin, and the production, processing or preparation of which takes place in the defined geographical area.  <b>Appellation of origin</b> means the geographical name of a region, locality or, in exceptional cases, a country which serves to designate a product originating therein the specific quality, reputation or other characteristics of which are due exclusively or essentially to the geographical environment, with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined geographical area.</p> <p><b>GI registration procedure</b>            After filing the application for registration of the geographical indication the Hungarian Intellectual Property Office examines, whether the application satisfies the requirements for</p>

according a day of application. The basic requirement of a geographical indication application is the list of products, which contains the list of those products of which the protection of geographical indication has been requested. When preparing the list of products, the product marked by a geographical indication is to be classified into a product class according to the Nice Agreement. An application fee is to be paid in to the Office's budgetary account and the case number is to be indicated. The fee is payable within two months after the day of application. The Office informs the applicant about the acknowledged day of application for the application. If the application complies with the requirements necessary for the acknowledgment of the date of filing, the Hungarian Intellectual Property Office carries out the formal and substantive examinations. If the sign and the geographical indication comply with all requirements of the examination procedure, the Hungarian Intellectual Property Office grants protection for the sign as geographical indication. The Office issues a certificate to which the extract from the Register is annexed.

#### **No opposition procedure**

It would appear that there is no opposition available

#### **Scope of protection (GI rights of protection: Article 109)**

(1) Protection shall confer on its holders the exclusive right to use the geographical indication. Only the holders may use the geographical indication, they may not license the right of use.

(2) On the basis of the exclusive right of use, any of the holders shall be entitled to prevent any person who, in the course of trade:

(a) uses the protected geographical indication or a denomination liable to create confusion with respect to products not originating in the defined geographical area;

(b) uses the protected geographical indication with respect to products not included in the list of products, but similar to those and therefore takes unfair advantage of or infringes the repute of the protected geographical indication.

(c) imitates or evokes in any manner whatsoever the protected geographical indication, even if the true origin of the product is indicated or if the protected name is translated or accompanied by various additions;

(d) uses any false or misleading indication as to the provenance, origin, nature or essential characteristics of the product, no matter where it is indicated (e.g. on the packaging, advertising material or documents relating to the product concerned);

(e) performs any other act liable to mislead the public as to the true origin of the product

**Section on trade mark:** non-agricultural GI products can also seek protection as an individual trade mark or a collective mark.

#### **Trade mark registration procedure**

The application must be filed with the Hungarian IP office which will examine it. If the sign and the trade mark application meet all the requirements of the Law, the sign shall be registered as a trade mark by the Patent Office and official information on the registration shall be published in the official journal.

#### **Opposition procedure**

After publication in the Official Journal, there is a period of 3 months in which any person who has previous rights and/or who has reasons to believe that he would be damaged by the registration of a pending trade mark may file an opposition

#### **Scope of protection as a trade mark**

The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.

#### **2. Act No. LVII of 1996 on Competition**

The law prohibits to sell product with similar look, package or indication that is usually an important characteristic of another product and to provide false or deceptive information regarding the origin of the product.

#### **3. Act No. CLV of 1997 on Consumer Protection**

	<p>The law specifies that the vendor of the product has to provide information regarding origin to the authorities upon request.</p> <p>The laws provide that complaints against unfair commercial practice can be tabled any consumer or stakeholder or social organs representing consumers' rights with the Hungarian Authority for Consumer Protection (HACP) or by any person/entity is entitled to make an announcement or complaint with the Hungarian Competition Authority (HCA). Complaints can be filed with the HCA on the complaint form published on the home page of the HCA (<a href="http://www.gvh.hu/gvh/alpha?do=2&amp;st=1&amp;pg=77&amp;m5_doc=4257&amp;m81_act=1">http://www.gvh.hu/gvh/alpha?do=2&amp;st=1&amp;pg=77&amp;m5_doc=4257&amp;m81_act=1</a>). The authorities have an obligation to investigate the complaint.</p> <p>There are no specific court actions to enforce the UCP Directive. A general claim for civil damages can be filed before the civil courts.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<b>Under the protection of trade marks and geographical indications law, a GI is not registered if it is identical with or similar to an earlier trade mark and its use – due to the reputation, renown or lasting presence on the market of the trade mark – would result in a likelihood of confusion on the part of public. (Article 106 c).</b>
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>For GIs, the application form is available only in Hungarian.</p> <p>For trade marks: The filing date of an application shall be the date on which the application filed with the Hungarian Intellectual Property Office contains at least:</p> <ul style="list-style-type: none"> <li>(a) an indication that trade mark protection is sought,</li> <li>(b) information identifying the applicant,</li> <li>(c) a representation of the sign and a list of goods or services, even though the list of goods or services do not comply with other requirements</li> </ul>
<b>Relevant Supporting Documents</b>	<p>Only the signed application form</p> <p>Product description is obligatory only in case of agricultural GI.</p>
<b>Administration Responsible for Registration</b>	<p>Hungarian Intellectual Property Office <a href="http://www.sztnh.gov.hu/English/index.html">http://www.sztnh.gov.hu/English/index.html</a> Mailing address: H-1374 Budapest, PO Box 552 - Hungary Central phone: +36 1 312 4400, Fax: +36 1 474 5534 - e-mail: <a href="mailto:sztnh@hipo.gov.hu">sztnh@hipo.gov.hu</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>For GIs: 107.000 HUF, approx. 340 EUR (with exchange rate of 01. January 2012)</p> <p>For trade marks:</p> <ul style="list-style-type: none"> <li>• Trade mark filing fee (in the case of three classes of goods): 74.800 HUF</li> <li>• For more classes: 32.000 HUF per class</li> <li>• Collective mark filing fee (in the case of three classes of goods): 320.000 HUF</li> <li>• For more classes: 32.000 HUF per class</li> <li>• Other fees: See: <a href="http://www.hipo.gov.hu/English/vedjegy/vedjegy_dijtablazat_en.pdf">http://www.hipo.gov.hu/English/vedjegy/vedjegy_dijtablazat_en.pdf</a></li> </ul>
<b>Timeframe</b>	
<b>Registration</b>	No elements available
<b>Protection</b>	<p>A GI protection becomes effective by registration with retroactive effect to the day of submission, and lasts for an indefinite period of time.</p> <p>A trade mark registration is valid for 10 years and starts with registration date. The registration is renewable for periods of 10 years.</p>

## IRELAND

### International Legal Framework

Ireland is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 4 December 1925 and the Madrid Protocol Concerning the International Registration of Marks since the 19 October 2001, and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 4 December 1925. Ireland is a WTO Member since 1<sup>st</sup> January 1995.

Ireland is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration

### National Legal Framework

<b>Type of Protection</b>	<p><b><i>The protection of non-agricultural GI products can be obtained:</i></b></p> <ul style="list-style-type: none"> <li>➤ <b><i>Trade mark law</i></b></li> <li>➤ <b><i>Unfair competition law</i></b></li> </ul> <p><b><i>Ex parte protection</i></b> is available under the trade mark and unfair competition laws.</p>
<b>Relevant Regulatory Framework</b>	<ul style="list-style-type: none"> <li>➤ <b>Trade Marks Act 1996</b> Act No. 6 which entered in force on 1st July 1996 <a href="http://www.irishstatutebook.ie/1996/en/act/pub/0006/index.html">http://www.irishstatutebook.ie/1996/en/act/pub/0006/index.html</a></li> <li>➤ <b>Consumer Protection Act 2007, application of Directive 2005/29/EC on Unfair Commercial Practices</b>, which came into effect on 1 May 2007 <a href="http://www.irishstatutebook.ie/pdf/2007/en.act.2007.0019.pdf">http://www.irishstatutebook.ie/pdf/2007/en.act.2007.0019.pdf</a></li> </ul>
<b>Summary of the Operational Provisions</b>	<p><b>Trade Marks Act 1996</b> provides for the registration of individual trade mark, collective mark, certification mark and series of trade marks, i.e. a number of marks (no more than six), which resemble each other in their important features and differ only in respect of non-distinctive elements that do not substantially affect their identity.</p> <p><b>Registration procedure</b> The Minimum requirements for a filing date are a request to register the Mark (completion of the prescribed application form meets this requirement); the name and address of the person requesting the registration; a representation of the mark and a statement or list of the goods and/or services for which registration of the mark is sought. The application is then examined as to its registrability. The examination process includes a search of databases to search if the mark or a similar mark has previously been registered. If this is the case, the Office may refuse to register the mark. The examination also addresses other obstacles to registration such as if the mark is a laudatory statement of a product's quality (e.g. "Top Grade") or a sign that has become generic within a particular field of commercial activity. These are among a number of grounds on which an application for registration may be refused. Before any decision to refuse becomes final, the Applicant will have a right to attend an oral hearing before a senior official of the Office.</p> <p><b>Opposition procedure</b> If the application is accepted for registration, details of the mark is published in the Official Journal. Within 3 months of the advertisement of a mark, any person who objects to its registration may send a notice of opposition to the Office accompanied by the prescribed fee and the Office will copy this to the Applicant. Each side (the Applicant and the Opponent) is then given an opportunity to file evidence in support of its case and the question of whether the mark should be registered is ultimately decided by a senior official of the Office.</p>

	<p><b>Level of protection provided</b> The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered (article 13 of the trade mark Act). Infringement actions must be filed before the courts.</p> <p><b>Consumer Protection Act 2007</b></p> <p>The Act prohibits unfair and misleading commercial practices, notably commercial practices which could mislead consumers as regards to the geographical origin of the products.</p> <p>Administrative complaints can be filed with the National Consumer Agency (NCA) by every natural or legal person and there is no need to prove a legitimate interest. The NCA is in charge of the enforcement of the consumer legislation and provides advice and templates of complaint letters (see: <a href="http://www.nca.ie/nca/complaint-template-letter">http://www.nca.ie/nca/complaint-template-letter</a>). There is no obligation for the NCA to investigate.</p> <p>Administrative actions and enforcement through the courts are also possible. For further information, please consult: <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewEnforcement&amp;countryID=IE">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewEnforcement&amp;countryID=IE</a></p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p><b>Under the trade Marks Act 1996</b>, there is a claim to a Right of Priority: If the applicant has filed applications to register the Trade Mark outside the State within the last six months, he/she has to enter the relevant information where a right to priority is claimed, that is to say the Country, the Date &amp; the Number of registration.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p><b>Under the trade Marks Act 1996</b>, The application form can be downloaded on the website of the Patent Office: <a href="http://www.patentsoffice.ie/en/trademark_form1.aspx">http://www.patentsoffice.ie/en/trademark_form1.aspx</a></p> <p>The application form is in English. The applicant must give the following information:</p> <ol style="list-style-type: none"> <li>1. Information on the applicant(s): Name, Address, Nationality, Telephone &amp; Email;</li> <li>2. Information on the Legal Representative (Trade Mark Agent, Solicitor or other qualified person authorised to act on behalf of the Applicant (s) in all proceedings connected with this application for registration) Name, Address, Telephone &amp; Email;</li> <li>3. The address for Service to which correspondence is to be sent</li> <li>4. The representation of Mark (Illustration should not to exceed 8cm x 8cm)</li> <li>5. The type of Mark: Standard Trade Mark, Collective Trade Mark, Certification Trade Mark, Series of Trade Marks, 3D Trade Mark or Other;</li> <li>6. The colour of the Mark</li> <li>7. The claim to a Right of Priority: If the applicant has filed applications to register the Trade Mark outside the State within the last six months, he/she has to enter the relevant information where a right to priority is claimed, that is to say the Country, the Date &amp; the Number of registration</li> <li>8. The Nice Class Number and the list of the goods and/or services for which registration is sought</li> <li>9. A Declaration that the Trade Mark to which this application relates is being used by, or with the consent of, the Applicant named herein in relation to the goods and/or services mentioned above or that the Applicant has a bona fide intention that it will be so used.</li> </ol> <p>The form must be signed and dated. It should then be lodged at the Patents Office.</p>
<p><b>Relevant Supporting Documents</b></p>	<p><b>Under the trade Marks Act 1996</b>, the application form can be downloaded on the website of the Patent Office: <a href="http://www.patentsoffice.ie/en/trademark_form1.aspx">http://www.patentsoffice.ie/en/trademark_form1.aspx</a></p>
<p><b>Administration Responsible for registration</b></p>	<p>Patents Office Government Buildings - Hebron Road – Kilkenny - Ireland Trade mark application can be made by fax to 00 353 (56) 7720179 or Lo-Call 1890 220120</p>

<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Under the trade Marks Act 1996</b>, the following fees are payable:</p> <ul style="list-style-type: none"> <li>➤ <b>On application:</b> 70€ per class of product</li> <li>➤ <b>On amendment of the application form:</b> 35€</li> <li>➤ <b>On registration:</b> 177€ (regardless of the number of classes applied for).</li> <li>➤ <b>On renewal:</b> 250€ payable every ten years from the date of filing the application. If the registration is in respect of several classes, there is a class fee of €125 for each additional class over one being renewed.</li> </ul> <p>There are other fees for matters such as requests to restrict goods or services or a request to change of name and address, assignments and licences etc. The full schedule of fees relating to trade marks can be consulted at: <a href="http://www.patentsoffice.ie/en/trademark_schedule.aspx">http://www.patentsoffice.ie/en/trademark_schedule.aspx</a></p>
<b>Timeframe</b>	
<b>Registration</b>	<p><b>Trade Marks Act 1996</b> Approximately 6 months (estimation)</p>
<b>Protection</b>	<p><b>Trade Marks Act 1996</b> 10 years (from the date of filing of the application), renewable</p>

## ITALY

### International Legal Framework

Italy is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884, the Madrid Protocol Concerning the International Registration of Marks since the 17 April 2000, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 5 March 1951 and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration since the 29 December 1968. Italy is a WTO Member since 1<sup>st</sup> January 1995.

Italy has signed bilateral agreements on the protection of indications of source, denominations of origin, and denominations of agricultural which cover the protection on non-agricultural GI products:

- Agreement between Italy and Austria in 1952: [BGBl. Nr. 235/1954](#), additional protocol from 1969 focusing on the enlargement to other products [BGBl. Nr. 348/1972](#)
- Agreement between France and Italy for the protection of appellations of origin and denominations of certain products – 28 April 1964
- Agreement between the Spanish State and the Italian Republic for the Protection of Indications of Source, Appellations of Origin and Denominations of Certain Products, signed in Madrid on 9 April 1975: <http://www.boe.es/boe/dias/1980/12/16/pdfs/A27701-27709.pdf>

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>trade mark law</b></li> <li>➤ <b>artistic, traditional and quality ceramics are protected through a specific law</b></li> <li>➤ <b>the law Against Unfair Competition</b></li> </ul> <p><i>Ex parte protection is available for trade mark law.</i>  <i>Ex officio protection is available for artistic, traditional and quality ceramics are protected through a specific law</i></p>
<b>Relevant Regulatory Framework</b>	<p><b>Trade mark regime:</b> Codice della proprietà industriale, a norma dell'articolo 15 della legge 12 dicembre 2002, n. 273" pubblicato nella Gazzetta Ufficiale n. 52 del 4 marzo 2005 - Supplemento Ordinario n. 28 and Regolamento di attuazione del Codice della proprietà industriale, adottato con decreto legislativo 10 febbraio 2005  <a href="http://www.uibm.gov.it/index.php?option=com_content&amp;view=article&amp;id=1002286&amp;idarea1=1047&amp;tipoVisualizzazione=S&amp;mostracorrelati=0&amp;partebassaType=2&amp;showCat=1&amp;idmenu=10385&amp;idarticolo=1002286&amp;menuMainType=menuBrevetti&amp;lang=it">http://www.uibm.gov.it/index.php?option=com_content&amp;view=article&amp;id=1002286&amp;idarea1=1047&amp;tipoVisualizzazione=S&amp;mostracorrelati=0&amp;partebassaType=2&amp;showCat=1&amp;idmenu=10385&amp;idarticolo=1002286&amp;menuMainType=menuBrevetti&amp;lang=it</a> and <a href="http://www.uibm.gov.it/images/stories/Normativa/leggi/decreto13gennaio2010.pdf">http://www.uibm.gov.it/images/stories/Normativa/leggi/decreto13gennaio2010.pdf</a></p> <p><b>Artistic, traditional and quality ceramics:</b> TESTO COORDINATO della Legge 9 luglio n.188/1990 e modifiche apportate dall'art.44 della legge 6.2.1996, n.52: Tutela della ceramica artistica e tradizionale e della ceramica di qualità  <a href="http://www.ceramics-online.it/">http://www.ceramics-online.it/</a></p> <p><b>Unfair competition:</b> Civil Code, art. 2598  <a href="http://www.jus.unitn.it/cardoza/obiter_dictum/codciv/Lib5.htm">http://www.jus.unitn.it/cardoza/obiter_dictum/codciv/Lib5.htm</a></p> <p><b>Consumer protection:</b> Codice del Consumo, Decreto Legislativo 206 del 2005, articoli 18 e seguenti, as modified by the Decreto Legislativo 146 of 2007 recante attuazione della direttiva 2005/29/CE relativa alle pratiche commerciali sleali tra imprese e consumatori nel mercato interno e che modifica le direttive 84/450/CEE, 97/7/CE, 98/27/CE, 2002/65/CE, e il Regolamento (CE) n. 2006/2004</p>

	<a href="http://www.agcm.it/normativa/consumatore/4524-decreto-legislativo-6-settembre-2005-n-206-codice-del-consumo.html">http://www.agcm.it/normativa/consumatore/4524-decreto-legislativo-6-settembre-2005-n-206-codice-del-consumo.html</a>
<b>Summary of the Operational Provisions</b>	<p><b>1. Trade mark regime</b> (approved on 10 February 2005 - legislative decree). As the instrument normally used is the collective mark, applications for registration have to be accompanied by the regulation governing use of collective mark. The level of protection provided to the geographical names registered under this regime is against the risk of confusion for the consumers, which has to be proved by the right holders.</p> <p><b>2. Artistic, traditional and quality ceramics</b> (approved in 1990 and modified in 1996). Artistic, traditional and quality ceramics are protected through a specific law: it provides for the institution of the “Consiglio Nazionale Ceramico”, which is responsible, among other things, to protect in Italy and abroad the artistic, traditional and quality ceramics registered under this law, in cooperation with the State, the Regions and the associations of producers themselves. The law provides for the establishment of 2 standard codes of conduct, one to protect GIs for artistic and traditional ceramics, and another to protect GIs for quality ceramics (art. 1 of the Law). The “Consiglio Nazionale Ceramico”, established by the Law, elaborated a specific code of conduct for each product identified during the first year after its establishment (art. 4.2). Producers which respect those codes of conducts can use the trade mark “ceramic artistic e tradizionale” o “ceramica di qualità”, to which producers in a given identified geographical area can add the name of such area. No specific rules on protection are provided.</p> <p><b>3. Unfair competition</b> Is considered an act of unfair competition, the use of names and distinctive signs which might generate confusion with the names and distinctive signs legitimately used by other entities, as well as the imitation of a competitor’s product and any other act that might generate confusion with the products of a competitor; disseminating information or evaluations concerning the products and activity of a competitor which might discredit it or the appropriation of the products’ reputation of a competitor are also considered acts of unfair competition; finally, any act not respectful of fair business practices and that might damage other business actors are also considered unfair competition. Unfair competition has to be proved on a case-by-case basis (no IPRs are created); to obtain the payment of damages, the fraud or fault must be proved.</p> <p><b>4. Consumer protection</b> The law forbids unfair business practices, defined as practices not in line with the professional diligence and which might distort significantly consumers behavior in relation with a given product.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<p>1. Trade mark regime: the possibility to challenge the protection is provided before the registration (opposition) and after the registration (cancellation).</p> <p>2. Artistic, traditional and quality ceramics: no specific provisions are provided.</p> <p>3. Unfair competition: no specific provisions are provided.</p> <p>4. Consumer protection: no specific provisions are provided.</p>
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>1. Trade mark regime: Available at: <a href="http://www.uibm.gov.it/images/stories/recuperi/moduli/Modulo_C.pdf">http://www.uibm.gov.it/images/stories/recuperi/moduli/Modulo_C.pdf</a></p> <p>2. Artistic, traditional and quality ceramics: No standard form is provided. The request of registration is made by the single producers to the “Commission Regionale dell’Artiginato”. The request must contain: the legal form, the name and the place of</p>

	<p>incorporation of the company making such request as well as the geographical denomination for which protection is requested (see art.1.1 of the “Deliberazione 12 dicembre 1996”).</p> <p>3. Unfair competition: no registration.</p> <p>4. Consumer protection: no registration</p>
<b>Relevant Supporting Documents</b>	<p>1. Trade mark regime: applications for registration have to be accompanied by the regulation governing use of collective mark.</p> <p>2. Artistic, traditional and quality ceramics: the request must be accompanied by a report on the history and quality of the product, a declaration of conformity to the code of conduct approved by the The “Consiglio Nazionale Ceramico” and a receipt of the fees (see art.1.2 of the “ Deliberazione 12 dicembre 1996”).</p>
<b>Administration Responsible for Registration</b>	<p>1. Trade mark regime: Ufficio Italiano Brevetti e Marchi Sala per il pubblico Via di S. Basilio 14</p> <p>2. Artistic, traditional and quality ceramics: “Consiglio Nazionale Ceramico”</p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>1. Trade mark regime:</p> <ul style="list-style-type: none"> <li>- Registration fee: Euro 337,00</li> <li>- Renewal fee: Euro 202,00</li> </ul> <p>2. Artistic, traditional and quality ceramics: fixed through a decree by the “Ministro dell’industria”, in agreement with the “Ministro del Tesoro”.</p>
<b>Timeframe</b>	
<b>Registration</b>	
<b>Protection</b>	<p>1. Trade mark regime: Definite period of 10 years, with possibility of renewal (indefinitely) for consecutives periods of 10 years</p> <p>2. Artistic, traditional and quality ceramics: indefinite, as long as the code of conduct is respected.</p>

## LATVIA

### International Legal Framework

Latvia is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 7 September 1993 and the Madrid Protocol Concerning the International Registration of Marks since the 5 January 2000. It is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Latvia is a WTO Member since the 10 February 1999.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained:</p> <ul style="list-style-type: none"> <li>➤ <b>As a GI under the law on trade mark and indications of geographical origin</b></li> <li>➤ <b>As a trade mark under the law on trade mark and indications of geographical origin</b></li> <li>➤ <b>Through the law against Unfair Commercial Practice</b></li> </ul> <p><i>Ex parte protection is available</i></p>
<b>Relevant Regulatory Framework</b>	<p><b>Law on Trade marks and Indications of Geographical Origin</b> adopted on 16 June 1999, entered into force on 15 July 1999 and was amended for the last time on 14 October 2010  in English: <a href="http://www.lrpv.lv/index.php?lang=EN&amp;id=15">http://www.lrpv.lv/index.php?lang=EN&amp;id=15</a>  in Latvian: <a href="http://www.lrpv.lv/index.php?lang=LV&amp;id=26">http://www.lrpv.lv/index.php?lang=LV&amp;id=26</a>  <b>Act XLVII of 2008 on the Prohibition of Unfair Commercial Practices against Consumers</b>  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=25&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=25&amp;languageID=EN</a></p>
<b>Summary of the Operational Provisions</b>	<p><b><u>Law on Trade marks and Indications of Geographical Origin</u></b></p> <p><b><u>Protection as a geographical indication:</u></b> Indications of geographical origin are protected without registration.  The law provides that “Geographic names and signs or indications of a geographical nature that are not perceived by consumers and trade circles to be in connection with the specific origin of the goods or services, shall not be considered to be indications of geographical origin within the meaning of this Law, and shall not be protected; including designations, that although they comply with the definition of indications of geographical origin, have lost their original meaning in the territory of Latvia and have become generic names for types of goods or services”. The law prohibits the use of false indications of geographical origin which mislead consumers as to the geographical origin, qualities or characteristics. Well-known GIs are also recognised under the law. The law states that the illegal use of a GI is considered as a manifestation of unfair competition and subject to sanctions provided for in regulatory enactments on unfair competition; Furthermore, an action to enjoin the unlawful use of an indication of geographical origin may be brought in the Regional Court of Rīga by any interested persons, including professional associations, and associations of manufacturers, traders or providers of services, whose articles of association provide for the protection of the economic interests of their associates (members), as well as by organisations and authorities whose purpose, under their articles of association, is the protection of the rights of consumers. The court may impose the same legal defences in matters regarding the suspension of the unlawful use of indications of geographical origin, as those provided for in cases of the unlawful use of trade marks.</p> <p><b><u>Protection as a trade mark:</u></b> individual and collective marks can be registered</p> <p><b><u>Registration procedure</u></b>  Application for registration in Latvia shall be filed with the Patent Office in writing. A filing fee shall be paid on the filing of the application. If the result of the examination is favourable, the</p>

	<p>Patent Office takes a decision to register the trade mark and publishes it in the official gazette of the Patent Office</p> <p><b>Opposition procedure</b>  Within three months from the date of the publication of a trade mark, interested persons may, upon payment of the applicable fee, submit an opposition to the registration of a trade mark.</p> <p><b>Level of protection provided</b>  The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p> <p><b>Law against Unfair Commercial Practice</b>  The law prohibits unfair commercial practices. Any person may file an administrative complaint with the competent authority - Consumer Rights Protection Centre - and ask to take necessary actions to terminate violations of law. The administrative authorities have an obligation to deal with the complaint.</p>												
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<p>The owner of a trade mark that is well-known in Latvia shall have the right to prohibit, in commercial activities, the use of a sign which constitutes a reproduction, an imitation, a translation or a transliteration of the well-known mark also in relation to goods or services which are not similar to the goods or services covered by a well-known trade mark, but provided that the consumers may perceive the use of the referred to sign as an indication of a connection between such goods and services, and the owner of a well-known trade mark, and that such use may be detrimental to the interests of the owner of a well-known trade mark.</p>												
<b>Formal Requirements for an Application</b>													
<b>Application Forms</b>	N/A												
<b>Relevant Supporting Documents</b>	None												
<b>Administration Responsible for Registration</b>	<p><b>The Patent Office of the Republic of Latvia (Latvijas Republikas Patentu)</b>  valde  Citadeles iela 7/70 - P.O.Box 824, LV-1010 Riga  Tél: (371) 7099 600 - Fax: (371) 7099 650 - E-mail: <a href="mailto:valde@lrpv.lv">valde@lrpv.lv</a> - <a href="http://www.lrpv.lv">http://www.lrpv.lv</a></p>												
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<b>Costs of registration</b>	<table border="1"> <thead> <tr> <th></th> <th>in LVL</th> <th>in Euro</th> </tr> </thead> <tbody> <tr> <td>Filing of a trade mark application</td> <td>60</td> <td>86,22</td> </tr> <tr> <td>Filing of a collective trade mark application</td> <td>150</td> <td>215,54</td> </tr> <tr> <td>Registration of a trade mark (including grant of certificate and publication of registration)</td> <td>65</td> <td>93,4</td> </tr> </tbody> </table>		in LVL	in Euro	Filing of a trade mark application	60	86,22	Filing of a collective trade mark application	150	215,54	Registration of a trade mark (including grant of certificate and publication of registration)	65	93,4
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<b>Timeframe</b>													
<b>Registration</b>	<p>The processing time of trade mark applications is an average of 3 months (<i>Section 13 of the Law</i>)</p>												
<b>Protection</b>	<p>The registration of a trade mark is valid for a period of 10 years from the filing date. The registration may, every 10 years, be renewed for another 10-year period. (<i>Section 21 of the Law</i>).</p>												

## LITHUANIA

### International Legal Framework

Lithuania is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 22 May 1994 and the Madrid Protocol Concerning the International Registration of Marks since the 15 November 1997. Lithuania is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Lithuania is a WTO Member since the 31 May 2001.

#### *Bilateral agreement relating to GI protection:*

Memorandum of Understanding between the Republic of Lithuania and the United Mexican States on the Protection of Geographical Indications dated 14 October 1999.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>The trade mark law</b> entered into force on 10 October 2000</li> <li>➤ <b>The law Against Unfair Competition</b></li> <li>➤ <b>The consumer protection law</b></li> </ul> <p><i>Ex parte protection is available</i></p>
<b>Relevant Regulatory Framework</b>	<ol style="list-style-type: none"> <li>1. <b>Law on trade marks</b> <ol style="list-style-type: none"> <li>a) Lietuvos Respublikos Prekių Ženklų įstatymas Published on "Valstybės žinios" 2000 Nr. 92-2844 <a href="http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=279274&amp;p_query=&amp;p_tr2=2">http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=279274&amp;p_query=&amp;p_tr2=2</a></li> <li>b) Lietuvos Respublikos Prekių Ženklų įstatymas Published on "Valstybės žinios" 2000 Nr. 92-2844 <a href="http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=279274&amp;p_query=&amp;p_tr2=2">http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=279274&amp;p_query=&amp;p_tr2=2</a></li> <li>c) Prekių ženklų registravimo taisyklės ZR/03/2004 Published on "Valstybės žinios" 2004 Nr. 98-3679 <a href="http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=236080&amp;p_query=&amp;p_tr2=2">http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=236080&amp;p_query=&amp;p_tr2=2</a></li> </ol> </li> <li>2. <b>Law Against Unfair Competition - Lietuvos Respublikos Konkurencijos įstatymas</b> Published on "Valstybės žinios" 1999 Nr. 30-856 <a href="http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=408322&amp;p_query=&amp;p_tr2=2">http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=408322&amp;p_query=&amp;p_tr2=2</a></li> <li>3. <b>Consumer Protection Law - Lietuvos Respublikos Nesąžiningos komercinės veiklos vartotojams draudimo įstatymas</b> Published on "Valstybės žinios" 2008 Nr. 6-212 <a href="http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=312619&amp;p_query=&amp;p_tr2=2">http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=312619&amp;p_query=&amp;p_tr2=2</a></li> </ol>
<b>Summary of the Operational Provisions</b>	<p><b>1. Law on trade marks</b></p> <p><b>Registration procedure</b></p> <p>A trademark application has to be filed before the Patent Office by a local agent. A non-legalized power of attorney is sufficient. The application process includes a formal examination of the application and an examination of the mark against absolute requirements,</p>

	<p>but no search for prior trade marks. After registration, the trade mark is published in the official bulletin of the State Patent. Several absolute grounds for refusal of registration or invalidation of a mark refer to the existence of a GI (article 6 of the law).</p> <p>There are specific provisions on collective marks. Member union (association, union, consortium, etc.) have the right to file an application to register a collective mark. A collective mark can be registered in the name of member union (association, union, consortium, etc.), and only then, when combined with the application is submitted mark's use regulations.</p> <p><b>Opposition procedure</b> The opposition period is 3 months from publication of the trade mark application.</p> <p><b>Level of protection provided</b> A trade mark shall confer on the proprietor exclusive rights therein. The Law provides national protection for unions to use the collective mark which may serve in trade to designate the geographical origin of their goods and (or) services, but this mark does not entitle the proprietor to prohibit a third party from using in the course of trade such signs or indications, provided he uses them in accordance with honest practices in industrial or commercial matters.</p> <p><b><u>The unfair competition law and the consumer protection law.</u></b></p> <p>Under these laws, it is prohibited for entities to perform any acts contrary to honest practices in economic activity and good customs including providing misleading or false information about their or other entity's origin of the product and any acts which may mislead consumers about the products' properties including true origin of the products. Any individual or legal entity can file administrative complaints but the administrative authorities do not have an obligation to investigate.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p>A trade mark application must include at least:</p> <ul style="list-style-type: none"> <li>• A request for the registration</li> <li>• Information identifying the applicant;</li> <li>• A list of the goods or services in respect of which the registration is requested;</li> <li>• A representation of the trade mark</li> <li>• Information about the cost paid and when it was done</li> <li>• regulations governing use of collective mark</li> </ul> <p><b>Language of the application:</b> Lithuanian</p>
<p><b>Relevant Supporting Documents</b></p>	<ul style="list-style-type: none"> <li>• Document evidencing the payment of the application fee</li> <li>• Mark's picture</li> </ul>
<p><b>Administration Responsible for Registration</b></p>	<p>The State Patent Bureau of the Republic of Lithuania Kalvarijų g. 3 LT-09310, Vilnius, Lithuania</p>
<p><b>Costs</b></p>	
<p><b>Costs of registration</b></p>	<ul style="list-style-type: none"> <li>• Fee for application 240 Lt (69,56 €)</li> <li>• Fee for each additional class 120 Lt (34,78 €)</li> <li>• Fee for registration, publishing and certificate 240 Lt (69,56 €)</li> </ul>

<b>Timeframe</b>	
<b>Registration</b>	It takes approximately 10-18 months from first filing to registration.
<b>Protection</b>	10 years (renewable for 10 more years)

# LUXEMBOURG

## International Legal Framework

Luxembourg is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 30 June 1922 and the Madrid Protocol Concerning the International Registration of Marks since the 1st April 1998. It is a WTO Member since 1<sup>st</sup> January 1995.

Luxembourg is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Luxembourg is also a signatory to the Benelux Convention on Intellectual Property (Trade marks and Designs) of 25 February 2005, which entered into force on 1 September 2006.

## National Legal Framework

<b>Type of Protection</b>	<p><b>The protection of non-agricultural GI products can be obtained:</b></p> <ul style="list-style-type: none"> <li>➤ <i>Via a Trade mark law</i></li> <li>➤ <i>Via Unfair Competition Law (UCL)</i></li> </ul> <p><i>Ex parte protection</i> is available under the trade mark and unfair competition laws.</p>
<b>Relevant Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• Benelux Convention on Intellectual Property (Trade marks and Designs) of 25<sup>th</sup> February 2005, entered into force on 1<sup>st</sup> September 2006 The Decision, the Executives Rules and the Convention are all available in the electronic format (in French and in Dutch ) <a href="https://www.boip.int/wps/portal/site/juridical/regulations">https://www.boip.int/wps/portal/site/juridical/regulations</a></li> <li>• Law of 16 May 2006 approving the Benelux Convention on Intellectual Property(Trade marks and Designs) - (hereinafter, referred as “the Law”)</li> <li>• Law of 29 April 2009 on Unfair commercial practices <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=52&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=52&amp;languageID=EN</a></li> </ul>
<b>Summary of the Operational Provisions</b>	<p><b><u>Trade mark Law</u></b></p> <p><b><i>Benelux Convention on intellectual property</i></b> signed in The Hague on 25 February 2005, adopted on 16 May 2006 and entered into force on 1 September 2006. The Benelux Trade mark Office and the Benelux Designs Office are replaced with one single office, the Benelux Organization for Intellectual Property (Trade marks and Designs).</p> <p><b><u>Registration procedure:</u></b> All application for registration shall be filed in either in French or Dutch. A description (in 50 words or less) of the distinctive elements of the trade mark shall be produced. The Office shall refuse to register a trade mark if it considers that the trade mark comprises only signs or indications which may be used in trade to indicate the kind, quality, quantity, intended purpose, value, geographical origin or time of manufacture of the product or provision of the service, or other characteristics thereof (Article 2.11 of the Convention). However, misleading trade marks in relation in particular to a geographical origin shall also be rejected.</p> <p>Collective trade marks can be registered in accordance with chapter 8 of the convention.</p>

These trade marks refer specifically to signs that can be used to designate the geographical origin of the product. They can be registered provided that a regulation for use and for control of the requirements is available.

Applications for registration must be filed with the Office (Benelux filing) or the International Bureau (international filing). After examination, successful applications are published on the Register. The Register may also be consulted free of charge via the Belgian and Luxembourg.

**Opposition procedure:** Within 2 months from the first day of the month following publication, an objection may be raised with the Office against a Benelux filing or an international filing (Article 2.14 of the Law and Article 2.18 of the Convention)

### **Protection provided**

The scope of the protection of the Trade mark law is the protection against “confusion”. The holder of a trade mark right enjoys exclusive use of the name in the classes for which registration has been granted.

Article 2.20 of the Convention provides that the holder of the trade mark has an exclusive right on it. This allows him/her to forbid the use of:

- An identical mark for similar products or services than the ones for which the mark is registered.
- A sign which is similar to the mark or the products and services covered by the mark, if there is a risk of misleading the public, notably if the risk of association between the sign and the mark exists.
- A identical or similar sign for products or services which are not similar to those for which the mark is registered, when this mark is well known within the territory of the Benelux and when the use of the sign unduly profits from the reputation of the mark or is prejudicial to it.
- A sign for other means than distinguishing the products or services, when the use of this sign unduly profits from the distinct characteristic or the reputation of the mark or is prejudicial to it.

However, nothing can prevent a third party to use the name of the trade mark in accordance with honest practices. Chapter 4 concerning the opposition procedure includes information on the possibility for prior rights' holders to challenge the protection before registration. Article 2.14 provides that the holder of a previous mark can, during the 2 months from the 1<sup>st</sup> day of the month following the publication of the registration request, introduce a written opposition to the registration to the BOIP for a mark which can create a confusion with his/her well known mark. The licensee has the same right than the right holder. However, Article 2.24 provides that the holder of a previous mark which tolerated the use of a mark registered subsequently during a period of 5 years and which knew the use of this mark, can not anymore oppose the use of this subsequent mark for the products and services for which this mark was used, except if the registration request of this subsequent mark has been done in bad faith. However, the tolerance of the use of a subsequent mark does not give the holder of this mark the right to oppose the right of the previous mark.

### **UCL**

The Law of 29 April 2009 on Unfair commercial practices prohibits unfair and misleading commercial practices. This covers practices that deceive or are likely to deceive the average consumer in relation to different elements including “geographical or commercial origin or the results to be expected from its use” (article 4.1 b)) or that are unfair such as commercial practice making a claim without complying with the terms of the approval, endorsement or authorisation (articles 5 and 6).

The enforcement of this Law is handled by the Ministry of the Economics which as designated a “Commissaire” to take care of consumers' rights. He can only act if there is a breach of the collective interest of consumers. For an individual complaint, he will pass the case, with the complainant's consent, to the Luxembourg Union of Consumers in respect of national disputes, or to the European Consumer Centre EIG in respect of cross-border disputes.

<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<b>Benelux Convention:</b> point 4 of article 2.20 of the convention provides for the protection of names in other languages (name of the product used in translation): the national or regional languages of the territory of Benelux.
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p><b>Under the Benelux Convention:</b> the application form for a trade mark registration notably includes:</p> <ul style="list-style-type: none"> <li>➤ The name, address and bank details of the person/company which asks for the registration,</li> <li>➤ Whether an accelerated registration is asked,</li> <li>➤ Whether it is an individual or a collective mark,</li> <li>➤ The type of mark: verbal, figurative, a combination of both,</li> <li>➤ The description of the distinctive elements of the mark,</li> <li>➤ The right of priority,</li> <li>➤ The representation of the mark,</li> <li>➤ The list of products or services,</li> <li>➤ The fees to be paid.</li> </ul> <p>The document must be dated and signed. The form can be downloaded in French at: <a href="https://www.boip.int/wps/wcm/connect/da502d80463aff9690ccbe52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=da502d80463aff9690ccbe52343c04a4">https://www.boip.int/wps/wcm/connect/da502d80463aff9690ccbe52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=da502d80463aff9690ccbe52343c04a4</a> and in Dutch at: <a href="https://www.boip.int/wps/wcm/connect/89b7e080463aff5490b5be52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=89b7e080463aff5490b5be52343c04a4">https://www.boip.int/wps/wcm/connect/89b7e080463aff5490b5be52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=89b7e080463aff5490b5be52343c04a4</a></p> <p>The languages of application are Dutch and French.</p>
<b>Relevant Supporting Documents</b>	<p><b>Under the Benelux Convention:</b> Explicative notice regarding the request, in French at: <a href="https://www.boip.int/wps/wcm/connect/5c818d00463b03af9110bf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=5c818d00463b03af9110bf52343c04a4">https://www.boip.int/wps/wcm/connect/5c818d00463b03af9110bf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=5c818d00463b03af9110bf52343c04a4</a> and in Dutch at: <a href="https://www.boip.int/wps/wcm/connect/410e8600463b039f910bbf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=410e8600463b039f910bbf52343c04a4">https://www.boip.int/wps/wcm/connect/410e8600463b039f910bbf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=410e8600463b039f910bbf52343c04a4</a></p>
<b>Administration Responsible for Registration</b>	The Benelux Office for Intellectual Property (BOIP) is the official body for trade mark registration in the Benelux. <a href="http://www.boip.int">www.boip.int</a>
<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Under the Benelux Convention:</b></p> <p style="text-align: center;"><b>Filing charges</b></p> <ul style="list-style-type: none"> <li>- Basic fee for individual trade mark, up to 3 classes: 240</li> <li>- Basic fee for collective trademark up to 3 classes: 373</li> </ul> <p style="text-align: center;"><b>Renewal</b></p> <ul style="list-style-type: none"> <li>- Basic fee for individual trade mark, up to 3 classes: 260</li> <li>- Basic fee for collective trade mark, up to 3 classes: 474</li> </ul> <p style="text-align: center;"><b>Other fees:</b></p> <p><a href="https://www.boip.int/wps/wcm/connect/6b3cf080474b73a8b9ddb5f78c655cb7/BnlTariffs200701.pdf?MOD=AJPERES&amp;CACHEID=6b3cf080474b73a8b9ddb5f78c655cb7">https://www.boip.int/wps/wcm/connect/6b3cf080474b73a8b9ddb5f78c655cb7/BnlTariffs200701.pdf?MOD=AJPERES&amp;CACHEID=6b3cf080474b73a8b9ddb5f78c655cb7</a></p>
<b>Timeframe</b>	
<b>Registration</b>	<p><b>Under the Benelux Convention:</b></p> <p>The procedure for trade mark registration takes about 4 months. If the trade mark cannot be registered after all, the filing fees will not be refunded. An accelerate procedure for registration exists upon payment of an extra fee.</p>
<b>Protection</b>	<p><b>Under the Benelux Convention:</b></p> <p>Protection for a period of 10 renewable against payment of the fees due. To maintain the exclusive rights to the trade mark, the latter shall be used actively during this period of protection.</p>

## MALTA

### International Legal Framework

Malta is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 20 October 1967. Malta is not a member of the Madrid Protocol Concerning the International Registration of Marks and of the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods. Malta is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Malta is a WTO Member since the 1 January 1995.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>The trade mark law</b></li> <li>➤ <b>The Unfair Competition laws</b></li> </ul> <p><i>Ex parte protection is available</i></p>
<b>Relevant Regulatory Framework</b>	<p><b>Trade mark law</b> of 1<sup>st</sup> January 2001  <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=195506">http://www.wipo.int/wipolex/en/text.jsp?file_id=195506</a></p> <p><b>Protection via Unfair Competition Laws</b>          Commercial Code (Chapter 13 of the Laws of Malta)          Consumer Affairs Act (Chapter 378 of the Laws of Malta)  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=74&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=74&amp;languageID=EN</a>  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=41&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=41&amp;languageID=EN</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>1. Trade mark law:</b> individual, collective and certification marks can be registered</p> <p><b>Registration procedure</b>          An application for registration of a trade mark must be made to the Comptroller, who examines the application asserting whether all requirements for registration of such application are met.          Registration of trade mark is refused if the trade mark notably lacks distinctive character or is made up entirely of signs or indications which may serve, in trade, to designate the kind, quality, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services. When a trade mark is registered, the Comptroller publishes the registration and issues a certificate of registration to the applicant.</p> <p><b>Opposition procedure</b>          Trade mark opposition is not available. Any decision of the Comptroller may be appealed from, before the Court of Appeal.</p> <p><b>Scope of protection</b>          The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p> <p><b>2. Unfair Competition Laws</b>          The laws prohibit unfair and misleading commercial practice including when it relates to the</p>

	main characteristics of the product, such as its specification, geographical or commercial origin. Administrative complaints can generally be filed by any natural or legal person with the Director of Consumer Affairs (the "Director") who is a public officer designated by the Prime Minister and who has also certain quasi-judicial/executive powers. If the Director becomes aware of an infringement of the unfair commercial practices provisions, the Director has the power to carry out investigations of his own motion or upon a reasonable allegation in writing of a breach of the provisions of this Act and any regulations. The administrative authorities do not have an obligation to investigate.
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>A trade mark application must include at least:</p> <ul style="list-style-type: none"> <li>• compilation of the prescribed form;</li> <li>• a request for registration of a trade mark;</li> <li>• the name and address of the applicant;</li> <li>• a statement of the goods or services in relation to which it is sought to register the trade mark;</li> <li>• a representation of the mark;</li> <li>• the name and address of the representative or attorney, in cases where one has been appointed;</li> <li>• a declaration claiming priority in cases where the applicant wishes to take advantage of an earlier application</li> <li>• an indication that the trade mark is being used by the applicant or with his consent, in relation to those goods or services, or that he has a bona fide intention that it should be used;</li> <li>• a statement containing the name or names of the colour or colours being claimed in cases where the applicant wishes to claim colour as a distinctive feature of the mark; and</li> <li>• the prescribed fee.</li> </ul> <p>Language of the application: <b>Maltese</b> or <b>English</b></p>
<b>Relevant Supporting Documents</b>	
<b>Administration Responsible for Registration</b>	<p><b>The National IP Office of Malta - Commerce Department Ministry for Fair Competition, Small Business and Consumers</b>  <a href="http://www.commerce.gov.mt">http://www.commerce.gov.mt</a>  <a href="https://secure2.gov.mt/ipo/Intellectual_Property_Office_Malta/About_Us.aspx?ct=1">https://secure2.gov.mt/ipo/Intellectual_Property_Office_Malta/About_Us.aspx?ct=1</a>  Telephone : (356) 25 69 02 06 ; (356) 25 69 03 34  Fax : (356) 25 69 03 38  commerce@gov.mt - ipoffice@gov.mt - michelle.bonello@gov.mt</p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>Application fee for one class : 116.47 €  <a href="https://secure2.gov.mt/ipo/Intellectual_Property_Office_Malta/Trademarks/trademarks_default.aspx?ct=1">https://secure2.gov.mt/ipo/Intellectual_Property_Office_Malta/Trademarks/trademarks_default.aspx?ct=1</a></p>
<b>Timeframe</b>	
<b>Registration</b>	
<b>Protection</b>	10 years renewable

## POLAND

### International Legal Framework

Poland is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 10 November 1919, the Madrid Protocol Concerning the International Registration of Marks since the 4 March 1997 and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since 10 December 1928. Poland is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Poland is a WTO Member since the 1<sup>st</sup> January 1995.

Poland has not signed bilateral or plurilateral agreement(s) or treaty(ies) that include the protection of names of non-agricultural geographical indications' products.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained:</p> <ul style="list-style-type: none"> <li>➤ <b>via a sui generis geographical indications law</b></li> <li>➤ <b>via a trade mark law</b></li> <li>➤ <b>via a unfair competition law</b></li> </ul> <p><b>Ex parte protection</b> is available</p>
<b>Relevant Regulatory Framework</b>	<p><b>Act of 30 June 2000 Industrial Property Law</b> (which covers Geographical indications and trade marks)  (Dz. U. z 2003 r. Nr 119, poz. 1117, z 2004 r. Nr 33, poz. 286, z 2005 r. Nr 10, poz. 68 - art. 60, Nr 163, poz. 1362 - art. 29 i Nr 167, poz. 1398 - art. 144, z 2006 r. Nr 170, poz. 1217 - art. 52, 1218 - art. 106 i Nr 208, poz. 1539 - art. 46, z 2007 r. Nr 99, poz. 662 - art. 3 i Nr 136, poz. 958, z 2008 r. Nr 180, poz. 1113 - art. 2, Nr 216, poz. 1368 - art. 2 i Nr 227, poz. 1505 - art. 161 oraz z 2010 r. Nr 182, poz. 1228 – art. 127)  <a href="http://www.sejm.gov.pl">www.sejm.gov.pl</a>  <a href="http://www.uprp.pl">www.uprp.pl</a></p> <p><b>ACT of 16 April 1993 On combating unfair competition</b>  Journal of Laws No 03.153.1503  2003.11.28 amend. J.L. No 02.197.1661  2004.05.01 amend. J.L. No 04.96.959  <a href="http://www.uokik.gov.pl/consumer_protection.php">http://www.uokik.gov.pl/consumer_protection.php</a></p> <p><b>ACT of 23 August 2007on combating unfair commercial practices</b>  (Journal of Laws No. 171 of 2007, item 1206)  <a href="http://www.uokik.gov.pl/consumer_protection.php">http://www.uokik.gov.pl/consumer_protection.php</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>1. Act of 30 June 2000 Industrial Property Law</b>(was adopted on 30 June 2000 and entered into force on 22 August 2001)</p> <p><b><u>A) Registration as a geographical indication</u></b></p> <p><b>Definition</b>  Geographical indications are word indications which in an explicit or implicit manner designate the name of a place, locality, region or country (territory), which identify a good as originating in that territory, where a given quality, reputation or other characteristic of the good are essentially attributable to the geographical origin of that good. Article 175 provides for two definitions.</p>

Designations of origin used to describe products: originating in a specific territory and the properties of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production or processing of which takes place in that territory.

Names of regions used to describe products: originating in a specific territory and the properties or other characteristics of which are essentially attributable to their geographical origin, that is the territory on which they are produced or processed.

The Act specifies that geographical indications also mean designations used to describe the products produced of raw materials or intermediate products coming from a defined area larger than the production or processing area, provided that special conditions for the preparation of the raw materials or intermediate products exist and there are inspection arrangements to ensure that those conditions are adhered to. It also states that geographical indications are also geographical designations which do not correspond to the true place, in which the product originates, or other traditional designations, if they are normally used in respect of the goods originating in a defined area.

### **Registration procedure**

Part II in the Act of 2000 Industrial Property Law provides for the protection of geographical indications by way of registration. According to Article 176 of the Law, an application may be filed by an organization entitled to represent interests of the producers running their business activities on a given territory, as well as by a state or local administration agency competent in respect of the territory, to which the geographical indication relates.

The Patent Office of the Republic of Poland which has authority in granting protection for geographical indications. The Patent Office examines the application and makes a decision on the grant of a right to register a geographical indication after having established that the application for registration has duly been made up (it is not to be deemed to have duly been made up, where the indication fails to represent or falsely represents the origin of the product, or where it fails to satisfy other requirements for the grant of the right in registration). In the course of processing an application concerning a geographical indication the Patent Office invites the applicant to complete the application or correct identified defects or essential faults within a fixed time limit, failure which shall result in discontinuance of the proceeding. The Office examines only the following circumstances:

- whether the sign is a geographical indication to advise on the origin of the goods;
- whether the sign is true and not misleading as to the origin;
- whether the sign is protected in the country of origin - in the case of foreign designations.

In addition, the Office examines whether the claimed mark is generic and that its use does not affect the existing right of protection for a trade mark. The Office neither examines the conditions of preparation of the product nor method of its control.

A right to register is subject to payment of a protection fee (failure to pay the fee within the prescribed time limit shall result in declaring by the Office that the decision on the grant of the right in registration has lapsed). If the decision is positive, the Office enters the name in the Register of Geographical Indications and publishes the registration.

### **Opposition procedure**

Within six months from the publication in the official bulletin "Wiadomości Urzędu Patentowego" of the mention of the registration of a geographical indication, any person may give reasoned notice of opposition to a final decision of the Patent Office on the grant of a right in registration. The opposition may be filed on the same grounds, on which a right in registration may be invalidated. The Patent Office communicates the opposition to the right holder and invites him to file his observations within a fixed time limit. Where, following the communication of the Patent Office, the right holder claims the opposition to be unjustified, the case is submitted for examination in litigation proceedings. Otherwise, the Patent Office decides on reversal of the decision on the grant of a right in registration and discontinues the proceeding. The decision taken by the Patent Office may be subject to complaint to the Supreme Administration Court.

### **Scope of protection**

The geographical indication may be used by the right holder, by the undertakings specified in the geographical indication application as those who use or intend to use that indication, as

	<p>well as by any party, whose products satisfy the conditions for the use of that geographical indication. The latter may also request the Patent Office to be entered in the Register of Geographical Indications as a party authorised to use it.</p> <p>According to Article 185 of the Industrial Property Law a geographical indication for which a right in registration has been granted may not be used on the territory of the Republic of Poland by parties, whose products do not satisfy the requirements for the grant of a right in registration even if:</p> <ul style="list-style-type: none"> <li>- such use is not intended to designate the geographical origin of the products or where the true place of the production of the product is indicated.</li> <li>- accompanied by expressions indicating the kind of the product, such as "imitation", "type", "process".</li> <li>- Used in translations or in other related forms.</li> </ul> <p>However, any parties who, while operating on a given territory, earlier used a geographical indication in good faith, and whose products do not satisfy the requirements for the grant of a right in registration, may continue to use that indication, however for no longer than one year counted from the date of the grant of the right in registration.</p> <p><b><i>B) Registration as a trade mark</i></b></p> <p>The Act provides for the registration of individual, collective and certification marks.</p> <p><b>Registration procedure</b></p> <p>Trade marks must be sufficiently distinctive in usual commerce conditions. The application process includes a formal examination, an examination of distinctiveness and a search for prior trade marks. If the application meets all the statutory requirements, the Patent Office will grant registration and invite the applicant to pay within three months the protection fee for the first 10-year period. If the fee is paid in time, the mark is entered in the Trade mark Register and a certificate of protection is issued. The decision to grant protection will be published in the (monthly) Patent Office Journal "Wiadomosci Urzedu Patentowego".</p> <p><b>Opposition procedure</b></p> <p>An opposition may be filed only after the registration has been granted. The opposition period is 6 months from the publication date of the registration in the 'Wiadomosci Urzedu Patentowego'.</p> <p><b>Scope of protection</b></p> <p>The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p> <p><b>2. Act of 1993 on combating unfair competition and Act 2007 on combating unfair commercial practices</b></p> <p>Protection for geographical indications is provided through Article 3(2), Article 8 and Article 9 of the 1993 unfair competition Act. Article 8 prohibits labelling of products or services with false or deceitful geographic indication, directly or indirectly indicating country, region or locality of their origin, or the use of such indication in the commercial activity, advertising, business letters, invoices or other documents, shall be the act of unfair competition. Article 5 of the 2007 Act prohibits misleading actions, including when it relates to the characteristics of a product, particularly its geographical or commercial origin.</p> <p>It is up to an entrepreneur whose interest has been threatened or prejudiced by an act of unfair competition to take action towards the President of the Office of Competition and Consumers Protection. Any party can file a complaint about the alleged use of the commercial practice infringing collective interests of consumers. The administrative authorities are required to investigate every complaint.</p>
<p><b>Specific Provisions (issue of Generics,</b></p>	<p><b>Act of 30 June 2000 Industrial Property Law</b></p> <p>According to art. 179 a right in registration may not be granted for a geographical indication, which in consequence of its extensive use for marking a kind of goods became a generic name, unless it is in public interest or the protection of the indication follows from an</p>

<p><b>Reciprocity)</b></p>	<p>international agreement.</p> <p>According to art. 177 a geographical indication, the use of which would encroach upon a right of protection for a trade mark, shall only be eligible for registration, if the holder of the right of protection surrenders his right. Surrender of the right of protection for a trade mark shall not be required, where in the application of the geographical indication for registration, filed in agreement with the holder of the trade mark registration, the latter is mentioned among the parties authorised to use that indication and the maintenance of his right is not supposed to entail excessive restrictions on freedom to use the geographical indication by other authorised parties.</p> <p>Pursuant to Article 192(1), any party having a legitimate interest may demand that a decision be taken on the lapse of the right in registration for the geographical indication which ceased to satisfy the requirements for the grant of protection or has not been used for a period of five years and no serious reasons for non-use thereof exist. This shall not apply to indications, the protection of which follows from an international agreement. The burden of proof that the geographical indication is used or that the justified reasons for non-use thereof exist shall be on the holder of the right in registration.</p> <p>The general rule, under the provisions governing trade mark protection in the Industrial Property Law, is that a right of protection shall not be granted for a trade mark that contains geographical elements which, although literally true as to the territory, region or locality, in which the goods originate, are of such a nature as to mislead the public by false representing that the goods originate in another territory famous of given goods.</p> <p>When assessing whether or not the protection of the trade mark is supposed to entail excessive restrictions on freedom to use the geographical indication by other authorised parties, that indication's capability of being used in forms other than the form which is represented by the trade mark shall, in particular, be taken into account.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p><b>For GI registration</b></p> <p>An application concerning a geographical indication shall include:</p> <ul style="list-style-type: none"> <li>• a detailed description of the indication applied for registration,</li> <li>• the specification of the goods for which the indication is intended,</li> <li>• the detailed delimitation of the area, to which it relates,</li> <li>• a description of the characteristic features or properties of the products, in particular including principal physical, chemical, microbiological or organoleptic characteristics of the product and a description of the details bearing out the link of these characteristics with the geographical environment or the geographical origin,</li> <li>• the conditions of the use of the geographical indication, including: the production process, the characteristic features or properties of the products, other requirements to be fulfilled by the persons wishing to use that indication and, where applicable, the inspection arrangements,</li> <li>• the specification of the undertakings which use or intend to use the indication.</li> </ul> <p><b>Language of the application: Polish</b></p>
<p><b>Relevant Supporting Documents</b></p>	<p><b>For GI registration</b></p> <p>Persons applying for registration of foreign geographical indications shall be required to refer to, or to complete the application with, a document confirming that the indication is provided protection in the country of its origin. In particular, any international agreement under which geographical indications are protectable may be considered as such confirmation document.</p> <p><b>For a certification mark</b></p> <p>A certified copy of the regulations governing the use of the mark must be filed. The regulations must define the manner of use of the mark, the common characteristics of the goods for which the mark is to be used, the manner of controlling these characteristics, and the sanctions for violation of the regulations. Furthermore, the regulations must define the detailed conditions for and procedure of admission by the organization owning the mark of other enterprises to the use of the mark.</p>

<b>Administration Responsible for Registration</b>	<p><b>The Patent Office of the Republic of Poland</b>          Al. Niepodległości 188/192 - 00-950 Warsaw, Poland  <a href="http://www.uprp.pl/strona-glowna/Menu01,9,0,index,pl/">http://www.uprp.pl/strona-glowna/Menu01,9,0,index,pl/</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	<p><b>For GI registration</b>          Application fees: 300 PLN - 68 EUR          Protection fees: 1000 PLN - 227 EUR  <a href="http://www.uprp.pl/oplaty-w-postepowaniu/Lead05,185,1844,4,index,pl,text/">http://www.uprp.pl/oplaty-w-postepowaniu/Lead05,185,1844,4,index,pl,text/</a></p> <p><b>For trade mark registration</b>          Application for individual mark in three classes: 550 PLN -          Application for collective mark in three classes: 1000 PLN -  <a href="http://www.uprp.pl/oplaty-zgloszeniowe/Lead05,173,1755,4,index,pl,text/">http://www.uprp.pl/oplaty-zgloszeniowe/Lead05,173,1755,4,index,pl,text/</a></p>
<b>Timeframe</b>	
<b>Registration</b>	<p><b>For GI registration</b>          There is no specific timeframe available.</p> <p><b>For trade mark</b>          It takes approximately 2 years from first filing to registration.</p>
<b>Protection</b>	<p><b>For GI registration</b>          Term of protection for a geographical indication is unlimited. The protection starts from the date of its entry in the Register of Geographical Indications kept by the Patent Office.</p> <p><b>For trade mark</b>          10 years from the date of application, renewable.</p>

## PORTUGAL

### International Legal Framework

Portugal is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884, the Madrid Protocol Concerning the International Registration of Marks since the 20 March 1997, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 31 October 1893, and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration since the 25 September 1966. Portugal is a WTO Member since the 1<sup>st</sup> January 1995.

Portugal has signed bilateral agreements that cover the protection of non-agricultural GI product:

- With Switzerland on the Protection of Indications of Source, Appellations of Origin & similar designation (16 September 1954)
- With Hungary on the Protection of Indications of Source, Appellations of Origin & other Geographical Names (1986)
- With Spain on the Protection of Indications of Source, Appellations of Origin and the Denominations of Certain Products, done at Lisbon on 16 December 1970
- With the Czechoslovak Socialist Republic on the Protection of Indications of Source, Appellations of Origin and other Geographical and Similar Designations, text adopted on January 10, 1986 at Lisbon, entry into Force on March 7, 1987

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>a sui generis geographical indications law</i></b></li> <li>➤ <b><i>trade mark law (indirectly)</i></b></li> <li>➤ <b><i>consumers' protection law and unfair competition Law</i></b></li> <li>➤ <b><i>a specific law protecting Bordado da Madeira</i></b></li> </ul> <p><b><i>Ex parte protection</i></b> is available.</p>
<b>Relevant Regulatory Framework</b>	<p><b>Industrial Property Code, approved by Decree Law n.143/2008.</b>  <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=181706">http://www.wipo.int/wipolex/en/text.jsp?file_id=181706</a></p> <p><b>Law no 24/96 from the 31<sup>st</sup> of July 1996 on the Legal regime for the consumer protection/defence</b> <a href="http://dre.pt/pdf1sdip/1996/07/176A00/21842189.pdf">http://dre.pt/pdf1sdip/1996/07/176A00/21842189.pdf</a></p> <p><b>Law No. 18/2003 of 11 June (Legal Framework for Competition)</b>  <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=199493">http://www.wipo.int/wipolex/en/text.jsp?file_id=199493</a></p> <p><b>Decree-Law n°57/2008 from 26<sup>th</sup> of March 2008 on unfair competition practices</b></p> <p><b>Lei nº 55/90 Cria o “Sistema de Autenticação do BORDADO DA MADEIRA”, Decreto Legislativo Regional nº 7/91/M (for technical specifications)</b>  <a href="http://www.dre.pt/pdf1sdip/2008/03/06000/0174701754.PDF">http://www.dre.pt/pdf1sdip/2008/03/06000/0174701754.PDF</a></p> <p><b>PT OJ nº 143, of 25th July 2008 – available at:</b>  <a href="https://servicosonline.inpi.pt/registos/main/start.jsp?timo=M">https://servicosonline.inpi.pt/registos/main/start.jsp?timo=M</a></p>
<b>Summary of the Operational Provisions</b>	<p>1. <b><i>Protection as a GI - Decree Law n.º 143/2008</i></b> (entered into force on 1 October 2008)</p> <p><b>Definition of AO and GI</b>          (Article 305) Denomination of origin is defined as the name of a region, of a specific place or, in exceptional cases, of a country, which serves to designate or identify a product:</p>

- a) Originating from that region, specific place or country;
- b) Whose quality or characteristics are derived, essentially or exclusively, from the geographic environment, including the natural and human factors, and whose production, processing and development are carried out within the demarcated geographic area.

Traditional names are also protected as appellation of origin.

A geographic indication is understood to mean the name of a region, a specific place or, in exceptional cases, a country that serves to designate or identify a product:

- a) Originating from that region, specific place or country;
- b) Whose reputation, specific quality or another characteristic can be attributed to that geographic origin and whose production, processing or development are carried out within that demarcated geographic area

#### **Registration procedure**

Art. 307<sup>a</sup>- Applications for appellations of origin or geographical indications shall be made by a request, drawn up in Portuguese on an appropriate printed form towards the National IP institute, indicating:

- (a) the name of the individual persons or corporate bodies, public or private, with capacity to acquire the registration, tax number and email address;
- (b) the name of the product or products, including the appellation of origin or geographical indication;
- (c) the traditional conditions or regulations for use of the appellation or the indication and the boundaries of the respective locality, region or territory.

#### **Opposition procedure**

Opposition procedure is similar to the trade marks one. So, when it is received, the demand is published on IPI website and IPI OJ. Oppositions, dully fulfilled can be received in a delay of 60 days. Oppositions are studied and if they are considered as valid registration procedure is denied.

Art. 308 Registration of an appellation of origin or geographical indication shall be refused:

- (a) if it was applied for by a party without legal capacity to acquire it;
- (b) if it cannot be considered as being an appellation or indication, in accordance with the terms of Article 305;
- (c) if it constitutes a reproduction or imitation of a previously registered appellation or indication;
- (d) if it is liable to mislead the public, namely as to the nature, quality and geographical origin of the respective product;
- (e) if it violates industrial property rights or copyright, is against the law, public order or morality
- (f) or if it may encourage acts of unfair competition.

#### **Level of protection provided**

Art. 312. The appellation of origin or geographical indication registration shall confer the right to prohibit:

- (a) the use by third parties, in the designation or presentation of a product, of any sort of indication or suggestion that the product in question originates from a geographical region other than the true place of origin in such a way as to mislead the public as to the geographical origin of the product;
- (b) any use that constitutes an act of unfair competition, within the terms of Article 10bis of the Paris Convention (1967), as modified by Stockholm Revision.
- (c) the non authorized use by the registration owner

Words constituting a legally defined, protected and monitored appellation of origin or geographical indication may not include in any form designations, tags, labels, advertisements or any other documents concerning products that do not originate from the respective demarcated regions.

This prohibition shall be applicable even if the true origin of the products is mentioned or if the words constituting the appellation or indication are accompanied by qualifiers such as "kind," "type," "quality," "rival of," "superior to" or a specific indication of the region; this shall also apply to the use of any expression, display or graphic combination liable to confuse the consumer.

It is also forbidden the use of an appellation of origin or a geographical indication with

	<p>reputation in Portugal or in the EU in undue products if it is considered as taking benefit on the reputation or prestigious or can damage it. The terms of the previous paragraphs shall not prevent the seller from applying his name, address or trade mark on the products originating from a region or country different from the one where the products are sold. However, in such cases the trade mark of the producer or manufacturer shall not be removed.</p> <p>Some protection is also granted in the “unfair competition” article 317 1 Unfair competition is defined as all acts of competition that contradict the rules and honest practices in any branch of economic activity, in particular f) Suppression, concealment or alteration, by the seller or any other intermediary, of the appellation of origin or geographic indication of the products or the registered trade mark of the producer or manufacturer on products for sale whose packaging has not been altered in any way.</p> <p><b>2. Protection as a trade mark</b></p> <p>The law provides for the protection of individual, collective association and certification trade marks.</p> <p><b>Registration procedure</b></p> <p>The application process includes a formal examination, an examination of distinctiveness and a search for prior trade marks. Before registration the trade mark application is published in the Portuguese Industrial Property Gazette for opposition purposes.</p> <p><b>Opposition procedure</b></p> <p>Once, the mark is published on IPI website and IPI OJ, oppositions can be fulfilled within of 60 days extendable for an additional month.. Oppositions are studied and if they are considered as valid registration procedure is denied.</p> <p><b>Scope of protection</b></p> <p>If a trade mark is registered, exclusive rights are granted which allow the owner to prevent third parties using a similar or identical trade mark on the same or related products and services without his/her consent (that is, the registration allows, namely, the reaction against imitations). An infringement action must be filed before the courts.</p> <p><b>3. Consumer protection and Unfair competition</b></p> <p>The Law n° 24/96 foresees provisions for consumers to ask for legal compensation provided that there proof of damage is brought. The law n° 57/2008 on unfair competition practices provides some interesting provisions (Article 4, 5, 6, 7, 16) which prohibit unfair competition practices, all practices that mislead the consumer, false information, all deceptive practices. Any person, including competing traders, with a legitimate interest in opposing any unfair commercial practice as prohibited under the UCP Act, may bring the matter before the relevant administrative authority which is the “Autoridade de Segurança Alimentar e Económica” (ASAE, Food and Economic Safety Authority), and the Regulatory Entity in overseeing the sector in which the unfair commercial practice occurred. The administrative authorities are required to investigate every complaint.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p>No specific provisions</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p><b>For GIs</b> The application form shall contain:</p> <ul style="list-style-type: none"> <li>• Legal status,</li> </ul>

	<ul style="list-style-type: none"> <li>• specification,</li> <li>• evidence of the use of the name and</li> <li>• geographical boundaries</li> </ul> <p>Language of the application.<b>Portuguese</b></p> <p><b>For trade marks</b> Application form available online : <a href="https://servicosonline.inpi.pt/registos/main/start.jsp?timo=M&amp;lang=EN">https://servicosonline.inpi.pt/registos/main/start.jsp?timo=M&amp;lang=EN</a> Language of the application.<b>Portuguese</b></p>
<b>Relevant Supporting Documents</b>	<p>The critical point of Portuguese law GI section is that the boundaries of the locality, region or territory to which a particular appellation or indication belongs have not been demarcated in a legal statute and if no other method has been provided for this purpose, the <u>boundaries shall be declared by the officially recognised bodies responsible for the respective area and field of production</u>, which shall take into consideration bona fide and established practices, in conjunction with the higher interests of national or regional economy.</p> <p>If fact, if “the officially recognised bodies responsible for the respective area and field of production” does not exist, all the registrations are blocked</p>
<b>Administration Responsible for Registration</b>	<p>INPI (IPI) Campo das Cebolas - 1149-035 – Lisboa - Tel.: 21 881 81 00 - Fax: 21 886 98 59 Linha Azul: 808 200 689 <a href="http://www.marcaspatentes.pt/index.php?section=170">http://www.marcaspatentes.pt/index.php?section=170</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Trade mark</b> The trade mark application fee 101,40 € for one class if made on-line 202,80 € if in paper (Forms M1 and M2). 30.42 € for each additional class on-line and 60.68 € paper form.</p>
<b>Timeframe</b>	
<b>Registration</b>	<p>For GIs: Duration could be around 6 months to 1 year. But considering art 307 above, a lot of demands are blocked in IPI</p> <p>For trade marks : about 6 months</p>
<b>Protection</b>	<p><b>For GIs:</b> unlimited duration unless the GI becomes a simple generic designation for a manufacturing system or a particular type of product known exclusively by such appellation or indication.</p> <p><b>For trade marks:</b> The registration is valid for 10 years, counting from the date of the grant. This period is renewable indefinitely for further periods of equal length.</p>

## ROMANIA

### International Legal Framework

Romania is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 6 October 1920 and the Madrid Protocol Concerning the International Registration of Marks since the 28 July 1998. It is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods.

Romania has signed but not ratified to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Romania is a WTO Member since the 1<sup>st</sup> January 1995.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>a sui generis geographical indications law</i></b></li> <li>➤ <b><i>the trade mark law</i></b></li> <li>➤ <b><i>the laws against unfair competition and misleading advertising</i></b></li> </ul> <p><b>Ex officio protection</b> is available under the <i>sui generis</i> GI law  <b>Ex parte protection</b> is available under the other legal frameworks</p>
<b>Relevant Regulatory Framework</b>	<p><b>Law no.84/1998 on trade marks and geographical indications</b> adopted on 16 June 2010  Official Gazette nr.350/27.05.2010- part I  <a href="http://www.osim.ro/index3_files/laws/trademark/law_84.pdf">http://www.osim.ro/index3_files/laws/trademark/law_84.pdf</a></p> <p><b>Implementing Regulations of Law No. 84/1998 on trade marks and geographical indications</b>  Official Gazette nr. 809/3.12.2010 – part I;  <a href="http://www.osim.ro/index3_files/laws/trademark/regengmarci.pdf">http://www.osim.ro/index3_files/laws/trademark/regengmarci.pdf</a></p> <p><b>Law on the fight against the unfair practices of traders in their relations with consumers</b> adopted on 21 December 2007  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=43&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=43&amp;languageID=EN</a></p> <p><b>Law No. 158 from 18 July 2008 on misleading advertising and comparative advertising</b>  adopted on 18 July 2008</p>
<b>Summary of the Operational Provisions</b>	<p><b>Law no.84/1998 on trade marks and geographical indications</b></p> <p><b>Protection as a geographical indication</b></p> <p>Products can be protected as GIs in Romania by their registration with the State Office for Inventions and Trade marks (SOIT). Geographical indications which have acquired or will acquire protection by way of bilateral or multilateral agreements concluded by Romania are not subject to the registration procedure established by the Law. The SOIT registers geographical indications and give the applicant the right to use them.</p> <p><b>Definition:</b> geographical indication - name serving to identify a product that originates in a country, region or locality of a State, where a certain quality, reputation or other specific characteristics may be essentially attributed to that geographical origin</p>

### **Registration procedure for GIs**

Within 3 months of the reception of the demand at the State Office for Inventions and Trade marks, the application for registration of a geographical indication is examined regarding the conditions provided by law and implementing regulation of Law. If the application meets the legal requirements, SOIT agrees on the registration of the geographical indication and grants the right of use to the association of producers which applied for it.

### **Opposition procedure**

Opposition to the registration of a geographical indication may be made within two months from publication of the application. SOIT transmits a copy to the applicant for the registration of the opposition. The applicant may present his/her observations on opposition. The reasons for opposition are:

- the name is not used to identify a product originating from a country, region or locality, and the quality, reputation or other characteristics which can be attributed to that geographical origin;
- The name of the product is generic;
- The registration is likely to mislead the public the nature, origin, manufacturing methods and product quality;
- The products are contrary to morality or public order;
- If a person has a legitimate interest based on a previously protected industrial property right, with which the geographical indication would conflict;

If the opposition gives justified reasons, the Office shall reject the application for registration of the geographical indication and publish the decision of rejection in the Official Gazette part I. Otherwise, the Office records the request in the Geographical Indications Registry. It publishes in the Official Gazette part I and send it to the association requesting the certificate and use the geographical indication for the right to use it

### **Level of protection provided**

The association of producers which has been granted the certificate of registration of geographical indication and of the right to use has exclusive use of the geographical indication, at the national level. The protection extends to the use of a geographical indication or an imitation thereof even if the true origin of the products is shown or if terms such as *kind, type, imitation*, and the like are added. It does not cover the protection in translation. The law also provides that the central specialized public authority may, *ex officio* or at the request of any concerned person, carry out verifications of the products marketed under a registered geographical indication.

The unlawful marketing of a product under a geographical indication indicating or suggesting that the product concerned originates from a geographical region, other than its true region of origin, with the intent of misleading the public as to the geographical origin of the product constitutes an infringement liable to imprisonment of between 3 months and 3 years or a fine of between 50 000 and 150 000 Lei.

### **Trade mark**

Individual, collective and certification marks can be registered.

### **Registration procedure**

Trade mark application must be submitted to SOIT which publishes the application. Within 6 months, SOIT examines whether the conditions provided by the law are fulfilled. After registration, SOIT records the trade mark in Trade marks Registry and gives the certificate of registration.

### **Opposition procedure**

Within 2 months after publication of the application, any interested person may make observations on the application for trade mark registration. Within 30 days of notification of the opposition, the applicant may present his point of view. The opposition shall be examined by a board within SOIT. Subject to certain conditions provided by law, the opposition may be suspended. According to the law, if the opposition is not found relevant, it is rejected.

	<p><b>Scope of protection</b> The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p> <p><b>Laws on unfair competition and misleading advertising</b></p> <p>The laws prohibit unfair competition and misleading advertising practices that include the main characteristics of the product, such as specification, geographical or commercial origin. The general enforcement of the Romanian legislation on unfair practices is handled by the National Authority for Consumer Protection (NACP) (in Romanian: Autoritatea Nationala pentru Protectia Consumatorului). The NACP allows administrative complaints to be filed by any natural person or organization with a legitimate interest. The administrative authorities are required to investigate every complaint.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p>The <i>sui generis</i> GI law includes a definition of generic geographical names: “<i>name of a product, although it refers to the place or region where it was originally manufactured, produced or marketed, has become the common name for a certain type of products</i>”. It states that a registered geographical indication shall not be deemed to have become generic and nor will it fall in the public domain.</p> <p>The laws provides the possibility for prior rights’ holders to challenge the protection after registration: the Office’s decisions on the registration of a geographical indication may be appealed to this office by any interested person within 30 days from the communication or, as appropriate, the geographical indication publication,</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p>Application for GI registration shall contain:</p> <ul style="list-style-type: none"> <li>- The express request of the registration of the geographical indication and the right to use it;</li> <li>- The name and address of association of producers who apply for the registration of the geographical indication;</li> <li>- The list of persons authorized to use the geographical indication;</li> <li>- The geographical indication for which the application is done;</li> <li>- The type of products to which the geographical indication refers and an indication of manufacturing and production limits the geographical area;</li> <li>- The name or the name and address of authorised representative, if the association has appointed an agent;</li> </ul> <p>Language of the application: Romanian</p>
<p><b>Relevant Supporting Documents</b></p>	<ol style="list-style-type: none"> <li>1. The application for registration of geographical indication shall be accompanied by: <ul style="list-style-type: none"> <li>- a specification;</li> <li>- a certificate of conformity of products with the elements provided in the specifications issued by the specialized central public authority;</li> <li>- proof of payment of the fee for the registration of the geographical indication;</li> <li>- the name of the attorney representing the applicant, if applicable;</li> </ul> </li> <li>2. If the registrant is a <u>foreign association</u>, the application shall be accompanied by: <ul style="list-style-type: none"> <li>- the documents, as well as a copy certified as correct, with the title obtained in the country of origin;</li> <li>- the proof of payment of registration fee;</li> <li>- the power of the attorney of the applicant;</li> </ul> </li> <li>3. the specifications annexed to the application for registration shall contain at least the following elements: <ul style="list-style-type: none"> <li>- the name of the product comprising the geographical indication;</li> <li>- the description of the product and its main features;</li> <li>- the delimitation of the geographical area of production;</li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>- the elements which prove that the product is in production geographical area;</li> <li>- the method of production of the product;</li> <li>- the elements justifying the connection between the product and its geographic origin;</li> <li>- The reference of the procedures of control of the quality of the product and the competent body to carry out this control;</li> <li>-</li> </ul>																										
<b>Administration Responsible for Registration</b>	<p>State Office for Inventions and Trade marks          Ion Ghica Street, nr. 5 - Sector 3, zipcode 030044 - BUCAREST          Phone: 0040 21.306.08.00 - Fax : 021.312.38.19 - E-mail : <a href="mailto:office@osim.ro">office@osim.ro</a></p>																										
<b>Costs</b>																											
<b>Costs of registration</b>	<p><b>For GI</b></p> <p>1.registration costs: 1.440 RON = 400 €;          2. certificate of registration of a geographical indication: 180 RON = 50 €</p> <p><b>For trade mark</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: left;"><b>Step 1: Pre-filing Search</b></th> </tr> <tr> <td></td> <td style="text-align: right;"><b>USD</b></td> </tr> </thead> <tbody> <tr> <td><b>One Class</b></td> <td style="text-align: right;">338</td> </tr> <tr> <td><b>Per Additional Class</b></td> <td style="text-align: right;">168</td> </tr> <tr> <td colspan="2"><b>Delivery:</b> 10 working days; Search report delivered by email.</td> </tr> <tr> <th colspan="2" style="text-align: left;"><b>Step 2: Trade mark Registration Request</b></th> </tr> <tr> <td></td> <td style="text-align: right;"><b>USD</b></td> </tr> <tr> <td><b>One Class</b></td> <td style="text-align: right;">950</td> </tr> <tr> <td><b>Per Additional Class</b></td> <td style="text-align: right;">222</td> </tr> <tr> <th colspan="2" style="text-align: left;"><b>Step 3: Registration Certificate</b></th> </tr> <tr> <td></td> <td style="text-align: right;"><b>USD</b></td> </tr> <tr> <td><b>One Class</b></td> <td style="text-align: right;">400</td> </tr> <tr> <td><b>Per Additional Class</b></td> <td style="text-align: right;">222</td> </tr> </tbody> </table>	<b>Step 1: Pre-filing Search</b>			<b>USD</b>	<b>One Class</b>	338	<b>Per Additional Class</b>	168	<b>Delivery:</b> 10 working days; Search report delivered by email.		<b>Step 2: Trade mark Registration Request</b>			<b>USD</b>	<b>One Class</b>	950	<b>Per Additional Class</b>	222	<b>Step 3: Registration Certificate</b>			<b>USD</b>	<b>One Class</b>	400	<b>Per Additional Class</b>	222
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<b>Timeframe</b>																											
<b>Registration</b>	<p><b>For GI:</b> 7 months</p> <p><b>For trade mark:</b> it is taking approximately 13 months to get a trademark in Romania.</p>																										
<b>Protection</b>	For both GI and trade mark: 10 years renewable																										

## SLOVAK REPUBLIC

### International Legal Framework

The Slovak Republic is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 1<sup>st</sup> January 1993, the Madrid Protocol Concerning the International Registration of Marks since the 13 September 1997, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 1<sup>st</sup> January 1993, and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration since the 1<sup>st</sup> January 1993. The Slovak Republic is a WTO Member since the 1<sup>st</sup> January 1995.

#### Bilateral agreements:

The protection of non-agricultural GI products is/was included in bilateral agreements signed with Austria, Portugal and Switzerland. The agreement with Austria was cancelled and the agreement with Portugal lost the effects after the accession of the Slovak Republic to the European Union in 2004. Agreement between the Czechoslovak Socialist Republic and the Swiss confederation on protections of indications of origin, description of origin and other geographical indications entered into force on January 14, 1976 and it is in force.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>a sui generis geographical indications law</i></b></li> <li>➤ <b><i>the trade mark law</i></b></li> <li>➤ <b><i>the unfair competition law and consumer protection law</i></b></li> </ul> <p><b>Ex officio protection</b> is available under the <i>sui generis</i> GI law.  <b>Ex parte protection</b> is available under the other legal frameworks.</p>
<b>Relevant Regulatory Framework</b>	<p><b>Act no. 469/2003 Coll. on designations of origin for products and geographical indications for products and on amendment of some acts</b>  Amended by: Act No 84/2007 Coll.  Act No 279/2007 Coll.  Act No 395/2009 Coll.</p> <p><a href="http://www.upv.sk/?legislation-designation-of-origin-and-geographical-indications">http://www.upv.sk/?legislation-designation-of-origin-and-geographical-indications</a>  <b>Protection of Consumers against Unfair Commercial Practices (ZVPNPP)</b> Article 8.1.b) of Act No 250 of 9 May 2007 on Consumer Protection and amendments to Act of the Slovak National Council No. 372/1990 Coll. on Offences, as amended  <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=30&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=30&amp;languageID=EN</a>  <b>Unfair competition Act</b>  Articles 41 - 55 of Act No. 513/1991 Coll. Commercial Code, as amended.</p>
<b>Summary of the Operational Provisions</b>	<p>1. <b>Act no. 469/2003 Coll. on designations of origin for products and geographical indications for products and on amendment of some acts</b> (entered into force on 28 October 2003)</p> <p><b>Definition</b>  The law provides two definitions:  <b>Designation of origin</b> for a product is the name of a specific place, a region or, in exceptional cases, a country, used to describe an agricultural product originating in that specific place, region, or country, if the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined specific place, region, or country.  <b>Geographical indication</b> for a product is the name of a specific place, a region or, in exceptional cases, a country, used to describe an agricultural product originating in that</p>

specific place, region, or country which possesses a specific quality, reputation or other characteristics attributable to that specific place, region, or country and the production, processing or preparation of which take place in the defined specific place, region, or country

### **Registration procedure**

#### Applicant

An application for designation of origin (hereinafter referred to as an "application") may be filed by an association of producers or processors with the legal personality for a product produced, processed and prepared within a specified territory (hereinafter referred to as an "applicant"). An applicant may also be an individual person, provided that at the time of filing of the application, it is the only person that produces, processes and prepares the product within a specified territory. Any person shall have the right to become a member of an association, who produces, processes and prepares, within a specified territory, the product with quality or characteristics related to circumstances stated for registered designation of origin and meets conditions of membership in an association, which shall not be discriminative nor contrary to rules of economic competition.

#### Proceedings on application

The Office shall examine whether a) the designation of origin stated in an application meets the requirements to be put on the Register, b) an application contains the formalities (above mentioned), c) an applicant is represented by an authorised representative (if necessary).

If the application does not satisfy the formalities the Office shall invite an applicant to correct the irregularities within a specified time limit, which shall not be shorter than two months. If an applicant fails to correct the irregularities, the Office shall suspend the proceedings of the application. An applicant shall be notified of this. The Office shall refuse an application if a designation is excluded from registration or it fails to meet the conditions to be put on the Register. Before an application is refused, the Office shall enable an applicant to respond to ascertained reasons for refusal of an application. The Office shall be entitled to invite an applicant to submit a document of a relevant inspection authority that a product meets the requirements provided by law. The Office shall determine the adequate time limit for submitting such proof and an applicant shall be notified that the Office refuses an application if he shall not submit such document.

#### Exclusions from registration

The following indication shall not be registered as a designation of origin or geographical indication in the Register:

- a) an indication, which truly indicates name of place, region or country (hereinafter referred to as "territory") from which the product originates, when it can evoke a misconception about the real origin of a product for the public,
- b) an indication which is a generic name of a product although a product originates from a defined territory,
- c) an indication which is identical with a plant variety or animal breed which could in consequence of registration evoke a misconception about the real origin of a product for the public,
- d) an indication which registration could cause confusion with an already registered designation of origin, geographical indication, trade mark, or well-known trade mark.

#### Registration of designation of origin

The Office shall enter a designation of origin into the Register if an application meets the requirements pursuant to this Act. The Office shall issue a certificate of publication of a designation of origin in the Register to an owner and the registration shall be published in the Official Journal of the Industrial Property Office of the Slovak Republic.

#### Registration of amendments of product determination and product specification

The applicant or holder of a registration certificate may apply for approval of an amendment to a product determination, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area. The procedure provided for application shall apply *mutatis mutandis* in respect of request for approval of an amendment to a product determination.

#### Cancellation of designation of origin registration

The Office shall cancel the registration of the designation of origin if it is proved, in the proceedings started on request of a third party, during an inspection done by the authority or ex-officio, that a) the designation of origin has been registered contrary to the conditions for registration, b) the conditions given by a particular geographical environment set for registration of designation of origin have ceased to exist; c) the product, for which a

designation of origin has been registered, does not meet the requirements of determination and these requirements were not met even within additional time limit specified by the Office. The registration of a designation of origin shall not be cancelled, if a product, which meets the requirements of determination is placed on a market or if such product is not placed on a market but the natural conditions have not ceased. The Office shall enter a decision of cancellation into the Register and publish in the Journal.

#### Register and Official Journal

Following shall be entered into the Register: a) the number of an application, b) the filing date of an application, c) the number of registration of designation of origin, d) the date of registration of designation of origin, e) the wording of designation of origin, f) the name of a product to which designation of origin is related, g) the surname, name, address of permanent residence and nationality of an applicant; if an applicant is a legal entity, trade name or name and seat, h) the surname, name and address of a place of business of authorised representative of an applicant, if it is not identical with address of permanent residence, or permanent residence, or trade name of name and seat of authorised representative or entitled person, i) the determination of a product, j) the cancellation of designation of origin, and, k) the other decisive data. The Office shall enter in the Register the changes, which arose after the entry of a designation of origin into the Register, on request and after verification of submitted data. Any person shall be entitled to consult the Register. The Office shall issue the Official Journal, in which it publishes the entry of a designation of origin in the Register, its cancellation and other decisive data concerning designation of origin.

#### **Opposition procedure**

There is no opposition procedure at the administrative level. Disputes have to be taken to Courts.

#### **Level of protection provided**

Registered designation of origin shall be protected against;

- a) any direct or indirect commercial use on products to which such sign is not related, if such products are identical or similar with a product which is registered under such designation of origin, or such using takes an advantage of good reputation of registered designation of origin,
- b) any misuse, imitation or evocation of misconception about a product origin, even if true origin of a product is indicated or even if registered designation of origin is indicated in translation or is accompanied by an expression such as "kind", "type", "style", "method", "as produced in", "imitation", "similar"; or with other similar expression,
- c) any other false or misleading indication as to the origin, nature or essential qualities of the product, on the inner or outer packaging, advertising materials or documents relating to product concerned, and the packing of the product in a container liable to convey a false impression as to its origin,
- d) any other practice liable to mislead the consumer as to the true origin of the product.

In case of infringement of the rights protected by this Act or of actions jeopardising these rights, the holder of registration certificate is entitled to claim the prohibition of the infringement or the actions jeopardising his rights and to eliminate the consequences of infringement. The right for compensation of actual damage shall not be affected. If a non-pecuniary injury has been caused by infringement or jeopardising of rights protected by this Act, the injured party shall have right to adequate satisfaction, which may be in form of pecuniary compensation. The holder of registration certificate shall be entitled to propose that a court, in protection of the rights pursuant to this Act, impose by precaution the same duties as in the decision on the merit if any delay could cause to entitled person a hardly reclaimable pecuniary or non pecuniary injury.

## **2. Trade mark law:** Individual and collective marks can be registered.

### **Registration**

Any natural or legal person may file the application. An association, as an applicant, can file the application for the registration of a sign as collective trade mark with the Industrial Property Office of the Slovak Republic, Banská Bystrica ("the Office") which will examine the application.

**Opposition:** There is a period of 3 months in which any person who has previous rights and/or who has reasons to believe that he would be damaged by the registration of a pending trade mark may file an opposition.

**Scope of protection:** The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed

	<p>before the courts.</p> <p><b>3. Protection of Consumers against Unfair Commercial Practices</b></p> <p>The Act No 250 of 9 May 2007 prohibits misleading commercial practices that include the main characteristics of the product, such as specification, geographical or commercial origin. According to Section 3 of the Consumer Protection Act, every consumer has the right to lodge a complaint to the supervisory bodies.</p>				
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<p>The Act no. 469/2003 Coll. Provides a definition of a generic name. Generic name shall mean general name of a product which has become common name of a product despite that it refers to specific place, region or country where such product was originally produced or placed on the market. Registered designation of origin shall not be considered generic name of a product. If a name of a product, which is a generic name, is a part of a registered designation of origin, the use of such name shall not be considered to be contrary.</p>				
<b>Formal Requirements for an Application</b>					
<b>Application Forms</b>	<p>An application for designation of origin or geographical indication shall be filed with the Industrial Property Office of the Slovak Republic in writing and in Slovak.</p> <p>An application shall contain: a) the request for entry of designation of origin into the Register, b) the surname, name, address of permanent residence and nationality of an applicant; and if an applicant is a legal entity, name or trade name and place of business, c) the determination of a product or product specification, d) the surname, name and address of place of business of authorised representative of an applicant, if an address is not identical with an address of permanent residence, or address of permanent residence, or trade name or name and seat of authorised representative of an applicant, as well as letter of attorney, if an applicant has been represented or has to be represented, e) the signature of an applicant or a person authorised to act on his behalf. The day of delivery of an application shall be marked and a receipt on filing an application shall be issued to an applicant.</p> <p>Determination of a product shall contain: a) the name of a product, including wording of designation of origin, b) the geographical definition of territory where production, processing and preparation of a product is being realised, c) the document confirming that a product originates from a defined territory, d) the description of characteristics or qualitative sings of a product, which are given by a particular geographical environment e) the description of a process of obtaining a product, eventually description of original and unchangeable local processes of its obtaining.</p>				
<b>Relevant Supporting Documents</b>	<p><b>For a collective mark:</b> the written contract between all members of the association, in which the conditions of the use of the collective trade mark are laid down, including the sanctions for their infringement, a list of members of the association who are entitled to use the collective trade mark and their address.</p>				
<b>Administration Responsible for Registration</b>	<p><b>Industrial Property Office</b> of the Slovak Republic - Jána Švermu 43 - 974 04 Banská Bystrica - The Slovak Republic - tel.: +421 48 4300 253 - - fax: +421 48 4300 403. E-mail: janka.oravcova@indprop.gov.sk; podatelna@indprop.gov.sk</p>				
<b>Costs</b>					
<b>Costs of registration</b>	<p>For a GI: an administrative fee of <b>66,00 euro</b></p> <p>For trade marks</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">1. an individual trade mark up to 3 classes of goods and services</td> <td style="text-align: right;"><b>166 €</b></td> </tr> <tr> <td style="padding-left: 20px;">2. a collective trade mark up to 3 classes of goods and services</td> <td style="text-align: right;"><b>332 €</b></td> </tr> </table>	1. an individual trade mark up to 3 classes of goods and services	<b>166 €</b>	2. a collective trade mark up to 3 classes of goods and services	<b>332 €</b>
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2. a collective trade mark up to 3 classes of goods and services	<b>332 €</b>				
<b>Timeframe</b>					
<b>Registration</b>					
<b>Protection</b>	<p>GIs, when formally registered, are protected for an unlimited period. Trade marks are protected for a period of 10 years renewable.</p>				

## SLOVENIA

### International Legal Framework

Slovenia is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 25 June 1991 and the Madrid Protocol Concerning the International Registration of Marks since the 12 March 1998. Slovenia is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Slovenia is a WTO Member since the 30 July 1995.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b><i>a sui generis geographical indications law</i></b></li> <li>➤ <b><i>the trade mark law</i></b></li> <li>➤ <b><i>the law Against Unfair Competition</i></b></li> </ul> <p><b>Ex officio protection</b> is available under the <i>sui generis</i> GI law  <b>Ex parte protection</b> is available under the other legal frameworks</p>
<b>Relevant Regulatory Framework</b>	<p>The Industrial Property Act (Chapter 5)  <a href="http://www.uil-sipo.si/fileadmin/upload_folder/zakonodaja/ZIL_EN_2006.pdf">http://www.uil-sipo.si/fileadmin/upload_folder/zakonodaja/ZIL_EN_2006.pdf</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>The Industrial Property Act</b> (entered into force on 23 May 2001)</p> <p><b>GI Part</b>  The act provides for two definitions.  <b>Geographical names</b> of products, whose distinctive properties are mainly due to the location or region where they are produced, if such properties are a natural consequence of either the climate or soil or of established manufacturing procedures or processes, shall be protected by appellations of origin. Geographical name of a product which has become generally known through long-term use in the course of trade as an indication that the product originates from a certain location or region may also be protected by an appellation of origin.  <b>Appellations of origin</b> may be used to designate natural produce, agricultural produce, industrial products and handicraft products. Geographical names of products protected by appellations of origin may not be employed as generic or common names.</p> <p><b>Registration procedure</b>  The Slovenian Intellectual Property Office (SIPO) can grant the right to use the appellation of origin after obtaining the expert opinion of the Chamber of Economy of the Republic of Slovenia, which must include: the geographical name of the product to be protected by the appellation of origin; products which may be marketed under that appellation of origin; locations or regions in which products marketed under the appellation of origin originate; production requirements a product must fulfill in order to be marketed under the appellation of origin; the required marking of products and further detailed requirements for grant of the right to use the appellations of origin. A decree from the State Council can define the geographical area and the qualities or characteristics of a product bearing an appellation of origin. This decree can prevent any use that can cause confusion on the origin of the products. Otherwise, a judge decision can define the geographical area and the qualities or characteristics of a product bearing an appellation of origin on the basis of local, fair and steady uses.</p> <p><b>Opposition procedure</b>  The Decree is adopted after a "public investigation/survey" in accordance with general rules.</p>

	<p><b>Scope of protection</b> An appellation of origin is a collective right and may be used as such only by those who produce or market the product for which an appellation of origin has been established. Persons not authorised to use an appellation of origin may not use such appellation even if they add the words “type”, “style”, “fashion”, “produced as” or similar words. The law provides for civil action and some penalties in case of infringements of the AO regulations.</p> <p><b>Trade mark part:</b> individual, collective and certification trade marks can be registered. The Act provides that any sign which is capable of distinguishing the goods or services of the members of the holder of the collective mark from those of another undertakings as to their origin in a given enterprise or their geographical origin, their nature, quality, or other properties, shall be eligible for registration as a collective mark.</p> <p><b>Registration</b> Application have to be filled with the Slovenian Intellectual Property Office. The application is first examined as to formal requirements, which is followed by an examination for absolute grounds for refusal. If the latter exist, the Office gives the applicant an opportunity to make observations. If the trade mark is accepted for registration, the application is published in the Official Journal. If no opposition is filed or it has been refused, the trade mark is registered</p> <p><b>Opposition</b> National trade mark application or international trade mark may be opposed within three months from publishing date. Opposition may be filed only on relative grounds (earlier rights, identical or confusingly similar trade mark for the same or similar kinds of goods/services) and all evidence must be filed within the opposition term.</p> <p><b>Scope of protection</b> The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p> <p><b>Law Against Unfair Competition</b> The law prohibits unfair business-to-consumer commercial practices. The general enforcement of the Act is handled by the Market Inspectorate (in Slovene: Tržni inšpektorat), which is a body within the Ministry of Economy, and other inspectorates in accordance with their respective jurisdiction. Consumers can file administrative complaints and the administrative authorities are required to investigate every complaint. Court actions are also available.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p><b>GI Law:</b> Article 57 - Protection against general use “Registered geographical indications may not become generic or common names which would be freely used in the course of trade”.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p><b>For GIs:</b> the language of the application is Slovenian</p> <p><b>For trade marks:</b> It may be filed in a foreign language, provided that it includes at least the indication of the right requested, and the indication allowing the applicant to be contacted by the Office, in the Slovenian, English, French or German language. The Office then invites the applicant to submit, within three months, the translation of the application in the Slovenian language. <a href="http://www.uil-sipo.si/sipo/addition/resources/documents-forms/">http://www.uil-sipo.si/sipo/addition/resources/documents-forms/</a></p>
<p><b>Relevant Supporting Documents</b></p>	<p><b>GI Law:</b> A request for the registration of a geographical indication may be filed by associations of legal or natural persons, chambers, communes, larger local communities or State authorities. This request shall be accompanied by a specification including :</p> <ul style="list-style-type: none"> <li>• indication to be registered as a geographical indication;</li> <li>• indication of the good to which that geographical indication relates;</li> <li>• a description of the good including the raw materials and principal physical, chemical, microbiological, organoleptic or other characteristics of the good;</li> </ul>

	<ul style="list-style-type: none"> <li>• indication of location or region, including borders;</li> <li>• a description of the method of obtaining the good and, if necessary, the authentic and</li> <li>• unvarying local methods;</li> <li>• details bearing out the link between the good and the location or region;</li> <li>• details of inspection structures;</li> <li>• labelling details</li> </ul> <p><b>Trade mark law:</b> An applicant for a collective mark must submit, when filing the application, regulations governing use of the collective mark which must include at least:</p> <ul style="list-style-type: none"> <li>(a) the name and seat of the applicant;</li> <li>(b) indication of the applicant's business and information concerning the person whom he officially and by laws represents;</li> <li>(c) the conditions of membership;</li> <li>(d) data concerning the group of persons having authority to use the collective mark;</li> <li>(e) provisions concerning the rights and obligations of the members in the event of infringement of the collective mark.</li> </ul>
<b>Administration Responsible for Registration</b>	The Slovenian Intellectual Property Office (SIPO) Kotnikova ulica 6 - SI-1000 Ljubljana – Slovenia F: +386 1 620 31 11 (IP Rights) <a href="http://www.uil-sipo.si">http://www.uil-sipo.si</a>
<b>Costs</b>	
<b>Costs of registration</b>	<b>For GIs:</b> No costs of registration <b>For trade marks:</b> filing fee up to 3 classes 100€ and registration fee up to 3 classes 150€
<b>Timeframe</b>	
<b>Registration</b>	
<b>Protection</b>	<b>For GIs:</b> the term of a registered geographical indication shall be unlimited. <b>For trade marks:</b> 10 years renewable

## SPAIN

### International Legal Framework

Spain is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884, the Madrid Protocol Concerning the International Registration of Marks since the 1<sup>st</sup> December 1995 and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since 15 July 1892. Spain has signed but not ratified the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Spain is a WTO Member since the 30 July 1995.

**Before its accession to the EU, Spain concluded several bilateral conventions on protection of indications of origin with Portugal, Germany, France, Switzerland, Italy and Austria.**

- **Agreement between Spain and Portugal** on the Protection of Indications of Source, Appellations of Origin and the Denominations of Certain Products, done at Lisbon on 16 December 1970, entering into force in Spain on 23 August 1972: BOE <sup>106</sup> n. 148 of 21 June 1972 - <http://www.boe.es/boe/dias/1972/06/21/pdfs/A11077-11079.pdf> (only for wines)
- **Agreement between the Spanish State and the Federal Republic of Germany** on the Protection of Indications of Source, Appellations of Origin and Other Geographical Denominations, and Annexed Protocol, done at Bonn on 11 September 1970, entering into force in Spain on 27 September 1973 : BOE n. 235 of 1 October 1973 - <http://www.boe.es/boe/dias/1973/10/01/pdfs/A18917-18932.pdf>
- **Convention between the Spanish State and the French Republic** on the Protection of Appellations of Origin, Indications of Source and the Denominations of Certain Products, done at Madrid on 27 June 1973, entering into force in Spain on 5 March 1975 : BOE n. 108 of 6 May 1975 - <http://www.boe.es/boe/dias/1975/05/06/pdfs/A09495-09509.pdf>
- **Agreement between the Spanish State and the Swiss Confederation** on the Protection of Indications of Source, Appellations of Origin and Similar Denominations, done at Bern on 9 April 1974, entering into force in Spain on 10 March 1976: BOE n. 66 of 17 March 1976 - <http://www.boe.es/boe/dias/1976/03/17/pdfs/A05463-05477.pdf>
- **Agreement between the Spanish State and the Italian Republic** for the Protection of Indications of Source, Appellations of Origin and Denominations of Certain Products, signed in Madrid on 9 April 1975, entering into force in Spain on 17 May 1976: BOE n. 301 of 16 December 1980 - <http://www.boe.es/boe/dias/1980/12/16/pdfs/A27701-27709.pdf>
- **Agreement between the Spanish State and the Republic of Austria** on the Protection of Indications of Source, Appellations of Origin and Denominations of Agricultural and Industrial Products and Annexed Protocol, signed in Vienna on 3 May 1976, entering into force in Spain on 15 December 1977: BOE n. 303 of 20 December 1977 - <http://www.boe.es/boe/dias/1977/12/20/pdfs/A27730-27733.pdf>

### National Legal Framework

<b>Type of Protection</b>	<p><b>The legal protection available in Spain for names of non-agricultural geographical indications' products is available through the following options:</b></p> <ul style="list-style-type: none"> <li>➤ <b>via a trade mark law:</b> non-agricultural geographical indications' products can be protected as a collective mark or as a guarantee mark, as defined in "Title VII – Collective Marks and Guarantee Marks" of the Law 17/2001 of 7 December, on Trade marks</li> <li>➤ <b>via a unfair competition law:</b> non-agricultural geographical indications' products can be protected via unfair competition, under the Law 3/1991 of January 10, on Unfair Competition and the Law 29/2009 of December 30, amending the statutory scheme of unfair competition and advertising to improve consumer protection and users.</li> <li>➤ <b>Via penal law:</b> non-agricultural geographical indications' products can be protected from the offenses relating to intellectual property, market and consumer, as established in the Organic Law 10/1995 of November 23, on the Penal Code.</li> </ul>
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	<b>Ex parte protection</b> is available.
<b>Relevant Regulatory Framework</b>	<ol style="list-style-type: none"> <li>1. Law 17/2001 of 7 December, on Trade marks BOE n. 294, of 8 December 2001 - <a href="http://www.boe.es/boe/dias/2001/12/08/pdfs/A45579-45603.pdf">http://www.boe.es/boe/dias/2001/12/08/pdfs/A45579-45603.pdf</a></li> <li>2. Royal Decree 687/2002 of 12 July, adopting the Regulations implementing Trade mark Law No. 17/2001 of 7 December, amended by Royal Decree 1431/2008 of 29 August, 2008 modifying certain Industrial Property regulations. BOE n. 167, of 13 July 2002 - <a href="http://www.boe.es/boe/dias/2002/07/13/pdfs/A25653-25671.pdf">http://www.boe.es/boe/dias/2002/07/13/pdfs/A25653-25671.pdf</a></li> <li>3. Royal Decree 1431/2008 of 29 August, 2008 modifying certain Industrial Property regulations: BOE n. 223 of 15 September 2008 - <a href="http://www.boe.es/boe/dias/2008/09/15/pdfs/A37572-37576.pdf">http://www.boe.es/boe/dias/2008/09/15/pdfs/A37572-37576.pdf</a></li> <li>4. Law 19/2006 of 5 June, extending means of enforcement of intellectual and industrial property rights and establishing procedural rules to facilitate diverse EU regulations application: This law modifies Arts. 41 (Civil actions that can exercise the trade mark holder) and 43 (Calculation of Compensation for Damages) of the Law 17/2001 on Trade marks. BOE n. 134, of 6 June 2006 - <a href="http://www.boe.es/boe/dias/2006/06/06/pdfs/A21230-21238.pdf">http://www.boe.es/boe/dias/2006/06/06/pdfs/A21230-21238.pdf</a></li> <li>5. Law 3/1991 of January 10, on Unfair Competition: BOE n. 959, of 11 January 1991 - <a href="http://www.boe.es/boe/dias/1991/01/11/pdfs/A00959-00962.pdf">http://www.boe.es/boe/dias/1991/01/11/pdfs/A00959-00962.pdf</a></li> <li>6. Law 29/2009 of December 30, modifying the legal regime of unfair competition and publicity, for the improvement of the protection of consumers: BOE n. 315, of 31 December 2009 - <a href="http://www.boe.es/boe/dias/2009/12/31/pdfs/BOE-A-2009-21162.pdf">http://www.boe.es/boe/dias/2009/12/31/pdfs/BOE-A-2009-21162.pdf</a></li> <li>7. Organic Law 10/1995 of November 23, on the Penal Code, concerning Offenses relating to intellectual property, market and consumers (Chapter XI of Title XIII: Crimes against property and against the socioeconomic order): BOE n. 281, of 24 November 1995 - <a href="http://www.boe.es/boe/dias/1995/11/24/pdfs/A33987-34058.pdf">http://www.boe.es/boe/dias/1995/11/24/pdfs/A33987-34058.pdf</a></li> <li>8. EHA/2343/2006 Order of July 3 on the customs authorities' intervention in cases of declaration of goods suspected of infringing intellectual property rights. BOE n. 171, of 19 July 2006 - <a href="http://www.boe.es/boe/dias/2006/07/19/pdfs/A27153-27154.pdf">http://www.boe.es/boe/dias/2006/07/19/pdfs/A27153-27154.pdf</a></li> </ol>
<b>Summary of the Operational Provisions</b>	<ol style="list-style-type: none"> <li>1. <b>Trade mark Law:</b> individual, collective and certification marks can be registered  <b>Registration procedure</b>  The applicant must present a request for registration of the mark, on the forms standardized for this purpose by the Spanish Patent and Trade mark Office (SPTO). For collective and guarantee/certifications marks, a regulation of use must be added to the application. The application for registration must attach proof of payment of the application fees, including the rate and amount paid, the name of the applicant and representative if any and the number of the class or classes in which concept the rate is payable. Once the application is presented, the competent body of the Autonomous Community reviews the formal requirements to obtain date of filing. If the application doesn't comply with the requirements, there is 1 month to remedy the deficiencies or 2 months if the applicant's address is not in. After examining the formal requirements, the competent body of the Autonomous Community sends the application to the SPTO to be examined .Depending on the case, it can also be presented directly to the SPTO or via internet. The SPTO does then a computer search of prior signs registered on the Register of Trade marks. In parallel to the publication of the application, the SPTO informs of such publication to holders of prior signs found during the research.  <b>Opposition procedure</b>  Once the application is published, opposition may be presented by interested parties within 2 months since the date of publication, accompanied with documents and relevant evidence if available.  <b>Level of protection provided</b>  The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. The right granted by a trade mark does not allow its owner to prohibit use in economic transactions by third parties, provided that such use complies with fair industrial or commercial practices notably of information relating to the geographical origin of the good or provision of the service. An infringement action must be filed before the courts.</li> <li>2. <b>Unfair Competition Law 3/1991 and 29/2009:</b>  The laws prohibit unfair competition and misleading practices, notably exploitation of reputation (Art. 12 of Law 3/1991 of January 10, on Unfair Competition), when using</li> </ol>

	<p>distinctive signs of others or false designations of origin accompanied by the true origin of the goods or expression such as “model”, “system”, “type”, “class” or the like (delocalizers). Any person or entity participating in the market, whose economic interests are directly affected or threatened by unfair conduct, is entitled to exercise the actions against them (Art. 33 of Law 29/2009 of December 30). According to Legislative Royal Decree 1/2007 (Consumers and Users Act), which establishes the concept of consumer, in relation with autonomous regions regulations creating Local Consumer Information Offices (OMIC), administrative complaints (which will always refer to consumer protection matters) can be filed by any individual or entity when is not exercising a professional or business related activity. In some cases, also consumers and/or users associations are entitled to file them on behalf of its members. Finally, complaints can also be filed anonymously. There are no limitations applying to filing of the complaints, exception made of the limitations mentioned above regarding the concept of consumer (any individual or entity when is not exercising a professional or business related activity). The administrative authorities do not have an obligation to investigate. Court actions are also available (Art. 32 of Law 29/2009 of December 30).</p> <p><b>3. Penal Law: organic Law 10/1995 on the Penal Code</b> Penalties of 6 months to 2 years in prison and a fine from 6 to 24 months to whom, with industrial or commercial purposes without consent of the owner of an industrial property right registered under the law of trade marks, and knowledge of the record, reproduce, imitate, modify, or otherwise uses a distinctive sign identical or confused with that, to distinguish the same or similar products, services, activities, or facilities for which the industrial property right is registered.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p>The protection offers protection of the name in other languages as well only for certain industrial products (listed in annex) in all bilateral agreements.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p>Trade mark application form: <a href="http://www.oepm.es/comun/documentos_relacionados/Formularios/nl_mod4101_06.pdf">http://www.oepm.es/comun/documentos_relacionados/Formularios/nl_mod4101_06.pdf</a></p> <p>The <b>language to present the application</b> at the SPTO shall be <b>Spanish</b>. In case the application is presented to the competent body of an Autonomous Community with official languages other than Spanish, it may be presented in the official local language but must be accompanied with a translation into Spanish to be considered authentic in case of doubt between the two texts.</p>
<p><b>Relevant Supporting Documents</b></p>	<p>The <b>application to register</b> a trade mark (collective and guarantee trade marks as well) <b>shall include</b>:</p> <ol style="list-style-type: none"> <li>1. A <u>request for registration of the mark</u>, on the forms standardized for this purpose by the Spanish Patent and Trade mark Office.</li> <li>2. The <u>name, address, nationality of the applicant, ID, legitimacy to present the application</u>, as well as the <u>State</u> where he lives, seats or has a serious and effective industrial or commercial establishment. If the applicant’s address is not in Spain, an address in Spain for notification purposes will be needed.</li> <li>3. The <u>reproduction of the mark</u>.</li> <li>4. The <u>list of goods for which the registration of the mark is requested</u>, according to Art. 1 of Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.</li> <li>5. If the applicant acts through a <u>representative</u>, the name and address thereof.</li> <li>6. A <u>statement that the application refers to the registration of a collective or certification mark</u> in accordance with, respectively, Articles 62 and 68 of Law 17/2001.</li> <li>7. The <u>regulation of use of the collective or certification/guarantee mark</u>, which must contain: <ol style="list-style-type: none"> <li>a. For <b>collective marks</b>: a) The name and address of the association or entity of public law applicant; b) The purpose of the association or entity of public law; c) The authorized bodies to represent the association or entity of public law; d) The conditions of membership to the association; e) Persons authorized to use the mark; f) If applicable, conditions of use of the mark, including</li> </ol> </li> </ol>

	<p>sanctions; g) If applicable, the provision contained in paragraph 2 of Article 63 of Law 17/2001 (which states that if the collective mark consists of an indication geographical origin, the regulations for use shall provide that any person whose goods or services come from this geographical area and the conditions prescribed by it, may become a member of the association).</p> <p>b. For <b>certification/guarantee marks</b>: a) The name and registered address of applicant the mark; b) The requirements, components, elements, conditions, origin or any other characteristics that the trade mark holder will certify or guarantee that meet the products or services to be applied brand; c) Measures to be taken to verify these characteristics; d) control systems and monitoring the use of the mark; e) The responsibilities and penalties that can be incurred by improper use of the mark; f) The fee that would require those who use the mark; g) If applicable, the provision set out in paragraph 3 of Article 69 of Law 17/2001 (which states that if the certification mark consists of an indication geographical origin, the rules of use shall provide that any person whose goods or services come from that geographic area and meet the conditions prescribed by it, you can use the mark).</p> <p>8. The <u>signature of the applicant or his representative</u>.</p>
<b>Administration Responsible for Registration</b>	<p><b>Local point or administration responsible for registration (if any)</b>, including contact details of such authority and any other institution relevant for the protection of GIs.  <b>Oficina Española de Patentes y Marcas (OEPM) (MADRID)</b>  Address: Paseo de la Castellana 75, Planta baja (Ground Floor) 28046 - Madrid  Telephone: 902-157530 - Fax: 91-3495597  Email: <a href="mailto:informacion@oepm.es">informacion@oepm.es</a>  Website: <a href="http://www.oepm.es">http://www.oepm.es</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	<p>For 2012, the registration costs are:</p> <p>For <u>paper application</u> of collective or guarantee trade marks:</p> <ul style="list-style-type: none"> <li>➤ Application: <ul style="list-style-type: none"> <li>○ For the 1<sup>st</sup> class: 277,85€</li> <li>○ For the 2<sup>nd</sup> and each following class: 180,00€</li> </ul> </li> </ul> <p>For <u>on line application</u> of collective or guarantee trade marks:</p> <ul style="list-style-type: none"> <li>➤ Application: <ul style="list-style-type: none"> <li>○ For the 1<sup>st</sup> class: 236,17€</li> <li>○ For the 2<sup>nd</sup> and each following class: 153,00€</li> </ul> </li> </ul> <p>For more info:</p> <p><a href="http://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Tasas/Tasas_SignosDistintivos_2012.pdf">http://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Tasas/Tasas_SignosDistintivos_2012.pdf</a></p>
<b>Timeframe</b>	
<b>Registration</b>	
<b>Protection</b>	<p><b>For trade mark:</b> 10 years beginning on the date of filing of an application and may be renewed for successive ten-year periods</p> <p><b>For GI:</b> no time limit</p>

## SWEDEN

### International Legal Framework

Sweden is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 1<sup>st</sup> July 1885, the Madrid Protocol Concerning the International Registration of Marks since the 1<sup>st</sup> December 1995, and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 1<sup>st</sup> January 1934. Sweden is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Sweden is a WTO Member since 1<sup>st</sup> January 1995.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>trade mark law</b></li> <li>➤ <b>the law Against Unfair Competition</b></li> </ul> <p><b>Ex parte protection</b> is available</p>
<b>Relevant Regulatory Framework</b>	<ol style="list-style-type: none"> <li>1. The Trade mark Act (SFS 2010:1877) Issued: 2010-12-09 which entered into force on 1<sup>st</sup> July 2011. <a href="http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Varumarkeslag-20101877_sfs-2010-1877/">http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Varumarkeslag-20101877_sfs-2010-1877/</a></li> <li>2. The Marketing Act (SFS 2008:486) issued 2008-06-05 which entered into force on 1st July 2008. <a href="http://62.95.69.3/SFSdoc/08/080486.PDF">http://62.95.69.3/SFSdoc/08/080486.PDF</a></li> </ol>
<b>Summary of the Operational Provisions</b>	<ol style="list-style-type: none"> <li>1. <b>The Trade mark Act (SFS 2010:1877)</b></li> </ol> <p>Collective, guarantee or certification mark can be registered.</p> <p><b>Registration procedure</b> Those who wish to register a trade mark shall apply to the Patent and Trade mark Office. The application must contain: the applicant's name or business name and address; a clear reproduction of the mark, and a list of the goods or services covered by the mark and what classes they belong (goods or services list). An application for registration of a collective, guarantee or certification mark must also specify the conditions under which the trade mark should qualify. A brand to be registered must be distinctive for the goods or services to which it relates. Signs or indications that the business used to specify the goods or services, geographical origin may be registered as collective, guarantee or certification marks even if they lack distinctiveness. A trade mark shall not be registered if it contrary to law or regulation or to morality or public order, is liable to mislead the public as to the good or service, quality, geographical origin or other status, or without a permit contains such a government or international or such municipal coat of arms which, by law or regulation may not be used improperly as a brand, or something that can easily be confused with such denomination or such a weapon.</p> <p>The application process includes a formal examination, an examination of distinctiveness and a search for prior trade marks, company names and family names. It takes approximately 3-6 months from first filing to registration. After registration, the trade mark is published in the "Svensk Varumärkestidning".</p> <p><b>Opposition procedure</b> The opposition period is 2 months from publication date of the application.</p>

	<p><b>Scope of protection</b></p> <p>The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. However, the right to a geographical indication of origin acquired by registration as trade marks does not prevent others from using the indication when such use is in accordance with honest practices in industrial or commercial matters. An infringement action must be filed before the courts.</p> <p><b>2. The Marketing Act</b></p> <p>The Act prohibits marketing practices that are unfair to consumers and traders. This applies in particular to representations which concern inter alia the product's existence, nature, quantity, quality and other distinguishing characteristics, and the product's origin, uses and risks such as impact on health or environment. Interested parties may submit complaints regarding violations of the Marketing Act. Proceedings in respect of a prohibition of misleading marketing and behaviour shall be instituted at the Market Court. Proceedings in respect of a prohibition or order may be instituted by the Consumer Ombudsman, a trader affected by the marketing in question, or a group of consumers, traders or employees. The administrative authorities do not have an obligation to investigate.</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	Applications for Trade marks can be done with the Swedish Patent and Registration Office either on-line (in Swedish/English) or by using a PDF-form(s) to be sent to the Patent Office (Swedish): <a href="http://www.prv.se/en/Trademarks/Applying-for-a-trademark/">http://www.prv.se/en/Trademarks/Applying-for-a-trademark/</a>
<b>Relevant Supporting Documents</b>	Applications for Trade marks should contain information and supporting documents with regard to the identity of the applicant, appointed agent, type of Trade mark the application concerns, information with regard to collective Trade marks, description of the Trade mark and the goods and services covered by the application.
<b>Administration Responsible for Registration</b>	PRV Email: <a href="mailto:prv@prv.se">prv@prv.se</a> - Box 530 - 826 27 Söderhamn - Sweden Telephone: +46 8 782 25 00 - Fax: +46 270 173 51 Visiting address: Kungsgatan 8, Söderhamn
<b>Costs</b>	
<b>Costs of registration</b>	<b>Application fee SEK/euro</b> New trade mark (including collective) online application: 1500/167 Each online application beyond first: 700/78 New trade mark paper form application: 1900/211 Each paper form beyond first: 900/100 Application for renewal: 1600/178
<b>Timeframe</b>	
<b>Registration</b>	It takes approximately 3-6 months from first filing to registration.
<b>Protection</b>	Ten years after application, renewable every ten years thereafter.

## THE NETHERLANDS

### International Legal Framework

The Netherlands is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884 and the Madrid Protocol Concerning the International Registration of Marks since the 1<sup>st</sup> April 1998. It is WTO Member since 1<sup>st</sup> January 1995.

The Netherlands is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

The Netherlands is also a contracting party of the Benelux Convention concerning Intellectual Property (Trade marks and Designs) of February 25, 2005 (Entry into Force on September 1, 2006)

### National Legal Framework

<b>Type of Protection</b>	<p><b>The protection of non-agricultural GI products can be obtained:</b></p> <ul style="list-style-type: none"> <li>➤ <i>via a trade mark law, and</i></li> <li>➤ <i>via a unfair competition law</i></li> <li>➤ <i>via a Consumer Protection Enforcement Act</i></li> </ul> <p><i>Ex parte</i> protection is available under these laws.</p>
<b>Relevant Regulatory Framework</b>	<ul style="list-style-type: none"> <li>• Benelux Convention concerning Intellectual Property (Trade marks and Designs) of February 25, 2005 (Entry into Force on September 1, 2006). The Decision, Executives Rules and Convention are all available (in French and in Dutch ) at: <a href="https://www.boip.int/wps/portal/site/juridical/regulations">https://www.boip.int/wps/portal/site/juridical/regulations</a></li> <li>• Provisions of the Dutch Civil Code, adopted on 25/09/2008, in force since 15/10/2008) <a href="https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=48&amp;languageID=EN">https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&amp;lawID=48&amp;languageID=EN</a></li> <li>• Consumer Protection Enforcement Act ('Wet Handhaving Consumentenbescherming'), adopted on 20/11/2006, in force since 29/12/2006 <a href="http://www.eerstekamer.nl/behandeling/20061205/publicatie_wet_6/f=w30411st.pdf">http://www.eerstekamer.nl/behandeling/20061205/publicatie_wet_6/f=w30411st.pdf</a></li> </ul>
<b>Summary of the Operational Provisions</b>	<p><b>Trade mark Law – Benelux Convention</b></p> <p><b>Registration procedure:</b> All application for registration shall be filed in either in French or Dutch. A description (in 50 words or less) of the distinctive elements of the trade mark shall be produced. The Office shall refuse to register a trade mark if it considers that the trade mark comprises only signs or indications which may be used in trade to indicate the kind, quality, quantity, intended purpose, value, geographical origin or time of manufacture of the product or provision of the service, or other characteristics thereof (Article 2.11 of the Convention). However, misleading trade marks in relation in particular to a geographical origin shall also be rejected.</p> <p>Collective trade marks can be registered in accordance with chapter 8 of the convention. These trade marks refer specifically to signs that can be used to designate the geographical origin of the product. They can be registered provided that a regulation for use and for control of the requirements is available.</p>

	<p>Applications for registration must be filed with the Office (Benelux filing) or the International Bureau (international filing). After examination, successful applications are published on the Register. The Register may also be consulted free of charge via the Belgian and Luxembourg.</p> <p><b>Opposition procedure:</b> Within 2 months from the first day of the month following publication, an objection may be raised with the Office against a Benelux filing or an international filing (Article 2.14 of the Law and Article 2.18 of the Convention)</p> <p><b>Protection provided</b>  The scope of the protection of the Trade mark law is the protection against “confusion“. The holder of a trade mark right enjoys exclusive use of the name in the classes for which registration has been granted.  Article 2.20 of the Convention provides that the holder of the trade mark has an exclusive right on it. This allows him/her to forbid the use of:</p> <ul style="list-style-type: none"> <li>➢ An identical mark for similar products or services than the ones for which the mark is registered.</li> <li>➢ A sign which is similar to the mark or the products and services covered by the mark, if there is a risk of misleading the public, notably if the risk of association between the sign and the mark exists.</li> <li>➢ A identical or similar sign for products or services which are not similar to those for which the mark is registered, when this mark is well known within the territory of the Benelux and when the use of the sign unduly profits from the reputation of the mark or is prejudicial to it.</li> <li>➢ A sign for other means than distinguishing the products or services, when the use of this sign unduly profits from the distinct characteristic or the reputation of the mark or is prejudicial to it.</li> </ul> <p>However, nothing can prevent a third party to use the name of the trade mark in accordance with honest practices. Chapter 4 concerning the opposition procedure includes information on the possibility for prior rights’ holders to challenge the protection before registration. Article 2.14 provides that the holder of a previous mark can, during the 2 months from the 1<sup>st</sup> day of the month following the publication of the registration request, introduce a written opposition to the registration to the BOIP for a mark which can create a confusion with his/her well known mark. The licensee has the same right than the right holder. However, Article 2.24 provides that the holder of a previous mark which tolerated the use of a mark registered subsequently during a period of 5 years and which knew the use of this mark, can not anymore oppose the use of this subsequent mark for the products and services for which this mark was used, except if the registration request of this subsequent mark has been done in bad faith. However, the tolerance of the use of a subsequent mark does not give the holder of this mark the right to oppose the right of the previous mark.</p> <p><b>Dutch Civil Code</b></p> <p>The civil code prohibits in its article 193c commercial practice that are unfair, i.e. notably if the information provided is factually untrue or which misleads the average consumer or may mislead them in respect of several elements including the geographical or commercial origin or a product. It also prohibits commercial practice that cause confusion with regard to the products, trade marks, brands or other distinguishing features of a competitor.</p> <p><b>Consumer Protection Enforcement Act</b></p> <p>Under the Act, enforcement power has been granted to the Director of the Netherlands Consumer Authority to act against unfair commercial practices such as misleading advertising, e-commerce, consumer purchases. The administrative authorities do not have an obligation to investigate</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p><b>Benelux Convention:</b> point 4 of article 2.20 of the convention provides for the protection of names in other languages (name of the product used in translation): the national or regional languages of the territory of Benelux.</p>

<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p><b>Benelux Convention</b> The application form notably includes:</p> <ul style="list-style-type: none"> <li>➤ The name, address and bank details of the person/company which asks for the registration,</li> <li>➤ Whether an accelerated registration is asked,</li> <li>➤ Whether it is an individual or a collective mark,</li> <li>➤ The type of mark: verbal, figurative, a combination of both,</li> <li>➤ The description of the distinctive elements of the mark,</li> <li>➤ The right of priority,</li> <li>➤ The representation of the mark,</li> <li>➤ The list of products or services,</li> <li>➤ The fees to be paid.</li> </ul> <p>The document must be dated and signed .The form can be downloaded in French at:  <a href="https://www.boip.int/wps/wcm/connect/da502d80463aff9690ccbe52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=da502d80463aff9690ccbe52343c04a4">https://www.boip.int/wps/wcm/connect/da502d80463aff9690ccbe52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=da502d80463aff9690ccbe52343c04a4</a>  and in Dutch at:  <a href="https://www.boip.int/wps/wcm/connect/89b7e080463aff5490b5be52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=89b7e080463aff5490b5be52343c04a4">https://www.boip.int/wps/wcm/connect/89b7e080463aff5490b5be52343c04a4/BnlApplicationForm.pdf?MOD=AJPERES&amp;CACHEID=89b7e080463aff5490b5be52343c04a4</a>  The languages of application are Dutch and French.</p>
<b>Relevant Supporting Documents</b>	<p><b>Benelux Convention</b> There is a explicative notice regarding the request, in French at:  <a href="https://www.boip.int/wps/wcm/connect/5c818d00463b03af9110bf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=5c818d00463b03af9110bf52343c04a4">https://www.boip.int/wps/wcm/connect/5c818d00463b03af9110bf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=5c818d00463b03af9110bf52343c04a4</a>  and in Dutch at:  <a href="https://www.boip.int/wps/wcm/connect/410e8600463b039f910bbf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=410e8600463b039f910bbf52343c04a4">https://www.boip.int/wps/wcm/connect/410e8600463b039f910bbf52343c04a4/BnlApplicationExplanation.pdf?MOD=AJPERES&amp;CACHEID=410e8600463b039f910bbf52343c04a4</a></p>
<b>Administration Responsible for Registration</b>	<p><b>Benelux Convention</b> The Benelux Office for Intellectual Property (BOIP) is the official body for trade mark registration in the Benelux.  <a href="http://www.boip.int">www.boip.int</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Benelux Convention</b> <b>Filing charges</b></p> <ul style="list-style-type: none"> <li>- Basic fee for individual trade mark, up to 3 classes: 240</li> <li>- Basic fee for collective trade mark up to 3 classes: 373</li> </ul> <p><b>Renewal</b></p> <ul style="list-style-type: none"> <li>- Basic fee for individual trade mark, up to 3 classes: 260</li> <li>- Basic fee for collective trade mark, up to 3 classes: 474</li> </ul> <p><b>Other fees:</b>  <a href="https://www.boip.int/wps/wcm/connect/6b3cf080474b73a8b9ddb5f78c655cb7/BnlTariffs200701.pdf?MOD=AJPERES&amp;CACHEID=6b3cf080474b73a8b9ddb5f78c655cb7">https://www.boip.int/wps/wcm/connect/6b3cf080474b73a8b9ddb5f78c655cb7/BnlTariffs200701.pdf?MOD=AJPERES&amp;CACHEID=6b3cf080474b73a8b9ddb5f78c655cb7</a></p>
<b>Timeframe</b>	
<b>Registration</b>	<p><b>Benelux Convention</b> The procedure for trade mark registration takes about 4 months. If the trade mark cannot be registered after all, the filing fees will not be refunded. An accelerate procedure for registration exists upon payment of an extra fee.</p>
<b>Protection</b>	<p><b>Benelux Convention</b> Protection for a period of 10 renewable against payment of the fees due. To maintain the exclusive rights to the trade mark, the latter shall be used actively during this period of protection.</p>

## UNITED KINGDOM

### International Legal Framework

The United Kingdom is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 7 July 1884, the Madrid Protocol Concerning the International Registration of Marks since the 1st December 1995, and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since the 15 July 1892. The United Kingdom is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

The United Kingdom is a WTO Member since 1st January 1995.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>the trade mark law - Section 3(1)(c) of the Trade Marks Act 1994</b></li> <li>➤ <b>a specific law / Decree or law protecting a specific product - Harris Tweed is protected by a Specific Act of Parliament 'The Harris Tweed Act' 20th July 1993)</b></li> <li>➤ <b>Unfair Trading Regulations 2008</b></li> </ul> <p><b>Ex parte protection</b> is available</p>
<b>Relevant Regulatory Framework</b>	<p>Trade Marks Act 1994: <a href="http://www.ipo.gov.uk/">http://www.ipo.gov.uk/</a>  Harris Tweed Act: Specific Act of Parliament 'The Harris Tweed Act' 20<sup>th</sup> July 1993  <a href="http://www.legislation.gov.uk/ukla/1993/11/pdfs/ukla_19930011_en.pdf">http://www.legislation.gov.uk/ukla/1993/11/pdfs/ukla_19930011_en.pdf</a>  Unfair Trading Regulations 2008  <a href="http://www.legislation.gov.uk/ukdsi/2008/9780110811574/contents">http://www.legislation.gov.uk/ukdsi/2008/9780110811574/contents</a></p>
<b>Summary of the Operational Provisions</b>	<p>1. <b>Trade Marks Act 1994 21 July 1994:</b> Individual, certification and collective marks can be registered.</p> <p><b>Registration procedure:</b> In order to obtain a trade mark registration, it is necessary to make an application to the UK Trade Mark Registry, which is part of the UK Intellectual Property Office. The application should include information about the applicant, a representation of the mark and a list of the goods/services for which registration is sought. In the case of Collective Marks it must also specify the persons authorised to use the mark, the conditions of membership of the association and, where they exist, the conditions of use of the mark, including any sanctions against misuse. Further requirements with which the regulations have to comply may be imposed by rules. In the case of Certification Marks it must also indicate who is authorised to use the mark, the characteristics to be certified by the mark, how the certifying body is to test those characteristics and to supervise the use of the mark, the fees (if any) to be paid in connection with the operation of the mark and the procedures for resolving disputes. An official application fee must also be paid. The Trade Marks Registry will consider whether an application meets formal filing requirements and, if so, will then carry out a substantive examination to assess whether the application meets the criteria for registration. In particular, the Registry will consider whether there are any "absolute grounds" or "relative grounds" for refusal. If the application is accepted, it is published in the Trade Marks Journal.</p> <p><b>Opposition procedure:</b> there is a 2 month period in which third parties may oppose its registration. This period may be extended to three months for any party who files an electronic form TM7a 'Notice of threatened opposition' within the initial two months, beginning with the advert date. Registration is confirmed when no statement of opposition have been received or have been decided in favour of the applicant by the Registrar.</p>

**Scope of protection:** the owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.

There are separate schedules (1 & 2) relating to Collective Marks and Certification Marks which delimit the sections above further. With regard to Collective Marks sections 3.1 & 3.2 allow for geographical indications but the holder cannot prohibit others with an 'honest entitlement to the geographic name'. This is repeated in the Schedule for Certification Marks.

## **2. Harris Tweed Act**

The Harris Tweed Authority is constituted by Act of Parliament to protect and promote Harris Tweed (part II, section 3 of the Act). This act does not provide for an intellectual property protection as such. It defines the product and establishes the Harris Tweed Authority which is given the right to promote and maintain the authenticity, standard and reputation of Harris Tweed for an indefinite period of time. This includes the ability to protect the Harris Tweed name through intellectual property rights. In order to obtain the protection under the specific law, the criteria to be fulfilled are the existence of production requirements and historical link to the territory. Part III Section 7 of the Harris Tweed Act provides the definition. Under Section 9 of the Harris Tweed Act, it is forbidden any person to sell, expose or offer for sale, or have in his possession for the purposes of sale any material which is represented as Harris Tweed, or any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed, if the material does not fall within the definition of Harris Tweed. The Harris Tweed Act provides that the Harris Tweed Authority, a person involved in the Harris Tweed industry, or any person or body appearing to the court to be representative of the persons (or of any group of the persons) involved in the Harris Tweed industry can ask the Court of Session or a sheriff court in relation to Scotland and the High Court or a county court in relation to England and Wales to grant an injunction restraining or, in Scotland, an interdict prohibiting such conduct, and may make such further orders as it considers appropriate. With regard to the protection of the Harris Tweed, the Authority can act: (c) to register and maintain in any part of the world intellectual property rights including patents, trade marks and other marks and designs, and to authorise the user of such intellectual property on such lawful terms and conditions as the Authority may think fit; (d) to take or join in taking such steps, including legal proceedings, as may lawfully be taken in any jurisdiction in the world in order (i) to defend against infringement or likely infringement any intellectual property rights so registered and any other intellectual property; and (ii) to prevent, or put a stop to, any person selling, exposing or offering for sale or having in his possession for the purposes of sale (aa) any material which is represented as Harris Tweed but is not Harris Tweed; or (bb) any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed when it has not been so made. The Harris Tweed Authority is also in charge of the controls.

## **3. Consumer Protection from unfair trading Regulations Act of 2008**

The Regulations (CPRs) introduce a general prohibition on traders in all sectors engaging in unfair commercial practices against consumers. A commercial practice is a misleading action if it contains false information, notably with regard to the geographical or commercial origin of the product and it causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise (article 5). The powers of the authorities are large as they can to enter premises with or without a warrant, seize and detain goods. They can act on their own initiative. An administrative complaint can also be made to an Authority which is free to investigate or reject the complaint. It is important to note that the enforcement agencies are the only ones able to take action for breaches of these Regulations as there is no private right of action against traders by business or consumers. This means that producers of Harris Tweed cannot act to protect their right under these Regulations and must rely on enforcement Agencies that can take a trader to court for breaches of the legislation. The court may grant an injunction on such terms as it may think fit to secure compliance with the Regulations. In addition to court actions for breach of the Regulations, Enforcement Agencies are able to ask for undertakings from traders not to engage in or repeat the conduct constituting an infringement. Enforcement Agencies can also carry out inspections of traders and issue warnings if they are in breach of the Regulations (Part 4 of the Regulations). Traders may also be subject of a fine of not more than the statutory maximum (at the moment this is £5,000)

	(civil enforcement) or, on conviction for indictment, an unlimited fine and imprisonment for a term not exceeding two years (criminal enforcement).
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	Available at: <a href="http://www.ipo.gov.uk/pro-types/pro-tm/pro-t-formsfees.htm">http://www.ipo.gov.uk/pro-types/pro-tm/pro-t-formsfees.htm</a>
<b>Relevant Supporting Documents</b>	To apply for a certification mark or collective mark, you must provide a copy of the regulations governing the use of the mark.
<b>Administration Responsible for Registration</b>	Intellectual Property Office Concept House - Cardiff Road – Newport - South Wales - NP10 8QQ - United Kingdom Tel: +44 (0)1633 814000 <a href="http://www.ipo.gov.uk">http://www.ipo.gov.uk</a>
<b>Costs</b>	
<b>Costs of registration</b>	For paper application <ul style="list-style-type: none"> <li>➤ For the 1<sup>st</sup> class £200,</li> <li>➤ For the 2<sup>nd</sup> and following class £50</li> </ul> For on-line filing <ul style="list-style-type: none"> <li>➤ An on-line application is £170, with 50% being due only once the application is examined, rest of fees as above.</li> </ul>
<b>Timeframe</b>	
<b>Registration</b>	If there is no objection to or question relating to the trade mark application and if it is not opposed, it will normally take around six months to become registered
<b>Protection</b>	For trade mark: 10 years, renewable

## Non EU members

### ICELAND

#### International Legal Framework

Iceland is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 5 May 1962, the Madrid Protocol Concerning the International Registration of Marks since the 15 April 1997. It is a WTO Member since the 1<sup>st</sup> January 1995. Iceland is not a contracting party to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods and to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

At present, Iceland has no bilateral agreements on the protection of GIs. Currently there are no plans to join new agreements in this area." (Icelandic Ministry of Foreign Affairs).

#### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>trade mark law</b></li> <li>➤ <b>the law Against Unfair Competition</b></li> </ul> <p><i>Ex parte protection is available</i></p>
<b>Relevant Regulatory Framework</b>	<p><b>Trade Mark Act No. 45/1997</b> with amendments according to Acts No. 67/1998, 82/1998, 13/2000, 54/2004, 88/2008, and 117/2009. <a href="http://www.els.is/media/2010/Trade-Marks-Act.pdf">http://www.els.is/media/2010/Trade-Marks-Act.pdf</a></p> <p><b>Collective Marks Act No 155/2002</b>, as amended by Acts No. 167/2007, 98/2009 and 126/2011. <a href="http://www.els.is/media/2010/Collective-Marks-Act.pdf">http://www.els.is/media/2010/Collective-Marks-Act.pdf</a></p> <p><b>Act No. 57/2005 on the surveillance of commercial practices and marketing</b>, as amended by Acts No. 34/2007, 57/2007, 50/2008, 88/2008, 98/2009, 162/2010, 38/2011 and 126/2011 <a href="http://www.neytendastofa.is/lisalib/getfile.aspx?itemid=2745">http://www.neytendastofa.is/lisalib/getfile.aspx?itemid=2745</a></p>
<b>Summary of the Operational Provisions</b>	<p><b>1. The Trade Mark Act</b> (entered into force on 1 June 1997)</p> <p><b>Registration procedure</b></p> <p>An application for the registration of a trade mark must be filed in writing to the Icelandic Patent Office, which handles the registration of trade marks and maintains the Trade Mark Register. The application shall specify what is the mark, including an illustration if appropriate, and for what goods or services registration is requested. It shall also give the name of the individual or enterprise applying and be accompanied by the prescribed fee. In order to be registered, a mark must have acquired distinctiveness. A mark which indicates exclusively, or with only minor alterations or additions, the type of product, condition, quantity, use, price, origin or when it was produced, shall not be deemed to possess sufficiently distinctive characteristics. In order to determine whether a mark has sufficiently distinctive characteristics all circumstances must be considered, in particular how long and to what extent the mark has been in use. Furthermore, a trade mark may not be registered on certain grounds, including if it contains, without authorisation, state emblems, official international symbols, emblems of Icelandic municipalities, official inspection or quality signs and if the mark is liable to cause confusion, for instance, as to the type of product, condition or origin. If an application for the registration of a trade mark is deemed to fulfill the requirements for registration the mark shall be registered and published.</p>

### **Opposition procedure**

The registration of a trade mark may be opposed after its publication in writing to the Patent Office within two months of the date of publication and include the grounds for opposition. If oppositions are raised to the registration of a trade mark the Patent Office shall re-examine the registration in accordance with the provisions set out in the Act. The proprietor of the registration shall be notified of the oppositions and given the opportunity to file his comments thereon. If the Patent Office does not take the oppositions into consideration a formal ruling to this effect shall be made known to the opponent and the proprietor of the registration. If the Patent Office does take the oppositions into consideration a formal ruling on the full or partial invalidation of the registration of the mark, shall be made known to the opponent and the proprietor of the registration.

**Specific provisions** are available for the protection of **collective marks** under the Collective Marks Act which entered into force 18 December 2002.

Associations or unions may acquire sole rights for their members to use in business activities a joint special mark for goods or services. Authorities, establishments, associations or unions supervising or determining standards for goods or services may acquire sole rights to use or permit the use of a mark for the goods or services to which the supervision or standards apply. Marks or information which do in business indicate the geographical origin of goods or services may be considered to constitute Collective Marks, the provisions of para. 1, Art 13 of the Trade Marks Act notwithstanding. Such a mark does not grant its owner the right to forbid a third party the use of the mark or the information for professional purposes, provided the use be in conformity with good business practices.

Collective marks are registered in the Trade Marks Registry. An application shall specify the mark, by means of an illustration if applicable, and the goods or services for which registration of the mark are being requested. There shall also be specified the name or title of the applicant. The rules applying to the use of the mark shall accompany an application.

Parties to a Case concerning final decisions by the Patent Office in accordance with the present Act may appeal the matter to the Appeals Committee of Industrial Property Right. Appeal shall be received by the Ministry of Industry within two months as of the date on which a decision was made.

### **Scope of protection as a trade mark**

The rights established by the trade mark legislation (see Trade Marks Act as amended) entitle a trade mark proprietor to exclusive rights to use the trade mark in Iceland and, as a result, the right to prohibit others from using, for commercial purposes, marks that are identical or similar to its own trade mark. By registering a trade mark with the Icelandic Patent Office, it is possible, subject to certain conditions, to protect goods and services identifiers for 10 years at a time and to renew such protection regularly for as long as the trade mark owner desires.

Proceedings on account of violations of a Collective Mark may be instituted only by a party who is the owner of the mark. A party violating a Collective Mark and being liable to damages under the Trade Marks Act shall compensate the loss sustained by the owner of a mark or a party entitled to use it. Anyone who deliberately violates the right of Collective Marks shall be subject to fines. According to circumstances penalty may comprise imprisonment for up to three months.

### **3. Act on the surveillance of commercial practices and marketing**(entered into force on 1 July 2005)

Unfair commercial practices are forbidden. Commercial practices are unfair if these violate good commercial practices vis-à-vis consumers and considerably upset or are likely to upset considerably the financial conduct of consumers. The Consumer Agency may examine complaints or undertake actions on its own. It can require from the parties covered by this Act any information considered necessary for the investigation of individual cases and apply administration fines to firms violating the provisions of the present Act. The decision of the Consumer Agency cannot be referred to the courts until the conclusion of the Appeals

	Committee for Consumer Affairs has been made available. Violations of the provisions of this Act, rules or instructions laid down according to this Act are punishable by fines on legal as well as natural persons or imprisonment for up to two years in the event of serious violations.
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p><a href="http://www.els.is/media/skjol/pdf/Umsokn-um-vorumerkid-2012.pdf">http://www.els.is/media/skjol/pdf/Umsokn-um-vorumerkid-2012.pdf</a></p> <p>A trade mark application must include at least:</p> <ul style="list-style-type: none"> <li>• Name and address of person / the applicant</li> <li>• the signature of / the applicant</li> <li>• the protected mark</li> <li>• where necessary, the brand image</li> <li>• the list of those goods and services for which the brand on the market will be used and protected as such.</li> </ul> <p>Language of the application: <b>Icelandic</b></p>
<b>Relevant Supporting Documents</b>	<ul style="list-style-type: none"> <li>• If a mark is an illustrative mark, two additional copies of the illustration shall accompany the application.</li> <li>• List of goods and/or services shall be provided in Icelandic.</li> <li>• If an agent has been appointed, an original Power of Attorney has to be filed.</li> <li>• If requested by the Icelandic Patent Office, documents confirming the right to priority must be submitted.</li> <li>• If “telle-quelle” registration is requested, proof of home country registration shall accompany the request.</li> <li>• If the application concerns registration of Collective mark, a list of rules concerning the use of the mark shall accompany the application. The rules applying to the use of the mark shall inter alia reveal: <ul style="list-style-type: none"> <li>• who be authorized to use the mark and which conditions attach to such authority,</li> <li>• which consequences result from the unjust use of the mark and</li> <li>• which rights and duties the owner of the mark has vis-à-vis those using the mark in an unauthorized manner.</li> </ul> </li> <li>• If a trademark application or a collective mark application has been rejected, evidence of use may be presented as supporting documents.</li> </ul>
<b>Administration Responsible for Registration</b>	Icelandic Patent Office. Engjateigi 3 - IS 150 Reykjavík   Tel +354 580-9400 fax +354 580-9401, Iceland   <a href="mailto:postur@els.is">postur@els.is</a>
<b>Costs</b>	
<b>Costs of registration</b>	<p>Trademark fees as of April 1, 2011 (in ISK/euro).</p> <p>Filing and registration fee:</p> <ul style="list-style-type: none"> <li>• Basic fee (incl. one class) 22.000/136</li> <li>• Fee for each additional class 5.000/31</li> </ul> <p>Renewal fee:</p> <ul style="list-style-type: none"> <li>• Basic fee (incl. one class) 22.000/136</li> <li>• Fee for each additional class 5.000/31</li> </ul> <p>Collective marks:</p> <ul style="list-style-type: none"> <li>• Basic fee (incl. one class) 22.000/136</li> </ul>

	<ul style="list-style-type: none"> <li>• Fee for each additional class 5.000/31</li> <li>• Search fee 4.000/25</li> <li>• Appeal fee 80.000/494 (of which 60.000 reimbursed if case is dismissed or won)</li> </ul>
<b>Timeframe</b>	
<b>Registration</b>	Approximately 4-6 weeks from the date of filing the application if all requirements are fulfilled.
<b>Protection</b>	Renewable every 10 years.

## LIECHTENSTEIN

### International Legal Framework

Liechtenstein is a member of the World Intellectual Property Organization. It is a signatory to the Paris Convention for the Protection of Industrial Property since the 14 July 1933, the Madrid Protocol Concerning the International Registration of Marks since the 17 March 1998 and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods since 14 July 1933. Liechtenstein is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Liechtenstein is a WTO Member since the 10 February 1999.

### National Legal Framework

<b>Type of Protection</b>	<p><b>The protection of non-agricultural GI products can be obtained via:</b></p> <ul style="list-style-type: none"> <li>➤ <b><i>The Law on the Protection of Trade marks and Geographical Indications</i></b> from 12 December 1996</li> <li>➤ <b><i>The Law of unfair competition</i></b></li> </ul> <p><b><i>Ex parte protection is available.</i></b></p>
<b>Relevant Regulatory Framework</b>	<p>Law on the Protection of Trade marks and Geographical Indications (Trade mark Protection Law) of 12 December 1996 which entered into force on 31 March 1997  <a href="http://www.wipo.int/wipolex/en/details.jsp?id=2841">http://www.wipo.int/wipolex/en/details.jsp?id=2841</a>          Ordinance on the Protection on Trade marks and Geographical Indications (Trade mark Ordinance), current version from 2010  <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=244800">http://www.wipo.int/wipolex/en/text.jsp?file_id=244800</a>          Law against Unfair Competition of 1992 adopted on 22 October 1992, entered into force on November 1994 <a href="http://www.wipo.int/wipolex/en/details.jsp?id=2823">http://www.wipo.int/wipolex/en/details.jsp?id=2823</a></p>
<b>Summary of the Operational Provisions</b>	<p><b><u>1. The Law on the Protection of Trade marks and Geographical Indications</u></b></p> <p>The law prohibits the use of incorrect geographical indications. It provides for sanctions which can lead to imprisonment. However, it does not provide for registration of GIs.</p> <p>The law provides for the registration of individual trade marks, guarantee or certification marks and collective marks.</p> <p><b>Trade mark registration procedure</b>          The applicant has to fill in the official application form and send it to the Office of National Economy (the Office) who certifies the filing of the application to the filer. If the filing fails to meet the requirements set out in Article 29, the Office may establish a time limit by which the filer must complete the documentation. If the filing fails to meet the formal requirements set out in the Trade mark Act or in this Ordinance the Office shall establish a time limit within which any defect is to be remedied. If no grounds for rejection subsist, the Office shall register the trade mark in the Trade mark Register and publish the registration of the trade mark in the official organs of publication. After publication has taken place, the Office shall provide the trade mark owner with a registration certificate containing the indications entered into the Register.</p> <p><b>Trade mark opposition procedure</b>          The trade mark law does not provide for an opposition procedure, which means that a trade mark owner may not be able to enforce his rights vis-à-vis another one who applies for a confusingly similar trade mark at a later time, unless by bringing action to the competent District Court after registration of said later filed trade mark.</p>

	<p><b>Level of protection provided as a trade mark</b> The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.</p> <p><b>Level of protection provided as a GI</b> Article 62 of the law provides that the at a plea from the injured party, the Provincial Court shall impose the punishment of imprisonment for a term of up to one year or a monetary fine of up to 360 daily rated fines on any person who intentionally: a) uses an inappropriate indication of origin; b) uses a designation which can be confused with an inappropriate indication of origin; c) creates a risk of deception by using a name, address or a mark in conjunction with goods or services of foreign origin. 2) Any person who infringes the stipulations of Para. 1 in the course of trade, shall be punished by imprisonment for a term of up to three years. He shall be prosecuted by the public prosecutor.</p> <p><b>2. Unfair competition law</b> The law prohibits the use of geographical designations likely to mislead the public: "Art. 3 lit. b and d: unfair competition by false or inexact indication of origin or by creation of confusion about origin of goods, services etc."</p>
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	<p>A trade mark application must include at least:</p> <ul style="list-style-type: none"> <li>• The use of official form;</li> <li>• The names and forenames or the company together with the address of the filer;</li> <li>• A list of the documents submitted and of the fees paid, accompanied by an indication of the method of payment;</li> <li>• The signature of the filer or of his representative.</li> </ul> <p><b>Language of the application: German</b></p>
<b>Relevant Supporting Documents</b>	<p>The request for registration shall be supplemented, if appropriate by:</p> <ol style="list-style-type: none"> <li>a) The name and address of the representative;</li> <li>b) The priority declaration (Article 12 to 14H);</li> <li>c) An indication that the request concerns a guarantee mark or a collective mark;</li> <li>d) All other further documentation that the Office of National Economy may consider necessary according to the nature of the submitted mark.</li> </ol>
<b>Administration Responsible for Registration</b>	<p><b>Office of National Economy (Amt für Volkswirtschaft)</b> Postfach 684 - 9490 Vaduz Tel. +423 / 236 68 71 <a href="http://www.llv.li/amtstellen/llv-avw-home.htm">http://www.llv.li/amtstellen/llv-avw-home.htm</a></p>
<b>Costs</b>	
<b>Costs of registration</b>	400 Swiss francs including 200 Swiss francs for publication, + class fee (50 francs for each class). Total: between 450-550 Swiss francs (380-460 Euro)
<b>Timeframe</b>	
<b>Registration</b>	No information available
<b>Protection</b>	Article 10 Trade mark law: 10 years from the application date, renewable by means of additional taxes

## NORWAY

### International Legal Framework

Norway is part to the EEA Agreement. Norway is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property since the 1<sup>st</sup> July 1885. Norway is not a contracting party to the Madrid Protocol Concerning the International Registration of Marks nor to the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods. Norway is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration. Norway is a WTO Member since 1<sup>st</sup> January 1995.

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>The trade mark law</b></li> <li>➤ <b>The Marketing Control Act</b></li> </ul> <p><b>Ex parte protection</b> is available under these two laws.</p>
<b>Relevant Regulatory Framework</b>	<ol style="list-style-type: none"> <li>1. The Trade marks Act (Act no. 08 of 26 March 2010) entered into force on 1<sup>st</sup> July 2010. <a href="http://www.patentstyret.no/en/For-Experts/Trademarks-Expert/Legal-texts/Trademarks-Act/#Chapter%208">http://www.patentstyret.no/en/For-Experts/Trademarks-Expert/Legal-texts/Trademarks-Act/#Chapter%208</a></li> <li>2. The Marketing Control Act (Act No. 2 of 9 January 2009). <a href="http://www.forbrukerombudet.no/id/11039810.0">http://www.forbrukerombudet.no/id/11039810.0</a></li> </ol>
<b>Summary of the Operational Provisions</b>	<p><b><u>1. The Trade Marks Act. Law 2010-03-26-8</u></b></p> <p>A non-agricultural GI product can secure protection as an individual or a collective trade mark (sign that is used in an industrial or commercial undertaking to indicate the geographical origin of goods or services may be registered as a collective mark - Article 14).</p> <p><b>Registration procedure</b></p> <p>The application shall be sent to the Norwegian Industrial Property Office, which examines it. The Office examines whether the mark has the necessary distinctive character (i.e. that it does not describe any characteristic of the goods or services, such as the kind, quality or intended purpose) and that it is not misleading or contrary to law or public order. It does not examine specifically whether there are other obstacles as mentioned in Section 16 to prevent registration (Trade marks that conflict with the rights of others). However, if the Norwegian Industrial Property Office becomes aware of such obstacles, the application shall be examined in relation to them. For wine and spirits, it is not permissible to register a trade mark that consists of or contains anything that is liable to be understood as a geographical indication of origin, unless the geographical origin of the goods is in accordance with the indication.</p> <p>If the application meets the stipulated, the trade mark is registered and a letter of registration sent to the applicant. Notice of the registration is published. When a collective mark is registered, the regulations established for the use of the mark is registered and published with it. If the regulations are subsequently substantially altered, the amended text shall immediately be submitted to the Norwegian Industrial Property Office for to registration and publishing. If the application does not meet the stipulated conditions, the Norwegian Industrial Property Office notifies the applicant hereof and provide information about the possible effects of the deficiencies. The applicant is given a reasonable time limit to respond and, if possible, remedy the deficiencies.</p>

### **Opposition procedure**

When the registration of a trade mark is published, any person may file an opposition to the registration. An opposition shall be filed in writing and shall be received by the Norwegian Industrial Property Office within three months of the date of publication. The opposition shall include: the name and address of the person filing the opposition, a specification of the registration to which the opposition applies, the grounds on which the opposition is based, necessary documentation of circumstances invoked in support of the opposition. When an opposition has been received by the Norwegian Industrial Property Office, it is recorded in the Trade mark Register and a notice thereof published. If the opposition does not meet the conditions in the Law, the Norwegian Industrial Property Office shall set a reasonable time limit to comment on it and, if possible, remedy the deficiencies. If the deficiencies are not remedied before the expiry of the time limit, the opposition shall be rejected, unless the Norwegian Industrial Property Office considers that a new time limit should be set for correction. The trade mark proprietor shall be notified of the opposition as soon as possible and be given the opportunity to comment. If two or more oppositions have been filed to the same registration, the Norwegian Industrial Property Office may join the cases as one case if no reasoned objection to this is made. The Norwegian Industrial Property Office only considers factors that invoked in the opposition. If an opposition is withdrawn, the Norwegian Industrial Property Office may continue the processing of the opposition if there are special reasons for doing so. The Norwegian Industrial Property Office shall cancel the registration of a trade mark in full or in part if it was registered in contravention of the conditions set out in the Law and the obstacles to registration still exist. The registration of a collective mark shall also be cancelled if the regulations on the use of the collective mark were not submitted with the application and the deficiency was not corrected during the processing of the application.

If there is no obstacle to the registration, the opposition shall be dismissed.

The trade mark proprietor and the appellant shall be notified of the decision by the Norwegian Industrial Property Office. When a final decision has been made in the case, the outcome shall be recorded in the Trade mark Register and a notice thereof published.

A court may issue an injunction against a person who infringes another person's trade mark right, prohibiting him from repeating the action.

### **Protection**

The owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. However, the right to a geographical indication of origin acquired by registration as a collective mark does not prevent others from using the indication when such use is in accordance with honest practices in industrial or commercial matters (Article 5).

Public prosecution shall only take place at the request of the injured party, unless it is required in the public interest. In the event of infringement of the right to a collective mark, only the trade mark proprietor is considered to be an injured party. Any person who intentionally infringes the trade mark right of another person or contributes to such infringement is subject to punishment by fines or imprisonment of up to three months. If considerable and obviously unlawful gain was the intention of the infringement, the punishment is fines or imprisonment of up to one year. Any person who intentionally or negligently infringes the trade mark right of another person shall pay compensation equivalent to a fair licence fee for the use of the trade mark, plus damages for any further damage caused by the infringement.

### **2. The Marketing Control Act. Law 2009-01-09-2**

The Act prohibits unfair commercial practices, i.e. a practice that conflicts with good business practice towards consumers and is likely materially to distort the economic behaviour of consumers, causing them to make decisions they would not otherwise have made. This includes a commercial practice that is misleading and contains false information in relation to inter alia: the main characteristics of the product, such as its availability, benefits or risks, the product's execution, quantity, composition, specifications, accessories, origin, method and date of manufacture or provision of the product, delivery, usage or fitness for purpose, results to be expected from its use, tests or checks carried out on the product, or after-sale service.

With regard to incorrect geographical descriptions to wines and spirits, there is a specific provision (Section 31) stipulating that in the course of trade it is prohibited to apply a

	<p>geographical description to a wine or spirit which does not originate from the geographical location designated by the description. This shall apply even if the actual place of origin is also stated, or if the geographical description has been translated or is followed by an expression like "kind", "type", "imitation", or something similar. The Act does however not contain any similar specific prohibition with regard to other goods.</p> <p>The Consumer Ombudsman shall, at his own initiative, or in response to requests by third parties, seek to influence traders to comply with the provisions that the Ombudsman is to monitor under the Act, including by negotiating with the traders or their organisations. If the Consumer Ombudsman concludes that an act contravenes the provisions in the Act, he shall seek to persuade the trader to enter into a voluntary settlement to terminate the practice. The Consumer Ombudsman may require the trader to provide written confirmation that the infringement will cease. If necessary, assistance may be requested from the police. If no voluntary settlement is reached, the Consumer Ombudsman may submit the case to the Market Council for a decision. The Market Council shall deal with appeals against decisions of the Consumer Ombudsman. To ensure compliance with decisions, an enforcement penalty shall be fixed that the person at whom the decision is directed will be required to pay in the event of breach of the decision. The fixing of the enforcement penalty may be omitted if special circumstances so indicate. The enforcement penalty may be fixed as a running charge or as a lump sum. When determining the enforcement penalty, emphasis shall be given to the consideration that it must not be profitable to breach the decision. A final decision requiring payment of an enforcement penalty shall constitute a ground for enforcement of the amount due.</p> <p>A person who intentionally and materially infringes the Act shall be subject to fines, imprisonment of up to six months, or both, unless a stricter penal provision applies. The prosecuting authority may in connection with criminal proceedings apply for a court order to secure the cessation of the unlawful act and to prevent its repetition.</p>
<p><b>Specific Provisions (issue of Generics, Reciprocity)</b></p>	<p>The relevant specific provisions are included in the section above.</p>
<p><b>Formal Requirements for an Application</b></p>	
<p><b>Application Forms</b></p>	<p>Applications for Trade marks can be done with the Norwegian Industrial Property Office (NIPO) either on-line (in Norwegian) or by using a PDF-form(s) to be sent to the Patent Office (Norwegian).</p> <p>The application shall include:</p> <ul style="list-style-type: none"> <li>➤ the name and address of the applicant</li> <li>➤ a representation of the trade mark</li> <li>➤ a list of the goods or services in respect of which the registration is requested.</li> </ul> <p>An application for registration of a collective mark shall also include the regulations established for the use of the trade mark. The application is subject to the requirements set forth by the King in regulations.</p>
<p><b>Relevant Supporting Documents</b></p>	<p>"It will depend on the application. If an applicant claims that the trade mark can be registered because of established use, this will need to be substantiated. The Office will notify the applicant of possible defects in the application." Source (NIPO).</p>
<p><b>Administration Responsible for Registration</b></p>	<p>The Norwegian Industrial Property Office          Postal Address: PO Box 8160 Dep. 033 Oslo - Street Address: Sandakerveien 64, 0484 Oslo          Phone + 47 22 38 73 00 - Fax +47 22 38 73 01 - Email: <a href="mailto:mail@patentstyret.no">mail@patentstyret.no</a></p>

<b>Costs</b>	
<b>Costs of registration</b>	<p><b>Application Fee – trade marks (NOK/euro)</b>  Application fee including registration for up to 3 classes: NOK 2600/344  Additional fee for each class in excess of three: NOK 650/86  Renewal Fee for up to 3 classes: NOK 2300/304</p> <p><b>Application Fee - collective marks</b>  Application fee including registration for up to 3 classes: NOK 3700/490  Additional fee for each class in excess of three: NOK 1500/198  Renewal Fee for up to 3 classes: NOK 4700/621</p> <p>Application to alter a registered trade mark: NOK 1100/145  Opposition against someone else's registered trade mark: free</p>
<b>Timeframe</b>	
<b>Registration</b>	<p>If the application does not meet any objections, a registration can be expected in four to five months from the filing date. If there are objections the timeframe of registration will be longer and the time to registration will depend on the individual circumstances.</p>
<b>Protection</b>	<p>Protection lasts 10 years from the filing date and can be renewed unlimited number of times.</p>

## SWITZERLAND

### International Legal Framework

Switzerland is a member of the World Intellectual Property Organization and a signatory to the Paris Convention for the Protection of Industrial Property (since 20 March 1983) and the Madrid Protocol Concerning the International Registration of Marks from 7 July 1884. Switzerland has signed the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 14<sup>th</sup> of April 1891. Switzerland is not a contracting party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Switzerland is WTO Member since 1<sup>st</sup> July 1995.

Switzerland has signed bilateral agreements which cover the protection on non-agricultural GI products:

- **Traité du 7 mars 1967 entre la Confédération suisse et la République fédérale d'Allemagne** sur la protection des indications de provenance et d'autres dénominations géographiques (RS 0.232.111.191.36)
- **Traité du 16 novembre 1973 entre la Confédération suisse et la République socialiste tchécoslovaque** sur la protection des indications de provenance, des appellations d'origine et d'autres dénominations géographiques (RS 0.232.111.197.41)
- **Traité du 14 mars 1974 entre la Confédération suisse et la République française** sur la protection des indications de provenance, des appellations d'origine et d'autres dénominations géographiques (RS 0.232.111.193.49)
- **Traité du 9 avril 1974 entre la Confédération suisse et l'Etat espagnol** sur la protection des indications de provenance, des appellations d'origine et des dénominations similaires (RS 0.232.111.193.32)
- **Traité du 16 septembre 1977 entre la Confédération suisse et la République portugaise** sur la protection des indications de provenance, des appellations d'origine et des dénominations similaires (RS 0.232.111.196.54)
- **Traité du 14 décembre 1979 entre la Confédération suisse et la République populaire hongroise** sur la protection des indications de provenance, des appellations d'origine et d'autres dénominations géographiques (RS 0.232.111.194.18)
- **Accord du 21 juin 1999 entre la Confédération suisse et la Communauté européenne** relatif aux échanges de produits agricoles; Annexe 7 sur les vins, Annexe 8 sur les spiritueux et Annexe 12 sur les AOP et les IGP des produits agricoles et denrées alimentaires (RS 0.916.026.81)
- **Accord du 29 avril 2010 entre la Suisse et la Russie** pour la protection des indications géographiques et des appellations d'origine (RS 0.232.111.196.65). Informations complémentaires.

<https://www.ipi.ch/fr/infos-juridiques/domaines-juridiques/indications-geographiques/la-protection-au-niveau-international.html>

### National Legal Framework

<b>Type of Protection</b>	<p>The protection of non-agricultural GI products can be obtained via:</p> <ul style="list-style-type: none"> <li>➤ <b>an unregistered qualified indication of source</b>, protected according to articles 47 and following of the <u>Federal law on the protection of trademarks and indications of source (LPM) from 28 August 1992</u> (situation 1st July 2011)</li> <li>➤ <b>trade mark law</b> (see above)</li> <li>➤ <b>a specific law dedicated to the protection of one single product</b>: e. g. the <u>Federal ordinance regulating the use of the name "Swiss" for watches</u>, of the 23rd of December 1971 (OSM), RS 232.119, depending on art. 50 of LPM.</li> <li>➤ <b>The Swiss unfair competition act</b></li> </ul> <p><i>Ex parte</i> protection is available</p>
<b>Relevant Regulatory</b>	<ul style="list-style-type: none"> <li>➤ Federal law on the protection of trade marks (brand names) and indications of source (LPM) from 28 August 1992 (situation 1st July 2011) <a href="http://www.admin.ch/ch/f/rs/2/232.11.fr.pdf">http://www.admin.ch/ch/f/rs/2/232.11.fr.pdf</a></li> </ul>

<p><b>Framework</b></p>	<p><a href="http://www.wipo.int/wipolex/en/details.jsp?id=5226">www.wipo.int/wipolex/en/details.jsp?id=5226</a>  Swiss directives related to Trade marks  <a href="http://www.wipo.int/wipolex/en/text.jsp?file_id=220313">http://www.wipo.int/wipolex/en/text.jsp?file_id=220313</a></p> <ul style="list-style-type: none"> <li>➤ Federal ordinance regulating the use of the name “Swiss” for watches, of the 23<sup>rd</sup> of December 1971 (OSM), RS 232.119  <a href="http://www.fhs.ch/doc/osme.pdf">http://www.fhs.ch/doc/osme.pdf</a></li> <li>➤ General provisions in the legislation related to the prevention of unfair competition and misleading of the consumers may apply to the protection of unregistered GIs. The cantonal authorities have the possibility to act <i>ex officio</i> and to take administrative measures, according to the <u>Federal law on food and goods</u>.</li> </ul>
<p><b>Summary of the Operational Provisions</b></p>	<p><b>1. Protection via an unregistered qualified indication of source, protected according to articles 47 and following of the <u>Federal law on the protection of trademarks and indications of source (LPM) from 28 August 1992.</u></b></p> <p>The Trade mark Law protects all direct or indirect references to the geographical origin of products or services against illicit usage (false or misleading geographical indications; Article 47, paragraph 3, Trade mark Law). All geographical indications benefit from a general protection <i>sui generis</i>, independent of any registration, thanks to the general provisions of the LPM on indications of source (Art. 47 ss). In other words, any indication of source that is perceived as such by the consumers should correspond to the real geographical origin of the product (being registered as a TM or not). The judicial means are provided by art. 55, 56 and 64 LPM.</p> <p><b>Level of protection provided:</b></p> <ul style="list-style-type: none"> <li>- Indications of source enjoy general <i>sui generis</i> protection, in other words, no registration or governmental approval for use is necessary (<b>Art. 47 ff</b> of the <u>Federal Law on the Protection of Trademarks and Indications of Source</u>). This is true for Swiss and foreign indications of source alike. It is valid for all product categories; for raw materials as well as end-products, for natural products as well as industrial products, and for services. The Trade mark Law basically protects all direct or indirect references to the geographical origin of products or services against illicit usage (false or misleading geographical indications; <b>Article 47, paragraph 3</b>, Trade mark Law). Only when the parties concerned do not consider a geographic name or sign as a reference to the origin of the products or services is there no protection.</li> <li>- According to Article 48 of the <u>Trade mark Law</u>, the origin of a good is determined by the place of its manufacture or by the origin of the raw materials and parts used for the end product. This means that for every indication of Swiss origin, the value of the Swiss portion of the production costs must be a minimum of 50% and the essential portions of the manufacturing process must have taken place in Switzerland. More information about this can be found <a href="#">here</a> (pdf 290 KB). For certain products (such as watches, cheese, agricultural AOC or PGI products), additional conditions which are defined in special provisions must be met. The origin of services is determined either by the headquarters of the person providing the service or by the citizenship or the domicile of the persons actually controlling the policies and management of the business.</li> <li>- <b>Civil law:</b> Any person who comes across an illegal use of an indication of source may demand a restraining order to stop the violation or to impede an imminent violation (action in performance of a service under <b>Article 55</b>, Trade mark Law, or investigative action under <b>Article 52</b>, Trade mark Law). Illegal use of a indication of source can said to take place when a third party uses an indication of source with a product which does not come from the place in question, or applies a PDO to a product which does not satisfy the conditions set out in the specifications. In the latter case, the rightful producers of a PDO, or a producer satisfying the official specifications, may request a court to stop the illegal act.</li> </ul> <p>Any person authorized to take action against the illegal use of an indication of source may request the assistance of the customs office if the case involves imported products (<b>Articles 70 ff., Trade mark Law</b>). In addition to persons with a legal interest who suffer damages or risk a violation of their rights, the law also permits national or regional consumer associations and organizations to take direct legal</p>

action under the conditions set out in **Article 56, Trade mark Law**.

- **Criminal law:** Any person accused of using an inexact indication of source or a designation, which could be confused with an inexact indication of source, or of creating a risk of deception by using a name, address or trademark in relation to products or services of a different source may be criminally liable (**Article 64, Trade mark Law**). If the offender has acted in a professional capacity, the offence is prosecutable *ex officio*.

Criminal prosecution is the responsibility of the cantons. The status of the plaintiff is determined by the codes of criminal procedure at the cantonal level.

## 2. Protection as a trade mark

Individual/collective and guarantee marks can be registered. However, marks are not recognised in Switzerland as an appropriate mean to protect GIs. Even a collective or guarantee mark cannot be registered as a GI, only a combined mark (that is to say, without exclusivity on the name). See guidelines for IPI trade mark examination, § 4.1, 4.2, 8.5 and 8.6.

**Registration procedure:** The applicant has to fulfill the application form either by using e-trade mark, the online application system of the Swiss Federal Institute of Intellectual Property (IPI) or by sending the registration application form by post, fax or by e-mail to [tm.admin@ekomm.ipi.ch](mailto:tm.admin@ekomm.ipi.ch). Then the IPI examines the application. Depending on the examination results, the trade mark is then entered in the register or refused. If the mark is registered, IPI publishes it online at [www.swissreg.ch](http://www.swissreg.ch) and the applicant will receive a certificate of registration, constituting the title of property for the trade mark. If IPI rejects the application, the applicant can file an appeal to the Federal Administrative Court within 30 days. Their decision can be further appealed before the federal supreme court of Switzerland.

**Opposition procedure:** The publication of the application on [www.swissreg.ch](http://www.swissreg.ch) opens a delay of 3 months to oppose the application. Since 2010 the opposition proceedings for trade marks can also be filed electronically by e-mail. A court may decide in some cases whether the protective right is valid or not.

**Scope of protection:** the owner of a registered trade mark has the exclusive right to use the mark in relation to the goods for which it is registered. An infringement action must be filed before the courts.

## 3. Federal ordinance regulating the use of the name “Swiss” for watches (OSM)

This Ordinance defines the product specifications for the use of the name « Swiss » for watches. According to Section 1a, a watch is considered to be Swiss if its movement is Swiss; its movement is cased up in Switzerland; and the manufacturer carries out the final inspection in Switzerland. According to Section 2, a movement is considered to be Swiss if: it has been assembled in Switzerland; it has been inspected by the manufacturer in Switzerland; and the components of Swiss manufacture account for at least 50 percent of the total value, without taking into account the cost of assembly. Section 3 § 3 OSM requires that the word "movement" appear in full, and be written in the same type-face, of identical size and color, as the word "Swiss". If the watch is not Swiss, these designations can be used on Swiss movements if it cannot be seen by the buyer of the watch (article 3.2). Article 3.1 and 3.3 apply even when the designations are used in translation, when the true origin of the watch is given, when the designation is used with expressions such as “type”. Article 8 provides that the penal provisions of the Trade Mark law apply to the infractions to this ordinance.

## 4. The Swiss unfair competition act

This Act forbids unfair commercial practices. Article 2 of the law defines the unfair commercial practices or behaviour as a practice which “*is misleading or which contravenes to the rules on good faith and which influence the relations between competitors or between suppliers and clients*” notably false information on the goods (article 3.b). The Law provides that the following entity can act in case of an illegal commercial practice: the person, which suffers a damage due to an unfair commercial practice or which could suffer such a damage, and

	clients whose economic interests are jeopardised or damaged. They can ask the judge to forbid the practice if it is about to happen, to stop it or to rule that the practice is illegal (article 9.1 & 10.1). They can ask the practice to be published (article 9.2 & 10.1) and a financial compensation (article 9.3 & 10.1). Actions provided by articles 9.1 and 9.2 can also be done by (article 10.2): the professional and economic associations, which legal status authorises them to defend the economic interests of their members; the organisations which have a regional or national importance and which protect consumers; the State if it judge it necessary to protect the public interest, notably if the reputation of Switzerland abroad is jeopardised or sustain an damage and the persons whose economic interests are damages live abroad, or if the interests of several persons of a group of persons belonging to an economic sector or other collective interests are jeopardised or sustain an damage (article 10.2). Chapter 4 of the law deals with the sanctions.
<b>Specific Provisions (issue of Generics, Reciprocity)</b>	<ul style="list-style-type: none"> <li>➤ Protection of names of services as GI</li> <li>➤ Protection of the name also in other languages</li> <li>➤ Against genericity</li> <li>➤ Against designations or trade marks for products of the same category or for products of other categories: The geographical reference to Switzerland (ex. Swiss made) can not be exclusively reserved to a certain product. The registration of a trade mark containing a reference to Switzerland, which would be understood as an indication of source, should correspond to the limitations according to the LPM (Art. 47 to 49).</li> </ul>
<b>Formal Requirements for an Application</b>	
<b>Application Forms</b>	To register a trade mark, an application form is online on: <a href="https://e-trademark.ige.ch/">https://e-trademark.ige.ch/</a> . <b>Language of the application:</b> in one of Switzerland official languages (French, German, Italian).
<b>Relevant Supporting Documents</b>	
<b>Administration Responsible for Registration</b>	Swiss Federal Institute of Intellectual Property (IPI) Stauffacherstrasse 65/59g, CH-3003 Bern - Telephone +41 (0)31 377 77 77 - Fax +41 (0)31 377 77 78 - e-mail <a href="mailto:info@ipi.ch">info@ipi.ch</a> - <a href="https://www.ipi.ch/fr.html">https://www.ipi.ch/fr.html</a>
<b>Costs</b>	
<b>Costs of registration</b>	The basic cost of protecting a trade mark in Switzerland is CHF 550 (460 Euro).
<b>Timeframe</b>	
<b>Registration</b>	The duration of the procedure depends on the individual case. Applications that are apparently straightforward are examined within 10 working days and registered after payment of the fees. All other applications are examined within a maximum of six months after payment of the filing fee and are then afterwards registered or objected to.
<b>Protection</b>	A Swiss trade mark is protected for 10 years from the date of filing. Protection, once obtained, can usually be renewed every 10 years for as long as desired.
<b>Other information</b>	
	There are ongoing discussions in Switzerland on the “Swissness” concept (“ <u>Swissness</u> legislative project”). The aim is to strengthen the protection of “Made in Switzerland” designations and the Swiss cross. The project includes a more precise definition of the requirements attached to the Swiss indications of source for products and services (in particular, minimum rates of raw material and/or value originating in Switzerland), as well as the establishment of a register for GIs for non-agricultural products and the creation of a new category of trade marks which would be available for GIs already registered or recognised as

	<p>such. The Legal Commission of the National Council has approved the draft revision of the law on trade marks and the bill to protect armorial bearings (Swissness project). On 15 March 2012, the plenary session of the National Council approved the Swissness project by 120 votes to 37 for the revision of the law on trade marks. The project now goes before the Council of States, in the first instance its Legal Affairs Commission.</p>
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## ***Annex II – Case studies***

### **Case studies**

In accordance with the terms of reference of this study, you will find below case studies illustrating the different means of legal protection of geographical indications, as well as their respective strengths and weaknesses.

These case studies focus on two aspects: the protection of geographical indication for non-agricultural products in Members States with *sui generis* protection of such geographical indications, i.e. Bulgaria, Czech Republic, Estonia, Hungary, Poland, Portugal, Romania, Slovakia, and Slovenia; and the current situation of protection of geographical indications for non-agricultural products in the Member States providing for other means of protection, in particular collective trade marks, instruments against unfair competition.

These case studies are classified by country and in alphabetical order. In some countries, we have chosen to produce several case studies in order to explain that non-agricultural GI products are not protected in the same way.

The case studies are based on the information gathered as to end of September.

## Bulgaria

### Limestone from Vratza

#### Врачански Варовик/ Vracanski Varovik

#### Short description of the product

“Limestone from Vratza” originates from two deposits: the village of Varbeshnitsa and the village of Gorna Kremena, district of Vratza. It has the specific and preserved characteristics, light cream colour and massive crypto-crystal structure, thanks to the method of extraction and cutting by means of disk cutting machines, rope-drive machines and stone crusher machines.

The extraction of limestone in Vratza started at the end of 19th century-beginning of the 20th century. It has been produced for more than 100 years in the area surrounding Vratza and is highly appreciated and well-known on the international market because it is easy to process, it has excellent decorative features, appropriate physico-mechanical characteristics and it is not too expensive. The limestone from Vratza is suitable for all kinds of construction works as well as for manufacturing plates, stairs, balustrades, fireplaces, different ornaments and sculptures. Some of the most famous and beautiful buildings in Bulgaria have been built with limestone from Vratza.

#### Key economic data

Two companies produce the product. One of them employs 53 persons, of which 39 are directly involved in the production of the product. This company holds 95% of the market share of the product and exports 95% of its production at the European level. Its turnover in 2010 was 1.444 million euros. The quarry’s monthly capacity is at about 700 m<sup>3</sup>.

#### Detailed analysis of the legal protection enjoyed by the product at the national level:

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Appellation of origin under the Bulgarian *sui generis* system of protection of geographical Indications

The product does not bear a specific logo. No controls of the product are done.

#### Unfair competition law

“Limestone from Vratza” benefits from the general protection granted under the Bulgarian law on the protection of competition for an indefinite period. This law forbids unfair and misleading commercial practices which mislead or may mislead the consumer in relation to essential characteristics of the good or service, including its geographical origin (article 33). Article 35 forbids the marketing of goods or services whose appearance, packaging, marking, name or other features deceive or may deceive the consumers in respect notably of their origin, as well as the use of trade name, mark or geographical indication identical or similar to those of other persons, in a manner which may lead to hurting the interests of competitors.

The Consumers Protection Commission (CPC) (in Bulgarian: "Комисия за защита на потребителите") within the Ministry of the Economy, Energy and Tourism proactively

enforces the Consumers Protection Act, and is also competent for receiving administrative complaints (article 38 of the Bulgarian law on the protection of competition). The Bulgarian law on the protection of competition provides for a mechanism of enforcement. Article 38 provides that the claims can be lodged by a:

- decision of the Commission;
- request of the prosecutor;
- request of the persons whose interests are affected or threatened in violation of this Act or whose interests are affected by regulations inconsistent with this Act,
- request for immunity;
- notification to resolve the concentration of enterprises;
- request of another national competition authority of a Member State of the European Union or the European Commission; or
- request for an opinion of a governmental authority, including the executive authority or a local authority.

This article provides that the Commission can act *ex officio* that is to say on its own initiative.

The Chairman of the Committee appoints a member of the Committee and a team of staff to work on the claim (article 39). They have extensive powers: they are entitled to require information and material, written, digital and electronic evidence, regardless of the medium on which they are stored; to take oral or written statements; to do checks; to assign external experts to do an expertise; and require information or assistance from other national competition authorities of the Member States of the European Union and the European Commission (article 45).

The Committee rules on the case and can impose fines (Article 60). Article 62 provides that the Committee has to issue a decision on the case which gives factual and legal grounds, states if an offence has been found, the rights and obligations of the parties, the type and amount of penalty or fine, if one is imposed, as well as the period to appeal the decision and the authority to which the appeal must be sent (article 62).

#### Sui generis system of protection of geographical Indications

“Limestone from Vratza” (Врачански Варовик/ Vracanski Varovik) was registered under the number 4-01 as appellation of origin on the 14<sup>th</sup> November 1977. It was subsequently re-registered as indication of source on 5<sup>th</sup> December 2001, following a change in the legislation regarding geographical indications which forced all existing registered AOs to re-register as indication of source. The Patent Office of the Republic of Bulgaria is the competent authority for registration. The registration of an appellation of origin costs 200 BGN, the issuing of certificates 60 BGN, and the publication of registration 40 BGN.

The protection is granted for an indefinite period under the *sui generis* system of protection of Geographical Indication: the law on marks and geographical indications, which is in force since March 10, 2010. The holders of the right are the two companies producing the Limestone from Vratza: ХЕМУС –М АД (HEMUS-M AD- stock company) and БУЛНЕД ЕООД (BULNED EOOD – joint stock company).

Chapter 3 of the law on marks and geographical indications covers geographical indications. Article 51 defines two concepts: appellation of origin and geographical indication. Appellation of origin is the name of a region used to indicate that a product originates from this region and that its quality or characteristics are due exclusively or essentially to the geographical environment, including natural and human factors. Geographical indication is the name of a region used to indicate that a product originates from this region and that its quality, reputation or other characteristic that can be attributed to that geographical origin. Article 52 forbids the registration of a name which has become generic.

Article 53 provides for an extensive protection. A name which has been registered is protected against:

- Any commercial use of the name for goods which are similar to the good for which it is registered,
- the improper use or imitation of the name, even when the true origin of goods is specified,
- the use in translation,
- the use with expressions as "kind", "type", "type", or "imitation",
- the use of any false or misleading indication as to the source, origin, nature or essential qualities of the goods designated on the packaging, advertising material or documents relating to goods which user may create a false impression about its origin
- other actions which may mislead consumers on the true origin of the good,
- genericity as long as the name is protected under this act.

Any person who produces the good in the geographical area in conformity with the specification can apply for the registration of the name (article 54). The boundaries of the geographical area of production and the qualities or characteristics of the good and the relationship between these qualities or characteristics and the geographical environment or geographical origin shall be determined and established by the central office (article 54). The right to use the name is given only to the person who registered it for the goods which were specified in the registration (article 55). The legal protection ceases to exist when the link between the properties or characteristics of the good and its geographical environment cease to exist (article 56). A registered user of a name can request the cancellation of the right of another user to use the name when this user does not respect anymore the specification (article 58).

The request for registration has to be sent to the Patent Office of the Republic of Bulgaria and must contain (article 60):

- the name and address of the applicant;
- the designation of origin or geographical indication for which the registration is asked;
- the designation of the goods;
- the description of the boundaries of the geographical area, and
- the description of the properties or characteristics of the good and their link to the geographical environment or geographical origin.

The request must also contain a certificate issued by the municipality where the good is produced indicating that the applicant produces in the area.

### **Short explanation of the protection beyond national borders:**

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, "Limestone from Vratza" benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>107</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

<sup>107</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, Bulgaria requested the protection of Limestone from Vratza (Vračanski Varovik / Врачански Варовик) as appellation of origin under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of WIPO for an indefinite period. It is protected since the 6<sup>th</sup> March 1978 under the number 653. The holders of the right are the two companies producing the Limestone from Vratza: ХЕМУС –М АД (HEMUS-M AD) and БУЛНЕД ЕООД (BULNED EOOD).

This protection is much more extensive as Article 3 defines that the member States are to protect appellations of origin registered at the International Bureau against any usurpation or imitation of the appellation of origin, even if the true origin of the product is stated or if the appellation is used in translated form or accompanied by terms such as “kind”, “type”, “make”, “imitation” or the like. Moreover, an international registration of an appellation of origin under Lisbon assures it of protection, without any need for renewal, for as long as the appellation is protected in the country of origin and a registered appellation cannot become generic. The member countries are also under the obligation to provide an *ex officio* protection against any usurpation or imitation of an appellation of origin in their territory. This means that producers can rely on competent authorities of each of the countries of the Lisbon Union in which the appellation is protected who have an obligation to police the market and to ensure protection of the name. However, this protection is limited in geographical scope as only 27 countries are contracting parties to the Agreement.

## **Czech garnet – Czech garnet jewellery**

### **Český granát - Český granátový šperk**

#### **Short description of the product**

Český granát - Český granátový šperk are garnets (precious stones) used in jewellery and ornaments. All the production steps are made in the geographical area: garnet mining, garnet processing, production of jewellery and others “objet d’art”.

The Bohemian pyrope has been haphazardly collected since ancient times. The organised collection of garnet with export to Europe began from the 6<sup>th</sup> to 8<sup>th</sup> centuries. The peak period came under the reign of Emperor Rudolf II (ruled 1576 – 1610). In 1679, Bohuslav Balbín gave the pyrope the name Bohemian Garnet. After 1700, Bohemian garnets became more widespread in jewellery. Empress Marie Terezie issued a ban on the export of Bohemian garnets from the country, thus protecting the domestic monopoly on the mining and working of garnet. The Czech national renaissance established the Bohemian Garnet as the mineralogical symbol of Bohemia. It became an attribute of Czech patriots. In the 19<sup>th</sup> century Bohemian Garnet-makers hosted successful displays at industrial exhibitions. Thanks to the success of the craftsmen at the World Exhibition in Brussels in 1958, Bohemian Garnet again became part of contemporary artwork, and in recent times due to the jewellery-makers' symposiums in Turnov.

#### **Key economic data**

There is only one enterprise producing the product. It is a medium sized enterprise equipped with modern technological facilities for precious stones cutting as well as for jewellery production. Its market share is 50% and 60% of the production is sold on the national market. Its estimated turnover for the period 2006 to 2010 was 25 million euro.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair Competition law
- Trade mark law
- Appellation of origin

The holder of the right under the trade mark, the *sui generis* GI law and the unfair competition law is Granát, družstvo umělecké výroby, Turnov.

#### **Unfair Competition law**

Český granát - Český granátový šperk benefits from the basic protection granted under Act No. 143 of April 4, 2001 on the Protection of Economic Competition for an indefinite period under the unfair competition law. Under unfair competition law, Český granát - Český granátový šperk enjoys the protection against the use of names which could mislead the consumers. Administrative enforcement is available under the unfair competition law and the protection as appellation of origin. Public authorities can act on their own initiative to protect the name. Administrative complaints can be filed by natural or legal person. There is no need to prove a legitimate interest. The Czech Trade Inspection Authority (CTIA) can open an

investigation *ex officio* and in case the perpetrator continues breaking the law, CTIA acquires the evidence and proceeds against him. However, the administrative authorities do not have an obligation to investigate

#### Trade mark law

“Granát” is registered in the Czech Republic as an individual mark since the 29<sup>th</sup> April 1997. The trade mark number is 199992. It is a combined mark as the wording “Granát” is associated with the logo below.



“Český granát” is also registered in Czech Republic as an individual mark, since the 23<sup>rd</sup> September 1997. The trade mark number is 203954.

The holder of the right in both cases is, Turnov. The protection is granted for a period of 10 years renewable under the trade mark law. The Czech Industrial Property Office is the competent authority for registration. The Application fees for the registration of a trade mark are 5000 CZK for the 1<sup>st</sup> three class of product and: 500 CZK for each further class. Renewal of the protection costs 2500 CZK.

Under the Law No. 441/2003 Coll. of 3 December 2003, on Trade marks the holder of the mark has the exclusive rights on the use of the name and/or logo in the classes where it has been registered. The holder has also the right to object to the use of an identical or confusingly similar mark. Furthermore, the mark enjoys protection against genericity as long as the trade mark is used and protected. A mark which is not used for five years can be revoked. Under Trade mark law, it is up to the right holder, the Granát, d.u.v. Turnov, to act to enforce his rights.

#### Appellation of origin

The name “Český granátový šperk” was also registered as appellation of origin in the Czech Republic on the 1<sup>st</sup> February 1974<sup>108</sup>. The registration number is 80. The holder of the right is Granát, d.u.v. Turnov. The protection is granted for an indefinite period. The Czech Industrial Property Office was the competent authority for registration. The Application fee for the registration of an appellation of origin is 4000 CZK.

“Český granátový šperk” was registered in 1973 under a law which did not ask for detailed information before registration of the name. At the time, only the name, the geographical area of production, the description of the goods and the characteristics of the goods were asked. This law was replaced by the Act No. 452/2001 of 29 November 2001 on the Protection of Designations of Origin and Geographical Indications. This act covers the protection of agricultural products and non-agricultural products. It asks for more detailed requirements for new applications. Nowadays, in order to obtain the protection as appellation of origin, the application for registration must contain the (section 5 of the Act):

*“a) wording of the designation of origin;*

*b) name or, as appropriate, business name and seat, or first name, surname and permanent address of the applicant or, as appropriate, of his representative;*

*c) geographical definition of the territory where production, processing and preparation of goods takes place;*

<sup>108</sup>

<http://isdv.upv.cz/portal/pls/portal/portlets.ops.det?popk=86&plang=en>

- d) *specification of the place of business where the goods provided with designation of origin is produced, processed and prepared at the locality whose geographical name creates a part of designation of origin;*
- e) *list of goods to which designation of origin should relate;*
- f) *description of characteristics or qualitative features of goods, which are given by special geographical environment<sup>4</sup>.*

Specification, a text which explains how the product is produced, must also be provided. It must contain the (section 6 of the Act):

- “a) name of agricultural product or foodstuff, including the wording of designation of origin;*
- b ) description of agricultural product or foodstuff, including raw-material, if any, and description of basic physical, chemical, microbiological and/or organoleptic qualities of agricultural product or foodstuff;*
- c) geographical definition of territory or, if need be, the data which give the evidence about fulfilment of requirement according to Section 2 letter a) sentence after semicolon;*
- d) data demonstrating that agricultural product or foodstuff originate from the defined territory;*
- e ) description of a method used for acquisition of agricultural product or foodstuff or, if need be, description of trustworthy and unchangeable local methods of their acquisition;*
- f) data confirming the connection between quality, characteristics or features of agricultural product of foodstuff and geographical origin within the meaning of Section 2 letter a).”*

However, it would appear that, in practice, the method of production, the need to demonstrate the reputation, and specific labelling rules are not explicitly required for non-agricultural products.

Section 23 of the Act on the Protection of Designations of Origin and Geographical Indications provides an extensive protection. Český granát - Český granátový šperk is protected in several languages, against any direct or indirect business utilisation of the name for products not covered by the registration, against the use of the GI name with expressions such as like, against “delocalizers” (e.g. “name of the GI” associated with the name of another country), against genericity, against the use of the name on packaging evoking a false impression about the origin of the product and any other action could lead to deceptive assumptions about the true origin of the product.

Section 24 of the Act covers the enforcement of the rights. It states that anybody can claim, before the relevant court, that the use of a registered name should be prohibited for comparable goods, which do not fulfil the conditions for the utilisation of designation of origin or geographical indication, and that these goods should be withdrawn from the market. The holder of the registered name has the right to ask for the origin of a comparable product which is put or intended to be put on the market on which the product with a protected name is already marketed. In this case, the Court shall not acknowledge the right for information if the demand is disproportionate with the risk of infringement. The holder of the registered name also has the possibility to ask the Court to order the destruction of the goods infringing or jeopardising the intellectual property right. The Court shall not order the destruction of the goods if the infringement could be eliminated through another way and/or when the destruction would be inadequate to stop the infringement. If the infringement causes damage, the party which suffered the damage is entitled to ask for compensation. If the damage is immaterial, a reasonable monetary compensation should be given.

## Logo

Granát, d.u.v. Turnov owns a private logo. It also provides Czech garnet jewellery customers with a certificate of authenticity. This certificate, declaring the origin of deposits of stone and jewellery, along with the hallmark G (G1, G2) guarantee originality of the jewellery with Czech garnets<sup>109</sup>.

**Controls:** There are no controls.

## **Short explanation of the protection beyond national borders:**

### EU protection:

GRANÁT, družstvo umělecké výroby, Turnov registered a figurative trade mark “Granát Turnov” (see below), as an individual trade mark, at the Office for Harmonization in the Internal Market (EU-wide protection for collective Community trade marks). It is registered since the 1<sup>st</sup> February 2010 and the expiry date is 14<sup>th</sup> July 2019<sup>110</sup>. The protection can be renewed every 10 years. It is up to the right holder to act to enforce his rights.

GRANÁT  TURNOV

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used. It benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>111</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>109</sup> [http://www.granat.eu/en/index.php?p=47\\_46](http://www.granat.eu/en/index.php?p=47_46)

<sup>110</sup> <http://eSearch.oami.europa.eu/copla/trademark/data/008425043>

<sup>111</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

The product is also protected as an appellation of origin through the Lisbon Agreement:

- The Czech Republic requested the protection of Český granát as appellation of origin under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of WIPO for an indefinite period. It is protected since the 8<sup>th</sup> January 1973 under the number 562. The holder of the right is Granát, družstvo umělecké výroby, Turnov.

Protection has also been secured through bilateral agreements:

- The Český granát is also protected under the following bilateral agreements<sup>112</sup>:
  - Agreement between Austria and CSSR on Indications of Source on Goods, Appellations of Origin of Products and other Marking Concerning the Origin of Agricultural and Industrial Product
  - Agreement between Government of Portugal and CSSR on Indications of Source on Goods, Appellations of Origin of Products and other Geographic Denomination
  - Agreement between Switzerland and CSSR on Indications of Source on Goods, Appellations of Origin of Products and other Geographic Denomination

The protection of the Český granát under both the Lisbon Agreement and bilateral agreement provide for an extensive protection of the name in the third countries concerned. Český granát is protected in several languages (not only in the language of registration but also in translation), against “delocalizers” (e.g. “name of the GI” associated with the name of another country), against use of the GI name with expressions such as like and against genericity. Under the above mentioned bilateral agreements, the right holder has to defend his/her right and can act in front the courts while under the Lisbon agreement an *ex officio* protection procedure should be available. The member countries are under the obligation to provide an *ex officio* protection against any usurpation or imitation of an appellation of origin in their territory. This means that producers can rely on competent authorities of each of the countries of the Lisbon Union in which the appellation is protected who have an obligation to police the market and to ensure protection of the name. However, this protection is limited in geographical scope as only 27 countries are contracting parties to the Agreement.

<sup>112</sup>

<http://www.upv.cz/en/legislation/international/bilateral-agreements.html>

## **Haapsalu (Therapeutic) Mud**

### **Haapsalu Ravimuda**

#### **Short description**

Haapsalu Ravimuda is a therapeutic mud which is extracted from the specific region of Haapsalu. Haapsalu therapeutic mud has a special curative effect. It relieves pain and it is used for treatment of e.g. rheumatic diseases, radiculitis, and skin problems. The first mud treatment facility in Haapsalu was established in 1825. Several researchers have studied therapeutic effects of Haapsala Haapsala mud, e.g., Karl Schlossman.<sup>113</sup>

Private logos are used by the companies commercialising the “Haapsalu Ravimuda”.

#### **Key economic data**

There is only one producer, the company “OÜ Ravimuda”, which is a micro enterprise employing 7 persons. It is a typical family business, where there is at the moment a change of generations. It is almost entirely sold in Estonia and the annual turnover of the company is approximately 300 000 euro.

#### **Legal protection enjoyed by the product at the national level**

The product enjoys national protection under the Estonian Advertising Act (unfair competition law). Such protection is granted for an indefinite period of time.

“Haapsalu Ravimuda” benefits from the prohibition of misleading advertising in accordance with the article 4 of the Act. Advertising practices are prohibited, notably those that are misleading consumers as to the place of production or country of origin.

In case of abuse of the “Haapsalu Ravimuda” name, actions can be undertaken by consumers only towards the Consumer Protection Board which is the administrative in charge of protecting the rights and interests of Estonian consumers. They can submit a complaint which has to be investigated by administrative authorities. Consumers and/or their association, as well as the Consumer Protection Board can also rely on Court actions, to enforce the provisions of the unfair competition law. Such remedy is also available to producers of “Haapsalu Ravimuda” who can launch Court proceedings to defend their rights against actions for which damage caused by unfair competition can be demonstrated.

In summary, producers can only rely on the general provisions of the unfair competition law and the code of civil procedures to protect their rights on the name “Haapsalu Ravimuda”. This requires Court action and the need to bring evidence of damages caused. It is a lengthy and costly process. Furthermore, as no criminal sanctions are provided for under the law, the remedies available remain arguably limited with the prohibition or termination of unfair commercial practices and any other activities which violate consumer rights, as well as some potential damages.

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<sup>113</sup> Information in Estonian available at <http://www.ravimuda.ee/?page=ajalugu> (23.04.2012).

### **Limited interest for GI protection in Estonia**

The Estonian Patent Office is the competent authority for registration of geographical indications and trade marks, but this legal tool has not been used by any non-agricultural GI product yet. For the time being, there are 6 GI registrations in total, mostly agricultural products covered by the EU legislation on GIs, except for some mineral waters.

Despite the fact that the cost for registration is slightly cheaper (102,25 €) than the cost for trade mark registration (140.60€ for 1 class, 50€ for the 2nd and 44 € for the following ones), there seems to be a general lack of interest for the GI scheme. According to our expert who is involved directly in the drafting of the new IP law in Estonia, Estonian companies which are very small are not paying a lot of attention to GI protection, they prefer to use trade marks. Estonia is considering limiting the scope of the GI provisions in the law which is currently under review.

### **Protection beyond national borders:**

The product enjoys protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>114</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. *“Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”* Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>114</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## **Puy Lace**

### **Dentelle du Puy**

#### **Short description of the product**

The Du Puy Lace is a handmade and with spindles lace. This kind of lace is realised by following a technical model settled on the wheel of a loom. While following this model, thousands of crossings of threads wound around hundreds of wooden spindles, a lace maker realizes a transparent artistic clothe.

The bobbin lace is an emanation of the technique of the braid which was made in 14<sup>th</sup> or 15<sup>th</sup> century. It would have been practised in Puy-en-Velay from the 15<sup>th</sup> century and pass, for the historians, to be the oldest centres of lace making. The Du Puy lace counted, in the 19th century, more than 100.000 lace makers and several tens of thousands at the beginning of 20th century. Lace remains profoundly anchored in the soul of the inhabitants of le Puy en Velay as being a part of their ancestral heritage. The lace, real artistic craft is registered in the list of Art craft on the National Institute of Art professions (Official list of the Ministry of the Small Crafts and the Culture). The notoriety of the lace of the Le Puy en Velay is international, hundreds of tourists' come to visit the workshop and the thematic exhibitions organized every year. Nowadays, the city of Le Puy en Velay is notorious due to the lace history. There is a centre of lace making which provides lots of training for individuals as well as professional of lace.

#### **Key economic data**

Du Puy lace is produced by two entities : one enterprise, the IRIDAT/CEDF Institut de Recherche Innovation Développement des Arts Textiles, Centre d'Enseignement de la Dentelle au Fuseau (C.E.D.F - Research Institute and Training Lace Center), and one national academy. It represents around 18 full time jobs, 100% of the lace makers are women. No data is available on the global turnover: The purpose is not to produce but to preserve know-how.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law: article 1382 Civil Code<sup>115</sup>.
- Previously, a semi-figurative trade mark "Dentelle du Puy – Fait main- France" was registered but it was not renewed.
- *Sui generis* geographical indications system which is a case law based: *Appellation of origin "Dentelle du Puy"* recognised by a Judgment of the "tribunal civil" du Puy, February 19, 1931<sup>116</sup>

As far as the producers are concerned, no other more efficient protection system is currently available to protect their IP rights.

<sup>115</sup>

<sup>116</sup>

<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006438819>  
NOUVEAU et SALMON-RICCI, *Appellation d'origine, Librairie Marchal et Billard*, p. 37

Unfair competition law: article 1382 Civil Code<sup>117</sup>.

The protection is granted for an indefinite period under the *sui generis* GI system and unfair competition law.

Du Puy lace benefits from the administrative protection granted under the Consumers protection regulations. These allow any person to make an administrative complaint about commercial practices to the Frauds and consumers protection authority (DGCCRF) and request that it investigates the complaint. Enforcement agencies, such as the DGCCRF are not under an obligation to investigate administrative complaints.

Under the unfair competition law, there is a private right of action against any unfair practice by the right holders under the article 1382 of Civil Code (civil liability). But it is difficult to undertake these legal actions: costs and evidences hard to establish.

The holder of the right under the unfair competition law is the Chambre syndicale des fabricants de dentelle (Trade association of lace makers). This organisation is about to disappear for handmade made lace. The IRIDAT/CEDF and the national academy can be regarded as other legitimate holders.

Administrative enforcement is available under the consumer protection law. Public authorities as well as right holders can act on their own initiative to protect the name. However, most of the time, it is up to the right holder, the IRIDAT/CEDF, to act to enforce his rights.

*Sui generis* geographical indications system which is case law based

The Appellation of origin “Dentelle du Puy” was recognised by a Judgment of the “tribunal civil” du Puy dated February 19, 1931<sup>118</sup>. There is no official administration responsible for the registration. Appellation of origin system is free of charges in France.

Consequently, Du Puy lace benefits from the Appellation of Origin protection as foreseen in the Consumers’ Code. As a consequence, the denomination is protected against uses for any similar products or any products or services liable to weaken the notoriety of the appellation of origin. The denomination is also protected against any use liable to mislead the consumer as to the nature, the identity and the true origin of the product. The appellation of origin cannot become generic or fall in the public domain. The protection covers also delocalizers, translations and use of the name with expression such as like, type or any evocation. Appellation of origin protection opens the right to civil actions.

The protection is granted for an indefinite period under the *sui generis* GI system. The holder of the right under the appellation of origin is the Chambre syndicale des fabricants de dentelle (Trade association of lace makers). This organisation is about to disappear for handmade made lace. The IRIDAT/CEDF and the national academy can be regarded as other legitimate holders. The trade association is a non-profit association (recognised under the Law of 1901- Law of association). The training Centre (CEDF) has a driving role and is a precursor in the revival of the lace the hand and some associative lace clothes in France and in Europe by boosting the manufacturing of the lace shapes and the edition (methods, models, etc.), by organising courses, training courses of distance and by helping in the creation of clubs.

<sup>117</sup>

<sup>118</sup>

<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006438819>  
NOUVEAU et SALMON-RICCI, Appellation d’origine, Librairie Marchal et Billard, p. 37

In order to obtain the protection under the *sui generis* GI law, the criteria to be fulfilled are the existence of production requirements and historical link to the territory. Case law of 1931 provides the definition of Du Puy Lace which includes:

- information relating to the geographical area of production: the city of Le Puy en Velay and boarder cities
- production process requirements: traditional way to make lace according local, loyal and constant uses.

There is no control except the auto-control provided by lace makers themselves. The logo is not protected anymore.

Scope of protection enjoyed under the appellation of origin:

Administrative enforcement is normally available under the appellation of origin regulations. However, according to Dentelle du Puy producers, the French Frauds and consumers protection authority (DGCCRF) told them that the appellation of origin status was no longer available. As a result, producers consider that the protection is inefficient.

### **Protection beyond national borders:**

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Dentelle du Puy” benefits from the basic protection offered by two International treaties. Paris Convention for the protection of intellectual property from 7 July 1884<sup>119</sup> and Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>119</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

No plurilateral protection secured under the Lisbon Agreement: Du Puy lace could have been protected as an Appellation of Origin under the Lisbon Agreement on the international protection of appellations of origin. However, the registration has not been made by French authorities on the contrary to the other GIs for non-agricultural products in France.

Bilateral protection: Du Puy lace is protected through a number of bilateral agreements signed by France with third countries.

- Agreement between French Republic and Federal Republic of Germany for the protection of indications of source, appellations of origin and other geographical denominations 8 March 1960
- Agreement between France and Italy for the protection of appellations of origin and denominations of certain products – 28 April 1964
- Convention between French Republic and Spanish State for the protection of appellation of origin, indications of source and denomination of certain products, 27 June 1973
- Treaty between Swiss Confederation and French Republic for the protection of indications of source, appellations of origin and other geographical denominations – 14 May 1974, entry in force 10 October 1975.
- Agreement between French Republic and Austrian Republic for the protection of indications of source, appellations of origin and denomination of agricultural and industrial products – 10 May 1974
- Agreement between France and Costa Rica for the mutual protection of industrial property and appellations of origin – 10 July 1933

These Agreements provide s lists of products and/or denominations protected. In all of these agreements, Du Puy lace is indicated in the French appellations of origin's list. Through these legal tools, Du Puy lace is protected against any uses on products and services, any uses liable to mislead the consumers as to the nature, identity and the true origin of the product. The protection is extended to the uses of the name with expressions such as like and type, as well as the protection in translation.

## **Moustier earthenware**

### **Faïence de Moustiers**

#### **Short description of the product**

Faïence de Moustiers is a ceramic product. Its process of production was historically based on 3 elements: water, earth and wood. However, wood is no longer used nowadays. The earth is shaped by using a tour. "Barbotine" (diluted earth) is poured into a mould. An inscription, a relief is obtained by pressure on a shape made from "platre". A first cooking in more than 1000°C is going to create the 'biscuit'. The biscuit is plunged into a bath of enamel. Then the decoration is processed on the enamel floods in the brush, from the clearest colour to the darkest. The piece is cooked second time to fix the enamel and the decoration. Several decorations can exist, but the blue one, the "ibis" or the bird are the most famous decorations. This kind of earthenware is mainly used in the table arts and is considered as high quality products.

We owe the development of this art to Pierre Clérissy, to whom an Italian monk of passage to the Monastery of the Community of Lérins gave the secret of the white enamel in 1668. Louis XIV ordered the gold and silver dishes to be melted to refloat the royal treasure. Then

the earthenware of Moustiers acquired in Europe an excellent notoriety. At the beginning of the 19<sup>th</sup> century, the factories started to decline until the 20<sup>th</sup> century. Moustiers is the capital of the earthenware. 14 factories still exist.

### **Key economic data**

Moustiers earthenware is composed of 14 micro enterprises which represent around 37 full time jobs. There is male-female parity within the companies. The average age of the workers is around 40 years old. Their education goes from the primary to the secondary. There is a special diploma relating to ceramics making that they have to pass but on-site training is required to transfer the know-how. The Moustiers sector contributes between 11 and 20% to the employment in the geographical area. Most of the sales are made in France, mainly in the area of Moustiers by tourists. Only 26% of the sales are made at the international level. The number of clients is comprised between 1000 and 10.000. No data is available on the global turnover.

Moustiers sector is facing hard competition from lower quality ceramic products originating from Turkey and China. Many infringements have been identified in the Moustiers Region – Provence-Alpes-Côte d'Azur Region. There is neither a common label nor a collective protection. Each enterprise has its own labelling which comprises its own trade mark and the factory/craftsman signature.

### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law: article 1382 Civil Code<sup>120</sup>.

The protection is granted for an indefinite period under the unfair competition law. The holder of the right under the unfair competition law is the Association of producers of Moustiers - Union des fabricants de faïence et céramistes de Moustiers. This association is a non-profit association (recognised under the Law of 1901- Law of association). The main activities of this association are:

- The study and defence of Moustiers craftsmen
- The management of the uses of the “Moustiers” appellation for earthenware
- The promotion and notoriety of earthenware
- The protection of the appellation “Moustiers”.

There are no criteria defined to obtain the protection. Administrative enforcement is available under consumers' protection law. Public authorities as well as right holders can act on their own initiative to protect the name.

Moustiers Earthenware benefits from the administrative protection granted under the Consumers protection regulations. These allow any person to make an administrative complaint about commercial practices to the Frauds and consumers protection authority (DGCCRF) and request that it investigates the complaint. Enforcement agencies are not under any obligation to investigate administrative complaints. Under the unfair competition law, there is a private right of action against any unfair practice by the right holders under the article 1382 of Civil Code (civil liability). But it is difficult to undertake these legal actions: costs can be significant and evidences can be difficult to establish. However, most of the time, it is up to the right holder, the Association or producers to act to enforce their rights. As a result, the current protection is regarded as largely inefficient.

<sup>120</sup>

<http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006438819>

There is no logo protected. There is no control except the auto-control provided by ceramists themselves.

### **Protection beyond national borders:**

The product enjoys protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>121</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

## **Monoï from Tahiti**

### **Monoï de Tahiti**

#### **Short description of the product**

Monoï de Tahiti is a natural vegetal oil coming from maceration of coprah refined oil (dry coconut) and Tiare Tahiti flowers (*gardenia taitensis*). The monoï is a Tahitian name which means sacred oil or perfumed oil. It goes back to the first migrations or approximately 2000 years. Monoï is part of the history and the culture of the Polynesians. It is always made by craftsmen, used in care product and well-being or in remedy through the traditional medicine. Monoï of Tahiti is guaranteed by an appellation of origin since 1992 which gives the guarantee of the exclusive Polynesian origin of its ingredients and the quality of its manufacturing.

<sup>121</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## **Key economic data**

Monoï de Tahiti sector is composed of 6 micro and small enterprises which represent around 100 full time jobs. There is male-female parity within the companies. The average age of the workers is around 40 years old. The education goes from the primary to the secondary. Some enterprises managers have a chemistry diploma. Then in house training is required to transfer the know-how.

Most of the sales are made in France 60%, mainly in Metropolitan France. 40% of the sales are made at the international level. The number of clients is more than 10.000. The global turnover is around 4 million Euros every year.

Monoï de Tahiti sector is facing a hard competition from other vegetal oils as coconut oil, karite butter or jojoba oil. Infringements represent between 3 to 10% of the global turnover on the countries where the Appellation of Origin is not protected.

There is a common label but each enterprise has also its own trade mark and must respect some common mandatory rules on cosmetic products labelling.

## **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law: article 1382 Civil Code<sup>122</sup>.
- *Sui generis* geographical indications system which is a specific law :

Unfair competition law: article 1382 Civil Code<sup>123</sup>.

Administrative enforcement is available under the consumer protection law. Public authorities as well as right holders can act on their own initiative to protect the name.

Tahiti Monoï benefits from the administrative protection granted under the Consumer protection regulations. These allow any person to make an administrative complaint about commercial practices to the Frauds and consumers protection authority (DGCCRF) and request that it investigates the complaint. Enforcement agencies are not under any obligation to investigate administrative complaints.

Under the unfair competition law, there is a also private right of action against any unfair practice by the right holders under the article 1382 of Civil Code (civil liability). But it is difficult to undertake these legal actions: costs and evidences hard to establish.

The protection is granted for an indefinite period under the unfair competition law.

*Sui generis* geographical indications system which is a specific law:

Monoï de Tahiti is protected by the Arrêté n°350 CM du 7 avril 1988 portant application de la loi du 1<sup>er</sup> aout 1905 modifiée sur les produits et services relative à la fabrication et à la commercialisation du Monoï / Order on process and trade of Monoï (including the definition of Monoï and Traditional Monoï)<sup>124</sup> and the Décret n° 92-340 du 1<sup>er</sup> avril 1992 relatif à l'appellation d'origine « Monoï de Tahiti »/ Decree on the « Monoï de Tahiti » Appellation of Origin modified in 2008.<sup>125</sup>

<sup>122</sup> <http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006438819>

<sup>123</sup> Idem.

<sup>124</sup> <http://www.assemblee.pf/textes/document.aspx?id=10574#DocProfil>

<sup>125</sup> <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000020831911>

The competent authorities for registration are several Ministries of the French Republic, as French Polynesia has a special statute. The appellation of origin system is free of charge in France.

The controls are provided by the Polynesian administration – Economic affairs Office. These controls are public and external.

The holder of the right under the appellation of origin and the unfair competition law is the Groupement interprofessionnel du Monoï de Tahiti – GIMT (Interbranch association of Tahiti Monoï) recognised by an Order n°812/CM of 16<sup>th</sup> July 1992. Among its duties, the GIMT should:

- Develop the notoriety of the Monoï
- Promote the Monoï of Tahiti
- Defend the AO Monoï de Tahiti and protection of the trademark or seal “Monoï de Tahiti, appellation d'origine”

The GIMT is the owner of a private and collective logo, which the producers can use on products which use the Tahiti Monoï as an ingredient:



In order to obtain the protection under the *sui generis* GI law, the criteria to be fulfilled are the existence of production requirements, a group of producers and the historical link to the territory. Specific law of 1992 provides with a definition of the Monoï de Tahiti appellation of origin:

- definition of the geographical area of production: Polynésie française - five archipelago: Société, Tuamotu, Gambiers, Australes et Marquises
- production process requirements: traditional way to make oil according local, loyal and constant uses.

The protection is granted for an indefinite period under the *sui generis* GI system.

There is no other protection system available for the producers or regarded as efficient enough by them.

Tahiti Monoï benefits from the Appellation of Origin protection as foreseen in the Consumers' Code. As a consequence, the denomination is protected against uses for any similar products or any products or services liable to weaken the notoriety of the appellation of origin. The denomination is also protected against any use liable to mislead the consumer as to the nature, the identity and the true origin of the product. The appellation of origin cannot become generic or fall in the public domain. The protection covers also delocalizers, translations and use of the name with expression such as like, type or any evocation. Appellation of origin protection opens the right to civil actions.

Administrative enforcement is available under the appellation of origin regulations. Public authorities as well as right holders can act on their own initiative to protect the name.

As far as the producers are concerned, no other more efficient protection system is currently available to protect their IP rights.

### **Short explanation of the protection beyond national borders:**

The product enjoys protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>126</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. *“Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”* Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Pending request for plurilateral protection: The GIMT applied for the protection of “Monoï de Tahiti” as an Appellation of Origin under the Lisbon Agreement on the international protection of appellations of origin. The application is pending.

## **Stone from Bourgogne**

### **Pierre de Bourgogne**

#### **Short description of the product**

The Pierre de Bourgogne is a natural stone from Bourgogne (Burgundy Region). It is presented in block shape, half finished products (slices and 6 faces sawed blocks) and final products : floor covering, cut elements for building (door, windows, pillar...) or for decoration (stairs, chimney, furniture etc....)

Ancestral, the Bourgogne stone is still extracted from the bourguignon territory. This stone has been used to build the architectural heritage from the region and elsewhere. Nowadays, the stone is used to urban buildings in many French cities. Since the 1960s the stone is exported as a luxurious and a notorious product.

<sup>126</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## **Key economic data**

The Bourgogne Stone sector is composed of 100 quarries used by 40 enterprises, 39 industrial and extraction enterprises and 118 enterprises making stone cut and other activities. It represents around 700 full time jobs, only 20 % of workers are women. The sales are made in France, Europe and worldwide. The Global turnover is around 70 million Euros.

Bourgogne Stone sector is facing a hard competition from imported limestone from Egypt, Croatia, India, and Portugal. Most infringements have been identified in France, Italy and on websites. There is a common label and a collective protection. Each enterprise has its own labelling which comprises its own trade mark. They can also use the common label which is not compulsory. The enterprises are enrolled in a common mandatory scheme, which is controlled by an institution: EC trade mark + external air quality.

## **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law: article 1382 Civil Code<sup>127</sup>.
- Trade mark law:

### Unfair competition law: article 1382 Civil Code

The protection is granted for an indefinite period under unfair competition law.

The holder of the right the unfair competition law is the Association Pierre de Bourgogne (Burgundy Stone association).

Under the unfair competition law, there is a private right of action against any unfair practice by the right holders under the article 1382 of Civil Code (civil liability). But it is difficult to undertake these legal actions: costs and evidences hard to establish.

Bourgogne stone also benefits from the administrative protection granted under the Consumers protection regulations. These allow any person to make an administrative complaint about commercial practices to the Frauds and consumers protection authority (DGCCRF) and request that it investigates the complaint. Enforcement agencies are not under an obligation to investigate administrative complaints.

Administrative enforcement is available under the consumers protection law. Public authorities as well as right holders can act on their own initiative to protect the name.

### Trade mark law:

“Pierre Naturelle de Bourgogne” is protected as a semi-figurative and collective trade mark in the France:

- Collective semi-figurative trade mark n°: 3685426, registered on 30 April 2010, for “PB Pierre Naturelle de Bourgogne”<sup>128</sup>, in classes 11, 19, 20, 35, 37, 41 and 42.
- Collective semi-figurative trade mark n°: 3685427, registered on 30 April 2010, for “Pierre Naturelle de Bourgogne PB”<sup>129</sup>, in classes 11, 19, 20, 35, 37, 41 and 42.

<sup>127</sup> <http://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000006438819>

<sup>128</sup> [http://bases-marques.inpi.fr/Typo3\\_INPI\\_Marques/getPdf?idObjet=3685426\\_FMARK-1,FMARK-2](http://bases-marques.inpi.fr/Typo3_INPI_Marques/getPdf?idObjet=3685426_FMARK-1,FMARK-2)

<sup>129</sup> Idem.

## Logo



The protection is granted for a period of 10 years renewable under the trade mark law. The competent authority for registration is the French National Institute of Industrial Property (INPI). The registration fees range from 200€ to 225€, renewal fees cost 240€, and opposition fees cost 310€.

There is no specific control system in place.

The holder of the right under the trade mark system is the Association Pierre de Bourgogne (Burgundy Stone association). The association is a non-profit association (recognised under the Law of 1901- Law of association). Its activities are linked to a specific contract with the State and the Bourgogne Region:

- Development through innovation, partnerships and new markets
- Enhancement of the resource and Environment
- Organising the trainings and management of the competencies
- Communication
- Management of the chain of production

In order to obtain the protection under the trade mark system, the criteria to be fulfilled are the existence of producers group and specifications related to communication.

Trade mark protection provides for the exclusive rights on the use in France of the name and/or logo in the classes where it has been registered. The name enjoys protection against genericity as long as the trade mark is used and protected. It is up to the right holder to act to enforce its rights.

As far as the producers are concerned, no other more efficient protection system is currently available to protect their IP rights.

### **Protection beyond national borders:**

The product enjoys protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>130</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter

<sup>130</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

## **Idar-Oberstein Gemstone products**

### **Edelsteine und Schmuck aus Idar-Oberstein**

#### **Short description**

“Edelsteine und Schmuck aus Idar-Oberstein” are gemstones, diamonds and pearls, and jewellery manufactured with special cutting techniques in the municipality of Idar-Oberstein and its surrounding (e.g. Kirschweiler), in North West Germany. Fine engravings and objets d’art are also produced.

The production of “Edelsteine und Schmuck aus Idar-Oberstein” started during the Middle-Age because of the local resources in raw materials (agate, jasper, and amethyst), and water resources in this mountainous area, which provided the basis for manufacturing of gemstones by water driven grinding techniques. During the 19<sup>th</sup> century, gemstone sources were found outside Europe and promoted the gemstone production in Idar-Oberstein, as special cutting and polishing techniques were developed, allowing for the processing of all important types of gemstones. In 1886, the first diamond cutting factory was founded in Idar-Oberstein. Nowadays, it is a rather small industry which focuses on gemstones of medium to finest quality and uses a highly developed technology. It also cooperates with local designers, goldsmiths and metal processors.

#### **Key economic data**

There are around 500 enterprises with around 2.500 people employed. Almost of the enterprises are micro enterprises. Many are family businesses with, on average, 4 persons employed. There are only very few companies, five to seven, with more than 40 employees. In 2007, “Edelsteine und Schmuck aus Idar-Oberstein” accounted for 27% of German turnover in jewellery. In 2007, the turnover of the sector was €972 million. The sector is subject to a strong international competition.

The Federal Association of the Precious Stones and Diamond Industry, which has its seat in Idar-Oberstein, is the official association for all trade members of the sector in Germany. It defends the interests of its members on economic, legal and political issues. As an employers association it is exclusively entitled to negotiate collective wage agreements and advises its members in employment law matters including legal representation at a labour court. The association is also engaged in a wide range of public relations matters concerning the gemstone and diamond industry and trade. It represents the members at the important trade fairs. It also organises the German Award for Jewellery and Precious Stones Idar-Oberstein and German Young Talent Competition for Gemstone and Jewellery Design Idar-Oberstein. In autumn, it organises the INTERGEM trade fair to present the finest gemstones and gemstone jewellery, every year, for four days, in the town of Idar-Oberstein.

The Diamond and Precious Stones Bourse Idar-Oberstein was founded in 1974 as the first bourse worldwide combining the trading of diamonds and coloured stones. In 1975 the Bourse was admitted to the World Federation of Diamond Bourses (WFDB) which today is the umbrella organisation of 29 Bourses around the world. The member companies of the Diamond and Precious Stones Bourse Idar-Oberstein import rough gemstones from more than 50 countries. These stones are processed by about 200 cutting companies in Idar-Oberstein and its neighborhood. The members of the Diamond and Precious Stones Bourse Idar-Oberstein have access to all other member bourses of the World Federation of Diamond

Bourses. The World Federation of Diamond Bourses (WFDB) holds a mark, the “WFDB Mark™”, which is used by the members of a bourse affiliated to the WFDB. Members of the Diamond and Precious Stones Bourse Idar-Oberstein can apply for the WFDB mark by committing to abide by a strict and ethical code. A WFDB bourse member is permitted to display his personalised WFDB Mark™ logo on stationery, business cards, advertisements, marketing materials, display and trade show booths as well as on his business premises. It means added value for its holder, because the WFDB Mark™ stands for tradition, integrity and accountability.



Furthermore, in 2004 the Idar-Oberstein Bourse was responsible for installing in Idar-Oberstein the sole German customs office authorized by the EU for the customs clearance of rough diamonds within the framework of the Kimberley Process (KP) with its intention to end the illegal trading in conflict diamonds. Currently there are three other offices within the EU.

### **Legal protection enjoyed by the product at the national level**

The product enjoys national protection under the following legal instruments:

- Unfair competition law

“Edelsteine und Schmuck aus Idar-Oberstein” benefits from the protection granted under the German “Act Against Unfair Competition”<sup>131</sup> for an indefinite period.

This Act forbids unfair commercial practices and misleading commercial practices. Section 5 of the Act defines the misleading commercial practices as a practice which “*contains untruthful information or other information suited to deception*”, notably false information on the essential characteristics of the goods or services, as its geographical origin.

“Edelsteine und Schmuck aus Idar-Oberstein” benefits from the administrative protection granted under the Unfair Competition act. Unlike other Member States of the EU, Germany does not fight unfair commercial practices through State bodies with the help of administrative law, but through competitors and associations with the help of civil law. Section 8 of the Act provides that the following entity can act in case of an illegal commercial practice:

- every competitor;
- associations with legal personality which exist for the promotion of commercial or of independent professional interests, so far as a considerable number of entrepreneurs belong thereto, and which distribute goods or services of the same or similar type on the same market,
- qualified entities working for the protection of consumer interests (under specific circumstances),
- Chambers of Industry and Commerce or Craft Chambers.

The entity should first warn the infringing company prior to initiating court proceedings and should give her the opportunity to settle the dispute. Provisional injunctions can be granted in order to secure the cessation and desistance claims.

Interestingly, it is sufficient to prove that there was an intention to copy the original product to act and it is not necessary to demonstrate that local consumers are deceived or likely to be deceived by a product in question.

<sup>131</sup> [http://www.gesetze-im-internet.de/englisch\\_uwg/index.html](http://www.gesetze-im-internet.de/englisch_uwg/index.html)

Section 15 provides that the Land governments have to establish conciliation boards at the Chambers of Industry and Commerce for the resolution of civil law disputes. These boards are specifically responsible for claims under the Unfair Competition act, including consumer rights under Directive 2005/29/EC. Referral can be made to a conciliation board in civil law disputes where a claim is asserted by virtue of this Act, if the opposing party consents to it. However, when the matter concerns consumers, each party can refer the dispute to a conciliation board for a discussion with the opposing party without the consent of the opposing party. The conciliation board shall strive for a friendly settlement. If an agreement is reached, it must be recorded in a written document.

Infringements are pursued *ex officio* by the Federal Office of Consumer Protection and Food Safety. In addition, the general public can file complaints. The administrative authorities have an obligation to investigate.

The Act provides for a compensation for damage (section 9) and confiscation of profits (section 10).

### **Protection beyond national borders:**

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Edelsteine und Schmuck aus Idar-Oberstein” benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>132</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>132</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

“Edelsteine und Schmuck aus Idar-Oberstein” is also protected in third countries through bilateral agreements. The name “Idar-Obersteiner Schmuck (-waren)” is protected under bilateral agreements signed between Germany and France (8.3.1960), Italy (23.7.1963), Greece (16.4.1964), Swiss (7.03.1967) and Spain (11.9.1970). The protection of the name under bilateral agreement provides for the protection of the name in the countries parties to these agreements for an indefinite period of time. These Agreements provide lists of protected denomination. Under these Agreements, “Idar-Obersteiner Schmuck (-waren)” is protected against any uses on products and any uses liable to mislead the consumers as to the nature, identity and the true origin of the product. The protection is extended to the uses of the name with expressions, such as "art", "type", "style," imitation" or “like”, and the uses of the name in translation.

## **Cuckoo Clock made in the Black Forest**

### **Schwarzwälder Kuckucksuhr**

#### **Short description**

Schwarzwälder Kuckucksuhr are wooden clocks made in the Black Forest, working purely mechanically and with all their essential parts being produced in the Black Forest. There have been many clockmakers in the region of the Black Forest since the 17<sup>th</sup> century. The cuckoo clock was invented around 1740 presumably by the clockmaker Franz Ketterer, with the typical call of a cuckoo produced by a pair of bellows. Later during the 18<sup>th</sup> century, such cuckoo clocks were produced by several clockmakers and during the 19<sup>th</sup> century, the design changed from painted clock shields to wooden carved cuckoo clocks. In 1850, the school of clockmaker was founded in Furtwangen. Nowadays, they are produced by several small enterprises mostly family business run since up to six generations. Traditional and modern designs of the cuckoo clocks are manufactured

The original Black Forest cuckoo clock must be produced in the Black Forest, and be must run by a mechanical clockwork. 90% of the components must be from the region.

#### **Key economic data**

There are 30 suppliers, mostly localised within the region. They are mostly relatively small enterprises, except for one of them which has more than 25 employees. 10 enterprises are producing the products, half of them are micro enterprises employing less than 10 employees and the other half are small enterprises employing between 10 and 49 employees. Around 600 persons are employed by the sector. 110.000 clocks produced per year. Circa 10% is sold in Germany, 40% in Europe (EU, Norway, Iceland, Liechtenstein and Switzerland) and 50% are sold on the international market (mainly in the USA and Asia). In 2011, the estimated turnover was €15 millions.

Schwarzwälder Kuckucksuhr is facing a hard competition. Loss of revenues for producers caused by the sale of infringing is between 5 and 10% of their turnover. Since the legal protection became active in 2005, there was one action against infringements before the court, and one formal warning. Each of them cost around 10.000 €.

#### **Legal protection enjoyed by the product at the national level**

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Trade mark law

## Unfair competition law

“Schwarzwälder Kuckucksuhr” benefits from the protection granted under the German “Act Against Unfair Competition”<sup>133</sup> for an indefinite period.

This Act forbids unfair commercial practices and misleading commercial practices. Section 5 of the Act defines the misleading commercial practices as a practice which “*contains untruthful information or other information suited to deception*”, notably false information on the essential characteristics of the goods or services, as its geographical origin.

“Schwarzwälder Kuckucksuhr” benefits from the administrative protection granted under the Unfair Competition act. Unlike other Member States of the EU, Germany does not fight unfair commercial practices through State bodies with the help of administrative law, but through competitors and associations with the help of civil law. Section 8 of the Act provides that the following entity can act in case of an illegal commercial practice:

- every competitor;
- associations with legal personality which exist for the promotion of commercial or of independent professional interests, so far as a considerable number of entrepreneurs belong thereto, and which distribute goods or services of the same or similar type on the same market,
- qualified entities working for the protection of consumer interests (under specific circumstances),
- Chambers of Industry and Commerce or Craft Chambers.

The entity should first warn the infringing company prior to initiating court proceedings and should give her the opportunity to settle the dispute. Provisional injunctions can be granted in order to secure the cessation and desistance claims.

Interestingly, it is sufficient to prove that there was an intention to copy the original product to act and it is not necessary to demonstrate that local consumers are deceived or likely to be deceived by a product in question.

Section 15 provides that the Land governments have to establish conciliation boards at the Chambers of Industry and Commerce for the resolution of civil law disputes. These boards are specifically responsible for claims under the Unfair Competition act, including consumer rights under Directive 2005/29/EC. Referral can be made to a conciliation board in civil law disputes where a claim is asserted by virtue of this Act, if the opposing party consents to it. However, when the matter concerns consumers, each party can refer the dispute to a conciliation board for a discussion with the opposing party without the consent of the opposing party. The conciliation board shall strive for a friendly settlement. If an agreement is reached, it must be recorded in a written document.

Infringements are pursued *ex officio* by the Federal Office of Consumer Protection and Food Safety. In addition, the general public can file complaints. The administrative authorities have an obligation to investigate.

The Act provides for a compensation for damage (section 9) and confiscation of profits (section 10).

## Trade mark law

The Verein - die Schwarzwalduhr e.V. (Black Forest Clock Association) registered in Germany the verbal mark “Die Schwarzwälder Kuckucksuhr“. This collective mark is

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<sup>133</sup> [http://www.gesetze-im-internet.de/englisch\\_uwg/index.html](http://www.gesetze-im-internet.de/englisch_uwg/index.html)

registered since the 5<sup>th</sup> October 2006 under the number RN30550422<sup>134</sup>. The trade mark is registered for a period of 10 years, renewable. The competent authority for registration is the German Patent and Trade Mark office. The application fee is 400€ and the renewal fee is 1000€.

The Verein - die Schwarzwalduhr e.V. developed a certificate of authenticity for clocks produced in the Black Forest area with a mechanical clockwork. It is available in German and English. A logo on the certificate is used on the certificate:



Under the German Trade Mark Act<sup>135</sup>, the holder of the mark, the Verein - die Schwarzwalduhr e.V., has the exclusive rights on the use of the name in the classes where it has been registered. The holder has also the right to object to the use of an identical or confusingly similar mark. The name enjoys protection against genericity as long as the trade mark is used and protected. The collective mark "Die Schwarzwälder Kuckucksuhr" could be revoked if its proprietors no longer exist or did not take suitable measures to prevent the mark being used abusively in a manner contrary to the purposes of the association or the regulations governing use of the mark (section 105 of the German Trade Mark Act).

The collective mark does not entitle the Verein - die Schwarzwalduhr e.V. to prohibit a third party from using signs or indications designating the geographical origin "insofar as the use corresponds to the accepted principles of morality and does not contravene section 127 on the protection of indications of geographical origin" (section 100 of the German Trade Mark Act).

The German Trade Mark Act contains a chapter on the Protection of indications of geographical origin, which allows the registration of indications of geographical origin, such as names of places, areas, territories or countries, except if they are generic (section 126). Section 127 provides that indications of geographical origin cannot be used in the course of trade for goods or services which do not originate from the area, which is designated by the indication of geographical origin, if this use is likely to mislead as to the geographical origin of the product. If the goods or services, covered by the geographical name, have special properties or qualities, the name can only be used for these goods or services. If the name enjoys a particular reputation, it cannot be used on goods or services which do not come from the specific area, if this would allow them to take unfair advantage of or be detrimental to the reputation of the name, and this, even if the use of the name would not mislead the consumers as to the origin of the goods or services. The name is also protected against the use of the name with "deviation" or "additions", which means that the name cannot be used with "delocalizers" (e.g. "name of the GI" associated with the name of another country) or with expressions such as "like", "type", etc.

Section 128 provides that, in case of infringements regarding indications of geographical origin, claims can be made by persons entitled to lodge claims under section 8 of the German Act Against Unfair Competition (see section on this Act above for further information). The infringer is liable to pay a contravention and the profits he made can be taken into consideration when assessing the compensation. He can also be imprisoned for up to two years or receive a criminal fine (section 144).

<sup>134</sup> <http://register.dpma.de/DPMAregister/marke/register/305504223/DE>  
<sup>135</sup> [http://www.gesetze-im-internet.de/englisch\\_markeng/index.html](http://www.gesetze-im-internet.de/englisch_markeng/index.html)

The protection as collective mark entitles the members of the association, Verein - die Schwarzwalduhr e.V., to use the name "Die Schwarzwälder Kuckucksuhr".

Under Trade Mark Act, it is up to the right holder, Verein - die Schwarzwalduhr e.V., to act to enforce his rights. However, a person empowered to use the collective mark can lodge an action for infringement of a collective mark only with the consent of its proprietor, the association, Verein - die Schwarzwalduhr e.V (section 101).

### **Protection beyond national borders:**

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, "Schwarzwälder Kuckucksuhr" benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>136</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. "*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*" Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

"Schwarzwälder Kuckucksuhr" also enjoys protection in third countries benefits from protection through bilateral agreements. The name "Schwarzwälder Uhren" is protected under bilateral agreements signed between Germany and France (8.3.1960), Italy (23.7.1963), Greece (16.4.1964), Swiss (7.03.1967) and Spain (11.9.1970). The protection of the name under bilateral agreement provides for the protection of the name in the countries parties to these agreements for an indefinite period of time. These Agreements provide lists of protected denomination. Under these Agreements, "Schwarzwälder Uhren" is protected against any uses on products and any uses liable to mislead the consumers as to the nature,

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<sup>136</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

identity and the true origin of the product. The protection is extended to the uses of the name with expressions, such as "art", "type", "style," imitation" or "like", and the uses of the name in translation.

## **"Solingen" cutting equipment**

### **Solinger Stahl- und Schneidwaren**

#### **Short description of the product**

Solinger Stahl- und Schneidwaren ("Solingen" cutting equipment) is a denomination which covers knives, scissors, blades, food utensils, manicure and pedicure equipment. The manufacturing of the product must take place in the region of Solingen, which is situated in a mountainous area in the North-West of Germany. This region has a lot of little streams, which set ideal conditions to run blacksmith's hammers. That is why, 800 years ago, blacksmiths started to produce blades and swords and later knives in Solingen. The appellation "Solingen" started to be a geographical indication in 1571, when the Duke Wilhelm von Berg gave the order to label every blade made in Solingen with the Latin words "ME FECIT SOLINGEN" (= "Me made Solingen"). The increase number of counterfeited products led to the adoption of the specific law in 1938.

#### **Key economic data**

There are around 56 enterprises producing the knives: 26 employ more than 20 persons and the other less than 20 persons. They are mostly small to medium-sized factories with few big companies, which account for between 5 and 10% of the local employment. The global turnover for 2010 was 511 million euro. There are more than 10 000 clients.

Solinger Stahl- und Schneidwaren is facing a hard competition. Competitors worldwide try to register trademarks similar to the original name "Solingen". The Chamber of Industry and Commerce Wuppertal-Solingen-Remscheid, which owns the name Solingen, spends about 50.000 € per year for protection of the mark "Solingen" including in fees for the trademark, actions against misuse, and confiscation of infringing products

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Trade mark law
- Specific law protecting the product: the Decree for the Protection of the Solingen Name (Solingen Decree) of 16 December 1994

The holder of the right under the trade mark, the specific law and the unfair competition law is the Chamber of Industry and Commerce Wuppertal-Solingen-Remscheid. There is no collective organisation of producers.

#### **Unfair competition law**

"Solingen" benefits from the protection granted under the German "Act Against Unfair Competition"<sup>137</sup> for an indefinite period.

<sup>137</sup>

[http://www.gesetze-im-internet.de/englisch\\_uwg/index.html](http://www.gesetze-im-internet.de/englisch_uwg/index.html)

This Act forbids unfair commercial practices and misleading commercial practices. Section 5 of the Act defines the misleading commercial practices as a practice which “*contains untruthful information or other information suited to deception*”, notably false information on the essential characteristics of the goods or services, as its geographical origin.

“Solingen” benefits from the administrative protection granted under the Unfair Competition act. Unlike other Member States of the EU, Germany does not fight unfair commercial practices through State bodies with the help of administrative law, but through competitors and associations with the help of civil law. Section 8 of the Act provides that the following entity can act in case of an illegal commercial practice:

- every competitor;
- associations with legal personality which exist for the promotion of commercial or of independent professional interests, so far as a considerable number of entrepreneurs belong thereto, and which distribute goods or services of the same or similar type on the same market,
- qualified entities working for the protection of consumer interests (under specific circumstances),
- Chambers of Industry and Commerce or Craft Chambers.

The entity should first warn the infringing company prior to initiating court proceedings and should give her the opportunity to settle the dispute. Provisional injunctions can be granted in order to secure the cessation and desistance claims.

Interestingly, it is sufficient to prove that there was an intention to copy the original product to act and it is not necessary to demonstrate that local consumers are deceived or likely to be deceived by a product in question.

Section 15 provides that the Land governments have to establish conciliation boards at the Chambers of Industry and Commerce for the resolution of civil law disputes. These boards are specifically responsible for claims under the Unfair Competition act, including consumer rights under Directive 2005/29/EC. Referral can be made to a conciliation board in civil law disputes where a claim is asserted by virtue of this Act, if the opposing party consents to it. However, when the matter concerns consumers, each party can refer the dispute to a conciliation board for a discussion with the opposing party without the consent of the opposing party. The conciliation board shall strive for a friendly settlement. If an agreement is reached, it must be recorded in a written document.

Infringements are pursued *ex officio* by the Federal Office of Consumer Protection and Food Safety. In addition, the general public can file complaints. The administrative authorities have an obligation to investigate.

The Act provides for a compensation for damage (section 9) and confiscation of profits (section 10).

### Trade mark law

There is no registered trade mark at the German level. However the collective trade mark “Solingen” is registered at the Office for Harmonization in the Internal Market (EU-wide protection for collective Community trade marks<sup>138</sup>) since the 3<sup>rd</sup> February 2005. The Trade mark number is 002988285. The protection is granted for period of 10 years renewable and has the same effect as a trade mark registration would have in Germany towards the German Patent and Trade Mark Office which is the competent authority for registration in Germany. At the EU level, applications fees are 1050€ for paper filing and 900€ for on-line

<sup>138</sup>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:078:0001:0042:EN:PDF>

filing. For a collective mark, renewal of the mark costs 3000€ for three class of goods and services, and 800€ for any further class.

The holder of the mark, the Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid, has the exclusive rights on the use of the name and/or logo in the classes where it has been registered. The holder has also the right to object to the use of an identical or confusingly similar mark. Furthermore, the mark enjoys protection against genericity as long as the trade mark is used and protected. The collective mark Solingen could be revoked if its proprietor did not take reasonable steps to prevent the mark being used by non authorised users, if its use of the trade mark was likely to mislead the public regarding the character or the significance of the mark, in particular if it was likely to be taken to be something else than a collective mark (article 73 of Council Regulation n°207/2009 of 26 February 2009 on the Community trade mark).

The collective mark does not entitle the Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid to prohibit a third party from using signs or indications designating the geographical origin, provided that he/she uses them "*in accordance with honest practices in industrial or commercial matters; in particular, such a mark may not be invoked against a third party who is entitled to use a geographical name*" (article 66.2 of Council Regulation n°207/2009 of 26 February 2009 on the Community trade mark).

As "Solingen" is protected as a collective trade mark at the EU level, any producer of cutlery equipment which is a member of the Chamber of Industry and Commerce Wuppertal-Solingen-Remscheid and produces it according to the "Minimum requirements for the use of the name Solingen" (see below for further information) can use the name "Solingen".

Under trade mark law, it is up to the right holder, the Chamber of Industry and Commerce Wuppertal-Solingen-Remscheid, to act to enforce his rights. It is entitled to claim compensation on behalf of its members who can use the mark if they have sustained damage in consequence of unauthorised use of the mark (article 72 of Council Regulation n°207/2009 of 26 February 2009 on the Community trade mark).

### Solingen Decree

The Regulation for the Protection of the Solingen Name (Solingen Decree)<sup>139</sup> was adopted by the Federal Ministry of Justice in agreement with the Federal Ministry of Economics, of Food, Agriculture and Forestry and of Health. The Solingen Decree grants an indefinite period of recognition to the name "Solingen". Under the Solingen Decree, the protection is free of charge.

In order to be authorised to use the name "Solingen", cutting equipment must fulfil the requirements laid down by the "Solingen Decree":

- All the major manufacturing stages have to be processed and finished within the industrial boundaries of Solingen.
- The region of provenance is defined as the Solingen industrial area, which includes the area of the urban commune Solingen and the area of the town Haan which is in the district of Mettmann.

Article 3 defines the "cutting equipment" as:

- scissors, knives and blades of all types,
- Cutlery of all types and parts of such,

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<sup>139</sup> [http://www.wuppertal.ihk24.de/recht\\_und\\_fair\\_play/schutz\\_solingen/895884/Regulation\\_for\\_the\\_Protection\\_of\\_the\\_Name\\_Solingen.html;jsessionid=E7403DBA0B677753858269B14B0FA599.repl2](http://www.wuppertal.ihk24.de/recht_und_fair_play/schutz_solingen/895884/Regulation_for_the_Protection_of_the_Name_Solingen.html;jsessionid=E7403DBA0B677753858269B14B0FA599.repl2)

- Small equipment for table use such as cake slicers, cake-tongs, sugar-tongs, grape scissors and serving cutlery,
- Table utensils such as cigar cutters, letter openers, nutcrackers and cork screws as well as cutting kitchen tools such as tin openers and knife-grinders,
- Open razor, razor-blades, razors,
- Hair clippers and shaving machines,
- Manicure and pedicure equipment such as nail-files, cuticle and nail forceps, nail clippers and tweezers,
- Cutting and thrusting weapons of all kinds.

As the Solingen Decree does not provide a concrete definition of the production process or the quality standards, the Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid adopted the "Minimum requirements for the use of the name Solingen"<sup>140</sup> in 1997, which was revised in 2005. The revision of the "Minimum requirements for the use of the name Solingen" defined the major stages of manufacturing for cutting equipment:

- Manufacture
  - warm forging
  - cold forging
  - mechanical processing
  - heat treatment
  - surface, mechanical
  - surface, galvanic/chemical
  - finishing touch
- Assembly
  - of synthetic handles
  - of wooden handles
  - of steel handles
  - of cast handles
  - of handles made from other materials
  - of component halves and other component parts
  - final assembly of instruments

The revision of 2005 also included in the requirement a definition of the types of materials which are suitable for the appropriate manufacturing and processing, as well as other requirements regarding the hardness and roughness of the products.

The Solingen Decree and the Requirements do not contain a chapter on enforcement procedure, e.g. who can act if fake Solingen products are marketed. These texts can thus be assimilated to a specification, that is to say a text which explains how the product is produced. As the Solingen Decree does not provide for enforcement procedure, the protection of the name must be done under the unfair competition law and the trade mark law (see sections above).

**Logo:** There is no common logo. The enterprises usually use their brand name, the company name and/or their own logo.

### **Controls**

The Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid may ask a company using the name "Solingen" for the proof of fulfilling the requirements.

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<sup>140</sup> [http://www.wuppertal.ihk24.de/recht\\_und\\_fair\\_play/schutz\\_solingen/895880/Minimum\\_Requirements\\_for\\_the\\_Solingen\\_Qualification.html](http://www.wuppertal.ihk24.de/recht_und_fair_play/schutz_solingen/895880/Minimum_Requirements_for_the_Solingen_Qualification.html)

### Protection beyond national borders:

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, "Solingen" benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>141</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. "*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*" Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

"Solingen" also enjoys protection in third countries benefits from protection through bilateral agreements: "Solingen" is protected under several bilateral agreements: with France (8.3.1960), Italy (23.7.1963), Greece (16.4.1964), Switzerland (7.03.1967) and Spain (11.9.1970). It is thus protected in these countries for an indefinite period. These Agreements provide lists of protected denomination. Under these Agreements, "Solingen" is protected against any uses on products and any uses liable to mislead the consumers as to the nature, identity and the true origin of the product. The protection is extended to the uses of the name with expressions, such as "art", "type", "style," imitation" or "like", and the uses of the name in translation.

Finally, the trade mark has been registered by the Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid in many countries: Bolivia, Canada, Chile, China, Indonesia, Iran, Peru, Philippines, Russia, USA, Venezuela, and Vietnam. The registration must be renewed every 10 years. The registration of trade mark in all these countries provides for the exclusive rights on the use of the name and/or logo in the classes to the Chamber of Commerce and Industry for the Wuppertal-Solingen-Remscheid and its members who meet the "Minimum requirements for the use of the name Solingen". The

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<sup>141</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

name enjoys protection against genericity as long as the trade mark is used and protected. For the protection to be effective, the trade mark must be used on the market. It is up to the right holder to act to enforce his rights.

## **Porcelain from Herend**

### **Herendi porcelán**

#### **Short description of the product**

"Herendi porcelán" is a handmade and hand painted porcelain produced in Herend, in the North West of Hungary. The first porcelain factory in Herend was established in 1826. In 1851, the porcelains from Herend were very successful in the world's fair in London and Queen Victoria ordered a set of porcelain. The type of product produced for the Queen, with butterfly and flower motifs, is still produced under the name of "Herend Queen Victoria China". In 1925, the production of porcelains with folksy motifs and small porcelain figures started. Nowadays, the export of "Herendi porcelán" is very important.

#### **Key economic data**

There are two companies producing the "Herendi porcelán". Herend Majolica Ltd is a small company and Herend Porcelain Manufactory Exclusive PLC is a large company. The Herend Porcelain Manufactory has a capacity of producing more than 16000 various forms, around 4000 patterns and their free variations. This is theoretically the equivalent of 64 million various products. The companies contribute to 31% of the employment in the area. 28% of the products are sold on the national market and 72% is exported. 40% is exported to the European level (EU, Norway, Iceland and Liechtenstein and Switzerland) where Italy is the main market and 32% to the international market, mostly the USA and Japan. In Hungary, the main competitors are the two other famous porcelain producers: "Zsolnai porcelain" and "Hollóházi porcelain" (also a geographical indication). The turnover of the sector was more than €13 millions in 2010.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- *Sui generis* law on geographical indication

#### **Unfair competition law**

"Herendi porcelán" benefits from the protection granted under the Hungarian law on Unfair Competition for an indefinite period.

This Law forbids unfair commercial practices and misleading commercial practices, notably false information on the essential characteristics of the goods or services, as its geographical origin.

Chapter VI deals with the enforcement of consumer rights. Article 18 establishes an arbitration board, which is an independent body of the regional chambers of commerce. Article 30 provides that a settlement between the parties should first be sought. If this is not possible, the Board proceeds with the complaint. Both parties can give their opinion and the proceedings are public. The Board can appoint an expert. Article 31 states that the proceedings are closed when the consumer's application is withdrawn, the parties reach an agreement or the Board rule on the complaint at the majority of its members. The Board has 30 days to work after receiving the complaint. This deadline can be extended to 60 days. The

decision of the Board must contain the reasons underlying it and must be published (article 33).

The Hungarian Authority for Consumer Protection ("HACP") is entitled to act in the case of any kind of unfair commercial practice. It is also entitled to act in connection with unfair commercial practices if the commercial practice is suitable for influencing the competition. Any person or entity can submit a complaint to the authorities which have an obligation to investigate.

It is sufficient to prove that there was an intention to copy the original product to act. It is necessary to demonstrate that local consumers are deceived or likely to be deceived by a product in question.

#### Sui generis law on geographical indication

The name "Herendi porcelán" was registered twice as appellation of origin in Hungary on the 1<sup>st</sup> July 1997:

- under the registration number 1 (case number G9700001). The holder of the right is Finomkerámiaipari Művek (1106 Budapest Tárna u. 4.).
- under the registration number 27 (case number G9700027). The holder of the right is Herendi Porcelánmanufaktúra Részvénytársaság (8440 Herend Kossuth Lajos u. 140.)

After World War II and the communist change in Hungary, all the Hungarian ceramic factories were taken into public ownership. On the 2<sup>nd</sup> March 1948, "Herendi Porcelánmanufaktúra Részvénytársaság" became the member of the state-owned company called "Finomkerámiaipari Művek". In 1981, "Herendi Porcelánmanufaktúra Részvénytársaság" became an individual enterprise again. Therefore the first registration in 1968 was made by "Finomkerámiaipari Művek", while the second one in 1996 by "Herendi Porcelánmanufaktúra Részvénytársaság". "Finomkerámiaipari Művek" does not exist anymore.

There is no collective organisation of producers. The protection is granted for an indefinite period. The Hungarian Intellectual Property Office is the competent authority for registration. The Application fee for the registration of an appellation of origin is 107.000 HUF. The fee is payable within two months after the day of application.

Act No. XI of 1997 on the Protection of Trade marks and Geographical Indications<sup>142</sup> defines the appellation of origin and the geographical indications under article 103. Appellation of origin means the geographical name of a region, locality or, in exceptional cases, a country which serves to designate a product originating therein the specific quality, reputation or other characteristics of which are due exclusively or essentially to the geographical environment, with its inherent natural and human factors, and the production, processing and preparation of which take place in the defined geographical area. Geographical indication means the geographical name of a region, locality or, in exceptional cases, a country which serves to designate a product originating therein the specific quality, reputation or other characteristics of which are due essentially to this geographical origin, and the production, processing or preparation of which takes place in the defined geographical area.

After the filing of the application for registration of the appellation of origin or geographical indication, the Hungarian Intellectual Property Office examines whether the application is in conformity with the requirements for registration. The request must contain the list of the products for which the protection of geographical indication has been requested. The classification of the product according to the Nice Agreement must be provided.

<sup>142</sup> [http://www.sztnh.gov.hu/jogforras/1997\\_XI\\_Vt.pdf](http://www.sztnh.gov.hu/jogforras/1997_XI_Vt.pdf)

A text explaining how the product is produced has to be annexed to the demand. There is no standard form.

The Hungarian Intellectual Property Office informs the applicant of the reception of the request and carries out the formal and substantive examinations. If the product complies with all requirements of the examination procedure, the Hungarian Intellectual Property Office grants protection for the sign as geographical indication. The Office issues a geographical indication certificate to which the extract from the Register is annexed.

Article 109 of the Act No XI of 1997 on the Protection of Trade marks and Geographical Indications defines the scope of the protection conferred to a registered name. The protection of the name confers to its holders the exclusive right to use the geographical indication. They may not license the right of use. The holders are entitled to prevent any person who, in the course of trade:

- uses the protected name with respect to products not originating in the defined geographical area,
- uses the protected name with respect to products not included in the list of products, but similar to those and therefore takes unfair advantage of the reputation of the protected name,
- imitates or evokes in any manner whatsoever the protected name, even if the true origin of the product is indicated or if the protected name is translated or accompanied by various additions, as “like”,
- uses any false or misleading indication as to the provenance, origin, nature or essential characteristics of the product, no matter where it is indicated (e.g. on the packaging, advertising material or documents relating to the product concerned);
- performs any other act liable to mislead the public as to the true origin of the product.

#### **Protection beyond national borders:**

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Herend” benefits from the basic protection offered by two International treaties. Paris Convention for the protection of intellectual property from 7 July 1884<sup>143</sup> and Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

<sup>143</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

“Herend” is also protected as an appellation of origin under the Lisbon Agreement:

Hungary requested the protection of “Herend” as appellation of origin under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of WIPO for an indefinite period. The appellation has been registered twice:

- It is protected since the 6<sup>th</sup> February 1968 under the number 495. The holder of the right is Finomkerámiaipari Művek, which seat is in Budapest, X., Tárna-u. 4 but has a factory in Herend. This appellation is protected in all the parties to the Lisbon Treaty except Mexico which refused to protect it.
- It is protected since the 16<sup>th</sup> September 1996 under the number 737. The holder of the right is Herendi Porcelánmanufaktúra Részvénytársaság, Kossuth L. u. 140, 8440 Herend.

After World War II and the communist change in Hungary, all the Hungarian ceramic factories were taken into public ownership. On the 2<sup>nd</sup> March 1948, “Herendi Porcelánmanufaktúra Részvénytársaság” became the member of the state-owned company called “Finomkerámiaipari Művek”. In 1981, “Herendi Porcelánmanufaktúra Részvénytársaság” became an individual enterprise again. Therefore the first registration in 1968 was made by “Finomkerámiaipari Művek”, while the second one in 1996 by “Herendi Porcelánmanufaktúra Részvénytársaság”. “Finomkerámiaipari Művek” does not exist anymore.

Under the Lisbon agreement, the appellations are protected in several languages (not only in the language of registration but also in translation), against “delocalizers”, against use of the GI name with expressions such as like, and against genericity.

Finally, the product also enjoys protection through trade mark registrations in third countries:

Herendi Porcelánmanufaktúra Részvénytársaság registered three trade marks in the USA:

- The word Mark “HEREND HUNGARY HANDPAINTED” and a logo, which was registered on 18<sup>th</sup> January 1994, under the number 74234704



- The word mark “Herend” and a logo, which was registered on 19<sup>th</sup> July 1994, under the number 74249554.



- The word mark “Herend”, which was registered on 1<sup>st</sup> August 1995, under the number 74488688

The trade mark registrations must be renewed every 10 years. The registration of trade mark in all this country provides for the exclusive rights on the use of the name and/or logo in the classes to Herendi Porcelánmanufaktúra Részvénytársaság. The name enjoys protection against genericity as long as the trade mark is used and protected. For the protection to be effective, the trade mark must be used on the market. It is up to the right holder to act to enforce his rights.

## **Artistic and traditional ceramic from Deruta**

### **Ceramica Artistica e Tradizionale Di Deruta**

#### **Short description of the product**

Artistic and traditional ceramics from Deruta are a milestone in the history of Italian pottery<sup>144</sup>. This municipality of central Italy is long known for the manufacture of artistic majolica (enameled ceramics) with decorative patterns distinguished by highly characteristic local styles, like the famous “Raffaellesco”. The first settlements were favoured by the abundance of clay deposits in the area surrounding Deruta and by its geographical position, close to important lines of communication.

The first documentation on Deruta ceramics dates back to 1290. The production, in the so-called “archaic” age, between the 13<sup>th</sup> and the 14<sup>th</sup> century, was mostly made up of objects for domestic use such as plates, jugs, and pourers made with the potter’s wheel in one step only. During the fifteenth century shapes developed thanks to the refinement of the potter’s wheel technique and to decorations with the new colors: yellow, blue and orange. Objects increasingly took up a decorative function and Deruta became the most important center for luster art decoration. Lustre is special technique developed in Deruta. It is manufactured by depositing a metal on a tin-opacified lead glaze, producing brilliant metallic reflections of different colour and iridescence pottery. It was used to decorate the finest polychrome pottery of the Italian Renaissance. Many examples of lustre pottery from Deruta are now housed at the Victoria and Albert Museum of London.

#### **Key economic data**

Handmade ceramics and pottery production is still the main economic activity in Deruta, with more than 200 laboratories and factories. The production is mostly organised in micro companies and ateliers. Micro enterprises are direct sellers; medium enterprises use distribution channels. About 978 people are involved in ceramic production in the entire province of Perugia. 609 (62,3%) are employed in companies or ateliers, the rest are independent ceramic makers.

Thanks to the reputation acquired, Deruta ceramics are exported all around the world. The most important market is North America.

Artistic and traditional ceramics from Deruta are facing a hard competition. There are many low quality products on the market abusing the reputation of Deruta artistic and traditional ceramics. In particular in China a district named Deruta was founded and started the production of ceramics. However, the value of infringements has not been studied yet. Since the approval of the product specifications for Ceramica Artistica e tradizionale di Deruta in the framework of the law 188/90 which does not provide any specific provision concerning the scope of legal protection, the Consorzio (via the Municipality) obtained a collective trademark in Italy and an international registration through the WIPO Madrid System. These moves had the objective to try to reduce the phenomenon of infringements, but the outcome is not fully satisfactory. It appears that various costly enforcement cases are ongoing.

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<sup>144</sup> The municipality of Deruta is one of the 35 members of the Italian association of artistic and traditional ceramics (AICC) <http://www.ceramics-online.it/>

### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- The unfair competition law
- The Trade mark law
- A specific law – the law 6.2.1996 no.52 on the “Protection of artistic, traditional and quality ceramics”.

#### Unfair Competition law

As a name indicating the geographical origin of products associated with specific qualities, the “Ceramica Artistica e Tradizionale Di Deruta” benefits from a minimum level of protection under the Italian Unfair competition law (Civil Code, art. 2598). It is considered an act of unfair competition, the use of names and distinctive signs which might generate confusion with the names and distinctive signs legitimately used by other entities, as well as the imitation of a competitor’s product and any other act that might generate confusion with the products of a competitor; disseminating information or evaluations concerning the products and activity of a competitor which might discredit it or the appropriation of the products’ reputation of a competitor are also considered acts of unfair competition; finally, any act not respectful of fair business practices and that might damage other business actors are also considered unfair competition. Unfair competition has to be proved on a case-by-case basis (no Intellectual Property Rights – IPRs – are involved); to obtain the payment of damages, the fraud or fault must be proved.

Likewise, under the Italian consumer protection law (Codice del Consumo, Decreto Legislativo 206 del 2005, articoli 18 e seguenti, as modified by the Decreto Legislativo 146 of 2007 recante attuazione della direttiva 2005/29/CE relativa alle pratiche commerciali sleali tra imprese e consumatori nel mercato interno e che modifica le direttive 84/450/CEE, 97/7/CE, 98/27/CE, 2002/65/CE, e il Regolamento (CE) n. 2006/2004) unfair business practices, defined as practices not in line with the professional diligence and which might distort significantly consumers behavior in relation with a given product, are forbidden. While no IPRs are involved, in case of use of the GI “Ceramica Artistica e Tradizionale Di Deruta” in relation with products not coming from the relevant geographical area or not respecting the production rules, a minimum level of protection might be found under the Italian consumer protection law.

#### Specific law -the law 6.2.1996 no.52 on the “Protection of artistic, traditional and quality ceramics”

In Italy, the artistic, traditional and quality ceramics are protected under a *Sui generis* system established by the Co-ordinated Text of law no.188/1990 and amendments made with art.44 of law 6.2.1996 no.52 on the “Protection of artistic, traditional and quality ceramics”<sup>145</sup>. It provided for the institution of the “Consiglio Nazionale Ceramico” (National ceramic Council), a body depending from the Italian Ministry of Productive Activities which is responsible, among other things, to protect in Italy and abroad the artistic, traditional and quality ceramics registered under this law, in cooperation with the State, the Regions and the associations of producers themselves.

In the legal framework of Law 188/1990, a Decree of the Minister of Industry, Commerce, and Crafts, of 26 June 1997, established a “national mark” to promote and protect traditional and artistic ceramics and quality ceramics. This mark guarantees the quality and origin of

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<sup>145</sup> The text of the law is available at: <http://www.ceramics-online.it/>

ceramics accordingly to the product specifications adopted by the Municipalities with reputed tradition in ceramic production and the authenticity of the product<sup>146</sup>.

The mark is made of the graphic symbol reproduced below. In the part defined by the lines underlying the graphic symbol, the area of established ceramic production should be indicated to be determined by name, and/or by a graphic distinctive symbol consisting in drawings, pictures, inscriptions or logos relating to the ceramic production to protect.



The mark was not registered at the Italian Trade mark Office, but rather established by decree (“decreto ministeriale 26 giugno 1997”). The exact extent of the protection was not defined by the Decree.

In the case of Deruta, the right holders are the ceramists inscribed in the special Register of artistic and traditional ceramics producers established at the Handicraft Commission of the Province of Perugia (according to Law 9 July 1990, n. 188).

The existence of production requirements (text explaining how the product is manufactured) and the proof of the historical link to the territory are required to obtain the mark recognition. Moreover, the use of the mark is authorised only for ceramists inscribed in the official Register of artistic and traditional ceramics producers. The protection to the denomination is granted for an indefinite period as long as the code of conduct is respected but producers have to renew the authorisation of use every year by paying the respective fee.

Producers are submitted to strict controls by competent public authorities. A Disciplinary Committee examines the applications received and communicates its advice with respect to the registration on the register of the province in which the working activity is carried out. After the registration the Disciplinary Committee controls producers’ compliance with the rules and regulations of artistic and traditional ceramic of the area concerned.

The Law 188/90 does not define the scope of protection accorded by the protected names under the *Sui Generis* system. Article 4.2.j of the Law says that the “Consiglio nazionale ceramico” has the task to protect, in Italy and abroad, artistic, traditional and quality ceramics, in coordination with the regions, State, the “Consorti”, and any other relevant body.As a result of this lack of details in terms of extent of protection, producers of the “Ceramica Artistica e Tradizionale Di Deruta” felt the need to seek additional protection registering trade marks and/or collective marks at national, European Union (EU) and international level.

As to the enforcement, under the *Sui Generis* system, public authorities can act on their own initiative to enforce the right (administrative procedure). As mentioned above, based on article 4.2.j of the Law, the exact extent of such procedure is not defined.

<sup>146</sup> At the moment there are 34 artistic and traditional ceramics recognized under the special law gathering in the Italian Ceramics Association (Associazione italiana città della ceramica – AICC <http://www.ceramics-online.it/>)

## **Short explanation of the protection beyond national borders:**

### At the EU Level

To protect the artistic and traditional ceramics from Deruta, a CTM has been registered by the Municipality of Deruta on 17/10/2008, conferring protection to this denomination in the 27 EU Member States. The registration number is 006117097<sup>147</sup>. The protection is granted for a definite period of 10 years with possibility of renewal for consecutive periods of 10 years indefinitely.

The producers' group "Consorzio Deruta 1282" (hereinafter "Consorzio") is in charge of the management of the collective mark "Deruta" owned by the Municipality. The Consorzio was established to promote and defend the original ceramics from Deruta. At the moment, it counts with 23 members.

The Collective mark provides protection to the name against the use by non authorised parties and the likelihood of confusion. However, in a trade mark infringement case, a plaintiff has the burden of proving that the defendant's use of a mark has created likelihood of consumer confusion about the origin of the product. This is not simply to demonstrate, even more in a foreign country, and very costly. The name does not enjoy protection against genericity, evocation, the use in translations or with "delocalizers" (e.g. "name of the GI" associated with the name of another country) and expressions such as like, type, etc.

Under the Trade mark system, no *ex officio* protection is available. It is up to the right holder to act to enforce its rights. Therefore, producers have to bear enforcement costs, without any support of public authorities.

### At international level

#### International protection:

- Paris Convention for the protection of intellectual property from 7 July 1884<sup>148</sup>
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892

These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. "*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*" Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

<sup>147</sup>

<sup>148</sup>

Search on: [http://oami.europa.eu/CTMOnline/RequestManager/it\\_DetailCTM\\_NoReg#](http://oami.europa.eu/CTMOnline/RequestManager/it_DetailCTM_NoReg#)  
[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

### **Trade mark protection outside of Italy:**

The Collective mark “DERUTA” has been registered at WIPO by the Municipality of Deruta obtaining protection in various countries. The world mark registration number is 956302<sup>149</sup>. The protection is granted for a definite period of 10 years with possibility of renewal for consecutive periods of 10 years indefinitely.

The name is protected against likelihood of confusion. It is up to the right holder to act to enforce his rights.

### **Strengths and weaknesses of the existing legal means of protection**

Evaluating the effectiveness of the existing legal means of protection, the artistic and traditional ceramics from Deruta can be considered as an example for all the Italian traditional and artistic ceramics recognised under the Law 188/90.

Based on producers’ experience, the current legal framework does not confer an effective protection to artistic and traditional ceramics.

Taking into consideration the *sui generis* system established by the law 188/90, producers (very few use the mark) as well as consumers seems not to be familiar with such a mark. In the practice, the system proved to be very expensive for producers which are mostly small companies (at national level the average is 3,3 employees). In fact, to obtain the authorisation to use the mark, producers have to present a detailed application and be inscribed in the specific “Registry of artistic and traditional ceramics”. The procedure is costly and the authorisation of use requires the payment of an annual fee to be renewed. In addition, the expenses to verify the compliance with the product specifications are also charged to producers submitted to the process of control.

Furthermore, the law does not provide any specific provision concerning the length of legal protection enjoyed by the registered names. This legal shortfall makes it difficult to defend original products from abuse and misappropriations. Therefore, producers seek for additional protection registering trade marks and/or collective marks (at national, and /or EU and international level) in case of groups, associations or collective entities.

Indeed, since the approval of the product specifications for *Ceramica Artistica e tradizionale di Deruta* in the framework of the law 188/90, the Consorzio (via the Municipality) obtained a collective mark in Italy, in the EU and an international registration through the WIPO Madrid System. These moves had the objective to try to reduce the phenomenon of infringements, but the outcome is not fully satisfactory. It appears that various costly enforcement cases are ongoing. Producers experienced difficulties in accessing the trade mark system. Registration

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<sup>149</sup> Search on <http://www.wipo.int/romarin>

costs, renewal fees and opposition proceedings are very costly for small producers, who are the majority in the sector of artistic and traditional ceramics.

Moreover, under the trade mark system it is up to the right holder to enforce its rights. Thus, producers have to bear enforcement costs, without any support of public authorities.

Since the approval of the product specifications for *Ceramica Artistica e tradizionale di Deruta* in the framework of the law 188/90, the number of employees as well as the turnover per company and export have slightly decreased.

The effectiveness of the Law 188/90 seems to have been so far poor in terms of both legal protection and economic impact.

Over the last years the sector of artistic and traditional ceramics is facing a big crisis, which caused a reduction in production volumes, number of companies, turnover and employment. There is a strong need of re-launching the competitiveness of the sector and to establish an effective system of protection to face unfair competition which is not typical only of the Italian context. This is why, since years, the Italian Ceramic Association works closely with homologous in France, Romania and Spain trying to face the problems affecting the sector and identifies the elements which could contribute to its re-launch.

In this context, producers will welcome the adoption of an EU regulation on the protection of GI for non-agricultural products not only to obtain a harmonized and effective protection in the EU but also to support the restructuring of a sector in which companies are not well organized.

## **Classic Botticino Marble**

### **Marmo Botticino Classico**

#### **Short description of the product**

The *Botticino Classico* is a high quality marble with coloured veining on ivory white base colours. Its structural compactness and strength are the basis of its versatility in architectural and artistic projects for both interiors and exteriors. Strong and beautiful, Botticino Classico is universally recognised as one of the finest marbles in any context.

The *MarmoBotticino Classico* is quarried exclusively to the east of Brescia, in Northern Italy, in the municipality of Botticino. It is extracted from a Mesozoic formation of a calcareous composition known in geological literature as "Corna". The limestone formation developed through a slow and constant process of sedimentation, cementation and re-crystallization. The organisms which make the Botticino Classico Marble sediments so unique, flourished in the tropical climate, giving the marble its remarkable chromatic variety as a result of differences in the concentration and running of organic and inorganic inclusions in the uniform base paste, composed of fine, carbonatic and predominantly calcareous mud known as "micrite".

#### **Key economic data**

In Italy, Botticino is the second ranking quarrying area after Massa Carrara (Tuscany), with an annual production of 180,000 tonnes of marble. The 50% of that is worked on site according to established quality standards. *Marmo Botticino Classico* is quarried mostly by small and medium enterprises which drive the thriving local economy. The consolidated global turnover made is about 136.272.000 EUR per year.

The marble is exported all over the world: from the US, South America and the Middle East, to the Far East and South East Asia.

The Marmo Botticino Classico is facing a hard competition. There are cases of infringements. In particular, some Turkish marbles are marketed locally and internationally under the denomination 'Botticino Royal' and 'The new Botticino'.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- The Unfair Competition law
- The Trade mark law

##### Unfair Competition law

As a name indicating the geographical origin of products associated with specific qualities, the GI "Marmo Botticino Classico" benefits from a minimum level of protection under the Italian Unfair competition law (Civil Code, art. 2598). It is considered an act of unfair competition, the use of names and distinctive signs which might generate confusion with the names and distinctive signs legitimately used by other entities, as well as the imitation of a competitor's product and any other act that might generate confusion with the products of a competitor; disseminating information or evaluations concerning the products and activity of a competitor which might discredit it or the appropriation of the products' reputation of a competitor are also considered acts of unfair competition; finally, any act not respectful of fair business practices and that might damage other business actors are also considered unfair competition. Unfair competition has to be proved on a case-by-case basis (no Intellectual Property Rights – IPRs – are involved); to obtain the payment of damages, the fraud or fault must be proved.

Likewise, under the Italian consumer protection law (Codice del Consumo, Decreto Legislativo 206 del 2005, articoli 18 e seguenti, as modified by the Decreto Legislativo 146 of 2007 recante attuazione della direttiva 2005/29/CE relativa alle pratiche commerciali sleali tra imprese e consumatori nel mercato interno e che modifica le direttive 84/450/CEE, 97/7/CE, 98/27/CE, 2002/65/CE, e il Regolamento (CE) n. 2006/2004) unfair business practices, defined as practices not in line with the professional diligence and which might distort significantly consumers behavior in relation with a given product, are forbidden. While no IPRs are involved, in case of use of the GI "Marmo Botticino Classico" in relation with products not coming from the relevant geographical area or not respecting the production rules, a minimum level of protection might be found under the Italian consumer protection law.

##### The Trade mark law

At national level, the denomination "Marmo Botticino Classico" enjoys the protection through a collective mark registered with the Italian Trade mark Office (UIBM) – the competent authority for registration - on 8 November 2005 (registration number is 0000982579<sup>150</sup>). At the moment, beyond the unfair competition law, the trade mark regime is the only legal tool available to protect names of non-agricultural products comprising a geographical indication (GI) or a potential GI in Italy (producer groups of non-agricultural GI generally apply for a Collective mark).

<sup>150</sup> Search on <http://www.uibm.gov.it/uibm/dati/Codice.aspx> . The regulation governing the use of the collective mark is available at: <http://www.marmo-botticino.it/marchio.html>

The Collective mark *Marmo Botticino Classico* is owned by the producers' group "Consorzio Marmo Botticino Classico"<sup>151</sup> (hereinafter "Consorzio") gathering 11 marble producing companies and 45 collective mark licensees. The Consorzio was established in 1987 by local producers and the Municipality of Botticino with the aim to protect and promote the exclusive qualities of the marble. It is responsible for ensuring the compliance with the regulation governing the use of the collective mark and the product specifications<sup>152</sup> by its members. Sanctions apply in cases in which a conduct is not in compliance with the rules.

The collective mark "Marmo Botticino Classico" consists of a sign representing two fancy symbols in bold in the style of Arabic characters above which is written the word "marmo" in lower-case and underneath this word "BOTTICINO" in upper-case and, underneath this, the word, "classico" in lower-case, lighter bold letters. It is reproduced below:



The *Marmo Botticino Classico* collective mark guarantees the provenance of the marble and certifies the unique qualities of the material and the workmanship. The marble is identified with the collective mark at the origin, providing a substantial guarantee that products identified like *Marmo Botticino Classico* derives from marble quarried exclusively in the Botticino area and produced according to the most stringent quality rules.

The trade mark protection is granted for a definite period of 10 years with possibility of renewal for consecutive periods of 10 years indefinitely.

The collective mark provides protection to the name against the use by non authorised parties and the likelihood of confusion. In a trade mark case, a plaintiff has the burden of proving that the defendant's use of a mark has created likelihood of consumer confusion about the origin of the product. This is not simply to demonstrate, even more in a foreign country, and very costly.

The name does not enjoy protection against genericity, evocation, the use in translations or with "delocalizers" (e.g. "name of the GI" associated with the name of another country) and expressions such as like, type, ect.

Under the Trade mark system, no *ex officio* protection is available. It is up to the right holder to act to enforce its rights. Therefore, producers have to bear enforcement costs, without any support of public authorities.

### **Protection beyond national borders**

#### **Protection at EU Level**

At European Union (EU) level, *Marmo Botticino Classico* is protected through a Figurative Community Collective mark registered at the Office for Harmonization in the Internal Market (OHIM), based in Spain, on 30 May 2006. The registration number is 004459574<sup>153</sup>. The

<sup>151</sup> More information is available at: <http://www.marmo-botticino.it/index.html>

<sup>152</sup> Extract from the Technical Specifications for the Collective Trademark "Marmo Botticino Classico": <http://www.marmo-botticino.it/marchio.html>

<sup>153</sup> Search on [http://oami.europa.eu/CTMOnline/RequestManager/en\\_Detail\\_NoReg#](http://oami.europa.eu/CTMOnline/RequestManager/en_Detail_NoReg#)

protection is granted for a definite period of 10 years with possibility of renewal for consecutive periods of 10 years indefinitely.

Through this community system the name obtained protection in the 27 countries members of the EU. However, the scope of protection and the enforcement conditions are the same provided at national level. The Consorzio's experience proved that costs related to the registration procedure (including opposition proceedings, renewals) and enforcement are very high for small producers' organisations.

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, *Marmo Botticino Classico* benefits from the basic protection offered by two International treaties. Paris Convention for the protection of intellectual property from 7 July 1884<sup>154</sup> and Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. "*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*" Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, *Marmo Botticino Classico* is protected through trade mark registration outside of Italy. The Consorzio obtained an international trade mark registration at the World Intellectual Property Organization (WIPO), by filing a single application and indicating countries in which producers sought protection ("Madrid System"). The World Mark registration number is 873716<sup>155</sup>. The protection is granted for a definite period of 10 years with possibility of renewal for consecutive periods of 10 years indefinitely.

Nevertheless, the same problems of the national and community trade mark protection system (registration cost, renewal and opposition, lack of a public role in the enforcement) are present at international level.

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<sup>154</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)  
<sup>155</sup> Search on <http://www.wipo.int/romarin/searchAction.do>

The collective mark *Marmo Botticino Classico* has been also registered at the Intellectual Property Offices of some countries of interest, among them: Argentina, Brazil, Canada, India, Saudi Arabia, Taiwan, and the United States of America. This option has been very costly for the Consorzio which spent almost 100.000 EUR for the collective mark registrations, translations and opposition proceedings.

### **Strengths and weaknesses of the existing means of protection**

The experience of *Marmo Botticino Classico* producers showed that the collective mark conferred the product some distinctiveness in terms of quality becoming easily identifiable on the market. In spite of that, unfortunately, clients do not perceive the strong link between the specific characteristics of the products and its area of origin.

In practice, the collective mark proved to be a very expensive system for producers because of the registration and renewal costs (a payment of a fee is required every 10 years). In addition, the enforcement of the right can be very costly (opposition proceedings, legal actions against infringements). These costs are not always sustainable for right holders, notably for small groups.

Furthermore, the trade mark system does not provide any technical assistance or financial support for promotion to producers. One of the major problems they encountered, seeking protection abroad, was the lack of assistance by any entity or institution that contributed to make, in some cases, the collective mark registration procedure particularly expensive and long.

Therefore, producers are facing serious difficulties in facing abuse and misappropriation to protect their origin product on the market. The competitors regularly offers costumers what is improperly called "Botticino" but is in fact a beige marble of different quality from other sources extracted and worked at low cost. In particular, some Turkish marbles are marketed locally and internationally under the denomination '*Botticino Royal*' and '*The new Botticino*'. The loss of revenues for producers, due to the sale of infringing or potentially infringing goods, is estimate in more than 50%. The Consorzio spent about 35.000 EUR between 2004 and 2012 only for notary fees and warning letters. It has to be added the cost related to ongoing legal actions brought before courts or administrative bodies.

For all the above-mentioned reasons, producers are not satisfied of the available legal means to protect names of non-agricultural products comprising a geographical indication or a potential geographical indication. At the EU level, they believe that a uniform level of protection is needed and would welcome the establishment of a *Sui Generis* system which would be less costly and more effective.

## **Koniakow laces**

### **Koronki koniakowskie**

#### **Short description of the product**

Koniakow laces are handmade by crocheting cotton thread. The laces are usually made from white or cream cottons of different width (no 50, no 60 or no 100, no 200). The laces are made from Polish, Czech or Turkish floss. The laces from Koniakow are characterized by floral and geometrical themes and also stars and half moons. Depending on the size, doilies and other articles consist of several concentric wreaths. The wreaths are made up of different kinds of oval leaves, circles, roses, windmills, grapes and others joined with a chain stitch. The tighter the item is the better. Parts of the products are made separately and then they are assembled.

Koniakow laces have been made since the end of the XIX century. According to the Law of 1869 on public teaching in three villages **Koniakow, Istebna and Jaworzynka girls were allowed to learn** the art of lace-making. At the beginning of the XX century lace-making was taught by qualified teachers. As a result, almost every girl was efficient at lace-making in the region of Tri-Villages of the Silesian Beskid Region, especially in **Koniakow**. Initially laces were used for making women' clothes, especially bonnets. At first the laces which appeared in bonnets were patterned on the ones worn by wealthy inhabitants of Cieszyn. Later Koniakow lace-makers started to add their own patterns. At the turn of centuries the lace additions appeared in pillows and table linen. Later round serviettes appeared. After the First World War, a sudden development of lace-making took place. Koniakow laces got more and more popular in Poland and other countries. After the Second World War they were famous all over the world. In 1949 Koniakow Lace-Making Co-operative was established. Nowadays it does not exist anymore.

#### **Key economic data**

There are about 350 lace-makers in Koniakow, who make the laces individually (micro facilities). There is no collective organisation of lace makers promoting the product, nor logo.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Law Against Unfair Competition (the unfair competition law).

Koniakow laces benefits from the protection granted under the Law Against Unfair Competition (the unfair competition law) for an indefinite period of time.

Koniakow laces benefit from the protection granted under Law Against Unfair Competition (art. 8 and 9). According to article 8, labelling products or services with false or deceitful geographic indication, directly or indirectly indicating a country, region or locality of their origin, or the use of such indication in the commercial activity, advertising, business letters, invoices or other documents, shall be considered as an act of unfair competition. This article allows the producers of the product to make a complaint about unfair commercial practices. There is private right of action against unfair traders by business.

The holders of the right under the unfair competition law are all producers of Krosno glass.

Under the unfair competition law producers of Krosno glass can act on their own initiative to protect the name.

### **Protection beyond national borders:**

Koniakow laces enjoy protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>156</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. *“Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”* Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

## **Krosno glass**

### **Szkło krośnieńskie**

#### **Short description of the product**

“Krosno glass” is manufactured from soda lime glass of highest quality with the use of only best raw materials. The producers of the glass products managed to combine ancient craft of manual work with modern technologies and quality control procedures. The range of applications starts with machine made household glass, through decorative handmade clear items and truly artistic colourful pieces. In order to call a product a Krosno glass item it is necessary that the hot process of its production takes place in the area, namely melting glass, blowing or forming the product, annealing and cold finishing.

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<sup>156</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

The glass craft was recognised in Krosno in 1513, when the town archives mention its craftsmen, Wilga and Maroskolet, for the first time. In 1525 another workshop of Wojciech is mentioned while in 1539 the craftsmen named Jan is described as not only processing but also producing glass. The actual growth of Krosno glass industry started in 1923 when the first glassworks was built on the land bought from Countess Kaczkowska by 'Polish Glass Works' joint venture from Crakow. After the World War II the company was rerstored and in 1958 the name of its was changed to Krosnienskie Huty Szkla. Next, due to the change of the political and economical system of Poland, many privately owned glassworks were established in Krosno.

### **Key economic data**

There are five companies producing Krosno glass. Two of them are small enterprises, two others are medium-sized enterprises and one is a large enterprise. The market share of the product is 25%. One third of the product is sold at the national level, one third at the EU level and one third at the international level. The consolidated global turnover made for this product by all the enterprises involved in its production is 67 500 000 euro for the period 2006 to 2010.

### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Law Against Unfair Competition
- Industrial Property Law (the trade mark law)

#### Law Against Unfair Competition

"Krosno glass" benefits from the protection granted under the Law Against Unfair Competition (the unfair competition law) for an indefinite period of time.

Krosno glass benefits from the protection granted under Law Against Unfair Competition (art. 8 and 9). According to article 8, labelling products or services with false or deceitful geographic indication, directly or indirectly indicating a country, region or locality of their origin, or the use of such indication in the commercial activity, advertising, business letters, invoices or other documents, shall be considered as an act of unfair competition. This allows the producers of Krosno glass to make a complaint about unfair commercial practices. There is private right of action against unfair traders by business.

The holders of the right under the unfair competition law are all producers of Krosno glass. Under the unfair competition law producers of Krosno glass can act on their own initiative to protect the name.

#### Trade mark law:

"Krosno" protected as a semi-figurative mark, which was registered on 9 September 2002. The trade mark number is 140641. Krosnienskie Huty Szkla KROSNO S.A. is the owner of the mark:



Under the trade mark law, the protection is granted for a period of 10 years renewable. The Patent Office of The Republic of Poland is the competent authority for registration. The Application fee for the paper application is 550 PLN. The renewal fees are 200 PLN +400

PLN (every good class). The holder of the right under trade mark law is Krosnienskie Huty Szkła KROSNO S.A. As Krosno glass is protected as a word and figurative individual mark in Poland which provides for the exclusive rights on the use of the name and/or logo in the classes where it has been registered. The name enjoys protection against genericity as long as the trade mark is used and protected.

Under the trade mark law, it is up to the right holder, Krosnienskie Huty Szkła KROSNO S.A., to act to enforce his rights.

### **Protection beyond national borders:**

#### Protection at the EU level:

Investland SP. Z O. O. from Zrecin (located near Krosno) in Poland registered the name “KROSNO, DESIGN, KD, HAND MADE”, as an individual, figurative trade mark, at the Office for Harmonization in the Internal Market. The trade mark number is 010268852. It is registered since 27 March 2012 and the expiry date is 16 September 2021<sup>157</sup>.



Krosnienskie Huty Szkła "KROSNO" S.A. registered the name “Drinks & Adventure by KROSNO”, as an individual, figurative trade mark, at the Office for Harmonization in the Internal Market. The trade mark number is 010071694. It is registered since 14 December 2011 and the expiry date is 09 June 2021<sup>158</sup>.



The protection at the Office for Harmonization in the Internal Market can be renewed every 10 years. It is up to the right holders to act to enforce his rights.

### International protection

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Krosno glass” benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>159</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

<sup>157</sup> [http://oami.europa.eu/CTMOnline/RequestManager/en\\_DetailCTM\\_NoReg](http://oami.europa.eu/CTMOnline/RequestManager/en_DetailCTM_NoReg).

<sup>158</sup> Idem

<sup>159</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. *“Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”* Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, “Krosno glass” enjoys protection as a trade mark outside of the EU.

Krosnienkie Huty Szkla "KROSNO" S.A. registered the name “Krosno” via the Madrid Agreement. The number of the trade mark is 797748 and it was registered on 6<sup>th</sup> February 2003. The countries covered: Australia, Benelux, China, Czech Republic, Denmark, France, Germany, Great Britain, Greece, Hungary, Italy, Japan, Norway, Portugal, Romania, Russia, Spain, Slovakia, Sweden, Switzerland and Ukrain.



The protection is granted for a definite period of 10 years with possibility of renewal for consecutive periods of 10 years indefinitely.

## **Black Clay of Olho Marinho**

### **Barro Preto de Olho Marinho**

#### **Short Description of the product**

Barro Preto de Olho Marinho are ceramic cooking pots from Olho Marinho. This ceramic production is made from “loose clay” from this area and “strong clay” from Chapinheira, a locality which belongs to Arganil, a limitrophe municipality. Once “gathered”, the clay has to be totally cleaned of plant’s roots, stones and small tubercles. In the 1950s, the potters from Olho Marinho, invented the “Maroma”, a machine which works with two rotating blades which provides an homogeneous mixture of the two types of clay. After being taken out of the “Maroma”, the clay is gathered in small quantities in a round shape according to the appropriate size of the final piece. The molding process of the pieces is made using the electrical wheel, instead of the rudimentary “short wheels” which were used in ancient times. After the pieces have been dried the boil process is made in an oven, that as well as boiling the pieces also give them a black or greyish colour, which is typical of this ceramic. These characteristics result from the carbon atmosphere which deposits itself on the pieces and the physical and chemical transformation of the metallic oxides in the clays due to the presence of carbon monoxide. It is possible that the temperature reaches 1000°C. The potter is able to make these conditions by properly covering, the “mouth of the oven”, preventing the escape of fumes and not allowing oxygen to enter.

The discovery of the ceramic fragments of clay vases from Roman times in the region clearly reveals that pottery has been presented in the lands of Coimbra for more than 2000 years. According to Manuel Leal Júnior, the area of Poiares was crossed, in Roman times, by two important roads: the road that connected Coimbra to Guarda and the road that connected Tomar to Tondela. Poiares, due to its geographical centralisation participated, throughout history, in the dynamics of the economics of the surrounding region. The area which forms the Vila Nova de Poiares municipality was for a long time part of the “grounds of Coimbra”, and therefore, it had to respect the administrative regulations that were established for this city. We can speculate that among the potters, from the limits of Coimbra, who were obliged to participate in the “Procession of the Body of Christ”, some were from Poiares. It is not possible to guarantee, with precision the beginning of the production of potters in Olho Marinho. However, at the beginning of the XVI century this activity had considerable importance. The first written evidence of the existence of potters in the area of Poiares only appears in the church registers in the second half of the XIX century. The importance of these ceramics in the local gastronomy is still relevant, since it is intimately connected to the specific taste of certain gastronomic dishes made in the region. It is not possible to separate those dishes from black clay, since it is the only way to preserve traditional and well known flavours, for example, Chanfana of Vila Nova de Poiares. It is important to the gastronomical and rural culture of the municipality the preservation of the traditional flavours and has been recognised by various writers, who dedicated themselves to the characterization of Portugal, in general way, and specifically to the surrounding area of Coimbra.

#### **Key economic data**

There is only one enterprise which provides the clay. There are only 2 micro enterprises that produce the ceramic pots. In both enterprises, only one single producer works. The wife of one of the producers sometimes helps him. The first enterprise is in fact a local development

association where the clay worker is employed. In the second enterprise, the production of Barro Preto de Olho Marinho is only a secondary activity of the producer. In average, the producers are 40 years old and they only attended elementary school.

Although those “black clays” are an important element to a very traditional gastronomic dish from the region, we only have data from one enterprise and it only represents a turnover of 6000 €/ year (in average).

### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- The Unfair competition law
- The Trade mark law

#### The Unfair competition law

Under the Portuguese unfair competition law, Decree Law nº 16/2008 of 26 March 2008, , article 317 provides that “it is considered as unfair competition all the acts of competition contrary to honest practices and usage in any field of activity, namely:

- (e) deceptive advertising and false specifications or indications in respect of the nature, quality and utility of products or merchandise as well as false indications of source, locality, region or territory, factory, workshop, property or establishment, whatever the means employed;
- (f) suppression, concealment or modification, on the part of the seller or any intermediary, of the appellation of origin or of the geographical indication of the products or registered trade mark of the producer or manufacturer on products which are intended for sale and the packaging of which has not been modified

The administrative authorities competent to enforce these provisions are the “Autoridade de Segurança Alimentar e Económica” (ASAE, Food and Economic Safety Authority), and the Regulatory Entity in overseeing the sector in which the unfair commercial practice occurred. In accordance with article 20 of the Decree Law, any person, including competing traders, with a legitimate interest in opposing any unfair commercial practice as prohibited under the Decree Law, may bring the matter before the relevant administrative authority. There is no specific procedural requirement regarding the filing of administrative complaints but the Decree Law sets forth that any potential unfair commercial practice may be brought to the attention of the relevant administrative authority, by any means at the parties’ disposal. It is interesting to note that the administrative authorities are required to investigate every complaint

#### The Trade mark law

Black Clay of Olho Marinho is registered as an individual combined trade mark under Portuguese Code of Industrial Property for cooking pots. The owner is the Municipality of Vila Nova de Poiares (see in annex National Mark nº 480452).



The trade mark must be renewed every 10 years and the registration confers upon its owner the right to prohibit others from using the combined name and logo in their economic activity, without his consent, any sign which is identical or confusingly similar to his trade mark in

relation to products or services that are identical or similar to those for which the trade mark is registered, or any sign which, due to the identity or similarity of the signs or the affinity between the products or services, creates in the mind of the consumer a risk of confusion which includes a risk of association between the sign and the trade mark.

The Instituto de Propriedade Industrial (Portuguese Institute for Industrial Property) is the competent authority for registration. The cost of registration is 105€.

Portuguese law considers Counterfeiting, Imitation and Illegal Use of Trade marks as a Criminal Offense which is punished as follows, under Art. 323 of Decree Law nº 16/2008. A prison sentence of up to three years or a fine accumulating for up to 360 days shall be incurred by any person who, with the intention of causing damages to another or for obtaining illegal benefits:

- (a) totally or partially counterfeits or in any way reproduces a registered trade mark;
- (b) imitates a registered trade mark, as a whole or in any of its characteristic elements;
- (c) uses counterfeit or imitated trade marks;
- (d) uses, infringes or imitates well-known trade marks or trade marks of high renown whose registration has been applied for in Portugal;
- (e) displays on his products a registered trade mark belonging to others;
- (f) uses, although in products or services without similarities, registered trade marks that are translated or are the same or similar to previous ones whose registration has already be required and are renown in Portugal or in the EC if they are Community trade marks, once the future use of the said trade mark intends, without any reason, to take advantage of the distinctiveness or the renown of the registered trade marks or can prejudice them;
- g) uses in their own products, services or business establishment or enterprise, a registered trade mark belonging to another person

Nevertheless, the procedure for offenses under this Code depends on a presentation of a complaint to the competent authorities. According to our expert, the current protection is regarded largely inefficient as it is very difficult for producers that are located in a certain part of the country to be informed of possible frauds that are occurring far away. Moreover, it is very complicated to elaborate a complaint and sometimes expensive because it means travel costs, lawyer costs, court costs. Finally, there is no certainty on the results because it is sometimes not easy to bring evidence of the frauds that could have been done days or weeks or months before.

There is no official or private control done, only an auto-control made by the producers themselves.

### **IP Strategy**

Local authorities and local “Brotherhood” have decided to launch a procedure to register “small wooden artefacts of Vila Nova de Poiães” as a collective trade mark and later “palitos de Vila Nova de Poiães” as a GI.

The Portuguese law on Industrial Property provides the possibility to register names of handicrafts in association with a logo as a trade mark or as a collective trade mark and names as GI or DO. The biggest problem is that the law demands a statement from “an officially recognised authority that supervises, in the region, that branch of production”. However, as such an “authority” does not exist at all, groups cannot apply for the GI/DO registration or, if they apply, the GI/DO is refused because the application is considered “incomplete”. Nevertheless, the application is ongoing in a first step as “Collective trade mark” and later as GI/DO. The Municipality has indicated that it will not oppose to GI/DO

protection once it has secured registration of the trade mark and it will apply for the cancellation of that trade mark when the collective trade mark is registered. This is important as once the name enjoys a reputation, it is easier to demonstrate the link with the origin and to define geographical area, as well as the knowhow and other required subjects.

Producers and local association ADIP (like many others) are pressing the Government in order to change the law namely on what concerns the required statement linked to geographical area of production. In fact, many other authorities – local and regional as well as others, like universities, specialized schools and associations could advise the Portuguese IP office (INPI) on subjects like geographical area of production and others, if required.

According to local stakeholders, it would be very important to have a common law at EU level, as it would be easier to register the name, and the protection would be more effective. One can also think that with the European protection, business could increase, young people could get jobs and knowhow and local patrimony could be preserved.

### **Short explanation of the protection beyond national borders:**

The product enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>160</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>160</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## Embroidery of Madeira

### Bordados da Madeira

#### Short description of the product

Bordados da Madeira is handmade embroidery. It is not a product which conception, production and manual execution depends on the same person. Before it gets into the hands of a buyer, each embroidery has its own particular story. It starts with the *designers* and the “*draftspeople*” (who, later, trace the designs onto the fabrics). The firsts create the different compositions on tracing paper which, soon after, is punctured all along the design, while the seconds are responsible for transferring that design to the fabrics, by passing a small pillow, saturated with ink, on the perforated paper, thus allowing the ink to pass by the tiny holes. As the ink goes through onto the fabrics, it marks out the areas to be embroidered. It is only after these processes that the fabrics are sent to the domestic needleworkers.

When the handmade needlework is all finished, hence, the desired embroidery complete, it returns to the hands of the companies, mainly situated in the city of Funchal – since the great majority of needleworkers live in the country side – where it is examined, cut out, washed, ironed and finished. Later, before it can be commercialized under the denomination of “Bordados da Madeira”, each piece must be checked. Its compliance with the standards, established by law (composition of the design, main stitches used, fabrics and threads used «composition versus product», laces, sewing, and quantity of embroiderer per area) is verified by a Governmental Institute. Nowadays, this verification is made by the “Instituto do Vinho, do Bordado e do Artesanato da Madeira. I.P. - IVBAM. If the standards are respected then the approval is materialised by the apposition of the respective seal, which confirms the origin, typicality and quality of the handmade embroidery present in that piece.

The Madeira handmade embroidery also includes tapestry products made on the archipelago (wool threads and canvas), but for these needlework products the manufacture method is different since a model, created and coloured by the company designers, is used by the needleworkers as a guide. The rest of the chain of production is similar, although it has not to comply with so many standards as the previous products.

Although the production of embroideries on the Madeira archipelago exists since its colonization, it was only in the late 1850s that its economical revenue and growth potential were truly discovered. After a long story of English, German and later Syrian companies activity, which brought with them the technical innovation and the influences of England, Milan and Bruges needlework, as well as the richness of the Richelieu, Venetian or Renaissance embroideries, a well stylised native composition started to emerge on the archipelago, developed by successive generations of designers that lived through all those influences.

In terms of global markets, the handmade embroideries produced on the Archipelago started to be regularly exported to England in 1861 and, soon after, in 1881 new destinations were achieved namely Germany and USA. In order to avoid further loss on typicality and quality, due to the growth in demand and competition between the companies established in the archipelago, the sector was first truly regulated in 1935. The laws defined the standards relating to the following elements:

- any company must comply with an order to work in Madeira archipelago;
- the embroidery product should respect an order to be commercialised;
- as well as the working relations among the companies and the needleworkers.

Later, in December 1938, the certification of the embroideries produced on the archipelago was implemented as a safeguard for confirming the origin and the quality of the commercialised products.

Today, Madeira handmade embroidery (except the tapestry products) differs from others, mainly, due to the native compositions of its designs (predominantly floral non-figurative compositions that may use geometrical elements, which should be essentially embroidered recurring to stitches that produce relief - by adding extra layers of thread between the fabric and the core of the stitch; or that produce holes - by removing threads of the main fabric, thus producing a lace effect). The tapestry products are more figurative and usually represent native landscape frames and/or flowers.

Nowadays, the laws that regulated this Regional sector have been modified in order to comply with the EU standards, and new mechanisms were added as: the creation of the Trade mark and the subscription of the Origin Appellation “Bordados da Madeira”, which now belongs to the Government Institute (IVBAM), and which any authorised producer may use, if a contract of use is subscribed between them and the Institute.

### **Key economic data**

At the end of 2011, 25 authorised producers were producing Bordados da Madeira (21 companies with less than 9 permanent workers and 4 companies with less than 21 workers), which make use of any of the 3.494 needleworkers (registered on the IVBAM and who executes embroideries mostly as an additional activity). Thus, the number of full time jobs exceeds 354 workplaces (140 permanently on the companies and 214, theoretically calculated from the amount of payments declared on the end of 2011 to the domestic needleworkers). Nearly every of the labour force is feminine.

The global turnover in 2011 exceeded 1.271.292€ (the value of the certified products had the following distribution: 50,34% for Regional market; 0,96% National; 20,90% EU; 27,80% International; 26,52% Europe). This figure only relates to the new products certified during those twelve months, and therefore it does not take into account the retail sales of certified stock existing within each company.

### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- The unfair competition law
- The Trade mark law
- A *sui generis* law
- A Specific law

#### **The unfair competition law**

Under the Portuguese unfair competition law, Decree Law nº 16/2008 of 26 March 2008, , article 317 provides that “it is considered as unfair competition all the acts of competition contrary to honest practices and usage in any field of activity, namely:

- (e) deceptive advertising and false specifications or indications in respect of the nature, quality and utility of products or merchandise as well as false indications of source, locality, region or territory, factory, workshop, property or establishment, whatever the means employed;
- (f) suppression, concealment or modification, on the part of the seller or any intermediary, of the appellation of origin or of the geographical indication of the products or registered trade mark of the producer or manufacturer on products which are intended for sale and the packaging of which has not been modified

The administrative authorities competent to enforce these provisions are the “Autoridade de Segurança Alimentar e Económica” (ASAE, Food and Economic Safety Authority), and the Regulatory Entity in overseeing the sector in which the unfair commercial practice occurred. In accordance with article 20 of the Decree Law, any person, including competing traders, with a legitimate interest in opposing any unfair commercial practice as prohibited under the Decree Law, may bring the matter before the relevant administrative authority. There is no specific procedural requirement regarding the filing of administrative complaints but the Decree Law sets forth that any potential unfair commercial practice may be brought to the attention of the relevant administrative authority, by any means at the parties’ disposal. It is interesting to note that the administrative authorities are required to investigate every complaint.

### The Trade mark law

The product is protected as a Collective Trade mark with logo in accordance with the the lawi nº 55/90<sup>161</sup>, published on 05/09/1990.



The competent authority for registration of the trade mark is the Portuguese Institute of Industrial Property (INPI).

Under the trade mark law, Decree Law nº 16/2008 of 26 March 2008, art. 224 states that “A registration shall confer the property and the right to exclusive use for the Products and services object of the registration”. Article 258 states that “A registration shall confer upon its proprietor the right to prohibit third parties from using in their economic activity, without his consent, any sign which is identical or confusingly similar to his trade mark in relation to products or services that are identical or similar to those for which the trade mark is registered, or any sign which, due to the identity or similarity of the signs or the affinity between the products or services, creates in the mind of the consumer a risk of confusion which includes a risk of association between the sign and the trade mark.

In 2011, the budget for trade mark registration in Portugal and in other countries where the mark is registered (see below) reached 5.961,73 €.

### A sui generis law

“BORDADO DA MADEIRA” also enjoys protection as appellation of origin under a *sui generis* Regional Government Resolution for the attribution, for exclusive use, of the symbol<sup>162</sup> (today’s Madeira embroidery’s logo) to the Government Institute, by the resolution: Resolução nº 120-A/79 of 17/05/1979. This falls within the scope of the *sui generis* handicraft protection under the Regional law: Decreto Regulamentar Regional nº 11/86/M<sup>163</sup>, published in 28/06/1986 and the national protection of the appellation of origin / geographical indication “BORDADO DA MADEIRA”, under the industrial property code.

Under the industrial property code (Decree Law nº 16/2008), the protection granted to appellations of origin or geographical indications is extensive as registration confers the right to prohibit: “(a) the use by third parties, in the designation or presentation of a product, of any

<sup>161</sup> <http://dre.pt/pdf1sdip/1990/09/20500/35893590.pdf>;

<sup>162</sup> <http://www.gov-madeira.pt/joram/1serie/Ano%20de%201979/ISerie-40-1979-12-13.pdf>;

<sup>163</sup> <http://dre.pt/pdf1sdip/1986/06/14600/15391540.pdf>;

sort of indication or suggestion that the product in question originates from a geographical region other than the true place of origin; (b) any use that constitutes an act of unfair competition, within the terms of Article 10bis of the Paris Convention (1967) as it stands after Stockholm revision from 14 July 1967; c) the use by third parts that are not authorized by the owner of the registration". Article 312 also prohibits "Words constituting a legally defined, protected and monitored appellation of origin or geographical indication may not include in any form designations, tags, labels, advertisements or any other documents concerning products that do not originate from the respective demarcated regions". It goes on to state that "This prohibition shall be applicable even if the true origin of the products is mentioned or if the words constituting the appellation or indication are accompanied by qualifiers such as "kind," "type," "quality," "or other similar; this shall also apply to the use of any expression, display or graphic combination liable to confuse the consumer".

In that regard, the most important difference to trade mark law is really that last paragraph or, in other words, the protection against the use of terms such as "like", "kind", "model "and similar. However; the protection against delocalizers and in translation is not quite clearly stated.

### Specific law

There is a specific law on the coordination, discipline and economic intervention on the Handmade Madeira Embroidery sector established by the law: Decreto-lei nº 25643<sup>164</sup>, published in 20/07/1935 – Association of producers). Later transferred to a Governmental Institute, the IBTAM (by the Regional Decree: Decreto Regional 2/77/M<sup>165</sup>, published in 21/01/1977, in sequence of the law: Decreto-Lei nº 443/74<sup>166</sup>, published in 12/09/1974). Today, the Governmental Institute with these responsibilities is the "Instituto do Vinho, do Bordado e do Artesanato da Madeira" (IVBAM), by the law: Decreto Legislativo Regional n.º 18/2006/M<sup>167</sup>, published in 29/05/2006.

There is also an obligation of a seal that confirms the origin and quality of the embroidery before its commercialization:

- For the exportation in general, by the law: Decreto-Lei n.º 25643, published in 20/07/1935 – article 87.º;
- On the archipelago, by the law: Decreto-Lei n.º 29241<sup>168</sup>, published in 08/12/1938;
- Later extended for the rest of Portugal by a decision of the Ministry of Economy: Despacho of 13/09/1973<sup>169</sup>.

The production methods and quality standards which should be respected on the manufacture of the Madeira handmade embroidery, were published in the law: Decreto Legislativo Regional n.º 7/91/M<sup>170</sup>, published in 15/03/1991. Later these standards were modified in order to comply with the EU textiles denominations, by the Regional laws: Portaria nº 105/96 e 106/96<sup>171</sup>, both published in 19/07/1996;

The IVBAM (Madeira's Institute for Wine, Embroidery and Handicraft) is the competent authority for Authorised Producer or a Needleworker. The competent authority for registration of an appellation of origin is the Portuguese Institute of Industrial Property (INPI). The protection is free of charge.

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<sup>164</sup> <http://dre.pt/pdf1sdip/1935/07/16600/10421051.pdf>;

<sup>165</sup> <http://dre.pt/pdf1sdip/1977/03/05200/03730374.pdf>;

<sup>166</sup> <http://dre.pt/pdf1sdip/1974/09/21300/10591061.pdf>;

<sup>167</sup> <http://dre.pt/pdf1sdip/2006/05/103A00/35853595.pdf>;

<sup>168</sup> <http://dre.pt/pdf1sdip/1938/12/28400/16171618.pdf>;

<sup>169</sup> <http://dre.pt/pdf1sdip/1973/09/22701/00040005.pdf>;

<sup>170</sup> <http://dre.pt/pdf1sdip/1991/03/062A00/13441347.pdf>.

<sup>171</sup> <http://www.gov-madeira.pt/joram/1serie/Ano%20de%201996/ISerie-078-1996-07-19.pdf>

These specific laws do not grant any special legal protection to Bordado da Madeira. Nevertheless, they play an important role as they make it clear who is in charge of all the economic sector coordination and include production methods and standards that must be respected by the entire economic sector,

**Other relevant IP protection information:**

The origin and quality certification, along with the early regulation of this economical sector, derive from the laws of 1935, 1938 and 1973, which have allowed the product to evolve without losing its identity, maintaining its typicality and quality. Regarding the production, only the companies that meet the requirements foreseen in the law of 1935 and that observe the production standards defined on the laws of 1935, 1991 and 1996 are allowed to subscribe a contract that determines the mechanism of use of the collective trade mark and origin appellation.

Beyond this protection, and in accordance with production and commercialisation requirements, all Madeira handmade embroideries produced on the archipelago should present a seal that safeguards its origin, quality and typicality in order to be commercialised (for any market) protecting in this way the identification by consumers. Also, when exposed or commercialised in the Archipelago, the Madeira handmade embroideries should be clearly separated and individualised from similar products, from other origins, and those should have their own origin well visible.

The Governmental Institute (IVBAM) conducts systematic checks on the origin, quality and typicality of the products which are needed for the commercialization. It reserves its right to reject any product that does not comply with the standards of the laws of 1935, 1991 and 1996.

Enforcement of the right: a Government Institute plays an active role as the certifying body. It verifies that the products manufactured by the authorized producers, that reach the markets, are in compliance with the standards and the law. If any misuse of the trade mark / origin appellation, or any commercial fraud is detected by it, in Portugal, it may trigger the national economic activities surveillance services (IRAE / ASAE) or, if detected abroad, introduce an administrative complaint to the respective services.

Other public bodies control the product although not in an active way. These are: the national economic activities surveillance services (IRAE / ASAE), for the product sold on the national market and the National Costumes Services, when exported.

However, as stated above, most of the time it is up to the right holder, the IVBAM, to act to enforce its rights something which is regarded as insufficient. In particular, it is difficult to undertake legal actions, notably abroad, since administrative complaint must be presented, costs are significant and evidences are often hard to establish.

Controls of conformity of the product through an exhaustive analysis of each product are done by the IVBAM qualified technicians in order to verify the compliance with the current quality and typicality standards acknowledged. On the marketplace, random inspections can be triggered by the right holder (IVBAM) or national administrative services and executed by the national economic activities surveillance services (IRAE/ASAE) or by the Costumes services when in transit.

### Protection beyond national borders:

The product enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>172</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. "*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*" Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Bordado da Madeira also enjoys protection as a trade mark in many countries outside of Portugal. A trade mark protection has been secured by IVBAM through the WIPO Madrid Agreement (Application number: 575897) in the following countries: AT - BG - BX - CH - CN - CU - CZ - DE - EG - ES - FR - HR - HU - IT - KP - KZ - LI - MA - MC - ME - MN - PL - RO - RS - RU - SD - SI - SK - SM - UA - VN



Moreover, the Instituto do Bordado, Tapeçarias e Artesanato da Madeira (IBTAM), an agency of the Portuguese government has registered in May 1993 the trade mark in the USA (Serial Number: 74245773).



<sup>172</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## **Flower sticks and Small wooden artefacts of Vila Nova de Poiares**

### **Palitos Floridos e pequenos artefactos de madeira de Vila Nova de Poiares**

#### **Short Description of the product**

Palitos Floridos e pequenos artefactos de madeira de Vila Nova de Poiares are wooden sculptured products. The raw material to make is the white willow, collected along the banks of the River Mondego. After being collected, the wood is cut into small pieces, stripped of its bark, opened in the middle with a pruning hook, and finally, placed in the sun for two or three days, without getting any water. After that, the wood is stored, so that it can be worked throughout the year. To make the sticks one uses “courata”, an ox nail stuck to a strong strip of cloth, which is put on the knee and this is held in place with the foot, across the strip. Stuck to the “courata” is the needle that is used as a measure, so that the sticks are all the same size. The tools used are: three well sharpened knives which are used according to the kind of sticks intended- the eyelash or the flower (since each razor provides a different design); the pruning hook to open the wood; the basket-maker’s bench to wear away the wood; the boring tool and the gimlet.

Until 1836, Vila Nova de Poiares and Lorvão belonged to the grounds of the University of Coimbra. Vila Nova de Poiares’s location is near to the River Alva and River Mondego, where the white willow and white poplar trees grew, providing easy access to the raw materials required for this handicraft. It is believed that these flowersticks first appeared in Coimbra’s lands, more specifically in Lorvãos’ Monastery, used by the nuns for their cooking and sweet making activities. This was, essentially, a female activity, passed down through the generations, which was learnt from age of 7. As this represents a huge part of the family income, it was also performed by the elderly members of the family including men.

#### **Key Economic Data:**

The Association of Integrated Development of Poiares - ADIP- provides a course on how to make small intricate wooden artefacts, in accordance with PEPS-IEFP. The duration of the course is 1400 hours, with 15 places. The main goal of this course is the revitalisation of the local art in particular the art of working with the white willow "sticks".

#### **Detailed analysis of the legal protection enjoyed by the product at the national level**

The product enjoys national protection under the Portuguese unfair competition law, Decree Law nº 16/2008 of 26 March 2008, article 317 provides that “it is considered as unfair competition all the acts of competition contrary to honest practices and usage in any field of activity, namely:

- (e) deceptive advertising and false specifications or indications in respect of the nature, quality and utility of products or merchandise as well as false indications of source, locality, region or territory, factory, workshop, property or establishment, whatever the means employed;
- (f) suppression, concealment or modification, on the part of the seller or any intermediary, of the appellation of origin or of the geographical indication of the products or registered trade mark of the producer or manufacturer on products which are intended for sale and the packaging of which has not been modified

The administrative authorities competent to enforce these provisions are the “Autoridade de Segurança Alimentar e Económica” (ASAE, Food and Economic Safety Authority), and the

Regulatory Entity in overseeing the sector in which the unfair commercial practice occurred. In accordance with article 20 of the Decree Law, any person, including competing traders, with a legitimate interest in opposing any unfair commercial practice as prohibited under the Decree Law, may bring the matter before the relevant administrative authority. There is no specific procedural requirement regarding the filing of administrative complaints but the Decree Law sets forth that any potential unfair commercial practice may be brought to the attention of the relevant administrative authority, by any means at the parties' disposal. It is interesting to note that the administrative authorities are required to investigate every complaint

### **IP Strategy**

Local authorities and local body (ADIP) have decided to launch a procedure to register “small wooden artefacts of Vila Nova de Poiares” as a collective trade mark and later “palitos de Vila Nova de Poiares” as a GI.

The Portuguese law on Industrial Property provides the possibility to register names of handicrafts in association with a logo as collective trade marks and names as GI or DO. The biggest problem is that the law demands a statement from “an officially recognised authority that supervises, in the region, that branch of production”. However, as such an “authority” does not exist at all, groups cannot apply for the GI/DO registration or, if they apply, the GI/DO is refused because the application is considered “incomplete”. Nevertheless, the application is ongoing as “Collective trade mark” and later as GI/DO once the name enjoys a reputation and it is easy to demonstrate the link with the origin and to define geographical area, as well as the knowhow and other required subjects.

The Portuguese law on Industrial Property provides the possibility to register names of handicrafts in association with a logo as a trade mark or as a collective trade mark and names as GI or DO. The biggest problem is that the law demands a statement from “an officially recognised authority that supervises, in the region, that branch of production”. However, as such an “authority” does not exist at all, groups cannot apply for the GI/DO registration or, if they apply, the GI/DO is refused because the application is considered “incomplete”. Nevertheless, the application is ongoing in a first step as “Collective trade mark” and later as GI/DO. Producers believe that once the name will be registered as trade mark, it will be easier to claim reputation, easier to demonstrate the link with the origin and to define geographical area, as well as the knowhow and other required subjects.

Producers and local association ADIP (like many others) are pressing the Government in order to change the law namely on what concerns the required statement linked to geographical area of production. In fact, many other authorities – local and regional as well as others, like universities, specialized schools and associations can advise the Portuguese IP office (INPI) on subjects like geographical area of production and others, if required.

According to local stakeholders, it would be very important to have a common law at EU level, as it would be easier to register the name, and the protection would be more effective. One can also think that with the European protection, business could increase, young people could get jobs and knowhow and local patrimony could be preserved.

### **Protection beyond national borders:**

The product enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>173</sup>

<sup>173</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

Article 10 bis of Paris Convention which concerns unfair competition rules states that: “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

## **Horezu Ceramics**

### **Ceramica de Horezu**

#### **Short description of the product**

“Ceramica de Horezu” is a denomination which covers objects which are handmade from soft clay. Horezu is located in the Valcea county, in the Southern region of Romania, between Ramnicu Valcea and Targu Jiu. These ceramics preserve the local tradition and display Byzantine influences that have turned the craft into a brand for the Horezu valley. The ceramic created in this area are renowned and are decorated with simple symbols and motifs, the most popular being the Horezu Rooster (Cocosul de Hurez), other popular motifs include the spiral, the star, the snake and the tree of life. The colours are natural and the tools used are conventional: cow horns and the quill (goose feather). The most common colours are brown, red, orange and green. After decoration, the pottery is baked in traditional kilns made of clay bricks and twigs. Finally, the pots are covered with a special enamel material and baked for a second time. The colour of the pottery is given by special clays brought from the hills of the village (white earth) and neighbouring villages (red and brown). The clay is prepared in accordance with a traditional technique and not used immediately. The clay needs to yeast for a while - big clay balls are broken into small particles through a wetting-drying process. The Horezu ceramics are protected since May 2012 as immaterial UNESCO heritage.

#### **Key economic data**

23 micro-entreprises produce “Ceramica de Horezu”. An important number of women are employed in this field (43%). Horezu ceramics are mainly sold on the national market. In 2010, an association - Association for Authentic Heritage Horezu - was created for the promotion and the marketing of this ceramic.

“Ceramica de Horezu” is facing competition even if there were no registered cases of fraud. However, over the past 10 years, in various centers, potters began to reproduce parts and models from Horezu region. In addition, on websites there is often ceramic labeled as Horezu ceramics from Bulgaria and China, though often it has nothing to do with the authentic ceramic. Potters’ association estimates that the percentage of counterfeit on the internal market is 60%.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair Competition law
- Trade mark law

#### **Unfair Competition law**

“Ceramica de Horezu” benefits from the protection granted under the Romanian “Law on the fight against the unfair practices of traders in their relations with consumers and the harmonization of regulations with the European legislation on consumer protection of

2007”<sup>174</sup> for an indefinite period of time. This law prohibits unfair competition practices and misleading commercial practices. A commercial practice is a misleading action if it contains false information, notably with regard to the geographical or commercial origin of the product and deceives or is likely to deceive the average consumer to such an extent that either causes or is likely to cause him to take a transactional decision that he would not have taken otherwise (article 6).

Article 10 provides that persons or organisations which have a legitimate interest, can notify unfair commercial practices to the National Consumer Protection Authority, so that it can decide on the complaints concerned, or take legal action against traders who have committed or are likely to commit unfair commercial practices. The general enforcement of the Romanian legislation on unfair practices is handled by the National Authority for Consumer Protection (NACP). Article 12 provides that it “*may take action in accordance with this Law, by Order of the head of the National Consumer Protection Authority or by Decisions of the heads of units with legal personality under the authority of the National Consumer Protection Authority.*” The administrative court is competent to rule the appeals against the decisions of the NACP (article 12.3). Sanctions are given under article 15 which notably provides that the administrative offences defined by the Law can be established following a notification from consumers or associations having a legitimate interest under the law, or *ex officio* by authorised representatives of the National Consumer Protection Authority.

#### Trade mark law

“Ceramica de Horezu” is often symbolised by a rooster. The name “Cocoşul de Hurez” (rooster from Horezu) was registered on the 19<sup>th</sup> April 2007 as an individual mark under number 078720. It is a combined mark as the wording is accompanied by a logo:



The colours of the logo were claimed as distinctive elements of the brand: green, brown, cream and black. The main colours are: green for the outer and median circles, brown for the rooster, cream for the disc and black for the text.

The holder of the right is the City Council of Horezu Str. December 1, No 7, Vâlcea county, code 245800, Horezu, Romania. It initiated the trade mark registration in order to obtain a protection for the local manufacturers and ceramists for their specific products and to prevent the use of this symbol of Horezu pottery for inappropriate or dishonourable purposes. The City Council of Horezu and City Hall of Horezu can authorise the use of the trade mark to craftsmen on the basis of an application. It has been used to mark the advertising materials, packages and badges for the annual fair "Cocosul de Hurez".

The protection is granted for a period of 10 years renewable. The Romanian State Office for Inventions and Trade marks is the competent authority for registration. The application fee is 36 ron for the paper application. The registration of trade marks costs 1692 ron for the 1<sup>st</sup> class for a black and white mark and 2304 ron for a mark in colours. The following classes cost 252 ron.

<sup>174</sup> <https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&lawID=43&languageID=EN>

There is a collective organisation of producers called Asociația mesterilor populari “Cocosul de Hurez” (Craftsmen Association of “Rooster of Hurez”). This non-profit organisation has 78 members, which produce the ceramics as well as other local traditional objects. This association has a board of director and a management team. Its aim is to promote, increase the added value of the product, keep local tradition and prevent fraud.

Under the Law 84/19981 on Trade marks and Geographical Indications<sup>175</sup>, the holder of the mark has the exclusive rights on the use of the name and the logo in the classes where it has been registered (article 36). The holder of the mark can request the competent judicial body to prohibit third parties not having his consent from using (article 36.2):

- any sign which is identical to the trade mark, in respect of goods or services which are identical to those for which the trade mark is registered;
- any sign where, because of its identity with or similarity to the trade mark and because of the identity or similarity of the goods or services on which the sign is affixed, there exists a likelihood of confusion of the public, including the likelihood of association between the sign and the trade mark;
- any sign which is identical with or similar to the trade mark, in respect of goods or services which are not similar to those for which the trade mark is registered, where the latter has a reputation in Romania and where use of that sign without due cause could take unfair advantage of the distinctive character or the reputation of the trade mark.

Article 36.3 provides that the holder of the trade mark can request that third party be prohibited to use the similar sign on the good, its packaging or on advertisement, to put the goods on the market, or to export it. Furthermore, the mark enjoys protection against genericity as long as the trade mark is used and protected. However, a mark can be challenged for non-use (article 46).

Under this law, it is up to the right holder to act to enforce its rights.

Internal controls of the products are made by the producers.

### **Protection beyond national borders:**

“Ceramica de Horezu” only benefits from the basic protection offered by two International treaties:

- Paris Convention for the protection of intellectual property from 7 July 1884<sup>176</sup>
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892

These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted

<sup>175</sup> [http://www.osim.ro/index3\\_files/laws/trademark/law\\_84.pdf](http://www.osim.ro/index3_files/laws/trademark/law_84.pdf)

<sup>176</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

## **Golden onyx of Levice**

### **Levický zlatý ónyx**

#### **Short description of the product**

“Levický zlatý onyx” is a decorative stone formed by translucent onyx marble of while-golden-yellow honey colour turning into travertine of yellowy-ochre colour. Positions are variedly alternating and create unique auric colouration. The name is derived from typical auric tone, which is highlighted after polishing the rock. Levický zlatý ónyx is a crystalline carbonate rock, comprising of 95 % carbonate crystals, most often calcite (CaCO<sub>3</sub>) and aragonite. It has very long, up to several centimetres long, calcite and aragonite crystals with decorative pattern arranged perpendicularly to overall bedding. The decorative pattern is compact, without visible cavities or pores. Solid translucent colourful variety, in which golden-yellow tone is dominating (so-called Levický zlatý ónyx) is a rare variety. Levický zlatý ónyx is mined by mining manner in small wall quarry. Blocks of Levický zlatý ónyx are released from mining incision by shovel excavator, and then blocks are transported for processing to stone-cutter's workshop in Levice. Levický zlatý ónyx can be very easily worked into actually any product shape.

International commercial name of "onyx marble" has its origin, according to oral tradition, in the middle ages. First part of the name (onyx) refers to striped structure and second part (marble) to crystalline nature. The name “Levický zlatý onyx” was created from the name "onyx marble", while the term marble was replaced in the business by the term golden, according to colour, and the place of production “Levice” was added to the name.

There is a file from 1862 in the State Archive in Nitra, the tenant of Esterházy's estate, Karol Leidenfrost, asks for permission for buying explosives for mining in the stone quarry of Levice. Mining of the "onyx marble" started in 1926 - 1927 by the company Vinduška based in Levice and Berlin company Tusch, and the name golden onyx of Levice started to be used in commercial sphere. This name appears for the first time in written form only after World War II on the company documents.

#### **Key economic data**

There is one enterprise, LEVITRADE, which produces the “Levický zlatý onyx”. It employs 25 workers. 20 to 40% of the employees are women. The company contributes to 5 to 10% of the local employment. All the production is sold at the national level at less than 1000 clients. The turnover in 2010 was 16.084€

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Consumer protection law
- Unfair Competition law
- Geographical indication

## Consumer protection law

“Levický zlatý ónyx” benefits from the protection granted under the Slovak Act of 9 May 2007 on Consumer Protection and amendments to Act of the Slovak National Council No.372/1990 Coll. on Offences, as amended, for an indefinite period under the unfair competition law.

This Act forbids misleading commercial practices. Article 8 of the Act defines the misleading commercial practices as a practice which “*causes or is likely to cause the consumer to take a transactional decision that he would not have taken otherwise because it contains false information and is therefore untruthful or in any way deceives or is likely to deceive the average consumer, even if the information is factually correct in relation to [...] the main characteristics of the product [...] such as its [...] geographical or commercial origin*”. Article 19 defines the public administration authorities responsible for consumer protection as the Ministry, supervisory authorities and municipalities.

The compliance with the Consumer Protection Act is ensured by so-called “supervisory bodies” (article 20). These bodies are either special bodies to whom a special field of consumer protection is assigned (e.g. the Slovak Postal Regulation Office supervises the protection of consumers in postal services) or when the competency of the supervisory authority cannot be determined, the Slovak Commercial Inspection is authorised to conduct supervision and inspection.

Article 21 provides that the supervisory authority issues an order to stop unfair commercial practice. The supervisory authority then sends this order to the entity against which it is aimed. The order has to contain the facts which lead to the suspicion of an unfair commercial practice. Written objections may be filed against the preliminary measure within three days after the reception, but they do not have the power to suspend the procedure (article 21.2). The authority of which the supervisory authority depends will deliver a decision regarding the objections within five days. No appeal can be filed against this decision. Article 22 also provides that the municipality investigates offences arising from a breach of this Act during the sale of products on markets and market places.

Every consumer has the right to lodge a complaint to the supervisory bodies, but the administrative authorities do not have an obligation to investigate.

Article 25 provides that an association can file a petition to initiate proceedings before an administrative authority or a court concerning the protection of consumer rights. It can also be a party to the proceedings if this competence constitutes the main purpose of its activity and if it is included on the list of qualified entities maintained by the European Commission without prejudice to the right of the court to review as to whether the entity in question is qualified to bring an action in the given case. The procedure regarding the inscription on the list is detailed in paragraph 2 and 3 of this article. Paragraph 4 indicates that the association can be a mediator in the resolution of dispute if the consumer and the trader consent to it. Paragraph 5 provides that the Ministry can support an association if its activity focuses notably on consumer rights protection before courts and mediation of disputes between consumers and traders.

Article 23 of the Act covers the fines and article 23 the sanctions.

## Unfair Competition law

“Levický zlatý ónyx” benefits from the protection granted under the Slovak Unfair competition Act No. 513/1991 Coll. Commercial Code, as amended, for an indefinite period under the unfair competition law.

Part five of the Act deals with unfair competition and article 44 defines it as “*conduct that is contrary to the standard practices of competition and that may be detrimental to other competitors or consumers*”. This notably covers “*deceitful description of goods and services*”. Article 46 defines this deceitful description of goods and services as “*any description of goods and services that prompts a mistaken assumption in business circles that the goods or services in question come from a certain country, from a certain area, or from a certain manufacturer, or that such goods or services have certain characteristic features, or are of a special quality*”. The article considers these practices are deceitful irrelevant of where the description appears (labels, packaging...) and of whether the deceitful description is provided directly or indirectly, and by which means. The name of the goods and services are protected against the use with expressions such as “like”, “method” or “kind”.

Article 53 of this Act provides that the persons, whose rights have been impaired or endangered by unfair competition, can demand that the perpetrator stops his misconduct as well as compensation. Article 54 adds that any a legal entity authorised to protect the interests of competitors and/or consumers can also act. After the commencement or the conclusion of the lawsuit, actions brought by other entitled persons concerning the same claims are not possible. However, these other entitled persons can join the proceedings as subsidiary participants. Final rulings on these claims concerning the actions brought by any one of the claimants also apply to the other entitled persons (article 54.2).

#### Geographical indication

The name “Levický zlatý ónyx” was registered as geographical indication in Slovakia on the 28th February 2012. The registration number is 4. The holder of the right is LEVITRADE, s.r.o., Sokolovská 2, 934 01 Levice, Slovak Republic. The protection is granted for an indefinite period (article 8 of the Act). The Industrial Property Office of the Slovak Republic was the competent authority for registration. The Application fee for the registration of an geographical indication is 66€.

Act no. 469/2003 Coll. on designations of origin for products and geographical indications for products and on amendment of some acts<sup>177</sup> defines, under its article 2, a designation of origin, for products other than wines, as the “*name of a specific place, region or, in exceptional cases, country, used to sign a product originating from that place, region, or country, if a quality or characteristics of such product are exclusively or essentially given by a geographical environment with its characteristic natural and human factors, and production, processing and preparation of such product take place exclusively within defined place, region, or country*”. A geographical indication, for products other than wines, is defined as the “*name of a specific place, region or, in exceptional cases, country, used to sign a product originating from that place, region, or country, if such product is of a specific quality, reputation or characteristics which could be ascribed to such place, region or country*”. Article 4 excludes from the registration misleading names, generic names, plant variety or animal breed, and names which could cause confusion with already registered designation of origin, geographical indication, trade mark, or well-known trade mark.

Article 3 provides that the protected names are entered in the Register of designations of origin and geographical indications kept by the Industrial Property Office of the Slovak Republic.

Part 2 of the Act covers designations of origin. Article 6 provides that only the holder of the certificate of registration of a designation of origin can use the name. Licence agreements are forbidden. Article 7 provides that registered designations of origin are protected against:

<sup>177</sup> [http://www.upv.sk/swift\\_data/source/pdf/legislation/pravo\\_03469.pdf](http://www.upv.sk/swift_data/source/pdf/legislation/pravo_03469.pdf)

- any direct or indirect commercial use on products other than the one for which the name was registered, if such products are identical or similar to a product for which the name is registered, or if such use takes advantage of the reputation of the registered designation of origin,
- any misuse, imitation or evocation of misconception about a product origin, even if true origin of a product is indicated or even if registered designation of origin is indicated in translation or is accompanied by an expression such as “kind”, “type”, “style”, “method”, “as produced in”, “imitation”, “similar”; or with other similar expression,
- any other false or misleading indication as to the origin, nature or essential qualities of the product, on the inner or outer packaging, advertising materials or documents relating to product concerned, and the packing of the product in a container liable to convey a false impression as to its origin,
- any other practice liable to mislead the consumer as to the true origin of the product.
- The possibility to become generic.

Article 9 lists the persons liable to act in case of infringement:

- Any person shall be entitled to claim the prohibition of the use of a registered designation of origin for identical or similar products, which do not meet the conditions for its utilisation and the removal of such products from market.
- The holder of the registration certificate is entitled to claim the prohibition of infringement or the practice jeopardising his rights and a compensation. Article 9a provides that the holder of the certificate can request from the person placing or intending to place identical or similar product on the market to provide information on the origin of the product

The courts are competent to hear and rule the disputes (article 10.1). The holder of the registration certificate can request the court to order that the products infringing his/her right be removed from the market and/or destroyed (article 10.2) and that the court imposes fines (article 11).

Part 3 on geographical indications is not as detailed as part 2 on designations of origin, as its only article (article 12) states “*provisions related to indication of origin shall apply accordingly to rights and duties arising from registration, to dispute hearing and to proceedings before the Office*”.

Part 4 of the Act explains the procedure of registration. The application for registration must be sent to the Industrial Property Office of the Slovak Republic (article 13). The application for registration for a designation of origin can be filed by an association of producers or processors with legal personality or an individual person if it is the only person who produces processes and prepares the product within a specified territory (article 14). Article 14 also provides that the application must contain: the surname, name, address of permanent residence and nationality of an applicant, and if an applicant is a legal entity, name or trade name and place of business; the product specification; the surname, name and address of the authorised representative of the applicant; the signature of the applicant or a person authorised to act on his behalf. The application is given a file number and a receipt should be given to the applicant (article 14.4).

The specification of the product must contain (article 15):

- The name of the product,
- The geographical definition of territory where the production, processing and preparation of the product takes place,
- The document confirming that the product originates from the defined territory,

- The description of characteristics or qualitative sign of a product, which are given by a particular geographical environment
- The description of the process of production of the product, eventually the description of original and unchangeable local processes.

The Industrial Property Office of the Slovak Republic examines the application and asks the Ministry of Agriculture of the Slovak Republic or a person authorised by the Ministry to submit the opinion on whether the specification provided in the application of registration meets the prescribed requirements (article 17). If the application complies with the registration, the Industrial Property Office of the Slovak Republic enters the designation of origin in the Register and issues a certificate of entry of a designation of origin in the Register to the owner. The registration is then published in the Official Journal of the Industrial Property Office of the Slovak Republic (article 18 & 29). The procedure for the amendment application is the same than the registration procedure (article 19).

Cancellation of the protection of a designation of origin is possible if, following a complaint of a third party or following inspections or *ex officio*, it is found that the designation of origin has been registered contrary to the conditions laid out in the Act, the conditions given by the particular geographical environment ceased to exist, or the product does not meet the requirements set out by the specifications (article 21). The procedure for the cancellation of the registration is explained at articles 22 and 23.

### Logo

There is no logo.

### Controls

There are no controls.

### Protection beyond national borders:

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Levický zlatý ónyx” benefits from the basic protection offered by two International treaties. Paris Convention for the protection of intellectual property from 7 July 1884<sup>178</sup> and Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country

<sup>178</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, Slovakia filed an application for international registration of “Levický zlatý onyx” under the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of the World Intellectual Property Organisation on the 2<sup>nd</sup> April 2012.

## **Ceramics of Modra**

### **Modranská majolika**

#### **Short description of the product**

“Modranská majolika” are hand made household and decorative pottery. It is hand-turned on an electric potter’s wheel from red clay and then hand-shaped. After the first burning and application of the glaze, decorations are hand-painted according to the set of samples collected by Heřman Landsfeld at the beginning of the 20<sup>th</sup> century. Subsequently, the products are burnt for a second time. After that they gain a high shine, richness and durability of colours. The assortment of products of decorative ceramics is very wide and can be divided into two groups :

- products coloured glazed without décor,
- products with white or coloured foundation decorated with paintings.

During the 16<sup>th</sup> and 17<sup>th</sup> centuries, Modra, as free royal city, belonged to the most important and the largest cities in Slovakia. The crafts were highly developed and well organised in guilds. The guild of the potters in Modra was established in 1636. In 1828, the number of potters was at its highest: 55 masters. Utility ceramics ware, unsurpassed in quality and unique in decoration has been handmade for several centuries and still it is in demand on the market. After the quashing of the guilds in 1872, workshops and craft partnerships were created. New rivals – earthenware, porcelain and iron products appeared at the end of the 18<sup>th</sup> century and brought decay of the pottering and its workshops. The City Council established a ceramic-industrial training institution in Modra in 1883 to save the pottery craft. The training institution adopted some functions of the guild - its organisation of the trainees, their work duties along with an organisation of the production, but it was quashed in 1888. Ceramic production continued in a rented workshop of a master Jozef Mičko and reached a high quality thank to journeymen who enriched the ceramics ware in decorations and shapes. In 1923 the workshop was presented as The Slovak Ceramics company in order to get financial support from the state to solve its previous financial problems. The workshop was given a medal Grand Prix at The Exhibition of Modern and Industrial Arts in Paris in 1925, in Philadelphia in 1926, in Barcelona in 1929, in Liège in 1930. As a result, the term “Majolica of Modra” became well-known. The ceramic workshop in Modra was hit by the 1929 depression and following the political change to socialism the company become an industrial cooperative society. In 1952, it was in liquidation. In 1969 it became “the Slovak Folk Majolica, folk-artificial industrial cooperative society in Modra.

## **Key economic data**

There is no collective organisation of producers but one cooperative, Slovenská ľudová majolica which has 44 members. 78% of the employees are female workers. The company contributes to 5 to 10% of the local employment. 10% of products are sold at the regional level, 65% at the national level, 20% at the EU level and 5% at the international level. There are some small producers, who are trying to imitate “Modranská majolica”, mostly former employees of the cooperative. However their market share is negligible in view of the quantity the cooperative produces. The turnover of Slovenská ľudová majolica in 2011 was almost €1.2 million.

## **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Consumer protection law
- Unfair Competition law
- Appellation of origin

### Consumer protection law

“Modranská majolica” benefits from the protection granted under the Slovak Act of 9 May 2007 on Consumer Protection and amendments to Act of the Slovak National Council No.372/1990 Coll. on Offences, as amended, for an indefinite period under the unfair competition law.

This Act forbids misleading commercial practices. Article 8 of the Act defines the misleading commercial practices as a practice which *“causes or is likely to cause the consumer to take a transactional decision that he would not have taken otherwise because it contains false information and is therefore untruthful or in any way deceives or is likely to deceive the average consumer, even if the information is factually correct in relation to [...] the main characteristics of the product [...] such as its [...] geographical or commercial origin”*.

Article 19 defines the public administration authorities responsible for consumer protection as the Ministry, supervisory authorities and municipalities.

The compliance with the Consumer Protection Act is ensured by so-called “supervisory bodies” (article 20). These bodies are either special bodies to whom a special field of consumer protection is assigned (e.g. the Slovak Postal Regulation Office supervises the protection of consumers in postal services) or when the competency of the supervisory authority cannot be determined, the Slovak Commercial Inspection is authorised to conduct supervision and inspection.

Article 21 provides that the supervisory authority issues an order to stop unfair commercial practice. The supervisory authority then sends this order to the entity against which it is aimed. The order has to contain the facts which lead to the suspicion of an unfair commercial practice. Written objections may be filed against the preliminary measure within three days after the reception, but they do not have the power to suspend the procedure (article 21.2). The authority of which the supervisory authority depends will deliver a decision regarding the objections within five days. No appeal can be filed against this decision. Article 22 also provides that the municipality investigates offences arising from a breach of this Act during the sale of products on markets and market places.

Every consumer has the right to lodge a complaint to the supervisory bodies, but the administrative authorities do not have an obligation to investigate.

Article 25 provides that an association can file a petition to initiate proceedings before an administrative authority or a court concerning the protection of consumer rights. It can also be a party to the proceedings if this competence constitutes the main purpose of its activity and if it is included on the list of qualified entities maintained by the European Commission without prejudice to the right of the court to review as to whether the entity in question is qualified to bring an action in the given case. The procedure regarding the inscription on the list is detailed in paragraph 2 and 3 of this article. Paragraph 4 indicates that the association can be a mediator in the resolution of dispute if the consumer and the trader consent to it. Paragraph 5 provides that the Ministry can support an association if its activity focuses notably on consumer rights protection before courts and mediation of disputes between consumers and traders.

Article 23 of the Act covers the fines and article 23 the sanctions.

### Unfair Competition law

“Modranská majolica” benefits from the protection granted under the Slovak Unfair competition Act No. 513/1991 Coll. Commercial Code, as amended, for an indefinite period under the unfair competition law.

Part five of the Act deals with unfair competition and article 44 defines it as “*conduct that is contrary to the standard practices of competition and that may be detrimental to other competitors or consumers*”. This notably covers “*deceitful description of goods and services*”. Article 46 defines this deceitful description of goods and services as “*any description of goods and services that prompts a mistaken assumption in business circles that the goods or services in question come from a certain country, from a certain area, or from a certain manufacturer, or that such goods or services have certain characteristic features, or are of a special quality*”. The article considers these practices are deceitful irrelevant of where the description appears (labels, packaging...) and of whether the deceitful description is provided directly or indirectly, and by which means. The name of the goods and services are protected against the use with expressions such as “like”, “method” or “kind”.

Article 53 of this Act provides that the persons, whose rights have been impaired or endangered by unfair competition, can demand that the perpetrator stops his misconduct as well as compensation. Article 54 adds that any a legal entity authorised to protect the interests of competitors and/or consumers can also act. After the commencement or the conclusion of the lawsuit, actions brought by other entitled persons concerning the same claims are not possible. However, these other entitled persons can join the proceedings as subsidiary participants. Final rulings on these claims concerning the actions brought by any one of the claimants also apply to the other entitled persons (article 54.2).

### Appellation of origin

The name “Modranská majolica” was registered as appellation of origin in Czechoslovakia on the 12<sup>th</sup> March 1975. The registration number is 91. The holder of the right is Slovenská ľudová majolica, ľudovomelecké výrobné družstvo, Dolná 138, 900 01 Modra, Slovak Republic. The protection is granted for an indefinite period (article 8 of the Act). The Industrial Property Office of the Slovak Republic is the competent authority for registration. The Application fee for the registration of an appellation of origin is 66€.

Act no. 469/2003 Coll. on designations of origin for products and geographical indications for products and on amendment of some acts<sup>179</sup> defines, under its article 2, a designation of

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[http://www.upv.sk/swift\\_data/source/pdf/legislation/pravo\\_03469.pdf](http://www.upv.sk/swift_data/source/pdf/legislation/pravo_03469.pdf)

origin, for products other than wines, as the *“name of a specific place, region or, in exceptional cases, country, used to sign a product originating from that place, region, or country, if a quality or characteristics of such product are exclusively or essentially given by a geographical environment with its characteristic natural and human factors, and production, processing and preparation of such product take place exclusively within defined place, region, or country”*. A geographical indication, for products other than wines, is defined as the *“name of a specific place, region or, in exceptional cases, country, used to sign a product originating from that place, region, or country, if such product is of a specific quality, reputation or characteristics which could be ascribed to such place, region or country”*. Article 4 excludes from the registration misleading names, generic names, plant variety or animal breed, and names which could cause confusion with already registered designation of origin, geographical indication, trade mark, or well-known trade mark.

Article 3 provides that the protected names are entered in the Register of designations of origin and geographical indications kept by the Industrial Property Office of the Slovak Republic.

Part 2 of the Act covers designations of origin. Article 6 provides that only the holder of the certificate of registration of a designation of origin can use the name. Licence agreements are forbidden. Article 7 provides that registered designations of origin are protected against:

- any direct or indirect commercial use on products other than the one for which the name was registered, if such products are identical or similar to a product for which the name is registered, or if such use takes advantage of the reputation of the registered designation of origin,
- any misuse, imitation or evocation of misconception about a product origin, even if true origin of a product is indicated or even if registered designation of origin is indicated in translation or is accompanied by an expression such as “kind”, “type”, “style”, “method”, “as produced in”, “imitation”, “similar”; or with other similar expression,
- any other false or misleading indication as to the origin, nature or essential qualities of the product, on the inner or outer packaging, advertising materials or documents relating to product concerned, and the packing of the product in a container liable to convey a false impression as to its origin,
- any other practice liable to mislead the consumer as to the true origin of the product.
- The possibility to become generic.

Article 9 lists the persons liable to act in case of infringement:

- Any person shall be entitled to claim the prohibition of the use of a registered designation of origin for identical or similar products, which do not meet the conditions for its utilisation and the removal of such products from market.
- The holder of the registration certificate is entitled to claim the prohibition of infringement or the practice jeopardising his rights and a compensation. Article 9a provides that the holder of the certificate can request from the person placing or intending to place identical or similar product on the market to provide information on the origin of the product

The courts are competent to hear and rule the disputes (article 10.1). The holder of the registration certificate can request the court to order that the products infringing his/her right be removed from the market and/or destroyed (article 10.2) and that the court imposes fines (article 11).

Part 3 on geographical indications is not as detailed as part 2 on designations of origin, as its only article (article 12) states *“provisions related to indication of origin shall apply accordingly*

*to rights and duties arising from registration, to dispute hearing and to proceedings before the Office”.*

Part 4 of the Act explains the procedure of registration. The application for registration must be sent to the Industrial Property Office of the Slovak Republic (article 13). The application for registration for a designation of origin can be filed by an association of producers or processors with legal personality or an individual person if it is the only person who produces processes and prepares the product within a specified territory (article 14). Article 14 also provides that the application must contain: the surname, name, address of permanent residence and nationality of an applicant, and if an applicant is a legal entity, name or trade name and place of business; the product specification; the surname, name and address of the authorised representative of the applicant; the signature of the applicant or a person authorised to act on his behalf. The application is given a file number and a receipt should be given to the applicant (article 14.4).

The specification of the product must contain (article 15):

- The name of the product,
- The geographical definition of territory where the production, processing and preparation of the product takes place,
- The document confirming that the product originates from the defined territory,
- The description of characteristics or qualitative sign of a product, which are given by a particular geographical environment
- The description of the process of production of the product, eventually the description of original and unchangeable local processes.

The Industrial Property Office of the Slovak Republic examines the application and asks the Ministry of Agriculture of the Slovak Republic or a person authorised by the Ministry to submit the opinion on whether the specification provided in the application of registration meets the prescribed requirements (article 17). If the application complies with the registration, the Industrial Property Office of the Slovak Republic enters the designation of origin in the Register and issues a certificate of entry of a designation of origin in the Register to the owner. The registration is then published in the Official Journal of the Industrial Property Office of the Slovak Republic (article 18 & 29). The procedure for the amendment application is the same than the registration procedure (article 19).

Cancellation of the protection of a designation of origin is possible if, following a complaint of a third party or following inspections or *ex officio*, it is found that the designation of origin has been registered contrary to the conditions laid out in the Act, the conditions given by the particular geographical environment ceased to exist, or the product does not meet the requirements set out by the specifications (article 21). The procedure for the cancellation of the registration is explained at articles 22 and 23.

**Logo:** there is no logo.

**Controls:** there are no controls.

### **Protection beyond national borders**

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Modranská majolica” benefits from the basic protection offered by two International treaties. Paris Convention for the protection of intellectual property from 7 July 1884<sup>180</sup> and Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, “Modranská majolica” is also protected under the Agreement between the Czechoslovak Socialist Republic and the Swiss confederation on protections of indications of origin, description of origin and other geographical indications entered into force on January 14, 1976 for an indefinite period of time. The protection of the “Modranská majolica” under the bilateral agreement provide for the protection of the name in Switzerland. Under this agreement, it is protected in several languages (not only in the language of registration but also in translation), against “delocalizers” (e.g. “name of the GI” associated with the name of another country), against use of the GI name with expressions such as like and against genericity. The right holder has to defend his/her right and can act in front the courts.

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[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## Slovenia

### Idrija Lace

#### Idrijska čipka

#### Short description of the product

“Idrijska čipka” is a denomination which refers to a lace which uses the bobbin-lace making technique from the Idrija region, Slovenia. The oldest written source revealing the existence of this craft in Slovenia dates from 1696 and speaks of lace and lace makers from Idrija. A lace making school was opened in Ljubljana in 1764 by Empress Maria Theresa, but the school operated for only a short time. A good hundred years later (1876), the school was re-established in Idrija and has continued to operate to this day. There are a number of patterns that characterise the Idrija Lace, such as "srčkovke" (hearts), "potonke" (peonies), and "zibke" (cribs). The most representative technique of the Idrija Lace is the "ris", a ribbon that is produced with six, seven or eight pairs of bobbins. Traditionally, the laces are made of natural material such as linen, cotton or silk. Since 1982, the municipality of Idrija organises an annual “Lace Festival” for young designers and creators.

#### Key economic data

There are currently 10 micro-enterprises that produce Idrija lace which employ mainly women (81% of workers): Čipkarska šola Idrija (Idrija Lace School), Studio Irma Vončina, Galerija idrijske čipke (Idrija Lace Gallery), Studio Koder d.o.o., Vanda Lapajne d.o.o., Munh d.o.o., Ambient dekor, Šiviljstvo Mal Lidija Anzelm s.p.

Its main market is Slovenia and in particular the area of Idrija. Detailed economic data are not available. There is no collective marketing of the product.

#### Detailed analysis of the legal protection enjoyed by the product at the national level:

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Appellation of origin

#### Unfair Competition law

“Idrijska čipka” benefits from the protection granted under the Slovenian Law on the Protection of Consumers against Unfair Commercial Practices for an indefinite period.

This Law forbids unfair commercial practices and misleading commercial practices. Article 5 of Chapter 2 of the Act defines the misleading commercial practices as a practice which “contains false information and is therefore untruthful” and which “deceives or is likely to deceive the average consumer, even if the information is factually correct”, notably by giving false information on the main characteristics of the product, as its geographical origin. Article 7 also lists the misleading commercial practices which are in all circumstances are considered unfair. This list covers the display of a trust mark, quality mark or equivalent without having obtained the necessary authorisation.

Article 11 provides that the “code owner” can monitor unfair commercial practices and, at the request of a State body, consumer organisation, consumer or at its own initiative, issue an opinion about whether a given business practice is unfair. A request to initiate proceedings

before the code owner is not considered to be renunciation of the right to administrative and judicial protection.

Article 12 provides that the administrative control of the implementation of this Law is the responsibility of the Market Inspectorate of the Republic of Slovenia and the other inspection bodies in accordance with their respective jurisdiction. If the Market Inspectorate or another competent inspection body finds that a business does, or is about to do, an unfair commercial practice, it issues a decision banning the business from using such a practice if it considers that it could cause harm to consumers.

Article 13 provides that a person with the legal capacity under the law governing consumer protection may bring legal action against a business which does unfair commercial practices. This legal action shall be governed by the provisions on property law protection laid down in the law governing consumer protection.

The court, the Market Inspectorate of the Republic of Slovenia and the other inspection bodies can require an enterprise to submit proof, within a period not exceeding eight days, of the truth of contested statements concerning its commercial practice if such a request seems appropriate on the basis of the circumstances of the case and in the light of the legitimate interests of the business and all other parties in the proceedings (article 14). Article 15 lists the fines.

The administrative authorities are required to investigate every complaint

#### Appellation of origin

The name "Idrijska čipka" was registered as an appellation of origin in the Slovenia on the 19<sup>th</sup> August 1999<sup>181</sup>, under the Industrial Property Act of 23 May 2001. The registration number is 80. The holder of the right is the Municipality of Idrija. There is no official organisation of producers. However, there is an association, the "International Centre of Idrija lace" (in Slovenian: Mednarodnega centra idrijske čipke).

The protection is granted for an indefinite period (article 60 of the Law). The Slovenian Intellectual Property Office is the competent authority for registration (article 3 of the Law). There is no fee for the registration of an appellation of origin.

The specification<sup>182</sup> published on the 19<sup>th</sup> August 1999 gives a description of the product:

- The criteria of cultural heritage: lace-making is a heritage which has been accurately catalogued by the profession. The following conditions must be met: the lace contains the typical order and symmetry, a sense of weight distribution, the ratio between full and empty, the textures and raster.
- The criteria of quality: the lace has to meet the quality standards in the manufacturing process and the integrity of the product.
- Criteria of the area: the lace must be created in the "Land of Idrija lace" (map in the published text). In exceptional cases, it is possible to obtain the GI "lace of Idrija" for a lace/good produced outside the "Land of Idrija Lace" if the request is made by a person who has completed one of the official lacework schools from the area "Land of Idrija Lace".
- The criteria of technological process: lace is made in multiple techniques and multiple elements of the Idrija Lacemaking School.

<sup>181</sup> See "Pravilnik o označbi porekla blaga "Idrijska čipka" page 90: <http://www.uradni-list.si/pdf/1999/Ur/u1999067.pdf>

<sup>182</sup> Idem

- The criteria of the material: lace is made of natural materials, mainly linen, silk and cotton.
- It is not compulsory to have a group of producers

The protection is granted by the Industrial Property Act of 23 May 2001 as last amended on 6 February 2006<sup>183</sup>. Its chapter 5 deals with geographical indication, which is defined under article 55 as “indications which identify a good as originating in a territory, or a region or a locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin”. Article 55 also provides that “the name of a good, which has become generally known through long-term use in the course of trade as the name indicating that the good originates in a specific place or region” can be registered as a geographical indication. Furthermore, geographical indications relating to a good of special historic or cultural importance can be protected by a decree issued by the Government of the Republic of Slovenia. Article 140 provides that appellations of origin valid on the date of entry into force of this Act are dealt with as geographical indications under this Act, unless otherwise provided for by another Act.

Registered geographical indications are protected against:

- Genericity (article 57),
- Against the use by unauthorised persons (article 58.2),
- Against the use of the name in translation (article 58.3),
- Against the use of the name with expressions, such as “kind”, “type”, “style”, or “imitation” (article 58.3),

Article 58 provides that a registered geographical indication is a collective right and may be used as such in the course of trade only by those who, in accordance with the specification, produce or market the goods protected by the geographical indication. Geographical indication cannot be transferred or be subject of a licence agreement (article 75).

The registration request must be sent to the Slovenian Intellectual Property Office and can be filed by associations of legal or natural persons, chambers, communes, larger local communities or State authorities (Article 104.1). A specification must be attached to the request and includes (Article 104.2):

- the indication to be registered as a geographical indication;
- the good to which that geographical indication applies;
- a description of the good including the raw materials and principal physical, chemical, microbiological, organoleptic or other characteristics of the good;
- a description of the area of production;
- a description of the method of production of the good and, if necessary, the authentic and unvarying local methods;
- a description of the link between the good and the area of production;
- details of the inspection body;
- details on the labelling.

Procedure.

The Slovenian Intellectual Property Office examines the demand, issues a decision on the registration and publishes the registration in the register of geographical indications (article 104.3 and 105). A decree from the State Council can define the geographical area and the qualities or characteristics of a product bearing an appellation of origin. This decree can prevent any use that can cause confusion on the origin of the products. A judge decision can also define the geographical area and the qualities or characteristics of a product bearing an appellation of origin on the basis of local, fair and steady uses. There is an opposition

<sup>183</sup>

[http://www.uil-sipo.si/fileadmin/upload\\_folder/zakonodaja/ZIL\\_EN\\_2006.pdf](http://www.uil-sipo.si/fileadmin/upload_folder/zakonodaja/ZIL_EN_2006.pdf)

procedure: the Decree is adopted after a “public investigation/survey” in accordance with general rules. The Office grants the right to use the appellation of origin after obtaining the expert opinion of the Chamber of Economy of the Republic of Slovenia.

The register of geographical indications contains the registration number, the date of filing of the request, the date of publication, the date of entry in the register, geographical indication, the kind of the good and the area of production (article 106.5).

The right to enforce the rights belongs to the owner of the geographical indication, the persons entitled to use a geographical indication, and professional associations established for the protection of industrial property rights to the extent to which the owner’s rights are assigned to them by law or through a legal transaction (article 120a).

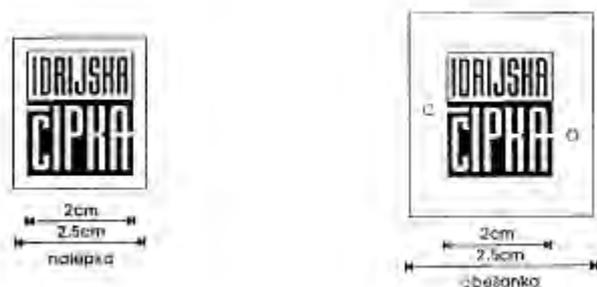
In case of infringement, the owner of the right can file an action before a court in the competent jurisdiction and request that (Article 121):

- the current and future infringement be prohibited;
- the objects of the infringement be recalled from the channels of commerce;
- the objects of infringement be destroyed;
- the means used to produce the infringing goods be destroyed;
- the judgment be published.

Compensation for the damage is provided under article 121a.

### Logo

There is a logo which can be used by producers in the area of production or producers outside the area of production who followed the courses of one of the official lacework schools in the area of production and which comply with the specifications.



### Controls

There are external controls. The Municipality of Idrija established a “committee for the designation of origin Idrija lace” which controls the implementation of the specification. It is composed of experts in the fields of ethnology and design, representatives of lacework schools, and natural or legal persons from the area "Land of Idrija Lace" which are registered for the manufacture of lace and objects in which the lace is included. The members of the committee are appointed by the municipal councils of local communities from the area of "Land of Idrija Lace". Each local community has at least one representative on the committee. The term of office of committee members is of 4 years. The Chairman of the Board shall be elected from among the members of the committee. The committee shall adopt rules regarding the implementation of controls over the use of "Idrija lace".

Its responsibilities are as follows:

- control the use of the GI "Idrija Lace"
- work to improve the quality of "Idrija Lace" and encourage its promotion,
- set up various working groups to carry out tasks within their competence,

- report to the municipal council of local communities, and
- performs other tasks related to the geographical indication.

### **Protection beyond national borders**

The product enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>184</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. *“Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”* Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>184</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## Spain

### Elche Shoes

#### Calzado de Elche

##### Short description of the product

The “Calzado de Elche” is footwear of all kinds for men, women and children, produced and elaborated historically in the boundary of the city of Elche (province of Alicante, Spain). It includes dress, casual, sports and anatomical shoes.

The Elche shoes are composed by different materials: Material cut (upper side): mainly leather; Lining and insole material (inside part of the shoe): mainly leather, but also used textile and/or synthetic materials; floor material or sole: leather floor, plastics and rubber.

The product is partially handmade and mechanically made. The manufacturing system includes mainly: cutting, sewing or appliance, assembling, gluing, finishing by vulcanizing and packaging.

The production of Elche shoes began with the production of espadrilles/sandals with jute, given the abundance of this material in the area, which was being used to make soles for footwear among others. The production started being handmade and became industrially produced in the late nineteenth century.

The craftsmen began to produce in an industrial manner, incorporating new materials such as leather and fur, developing also new systems in the elaboration of the product: floor nailing, gluing floors with the technique of “desvirado” (trimming), gluing premade floors, sewing the floors, vulcanizing...

At present, the product has an excellent reputation, known for its quality, design and innovation, sold in the countries of the European Union and exported to the world.

##### Key economic data

410 enterprises work on the Elche shoes production and 585 enterprises work on the production upstream in the supply chain. Its production employs over 9.000 full-time workers of an average age of 45 years old, 41-60% of which are women. The Elche shoes production currently represents the 40% of the market share, with a consolidated global turnover of 658.390.520€ in 2009 and 621.208.781€ in 2010. Approximately, 10% of Elche shoes are sold at regional level, 30% at national level, 40% at European level and 20% at international level.

##### Detailed analysis of the legal protection enjoyed by the product at the national level:

Elche shoes enjoy national protection only under the unfair competition legislation, regulated by Law 3/1991 of 10 January, on Unfair Competition<sup>185</sup> and Law 29/2009 of 30 December, amending the statutory scheme of unfair competition and advertising to improve consumers and users' protection<sup>186</sup>. This protection applies to any acts of unfair competition made for competition market purposes, before, during or after a commercial transaction or contract, whether it comes to be held or not (Art. 2 of Law 3/1991 and Art. 2 of Law 29/2009). The

<sup>185</sup>

<http://www.boe.es/boe/dias/1991/01/11/pdfs/A00959-00962.pdf>

<sup>186</sup>

<http://www.boe.es/boe/dias/2009/12/31/pdfs/BOE-A-2009-21162.pdf>

legislation applies to entrepreneurs, professionals and any other natural or legal person involved in the market, not being subject to the existence of a competitive relationship between the perpetrator and the victim of the unfair competition act (Art. 3 of Law 3/1991 and Art. 3 of Law 29/2009).

The amendments made by Law 19/2009 take into account the impact of Regulation (EC) n° 864/2007 of the European Parliament and Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)<sup>187</sup>, eliminating all reference to its territorial scope. Therefore, the law applicable to a non-contractual obligation arising out of an act of unfair competition shall be the law of the country where competitive relations or the collective interests of consumers are, or are likely to be, affected (Art. 6 of Regulation (EC) n° 84/2007).

Actions of unfair competition can be undertaken within the course of one year from the time they could exercise them and the interested party had knowledge of the person who performed the act of unfair competition, and in any case, during three years from the time of termination of such behaviour (Art. 35 of Law 29/2009). Only actions in defence of general interests, collective or diffuse nature of consumers and users are imprescriptible (Art. 56 of the reviewed text of the General Law for the Protection of Consumers and Users and other complementary laws<sup>188</sup>).

The unfair competition protection is not specifically chosen by Elche shoes producers, but instead it is available to any person or entity participating in the market, whose economic interests are directly affected or threatened by unfair conduct. Any producer of Elche shoes, as well as any association or entity, whose interests are directly affected or threatened by an unfair conduct can benefit from this protection. The only association that represents, together with other Valencian shoe producers, the producers of Elche shoes is AVECAL - Asociación Valenciana de Empresas del Calzado (Valencian Business Association of Footwear). The only criterion to be fulfilled in order to obtain protection under unfair competition law is to prove that their rights have been infringed.

Actions may be undertaken against:

- Significant distortion of the economic behaviour of the average consumer (Art. 4 of Law 29/2009).
- Acts of deception (Art. 5 of Law 29/2009).
- Misleading omissions (Art 7 of Law 29/2009).
- Acts of comparison (Art. 10 of Law 29/2009).
- Acts of confusion (Arts. 20, 21 and 25 of Law 29/2009)
- Exploitation of reputation (Art. 12 of Law 3/1991), when using distinctive signs of others or false designations of origin accompanied by the true origin of the goods or expression such as “model”, “system”, “type”, “class” or the like (delocalizers).

Against acts of unfair competition, including unlawful advertising, the following actions may be exercised (Art. 32 of Law 29/2009):

1. Declaratory action of disloyalty.
2. Cessation action of unfair conduct or prohibition of future recurrence. Also, a prohibition action may be exercised if the conduct has not yet been implemented.
3. Action of removing the effects of unfair conduct.
4. Action to rectify the misleading, inaccurate or false information.
5. Action for compensation for damages caused by inequitable conduct, if it involves fraud or negligence of the agent.

<sup>187</sup>

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0040:0049:EN:PDF>

<sup>188</sup>

<http://www.boe.es/buscar/doc.php?id=BOE-A-2007-20555>

6. Action of unjust enrichment, which only applies when the unfair conduct injures a legal position covered by exclusive rights or other of similar economic content.

When rulings deals with the actions from 1 to 4, the Court, if deemed appropriate and covered by the respondent, may decide to publish all or part of the judgment or a rectifying statement, when effects of the infringement can be sustained over time.

Any person or entity participating in the market, whose economic interests are directly affected or threatened by an unfair conduct, is entitled to exercise the aforementioned actions in Civil Court. Furthermore, associations, professional bodies or representative bodies of economic interests may exercise actions from 1 to 4 when the interests of their members are affected. The public prosecution may bring action for an injunction to defend the general interests, collective or diffuse nature of consumers and users.

### **Protection beyond national borders:**

The product enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>189</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. "*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*" Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

<sup>189</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## **Totana Ceramics**

### **Cerámica de Totana**

#### **Short description of the product**

The “Cerámica de Totana” is a kind of ceramics from the town of Totana (province of Murcia, Spain), made using traditional and contemporary artisanal techniques of medieval origin, implementing as well various innovative techniques while respecting their tradition and know-how. The “Cerámica de Totana” currently has a variety of forms addressed to different markets, such as design, gardening, decorated tiles and flooring, interior and exterior lighting, decoration, souvenirs, kitchenware, popular, archaeological reproductions, etc.

The origin of the Totana ceramics comes from the fifth century up to the fifteenth century. During the middle of the eighteenth century, there were the first families of potters in Totana. From the first half of the nineteenth century until today, other families in the Murcian town of Totana keep working on the potter’s job. By the middle of the eighteenth century, most potteries were located on the left side of the Rambla de la Santa (area of Totana). By the nineteenth century, some were located already in the old quarter of Sevilla (nowadays Paseo de las Ollerías). In the twentieth century, pottery production suffered oscillations, but the production of basins experienced a lot of activity, becoming the potter's first product. In the mid-twentieth century, this craft sector decreased as household utensils became obsolete, such as the basin or the pitcher, and began to manufacture parts, such as garden pots and containers. While there was a great innovation on the variety of shapes and clay treatment, they began to glaze the pieces with clear glass and worked with white clay, becoming the Totana ceramics as known nowadays. Despite the competition that exists today with industrial production, thank to their beauty and variety of forms, the craft pieces are exported to European countries like France, Belgium, Germany and Holland.

#### **Key economic data**

The Totana ceramics are produced by 10 artisan enterprises, all elaborating the pieces from the raw materials to the final product. In the recent past, there were also individual producers but currently only artisan companies continue in the work. Its production employs 34 full-time workers of an average age of over 45,5 years old, even though there is a clear tendency of this age to raise as many producers are getting close to retirement and do not have generations to continue on the production. In the past, there was a participation of women up to 41-60%, but now workshops are run and participated mostly by men.

The Totana ceramics production currently represents between 40 and 50% of the market share, with an average global turnover between 2.500.000€ and 3.000.000€ per year. In average, 2% of Totana ceramics are sold in the region, while 10% are sold at national level, 60% at European level, 20% at European level extended (including Norway, Liechtenstein and Switzerland) and 8% at international level.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the two legal instruments: the Spanish unfair competition legislation and a regional *sui generis* law.

## Unfair competition legislation

The Totana ceramics enjoy the protection granted under the Spanish unfair competition legislation. : Law 3/1991 of 10 January, on Unfair Competition<sup>190</sup> and Law 29/2009 of 30 December, amending the statutory scheme of unfair competition and advertising to improve consumers and users protection<sup>191</sup>. Such protection applies to any act of unfair competition made for competition market purposes, before, during or after a commercial transaction or contract, whether it comes to be held or not. The competition purpose is presumed when, by the circumstances in which it is performed, the act is revealed objectively suitable for promoting or ensuring the dissemination on the market of the own or third parties performances.

The unfair competition legislation applies to entrepreneurs, professionals and any other natural or legal person involved in the market, not being subject to the existence of a competitive relationship between the perpetrator and the victim of the unfair competition act (Art. 3 of Law 3/1991 and Art. 3 of Law 29/2009). The law applicable to a non-contractual obligation arising out of an act of unfair competition shall be the law of the country where competitive relations or the collective interests of consumers are, or are likely to be, affected. The reference to the territorial scope in Law 3/1991 was eliminated by amendments of Law 19/2009, taking into account the impact of Regulation (EC) n° 864/2007 of the European Parliament and Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)<sup>192</sup>.

Actions pursuing conducts of unfair competition can be undertaken within one year from the time they could exercise them and the interested party had knowledge of the person who performed the act of unfair competition, and in any case, during three years from the time of termination of such behaviour (Art. 35 of Law 29/2009). Only actions in defence of general interests, collective or diffuse nature of consumers and users are imprescriptible (Art. 56 of the reviewed text of the General Law for the Protection of Consumers and Users and other complementary laws<sup>193</sup>). The unfair competition protection is not specifically chosen by Totana producers, but instead it is available to any person or entity participating in the market, whose economic interests are directly affected or threatened by an unfair conduct.

Any Totana ceramics producer, as well as any association or entity, whose interests are directly affected or threatened by an unfair conduct can benefit from this protection. There are threenon-profitassociationsregisteredin the Crafts RegisterofMurciawhich gather Totanaproducers. Theseare:

- Asociación Totana Alfarera y Artesana (Pottery and Crafts Association of Totana).
- ASART - Asociación de Artesanos de Totana (ASART - Totana Craftsmen Association).
- Asociación Centro Tecnológico de la Artesanía (Association of Craft Technology Center).

It is important to note that these associationshavealso otherassociated members from different sectors than potter-ceramist.

The only criterion to be fulfilled in order to obtain protection under unfair competition law is to prove that their rights have been infringed.

The unfair competition legislation allows for actions against:

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<sup>190</sup> <http://www.boe.es/boe/dias/1991/01/11/pdfs/A00959-00962.pdf>

<sup>191</sup> <http://www.boe.es/boe/dias/2009/12/31/pdfs/BOE-A-2009-21162.pdf>

<sup>192</sup> See Art. 6 of EU Regulation n° 84/2007:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0040:0049:EN:PDF>

<sup>193</sup> <http://www.boe.es/buscar/doc.php?id=BOE-A-2007-20555>

- Significant distortion of the economic behaviour of the average consumer (Art. 4 of Law 29/2009).
- Acts of deception (Art. 5 of Law 29/2009).
- Misleading omissions (Art 7 of Law 29/2009).
- Acts of comparison (Art. 10 of Law 29/2009).
- Acts of confusion (Arts. 20, 21 and 25 of Law 29/2009)
- Exploitation of reputation (Art. 12 of Law 3/1991), when using distinctive signs of others or false designations of origin accompanied by the true origin of the goods or expression such as “model”, “system”, “type”, “class” or the like (delocalizers).

These acts of unfair competition, including unlawful advertising, may be fought exercising the following actions (Art. 32 of Law 29/2009):

7. Declaratory action of disloyalty.
8. Cessation action of unfair conduct or prohibition of future recurrence. Also, a prohibition action may be exercised if the conduct has not yet been implemented.
9. Action of removing the effects of unfair conduct.
10. Action to rectify the misleading, inaccurate or false information.
11. Action for compensation for damages caused by inequitable conduct, if it involves fraud or negligence of the agent.
12. Action of unjust enrichment, which only applies when the unfair conduct injures a legal position covered by exclusive rights or other of similar economic content.

When rulings deals with the actions from 1 to 4, the Court, if deemed appropriate and covered by the respondent, may decide to publish all or part of the judgment or a rectifying statement, when effects of the infringement can be sustained over time. The enforcement of the right in Civil Court corresponds to any person or entity participating in the market, whose economic interests are directly affected or threatened by unfair conduct. Associations, professional bodies or representative bodies of economic interests may exercise from 1 to 4 of the aforementioned actions when the interests of their members are affected. The public authorities may bring action for an injunction to defend the general interests, collective or diffuse nature of consumers and users.

#### Regional protection:

The Totana ceramics enjoy the protection granted under the regional craft law of the region of Murcia. Law 11/1988 of 30 November on Crafts of the Region of Murcia<sup>194</sup>, Decree nº 101/2002 of 14 June, that approves the General Regulation developing the Law on Crafts of the Region of Murcia<sup>195</sup>, Order of 25 January 2008 of the Regional Ministry of Economy, Enterprise and Innovation, regulating the designation "Crafts of the Region of Murcia"<sup>196</sup> and Order of 28 April 2010 of the Regional Ministry of Universities, Enterprise and Research, amending the Order of 25 January 2008, which governs the designation "Crafts of the Region of Murcia"<sup>197</sup>.

Such law considers “craft”, the activity of creating, producing, processing or repairing goods or services, based on a process in which personal involvement is a predominant factor that gives result to an individual final product that does not fully fit to the mechanised industrial production or in large series (Art. 1 of Law 11/1988).

The legal status of individual craftsman or craft enterprise is accredited by the registration on the Crafts Register of Murcia, which allows them to use the distinctive with the name “Craftwork of the Region of Murcia”, the badges and certificates of origin and quality, as well

<sup>194</sup> <http://www.boe.es/boe/dias/1989/06/27/pdfs/A19840-19841.pdf>

<sup>195</sup> <http://borm.carm.es/borm/documento?obj=anu&id=47825>

<sup>196</sup> <http://borm.carm.es/borm/documento?obj=anu&id=336790>

<sup>197</sup> <http://borm.carm.es/borm/documento?obj=anu&id=401404>

as to have access to the benefits that the regional administration establishes for the protection and help of the craft products (non-food products only) (Art. 5 of the Law 11/1988 and Art. 11 of the Decree nº 101/2002).

It is important to note that this type of protection is more a regional recognition and accreditation for craft products and jobs than a protection against unlawful conducts as such. This regional legislation applies only to craft enterprises or individual craftsmen located in the region of Murcia. It also applies to associative formulas dedicating to commercialise their products, as long as all members are artisans themselves (Arts. 3 and 4 of Law 11/1988). The registration in the Crafts Register of Murcia will have a temporal validity of 5 years, after which the registration will be cancelled if it is not renewed upon request of the interested party and confirmation of its suitability to deserve the accreditation (Art. 7.1 of Decree nº 101/2002).

Some producers of Totana ceramics have chosen the regional legislation because the product meets the requirements for this accreditation and it is the only system available to recognise its origin and quality. Moreover, most producers have limited resources, which hamper their access to any system of protection through trade marks (national or European). Nevertheless, the low level of efficiency of such regional protection as well as the cost of including the labelling on the pieces, which must be assumed by the producer, makes that many producers decide not to use the distinctive labelling in practice. Any producer of Totana ceramics, individual or a company, as long as registered on the Crafts Register of Murcia, can be subject to the craft legislation of the Murcia region. Moreover, associations legally constituted and registered in the corresponding registers, can also benefit from the provisions of the craft legislation as long as their members are also artisans registered on the Crafts Register of Murcia. There are three non-profit association registered in the Crafts Register of Murcia which gather the Totana potters. These are:

- Asociación Totana Alfarera y Artesana (Pottery and Crafts Association Totana)
- ASART - Asociación de Artesanos de Totana (ASART - Totana Craftsmen Association).
- Asociación Centro Tecnológico de la Artesanía (Association of Craft Technology Center).

These associations also have other associated members from different sectors other than potter-ceramist.

#### *Criteria to be fulfilled in order to obtain protection*

The Crafts Register of Murcia is organised into five sections:

- a) Individual Artisans
- b) Artisans companies (not individual)
- c) Craftsmen Master
- d) Honorary Artisans
- e) Craft Associations

Besides the specific administrative requirements depending on their nature (individual artisans or companies), they all must meet the requirements that define their craftsman work and annually renew their license of individual craftsman or artisan company. Once they are registered in the Crafts Register and authorised by the public administration, their authorised products should include the corresponding label with the name "Craftwork of the Region of Murcia", under different labelling forms available on the Order of 25 January 2008.

The protection conferred by the regional legislation is basically focused on crafts in danger of extinction as well as in the so-called "Areas of Craft Interest". At present, there is one area of craft interest (Lorca) and another file pending to publish on the Regional Gazette on the area of Totana. Furthermore, protection is reflected in the realisation of sociological and ethnographical studies and surveys to protect crafts, the promotion of new forms of craftsmanship, the development of all actions for the promotion of the Crafts Centres

dependent of the regional administration, the expansion of regional crafts towards national and international markets through their participation in fairs, exhibitions and contests, and the organisation of regional awards for unique craftworks with seven annual editions so far.

As regards to infringements, there is no system of actions or sanctions in place for the moment, but it is a foreseen issue in the future regional law.

As most actions are public promotional initiatives, public authorities act on their own initiative to enforce the rights, through administrative procedures. The regional administration will also be responsible to authorise the registration in the crafts register and the use of the label with the name "Craftwork of the Region of Murcia". However, such enforcement does not include for the moment actions against infringements.

All registered individual craftsmen and craft enterprises, including producers of Totana ceramics, should include on their authorised products the distinctive logo with the name "Craftwork of the Region of Murcia". Such public logo is regulated on the Order of 25 January 2008 of the Regional Ministry of Economy, Enterprise and Innovation, regulating the designation "Craftwork of the Region of Murcia" and it is as follows:



It is important to note that under the Order of 25 January 2008 regulating the designation "Craftwork of the Region of Murcia" and its amendment through Order of 28 April 2010, there are different formats depending on the size of the pieces, as well as means of differentiation for artisan workshops, regional crafts centres and accreditations for fairs, all based on the same logo.

The competent authority for registration is the Craft Service, within the Department of Consumer Affairs, Commerce and Handicrafts of the Regional Ministry of Universities, Enterprise and Trade of the Region of Murcia.

According to Art. 5.2. of the Decree nº 101/2002, the registration in the Crafts Register of Murcia is free.

The CraftService within the Department of Consumer Affairs, Commerce and Handicraft of the Autonomous Community of the Murcia Region is in charge of the control. A technical inspection of the workshop before the registration in the Crafts Register is performed, and if it passes the inspection the right to use the distinctive "Craftwork of the Region of Murcia" is granted. The inspection is basically to check that the shop is operating, its facilities are appropriate and the workshop counts with the machinery to perform the craft job subject to registration.

No specific regulation has been developed on the quality control of the craftworks, but the Order of 25 January 2008 and its amendment through Order of 28 April 2010, establishes the provisions on the regulation of use of the designation "Crafts of the Region of Murcia".

### **Protection beyond national borders:**

The product enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>198</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. *“Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.”* Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

## **Ubrique Leather**

### **Piel de Ubrique**

#### **Short description of the product**

The “Piel de Ubrique” is leather used to make a wide range of articles mainly of upper-middle range and luxury. The main requirement is that most of the phases of production of any product elaborated with Ubrique leather must be made in Andalucía, being the region of Ubrique (Province of Cadiz, Spain) the base of its origin and the place where the reputation of such well-known products comes from.

The production steps include firstly modelling, pattern and sample, followed by production (sections warehouse, cutting, finishing and stitching-mounting) and packaging (preparation of the item for sale and distribution).

<sup>198</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

All processing techniques and quality requirements are contained in the Regulation of Use of the Guarantee Trade mark "Ubrique". Among the articles elaborated with Ubrique leather, we may find:

- Bags of all kinds for men and women made of leather, together with textile, plastic or synthetic, metal, etc.
- Small leather goods: wallets, purses, key chains, card cases, frames, cigarette cases and cigar cases, eyeglass cases, desktop and pocket calendars, pen cases and covers, school items, etc.
- Belts for men and women made of leather, together with textile, synthetic, metal, etc.
- Photo album holders, frames, gift items, embossed and artistic leather, book covers, promotional items, etc.
- Cases, tobacco boxes, jewellery, toilet bags, health kits, sewing kits, desk sets, file classifiers, travel liquor containers, etc.
- Saddlers, items for dogs, hunting, fishing and horse riding.
- Clutches, briefcases and attachés.
- Gloves in general.
- Travel goods: suitcases, weekend bags, sports bags, field and beach bags, shopping carts, etc.

Leather is a real culture in Ubrique, which started centuries ago and is continuing today. From Roman times there are remains of tanneries, of which the main are assemblies and lead pipes, some from the Roman city of "Ocurris" (first known settlement of Ubrique) and others from the subsurface of its current historic district. In the eighteenth and nineteenth centuries, "pouches" (small leather boxes to carry tobacco) were made and stitched in Ubrique, being the first items to be manufactured. Thus, the first "petaquerías" were created (establishments where such items were made). From then on, the reputation of Ubrique began to exceed boundaries and it was being called "Ubrique, the place of the pouches."

The incipient manufacturing of leather goods, born in Ubrique, went through a long journey until the final years of the nineteenth century. At this historic moment, there appeared the first logo on items, identifying Ubrique together in some cases with the manufacturer's name or the word "legitimate" as a quality seal of the piece. Between 1885 and 1930, a constellation of great creators from Ubrique (Chacón, Aragón, Vecina, Rivero, Tenorio, Zarco, Piñero, Del Canto, Roldán, Cabello, Izquierdo, Santamaría, Benitez ...) and many more gave remarkable fame to the Ubrique manufacturing, until it reached a vitality that gives a prestigious and well-deserved fame to the product. It was, after 30 years of the twentieth century, when Ubrique leather producers entered all markets working for luxury brands from all around the world.

### **Key economic data**

1.618 enterprises work on the Ubrique production and 502 enterprises work on the production upstream in the supply chain. At present, over 8.000 men and women work full-time on the sector. The Ubrique leather production currently represents the 40-45% of the market share in middle range and upper range products, with a consolidated global turnover from 2006 to 2010 of 9.252,30 million euros at national level. Approximately, 17% of Ubrique leather is sold at regional level, 23% at national level, 42% at European level and 18% at international level.

### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the two legal instruments: the Spanish unfair competition legislation and the Spanish trade mark law.

## Unfair competition legislation

“Piel de Ubrique” enjoys the protection granted under the Spanish unfair competition legislation. : Law 3/1991 of 10 January, on Unfair Competition<sup>199</sup> and Law 29/2009 of 30 December, amending the statutory scheme of unfair competition and advertising to improve consumers and users protection<sup>200</sup>. Such protection applies to any act of unfair competition made for competition market purposes, before, during or after a commercial transaction or contract, whether it comes to be held or not. The competition purpose is presumed when, by the circumstances in which it is performed, the act is revealed objectively suitable for promoting or ensuring the dissemination on the market of the own or third parties performances.

The unfair competition legislation applies to entrepreneurs, professionals and any other natural or legal person involved in the market, not being subject to the existence of a competitive relationship between the perpetrator and the victim of the unfair competition act (Art. 3 of Law 3/1991 and Art. 3 of Law 29/2009). The law applicable to a non-contractual obligation arising out of an act of unfair competition shall be the law of the country where competitive relations or the collective interests of consumers are, or are likely to be, affected. The reference to the territorial scope in Law 3/1991 was eliminated by amendments of Law 19/2009, taking into account the impact of Regulation (EC) n° 864/2007 of the European Parliament and Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)<sup>201</sup>.

Actions pursuing conducts of unfair competition can be undertaken within one year from the time they could exercise them and the interested party had knowledge of the person who performed the act of unfair competition, and in any case, during three years from the time of termination of such behaviour (Art. 35 of Law 29/2009). Only actions in defence of general interests, collective or diffuse nature of consumers and users are imprescriptible (Art. 56 of the reviewed text of the General Law for the Protection of Consumers and Users and other complementary laws<sup>202</sup>). The unfair competition protection is not specifically chosen by “Piel de Ubrique” producers, but instead it is available to any person or entity participating in the market, whose economic interests are directly affected or threatened by an unfair conduct.

Any Ubrique leather producer, as well as any association or entity, whose interests are directly affected or threatened by an unfair conduct can benefit from this protection. The existing collective organizations involved in the Ubrique leather production are:

- EMPIEL, Asociación de Empresas de Complementos de Moda y Piel (Association of Fashion and Leather Accesories – producers)
- The “Administradora de la Marca y Denominación del Artículo de Piel de Ubrique, S.A.” (Administrator of the Trade mark and Designation of the Article of Ubrique Leather – producers, labour union and public authority)

The only criterion to be fulfilled in order to obtain protection under unfair competition law is to prove that their rights have been infringed.

Actions may be undertaken against the following acts of unfair competition:

- Significant distortion of the economic behaviour of the average consumer (Art. 4 of Law 29/2009).
- Acts of deception (Art. 5 of Law 29/2009).
- Misleading omissions (Art 7 of Law 29/2009).

<sup>199</sup> <http://www.boe.es/boe/dias/1991/01/11/pdfs/A00959-00962.pdf>

<sup>200</sup> <http://www.boe.es/boe/dias/2009/12/31/pdfs/BOE-A-2009-21162.pdf>

<sup>201</sup> See Art. 6 of EU Regulation n° 84/2007:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:199:0040:0049:EN:PDF>

<sup>202</sup> <http://www.boe.es/buscar/doc.php?id=BOE-A-2007-20555>

- Acts of comparison (Art. 10 of Law 29/2009).
- Acts of confusion (Arts. 20, 21 and 25 of Law 29/2009).
- Exploitation of reputation (Art. 12 of Law 3/1991), when using distinctive signs of others or false designations of origin accompanied by the true origin of the goods or expression such as “model”, “system”, “type”, “class” or the like (delocalizers).

Against these acts, including unlawful advertising, the following actions may be exercised (Art. 32 of Law 29/2009):

1. Declaratory action of disloyalty.
2. Cessation action of unfair conduct or prohibition of future recurrence. Also, a prohibition action may be exercised if the conduct has not yet been implemented.
3. Action of removing the effects of unfair conduct.
4. Action to rectify the misleading, inaccurate or false information.
5. Action for compensation for damages caused by inequitable conduct, if it involves fraud or negligence of the agent.
6. Action of unjust enrichment, which only applies when the unfair conduct injures a legal position covered by exclusive rights or other of similar economic content.

When judgments of the actions from 1 to 4 are won, the Court, if deemed appropriate and covered by the respondent, may decide to publish all or part of the judgment or a rectifying statement, when effects of the infringement can be sustained over time.

The enforcement of the right relies on any person or entity participating in the market, whose economic interests are directly affected or threatened by an unfair conduct, which are entitled to exercise the aforementioned actions in Civil Court. Furthermore, associations, professional bodies or representative bodies of economic interests may exercise actions from 1 to 4 when the interests of their members are affected. The public prosecution may only bring action for an injunction only to defend the general interests, collective or diffuse nature of consumers and users.

#### Trade mark Law:

“Piel de Ubrique” enjoys protection in Spain as a trade mark in accordance with Law 17/2001 of 7 December, on Trade marks<sup>203</sup> and implementation and amending regulations (Royal Decree 687/2002 of 12 July, adopting the regulations implementing Trade mark Law 17/2001 of 7 December<sup>204</sup>, amended by Royal Decree 1431/2008 of 29 August modifying certain Industrial Property regulations<sup>205</sup> and Law 19/2006 of 5 June, extending means of enforcement of intellectual and industrial property rights and establishing procedural rules to facilitate diverse EU regulations application<sup>206</sup>).

The Ubrique leather trade mark is registered with the Spanish Patent and Trade mark Office (OEPM) by the “Administradora de la Marca y Denominación del Artículo de Piel de Ubrique, S.A.” (Administrator of the Trade mark and Designation of the Article of Ubrique Leather, onwards “administrator of the trade mark”), with the following trade marks for Nice Classification 18 (Leather and imitation leather, goods made thereof not included in other classes, animal skins, trunks and suitcases; umbrellas, parasols and walking sticks, whips and saddler):

- o Guarantee Trade mark nº M 1057441, registered on 5 November 1985, for the denominative “U UBRIQUE”, which also covers logo. Last renewed on 1 April 2006.
- o Guarantee Trade mark nº M 1996153, registered on 3 of May 1996, for the denominative “UBRIQUE LEGITIMO”, which also covers logo. Last renewed on 16 March 2006.

<sup>203</sup> <http://www.boe.es/boe/dias/2001/12/08/pdfs/A45579-45603.pdf>

<sup>204</sup> <http://www.boe.es/boe/dias/2002/07/13/pdfs/A25653-25671.pdf>

<sup>205</sup> <http://www.boe.es/boe/dias/2008/09/15/pdfs/A37572-37576.pdf>

<sup>206</sup> <http://www.boe.es/boe/dias/2006/06/06/pdfs/A21230-21238.pdf>

- Guarantee Trade mark nº M 2759933, first registered on 16 October 2008, for the denominative with graphic “UBRIQUE”, which also covers logo.

Furthermore, the administrator of the trade mark has also registered the same names for under other classes of the Nice Classification that indirectly affect the production of Ubrique leather products not included here.

The protection through a guarantee trade mark is used by a plurality of enterprises subject to the control and authorization of its owner, who certifies that the goods to which the guarantee trade mark applies satisfy certain common requirements, especially as regards their quality, components and geographical origin, the technical conditions and method of preparation of the products (Art. 68.1 of the Law 17/2001 of 7 December).

The protection obtained with the registration of the trade mark extends throughout the whole Spanish territory. The registration of the trade mark is granted for ten years beginning on the date of filing of an application and may be renewed for successive ten-year periods (Art. 31 of Law 17/2001). The protection through trade mark law was chosen by the administrator of the trade mark because there is no DO/IG protection system available at EU or national level for non-agricultural products.

The guarantee trade marks “U UBRIQUE”, “UBRIQUE LEGITIMO” y “UBRIQUE” are owned by the “Administradora de la Marca y Denominación del Artículo de Piel de Ubrique, S.A.”. Such entity is composed by the public authorities of the Ubrique city (50%), EMPIEL (49%) and labour unions of workers (1%). The Board of Directors is composed by 10 members: 3 from the City Hall of Ubrique, 1 from the unions, 5 from EMPIEL and 1 from the administrator of the trade mark. They choose the Quality Council of the administrator of the trade mark.

A guarantee trade mark application shall be accompanied by regulations for use which shall indicate the persons authorised to use the trade mark, the common features of the goods or services to be certified, the manner in which these features shall be verified, the controls and supervision of use of the trade mark to be carried out, the responsibilities which may be infringed by inappropriate use of the trade mark and the rules which, where appropriate, shall be respected by persons using the trade mark (Art. 69.1 of the Law 17/2001 of 7 December).

The temporary right to use the guarantee trade mark is acquired under express written consent of the administrator of the trade mark, in the form, terms and conditions it establishes, after verification by the administrator of the trade mark of compliance by the applicant of the requirements of its regulation of use (Art. 6.1 of the Regulation of Use of the Guarantee Trade mark “Ubrique”). The authorisation to use the guarantee trade mark is granted for three years, renewable by giving the user a new certificate.

Only the most skilled cutters are capable of cutting the skin with their hands. In order to do this, they use a pattern of cardboard and a sharp blade. The cutter must also be able to select appropriate areas of the skin for each part of the article. The assembly of each piece and perfect stitching out distinguish any article manufactured in Ubrique. All technical and quality criteria must be consistent with standards contained in Chapter VII of the Regulation of Use of the Guarantee Trade mark “Ubrique”. Among them, standards concerning raw materials, manufacturing, packaging of all articles elaborated with Ubrique leather must be fulfilled by those interested in using the guarantee trade mark.

Under Art. 34 of the Law 17/2001, the registration of the trade mark confers on its owner (the administrator of the trade mark “Ubrique”) the exclusive right to use it in economical transactions. The administrator of the trade mark “Ubrique” may prohibit third parties, without its consent, from using in economic transactions:

- Any sign identical to the trade mark for goods or services identical to those for which the trade mark is registered;
- Any sign which, since it is identical or similar to the trade mark and since the goods are identical or similar, creates a risk of confusion among the public; the risk of confusion shall include the risk of association between the sign and the trade mark;
- Any identical or similar sign for goods which are not similar to those for which the trade mark is registered, where the trade mark is known or famous in Spain and where use of the sign made without just cause might suggest a connection between said goods and the trade mark owner, or in general where that use might imply improper exploitation of or harm to the distinctiveness or notoriety or fame of said registered trade mark.

Where the requirements listed in the previous paragraph are satisfied, the following may, in particular, be prohibited:

- placing the sign on goods or on their form of presentation;
- offering, marketing or storing the goods for those purposes, or offering or providing services with the sign;
- importing or exporting the goods with the sign;
- using the sign on marketing documents and advertising;
- using the sign on telematic communication networks and as a domain name;
- placing the sign on wrappers, packaging, labels or other means of identifying or ornamenting a good or service, preparing or supplying them, or making, manufacturing, offering, marketing, importing, exporting or storing any of those means incorporating the sign, if the possibility exists that said means may be used to carry out any act which, in accordance with the above subparagraphs would be prohibited.

The administrator of the trade mark “Ubrique” may prevent traders or distributors from removing the trade mark without its express consent, although it may not prevent the separate addition by such persons of their own trade marks or distinctive signs, provided that this does not harm the distinctive nature of the main trade mark.

According to Art. 35 of Law 17/2001, if the reproduction of the trade mark in a dictionary, encyclopaedia or other reference work of that kind gives the impression that it constitutes the generic term for the goods for which the trade mark is registered, at the request of the administrator of the trade mark “Ubrique”, the publisher shall ensure that the reproduction of the trade mark is accompanied, at the latest in the following edition of the work, by an indication that the trade mark in question is registered.

As provided by Art. 37 of Law 17/2001, the right granted by a trade mark shall not allow its owner to prohibit use in economic transactions by third parties, provided that such use complies with fair industrial or commercial practices:

- of his name and address;
- of information relating to the species, quality, quantity, purpose, value, geographical origin, time of production of the good or provision of the service, or other features thereof;
- of the trade mark, where this is necessary for indicating the purpose of a good or a service, in particular as accessories or spare parts.

It is important to note that notwithstanding the provisions of Article 5(1)(c) of Law 17/2001, signs or indications which may be used in commerce to indicate the geographical origin of goods or services may be registered as collective and guarantee trade marks. The right granted by a collective or guarantee trade mark shall not enable its owner to prohibit a third party from using in commerce such signs or indications, provided that such use is made in accordance with fair industrial or commercial practices; in particular, such mark may not be

binding on a third party authorised to use a geographical name (Art.62.3 of Law 17/2002 on Trade marks).

Under the Trade mark Law, it is up to the administrator of the trade mark "Ubrique" to act to enforce its rights. As previewed by Art. 40 of the Law 17/2001, the administrator of the trade mark "Ubrique" may, before the jurisdictional authorities, take appropriate civil or criminal actions against those infringing its right and request the measures necessary for protection of the trade mark, without any prejudice to submission of the case to arbitration, where possible.

The following civil actions may be exercised (Art. 4.1 of the Law 19/2006, modifying art. 41 of the Law 17/2001):

- a) Cessation of acts that violate their rights.
- b) Compensation for damages suffered.
- c) Adoption of measures necessary to prevent continuation of the violation and, in particular, the withdrawal of trade products, packages, wrappers, advertising material, labels or other documents that have been materialized violation of the right of brand and the seizure or destruction of the media mainly for the offense. These measures will be implemented at the expense of the infringer, unless founded grounds are claimed for not to be that way.
- d) The destruction or transfer for humanitarian purposes, if possible, at the choice of actor, always at the expense of the convicted person of the products identified with the trade mark unlawfully in possession of the offender, unless the nature of the product allows the elimination of distinguishing without affecting the product or its destruction produces disproportionate harm to the offender or the owner, according to the specific circumstances of each case assessed by the Tribunal.
- e) The attribution of ownership of the products, materials and means seized in accordance with the provisions of paragraph c) where possible, in which case, the attributed value of the goods affected the amount of compensation for damages.
- f) If that value exceeds the amount of damages awarded, the owner of the trade mark right shall compensate the other party for the excess.
- g) The publication of the decision at the expense of the convicted announcements and notifications to interested persons.

The measures referred to in paragraphs a) and c) of paragraph 1 of this Article may also be requested, when appropriate, against intermediaries whose services are used by a third party to infringe trade mark rights, although intermediaries such acts do not constitute in itself an infringement, subject to the provisions of Law 34/2002 of 11 July, on services information society and electronic commerce.

Such measures must be objective, proportionate and non-discriminatory.

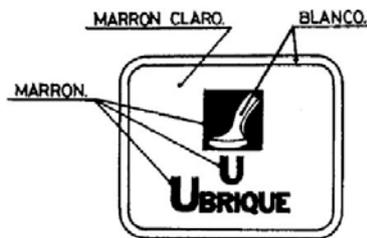
All those who carry out any other act infringing the registered trade mark shall be obliged to compensate for the damage caused only if they have received sufficient warning from the trade mark owner or, where appropriate, the person authorized to take the action regarding the existence of the trade mark, suitably identified, and infringement thereof, with the requirement that they cease such violation, or where in their actions guilt or negligence has played a role or the trade mark in question was well-known or famous (Art. 42.2. of Law 17/2001 of 7 December).

Compensation for damages shall include not only losses but also lost profits by the registrant of the mark because of the violation of his right. The holder of a trade mark registration also may demand compensation for damage caused to the prestige of the mark by the infringer, especially by defective manufacture of the products illegally marked or inappropriate presentation of it on the market. Also, the amount of damages may include, where appropriate, research expenses which are incurred to obtain evidence of the commission of the infringement in the legal proceedings. To determine the compensation for damages will

be considered at the discretion of the injured, the negative economic consequences as well as the quantity and price the infringer would have had to pay the owner for the grant of a license that would have allowed him to carry out their lawful use. (Art. 4.2 of the Law 19/2006, modifying art. 43 of the Law 17/2001).

The “Administradora de la Marca y Denominación del Artículo de Piel de Ubrique S.A.” is the owner of several private collective logos, which the producers who meet the requirements set up in the regulations can use:

1. U UBIQUE:



2. UBRIQUE LEGITIMO:



3. UBRIQUE

Ubrique

*Cost of registration*

The registration of the guarantee trade mark costs 277,85€ for the 1<sup>st</sup> class and 180,00€ for the 2<sup>nd</sup> and each following class for a paper application, and 236,17€ for the 1<sup>st</sup> class and 153,00€ for the 2<sup>nd</sup> and each following class for on-line application. The renewal of the guarantee trade mark costs 323,10€ for the 1<sup>st</sup> class and 216,00€ for the 2<sup>nd</sup> and each following class for a paper application and 274,64€ for the 1<sup>st</sup> class and 183,60€ for the 2<sup>nd</sup> and each following class for on-line application.

*Competent authority for registration*

The Competent authority for the registration of the guarantee trade mark is the Spanish Patent and Trade mark Office (Website: <http://www.oepm.es>)

*Controls*

The control of the quality of all articles of Ubrique leather using the registered trade marks is made by the governing Quality Council of the Mark “Ubrique”, enjoying full independence and autonomy according to the Regulation of Use of the Guarantee Trade mark “Ubrique”. It is a body composed by 10 experts, chosen by the Board of Director of the administrator of the trade mark, all with voice and vote and a Secretary who shall act with voice but no vote.

At present, there are 2 representatives of EMPIEL, 2 of CCOO (Labour Union of workers), 2 representatives of the City Hall of Ubrique, 2 representatives of the company that manages the quality (Lloyd's) and 2 representatives of the administrator of the trade mark. Its main role will be to evaluate and audit the applicants to use the trade mark, to periodically monitor the authorized users, in order to ensure that they maintain the conditions and requirements established on the regulations for the use of the guarantee trade mark, as well as to inform in case of infringements so that the administrator of the trade mark may take action and impose sanctions.

### **Protection beyond national borders**

Ubrique leather enjoys protection beyond Spain in all the Member States of the EU through a Community trade mark and as an appellation of origin through bilateral agreements signed by Spain with some EU countries and with Switzerland.

#### European protection

The Ubrique leather is protected at European level through the Individual Community Trade mark (CTM) n° 006276661, registered on 25 July 2008 for the following figurative trade mark owned by the “Administradora de la Marca y Denominación del Artículo de Piel de Ubrique, S.A.”:

Ubrique

#### *Scope of protection:*

The CTM confers to its proprietor an exclusive right in the 27 EU Member States to use the trade mark and to prevent third parties to use, without consent, the same or a similar mark for identical or similar goods as those protected by the CTM. More specifically, the proprietor is entitled to prevent unauthorised third parties from: putting the registered CTM onto their goods or packaging; offering goods, putting them on the market or stocking them for commercial purposes using the registered CTM; offering or supplying services carrying the registered CTM; importing or exporting goods under it; and using it on business papers and in advertising. The protection is valid for a period of 10 years renewable for successive ten-year periods.

#### International protection

The Ubrique leather enjoys a basic protection at the international level only through two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>207</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, to the repression of the

<sup>207</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

#### Bilateral protection:

- Artículos de Piel de Ubrique - Agreement between the Spanish State and the Federal Republic of Germany on the Protection of Indications of Source, Appellations of Origin and Other Geographical Denominations, and Annexed Protocol, done at Bonn on 11 September 1970, entering into force in Spain on 27 September 1973 : BOE n. 235 of 1 October 1973<sup>208</sup> . -
- Marroquinería de Ubrique - Convention between the Spanish State and the French Republic on the Protection of Appellations of Origin, Indications of Source and the Denominations of Certain Products, done at Madrid on 27 June 1973, entering into force in Spain on 5 March 1975: BOE n. 108 of 6 May 1975<sup>209</sup>.
- Marroquinería de Ubrique - Agreement between the Spanish State and the Swiss Confederation on the Protection of Indications of Source, Appellations of Origin and Similar Denominations, done at Bern on 9 April 1974, entering into force in Spain on 10 March 1976: BOE n. 66 of 17 March 1976<sup>210</sup> .
- Marroquinería de Ubrique - Agreement between the Spanish State and the Italian Republic for the Protection of Indications of Source, Appellations of Origin and Denominations of Certain Products, signed in Madrid on 9 April 1975, entering into force in Spain on 17 May 1976: BOE n. 301 of 16 December 1980<sup>211</sup> .

#### Scope of protection:

These agreements, signed before the accession of Spain to the EU, provide some lists of protected products and/or denominations. In all of these agreements, Ubrique leather is included on the lists of Spanish appellations of origin.

Under these agreements, Ubrique leather is protected against any uses on products and services, liable to create prejudice on competition, weaken the renowned denomination of the product, mislead consumers as to the nature, identity and the true origin of the product. The protection is extended to the uses of the names on translation, with expressions such as like, type, etc.

If the protected denominations were to be used in the aforementioned situations on trade, presentation, packaging, labelling, publicity, etc. these acts will be repressed even with the embargo of merchandises, in order to fight against unfair competition. This protection is not applicable for products on transit.

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<sup>208</sup> <http://www.boe.es/boe/dias/1973/10/01/pdfs/A18917-18932.pdf>

<sup>209</sup> <http://www.boe.es/boe/dias/1975/05/06/pdfs/A09495-09509.pdf>

<sup>210</sup> <http://www.boe.es/boe/dias/1976/03/17/pdfs/A05463-05477.pdf>

<sup>211</sup> <http://www.boe.es/boe/dias/1980/12/16/pdfs/A27701-27709.pdf>

## **Mora Knife**

### **Morakniv**

#### **Short description of the product**

“Morakniv” are range of popular belt-knives manufactured in the town of Mora in Dalarna, Sweden. They are used as every-day knives in Scandinavia, notably in the bushcraft community. In Sweden and Finland, “Morakniv” are extensively used in construction and in the industry as general-purpose tools. Knives have been produced since the 17<sup>th</sup> century in the town of Mora and its surroundings. In 1891, the production of the “Morakniv” was started by Erik Frost, an experienced knife smith in the village of Östnor outside of Mora. Mora of Sweden, the only company producing the knives nowadays, was created by the merger of Sweden’s two major knife manufacturers – K. J. Eriksson and Frosts Knife Manufacturing.

#### **Key economic data**

There is one medium-size enterprise employing 110 persons and producing annually approximately 2.7 million knives. In December 2010, 32% of the employees were women. 35% of Mora of Sweden's production is sold in Sweden where the company has a market share of 75-80%, while 65% is exported. The main export markets are the European Union and the European Free Trade Association countries. Other export destinations include the USA. Mora of Sweden had a turnover of SEK 119.588.000 (13.4 million euros) in 2010, of which approximately 70% comes from the knives.

Mora of Sweden obtained trademark protection for its knives in 2009 and acts against companies that infringe the company's trademark rights. Prior to the trademark protection, some 200 000 fake knives, manufactured in Asia, were imported into Sweden (according to Mora of Sweden media reports).

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Trade mark law

#### **Unfair Trading Regulations**

“Morakniv” benefits from the protection granted under the Swedish Marketing Act (2008:486)<sup>212</sup>, which entered into force on the 1<sup>st</sup> July 2008.

The Swedish Marketing Act (2008:486) provides for a general prohibition of unfair commercial practices. A commercial practice is a misleading action if it contains false information, notably with regard to the “*the product’s origin*” (section 10), which appreciably affects or probably affects the recipient’s ability to make a well-founded transaction decision (section 6).

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<sup>212</sup> <https://webgate.ec.europa.eu/ucp/public/index.cfm?event=public.country.viewFile&lawID=38&languageID=EN>

The Swedish Consumer Agency (Sw. Konsumentverket) and the Consumer Ombudsman (Sw. Konsumentombudsmannen) compose the supervisory authority for a number of laws in the consumer area, *inter alia* the Marketing Practices Act. A trader whose marketing is unfair can be prohibited from continuing with these practices (section 23). This prohibition is subject to a conditional financial penalty (section 26). The Consumer Ombudsman can issue orders concerning the prohibition or concerning the provision on information (section 28). Section 43 provides that a person who is subject to this type of prohibition must, at the request of the Consumer Ombudsman, to provide any information, documentation, samples of goods and suchlike as are necessary in order to verify compliance with the prohibition or order.

Proceedings in respect of a prohibition of misleading marketing and behaviour shall be instituted at the Market Court. Proceedings in respect of a prohibition or order may be instituted by (Section 47):

- The Consumer Ombudsman,
- a trader affected by the marketing in question, or
- a group of consumers, traders or employees.

There is no need to prove a legitimate interest. Although, the Swedish Consumer Agency and the Consumer Ombudsman are acting on behalf of the consumer and will only further investigate complaints that relate to a consumer interest. Such interest is found when the complaint is made by a consumer.

The administrative authorities do not have an obligation to investigate

### Trade mark law

“Morakniv” is registered in Sweden as an individual mark since the 11th September 2009. The trade mark number is 2005-09844. The holder of the mark is Mora of Sweden AB (Box 407, 792 27 MORA, Sweden).

Under the trade mark law, the protection is granted for a period of 10 years renewable. The Swedish Patent and Registration Office is the competent authority for registration. The registration of trade marks costs 211€ for the 1<sup>st</sup> class and 100€ for the following classes for a paper application, and 167€ for the 1<sup>st</sup> class and 78€ for the following classes for on-line filing. The renewal of a trade mark costs 178€.

Under the Trade marks Act (2010:1877), the holder of the mark has the exclusive rights on the use of the name and/or logo in the classes where it has been registered (article 8). The holder has also the right to object to the use for goods or services of an identical mark or a mark which could mislead the consumer (article 10). Furthermore, the mark enjoys protection against genericity as long as the trade mark is used and protected. A registration can be terminated if a brand, as a result of the holder's action or inaction, in the trade has become the common name for such goods or services covered by the registration, brand has come to be against the law or to morality or public order, or mark has become liable to mislead the public as to the good or service, quality, geographical origin or other status, and this is a result of the use owner or with his or her consent made of the mark for such goods or services it is registered for (article 2 of chapter 3). Chapter 8 of the law deals with criminal prosecution, injunction and damages.

Under Trade mark law, it is up to the right holder, Mora of Sweden AB, to act to enforce its rights.

### **Protection beyond national borders**

#### EU protection

Mora of Sweden AB registered at the Office for Harmonization in the Internal Market (EU-wide protection for collective Community trade marks) two individual trade marks. The

protection can be renewed every 10 years. It is up to the right holder to act to enforce his rights.

- A figurative mark under number 008773079 on the 20<sup>th</sup> July 2010. The expiry date is the 21<sup>st</sup> December 2019.

**MORAKNIV** 

- A work mark “Morakniv” under number 008773343 on the 14<sup>th</sup> September 2010. The expiry date is the 21<sup>st</sup> December 2019.

#### International protection

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “Morakniv” benefits from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>213</sup> and the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, “Morakniv” enjoys protection as a trade mark outside of the EU.

Mora of Sweden AB also registered two figurative trade marks in the USA at the US Patent and Trade mark Office (USPTO):

<sup>213</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

MORAKNIV 

- Registered since 13<sup>th</sup> March 2012, under the serial Number 77898314:

MORAKNIV

- Registered since 14<sup>th</sup> June 2011, under the serial Number 77876141:

The protection can be renewed every 10 years. It is up to the right holder to act to enforce his rights. The registration of these trade marks provides for the exclusive rights on the use of the name and/or logo in the classes to Mora of Sweden AB in the USA. The name enjoys protection against genericity as long as the trade mark is used and protected. For the protection to be effective, the trade mark must be used on these markets.

## Switzerland

### St Gall embroidery

#### St.Galler Stickerei, St.Galler Spitzen, Dentelles de St. Gall

#### Short description of the product

“St.Galler Stickerei / St.Galler Spitzen / Dentelles de St. Gall” is a denomination which refers to embroidery products from the city and the region of St. Gallen in Switzerland, which are of high quality and are nowadays used in haute couture by famous designers. The first records regarding the production of this embroidery can be traced back to the 18<sup>th</sup> century. Interestingly, St.Galler Stickerei became famous because of its production method, the so-called “Aetzverfahren”: dissolution with acetone of the material that has been embroidered so that only the embroidery is left. The particularity of this product arises from the fact that it is a mechanical embroidery which incorporates parts of handmade embroidery, thus requiring a great knowhow.

#### Key economic data

The embroidery of St. Gallen is currently produced by 4 medium-sized enterprises, 2 small enterprises and 5 micro-enterprises. These enterprises contribute to around 10% of jobs in the area; it might seem like a small number but it actually represents an important industrial sector in the area given that it offers various job profiles as well as specialised jobs. Its leading market is the European one, meaning the EU, Switzerland, Norway, Iceland and Liechtenstein, nevertheless this product is also exported to Asia, Africa, America and Oceania. The exports of St. Gallen embroidery in 2011 amounted to 465 tons (433 in 2010), representing 1% of the global textile and garment exports of Switzerland. Approximately, the total turnover for 2011 was of 92.64 millions of Euros. Just to have a price idea: one meter of this embroidery is worth more or less 1000 CHF (832 Euro).

The embroidery of St. Gallen is facing a hard competition. The Swiss Federation of textile estimates that 15% of the worldwide sold Swiss embroideries are copies/fakes. The enterprises generally design twice a year their new collections and propose them to companies which use the embroidery in their collection. These companies then illegally take the fake designs and make them done by cheaper companies.

#### Detailed analysis of the legal protection enjoyed by the product at the national level:

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Federal law on the protection of trade marks and indications of source

There are two collective organisations of producers:

- The Swiss textile Federation which has a specific Working Group on Embroidery/Fabrics-Exports (AKSGE) dealing with St. Galler embroidery. It gathers 200 companies (from the entire Swiss textile sector) including 6 companies of the St. Galler embroidery. There are 6 members in the AKSGE, all involved in the St. Galler embroidery production. The aim of the Swiss Textile Federation is to safeguard and promote the interests of its member, especially in to encourage contacts, the exchange of ideas and experience among members and further the training of young technical, creative and commercial personnel fit for the future.

- The Fédération des Dentellières Suisses (Federation of Swiss lace makers). This federation gathers hobby embroiderers which produce embroidery by hand. It thus is not much involved in the St-Galler Stickerei industry. Their goal is to safeguard traditional know-how as part of the cultural heritage.

### Unfair competition law

“St.Galler Stickerei / St.Galler Spitzen / Dentelles de St. Gall” benefits from the general protection granted under the Swiss Federal Law against Unfair Competition of 19 December 1986<sup>214</sup> for an indefinite period. This Act forbids unfair commercial practices. Article 2 of the law defines the unfair commercial practices or behaviour as a practice which “*is misleading or which contravenes to the rules on good faith and which influence the relations between competitors or between suppliers and clients*” notably false information on the goods (article 3.b).

The Law provides that the following entity can act in case of an illegal commercial practice:

- The person, which suffers a damage due to an unfair commercial practice or which could suffer such a damage, and
- Clients whose economic interests are jeopardised or damaged.

They can ask the judge to forbid the practice if it is about to happen, to stop it or to rule that the practice is illegal (article 9.1 & 10.1). They can ask the practice to be published (article 9.2 & 10.1) and a financial compensation (article 9.3 & 10.1).

Actions provided by articles 9.1 and 9.2 can also be done by (article 10.2):

- The professional and economic associations, which legal status authorises them to defend the economic interests of their members.
- The organisations which have a regional or national importance and which protect consumers.
- The State if it judge it necessary to protect the public interest, notably if the reputation of Switzerland abroad is jeopardised or sustain an damage and the persons whose economic interests are damages live abroad, or if the interests of several persons of a group of persons belonging to an economic sector or other collective interests are jeopardised or sustain an damage (article 10.2)

Chapter 4 of the law deals with the sanctions. In accordance with the regular practice of the courts, it is possible to have concurrent application – in civil but not criminal law – of the legal protection derived from a special intellectual property law and the law on unfair competition. The special intellectual property laws exclude the application of the law on unfair competition only if the former regulate the question completely and, in particular, if they provide more extensive protection. If an intellectual property right cannot be protected under a special law, or if the relevant protection has not been obtained or no longer exists, protection cannot be acquired under the law on unfair competition. In other words, it is possible to have concurrent application of the law on unfair competition and intellectual property law but not to obtain an extension of the protection afforded by the intellectual property laws by seeking recourse to the law on unfair competition.

### Federal law on the protection of trade marks and indications of source

“St.Galler Stickerei / St.Galler Spitzen / Dentelles de St. Gall” benefits from the protection as unregistered qualified indication of source, according to Federal law on the protection of trade marks and indications of source from 28 August 1992. This law covers agricultural and non-agricultural products and services. Its title 2 deals with indications of source.

<sup>214</sup> Only available in French, German or Italian: <http://www.admin.ch/ch/f/rs/241/index.html>

Article 47.1 of the Federal law on the protection of trade marks and indications of source defines an indication of source (“indication de provenance”) as any reference, direct or indirect, to the geographical source of products or services, including references to properties or quality in relation to the source. Geographical names or signs which are not considered by the circles concerned to be a reference to the source of products or services are not indications of source within the meaning of the Federal law (article 47.2). In other words, any indication of source that is perceived as such by the consumers should correspond to the real geographical origin of the product. Article 48 provides that the source of a product is determined by its place of manufacture or by the place of manufacture of its raw materials or components. The criteria must be defined in terms of their influence on the reputation of the products, on a case by case basis.

The Federal law on the protection of trade marks and indications of source protects all direct or indirect references to the geographical origin of products or services against illicit use, such as false or misleading geographical indications (Article 47.3).

The Federal Council can, in the interests of the economy or a specific sector, detail the conditions of use of a specific indication of source for specific products or services (article 50).

The general provisions of the Federal law on indications of source do not contain a procedure of registration. This means that all geographical indications benefit in Switzerland from a general *sui generis* protection, independent of any registration. There is no recognition or registration procedure and no procedural fee. The protection is granted for an indefinite period.

Moreover, it is possible for the group using the indication of source to register it as a mark (individual mark, a collective mark or a certification mark) if the name is established on the market as the distinctive sign of a particular company. In this case, the title 1 of the Federal law regarding the marks applies.

A person, which suffers or which could suffer a violation of its right on the mark or the indication of source can ask the judge to forbid the practice if it is about to happen, to stop it or ask the other party to give the origin and the quantity of goods on which the mark or the indication of source has been unlawfully used (article 55.1). This person can also ask for compensation (article 55.2). Article 56 provides that the actions provided by article 55.5 can also be done by professional and economic associations, which legal status authorises them to defend the economic interests of their members, and organisations which have a regional or national importance and which protect consumers. Confiscation, destruction of the goods can also be ordered by the judge (Article 57), as well as provisional measures (Article 59) and the publication of judgment (Article 60). Article 64 provides for the criminal penalties in case of unlawful uses of indication of sources.

The holders of the right are the producers of “St.Galler Stickerei / St.Galler Spitzen / Dentelles de St. Gall”.

### **Logo**

There is no common logo and no individual logo comprising the name “St. Galler embroidery”. Each enterprise has its own brand name but they use the origin “St. Gallen” as a marketing tool because of its reputation.

### **Controls**

There is no control system in place.

## Protection beyond national borders

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

First, “St.Galler Stickerei / St.Galler Spitzen / Dentelles de St. Gall” benefit from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>215</sup>, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a basic protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

### Bilateral protection

“St.Galler Stickerei / St.Galler Spitzen / Dentelles de St. Gall” is protected under several bilateral agreements concluded between Switzerland. The Bilateral agreement between Switzerland and Japan on Free Trade and Economic Partnership (FTEPA) of 2009 was the first one to explicitly mention “St-Gallen embroidery (St. Galler Stickerei / St. Galler Spitzen)” in its annex X on the protection of geographical indications. The Bilateral agreement between Switzerland and Russia on the protection of geographical indications and designations of origin of 2010 also mention “St.-Gallen embroidery (St. Galler Stickerei / St. Galler Spitzen)” amongst the protected denominations in Annex 2.

The name is protected in these countries for an indefinite period. Under these Agreements, “Swiss” is protected against any uses on products and any uses liable to mislead the consumers as to the nature, identity and the true origin of the product. The protection is extended to the uses of the name with expressions, such as “art”, “type”, “style,” “imitation” or “like”, and the uses of the name in translation.

<sup>215</sup> [http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

## **Swiss Watch**

### **Montre Suisse / Schweizer Uhr**

#### **Short description of the product**

“Montre Suisse/Schweizer Uhr” is a denomination which encompasses different type of Swiss watches and clocks (mechanical or quartz watches) made of different materials (case materials, crystal, bracelets, precious metal, stainless steel, wood, plastic, high tech ceramic) and which have different designs. The Swiss watch and clock industry appeared in Geneva in the middle of the 16th century. In 1541, reforms implemented by Jean Calvin and banning the wear of jewels, forced the goldsmiths and other jewelers to turn into a new, independent craft: watchmaking. By the end of the century, Geneva watches were already reputed for their high quality, and watchmakers created in 1601 the Watchmakers' Guild of Geneva, the first to be established anywhere. The mass production of watches began at the turn of the 20th century, thanks to the researches and new technologies introduced by reputed watchmakers (i.e. Frédéric Ingold and Georges Léchet). The increase of the productivity, the interchangeability of parts and the standardization progressively led the Swiss watch industry to its world supremacy. For more than four centuries now, tradition, craftsmanship, high technologies and permanent innovation have allowed the Swiss watch industry to keep its leadership in the world watch market.

#### **Key economic data**

The whole Swiss watch industry comprises about 600 companies (including the enterprises involved upstream in the supply-chain and the enterprises producing the non-agricultural GI good). The sector is mainly constituted of medium-sized enterprises (98.3%) but there are also a number of large enterprises producing this product (1.7%), for instance the Swatch group, Patek Philippe and Rolex. It is interesting to note that the total amount of jobs in the industrial and services sector generated by the Swiss watch industry was of 3.494.071 in 2008. More specifically, the number of full-timer workers engaged in the production amounted to 48.500 for 596 enterprises in 2010. Regarding the exports of watches, Switzerland is the world leader in value (21.8 billion dollars in 2011, followed by Hong Kong with 8.8 billion dollars, China with 3.7 billion dollars and Germany with 2 billion dollars). In terms of volume China remains the leading export market with 682.1 million units being shipped.

The whole Swiss watch industry is facing a hard competition as counterfeits are very frequent. The Federation of the Swiss Watch Industry estimates that for 26 million watches produced in Switzerland each year, there are 30 to 40 million counterfeits. The Federation and the Fondation de la Haute Horlogerie are working actively to curb the number of counterfeited products on the market.

#### **Detailed analysis of the legal protection enjoyed by the product at the national level:**

The product enjoys national protection under the following legal instruments:

- Unfair competition law
- Federal law on the protection of trade marks and indications of source
- Specific law protecting the product

There is a collective organisation of producers, the Federation of the Swiss Watch Industry, which is a private, professional, and non-profit association. It has offices in Hong Kong and Japan. It has more than 500 members, representing more than 90% of the Swiss watch industry, including finished products, watch movements, components, etc. It has a General

assembly (60 delegates), an Administration council (20 members), a directory (1 president, 2 vice-presidents and 2 members) and 6 commissions/divisions. Its roles are to contribute to the development of the Swiss watch industry, to establish a permanent link between its members to promote their joint interests, to represent the Swiss watch industry in dealing with the Swiss, foreign and international authorities and economic or standardization organizations, and to protect the interests of its members in the drafting of national and foreign legislation, as well as during international negotiations to defend its members' interests by means of legal proceedings. The Federation has a double role in the protection of this indication of geographical origin:

- advising the companies on the lawful markings for watches and movements according to the Federal Council's Ordinance governing the use of the word "Swiss" for watches;
- it may act against companies which illegally use this indication, in order to protect the consumer, on the one hand, and, on the other hand, the renown of this designation, which is synonymous with quality.

Two other organisations which promote fine watch-making are also involved in the sector:

- The Fondation de la Haute Horlogerie was established in Geneva in 2005 by three founders, the Richemont Group, Audemars Piguet and Girard Perregaux, to promote Fine Watchmaking internationally. It is active in the areas of information, training and Think Tank. The Fondation de la Haute Horlogerie is actively committed to the fight to end counterfeiting. Since 2009, it has implemented a series of measures to raise public awareness of a global problem that plagues the luxury industry in general and watchmaking in particular.
- The Horological Academy of Independent creators (AHCI), founded in 1984 and counting 30 members (creators) of 11 countries. They promote exceptional horological innovations as well as special technical and artistic executions (manual and artistic watch-making).

### Unfair competition law

"Montre Suisse/Schweizer Uhr" benefits from the general protection granted under the Swiss Federal Law against Unfair Competition of 19 December 1986<sup>216</sup> for an indefinite period of time. This Act forbids unfair commercial practices. Article 2 of the law defines the unfair commercial practices or behaviour as a practice which "*is misleading or which contravenes to the rules on good faith and which influence the relations between competitors or between suppliers and clients*" notably false information on the goods (article 3.b).

The Law provides that the following entity can act in case of an illegal commercial practice:

- The person, which suffers a damage due to an unfair commercial practice or which could suffer such a damage, and
- Clients whose economic interests are jeopardised or damaged.

They can ask the judge to forbid the practice if it is about to happen, to stop it or to rule that the practice is illegal (article 9.1 & 10.1). They can ask the practice to be published (article 9.2 & 10.1) and a financial compensation (article 9.3 & 10.1).

Actions provided by articles 9.1 and 9.2 can also be done by (article 10.2):

- The professional and economic associations, which legal status authorises them to defend the economic interests of their members.
- The organisations which have a regional or national importance and which protect consumers.

<sup>216</sup>

Only available in French, German or Italian: <http://www.admin.ch/ch/f/rs/241/index.html>

- The State if it judge it necessary to protect the public interest, notably if the reputation of Switzerland abroad is jeopardised or sustain an damage and the persons whose economic interests are damages live abroad, or if the interests of several persons of a group of persons belonging to an economic sector or other collective interests are jeopardised or sustain an damage (article 10.2)

Chapter 4 of the law deals with the sanctions.

#### Federal law on the protection of trade marks and indications of source

“Montre Suisse/Schweizer Uhr” benefits from the protection as unregistered qualified indication of source, according to Swiss Federal law on the protection of trade marks and indications of source from 28 August 1992. This law covers agricultural and non-agricultural products and services. Its title 2 deals with indications of source.

Article 47.1 of the Federal law on the protection of trade marks and indications of source defines an indication of source (“indication de provenance”) as any reference, direct or indirect, to the geographical source of products or services, including references to properties or quality in relation to the source. Geographical names or signs which are not considered by the circles concerned to be a reference to the source of products or services are not indications of source within the meaning of the Federal law (article 47.2). In other words, any indication of source that is perceived as such by the consumers should correspond to the real geographical origin of the product.

Article 48 provides that the source of a product is determined by its place of manufacture or by the place of manufacture of its raw materials or components. The criteria must be defined in terms of their influence on the reputation of the products, on a case by case basis.

The Federal law on the protection of trade marks and indications of source protects all direct or indirect references to the geographical origin of products or services against illicit use, such as false or misleading geographical indications (Article 47.3).

The Federal Council can, in the interests of the economy or a specific sector, detail the conditions of use of a specific indication of source for specific products or services (article 50).

The general provisions of the Federal law on indications of source do not contain a procedure of registration which is quite a unique system. This means that all geographical indications benefit in Switzerland from a general *sui generis* protection, independent of any registration. As there is no recognition or registration procedure, the protection is free of charge while the protection is granted for an indefinite period.

Besides this, it is possible for the group using the indication of source to register it as a mark (individual mark, a collective mark or a certification mark) if the name is established on the market as the distinctive sign of a particular company. In this case, the title 1 of the Federal law regarding the marks applies.

With regard to the extent of the protection, a person, which suffers or which could suffer a violation of its right on the mark or the indication of source can ask the judge to forbid the practice if it is about to happen, to stop it or ask the other party to give the origin and the quantity of goods on which the mark or the indication of source has been unlawfully used (article 55.1). This person can also ask for compensation (article 55.2). Article 56 provides that the actions provided by article 55.5 can also be done by professional and economic associations, which legal status authorises them to defend the economic interests of their members, and organisations which have a regional or national importance and which protect

consumers. Confiscation, destruction of the goods can also be ordered by the judge (Article 57), as well as provisional measures (Article 59) and the publication of judgment (Article 60). Article 64 provides for the criminal penalties in case of unlawful uses of indication of sources.

The holders of the right are the Federation of the Swiss Watch Industry and the producers of Swiss watches who respect the Federal ordinance regulating the use of the name "Swiss" for watches (see below).

### Specific law

Swiss Watches are protected by a specific law: the Federal ordinance regulating the use of the name "Swiss" for watches<sup>217</sup>, of the 23<sup>rd</sup> of December 1971, which is in force since the 1<sup>st</sup> January 1972. Its article 1 defines a watch. According to Article 1a, a watch is considered to be Swiss if its movement is Swiss; its movement is cased up in Switzerland; and the manufacturer carries out the final inspection in Switzerland. According to article 2, a movement is considered to be Swiss if it has been assembled in Switzerland; it has been inspected by the manufacturer in Switzerland; and the components of Swiss manufacture account for at least 50 percent of the total value, without taking into account the cost of assembly.

Article 3 of the ordinance lists the conditions of use of the name "Swiss". "Swiss", "Switzerland", "Swiss product", "made in Switzerland", "Swiss quality" or other designations containing the name "Swiss" or which are similar to it can only be used for Swiss watches and movement (article 3.1). If the watch is not Swiss, these designations can be used on Swiss movements if it cannot be seen by the buyer of the watch (article 3.2). The designation "Swiss movement" can be used on watches containing a Swiss movement but must appear in full, and be written in the same font, size and color as the word "Swiss" (article 3.3). Article 3.1 and 3.3 apply even when the designations are used in translation, when the true origin of the watch is given, when the designation is used with expressions such as "type". Article 8 provides that the penal provisions of the Trade Mark law apply to the infractions to this ordinance.

Any producer of watch who fulfils the requirements established by this ordinance can use the name "Swiss".

**Logo:** There is no collective logo.

### Controls

The Federation of the Swiss Watch Industry does not conduct systematic controls to ensure the compliance with the Federal ordinance regulating the use of the name "Swiss" for watches. However, it keeps a close eye on the market and if there are doubts on the respect of requirements, signalled by other enterprises or by the custom authorities, they check the products. In practice, the Swiss watch-making market is somehow "self-controlled" by the enterprises.

### Protection beyond national borders

The product enjoys protection at the international level through different instruments (see below). However, the strength of the protection depends a lot on the legal instrument that is being used.

<sup>217</sup>

<http://www.fhs.ch/doc/osmf.pdf>

First, “Montre Suisse/Schweizer Uhr” benefit from the basic protection offered by two International treaties: the Paris Convention for the protection of intellectual property from 7 July 1884<sup>218</sup>, the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892. These international protection tools provide for a general protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10<sup>bis</sup>, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

Second, the name is protected in third countries through bilateral agreements:

- The “Swiss” origin for watches is protected under several bilateral agreements concluded by Switzerland with Germany in 1967, Czechoslovakia in 1973, France in 1974, Spain in 1974, Portugal in 1977, Hungary in 1979, Japan in 2009 and Russia in 2010.
  - In the bilateral agreement signed with Germany in 1967, with Czechoslovakia in 1973 and with Hungary in 1979, the designation « Brienzer Uhren » is protected.
  - In the bilateral agreement signed with France in 1974, with Spain in 1974, and with Portugal in 1977 the designation « Pendulettes de Brienz » is protected.
  - In the agreement on Free Trade and Economic Partnership between Switzerland and Japan signed in 2009, the following designations are listed for watches: “Geneva”, “Neuchâtel”, “Schaffhausen” and “Swiss” (annex X, section, point f).
  - In the bilateral agreement on the protection of geographical indications and designations on origin signed with Russia in 2010, the designations “Swiss”, “Genève / Geneva”, “Neuenburg / Neuchâtel”, and “Schaffhausen” are protected under Annex 2.

The name is protected in these countries for an indefinite period. Under these Agreements, the designations are protected against any uses on products and any uses liable to mislead the consumers as to the nature, identity and the true origin of the product. The protection is extended to the uses of the name with expressions,

<sup>218</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

such as "art", "type", "style," imitation" or "like", and the uses of the name in translation.

Trade mark protection:

- The Federation of the Swiss Watch Industry registered certification marks in the USA and Hong Kong. The registration must be renewed every 10 years. The registration of trade marks in all these countries provides for the exclusive rights on the use of the name and/or logo in the classes to Federation of the Swiss Watch Industry and its members who meet the "Federal ordinance regulating the use of the name "Swiss" for watches". The name enjoys protection against genericity as long as the trade mark is used and protected. For the protection to be effective, the trade mark must be used on the market. It is up to the right holder to act to enforce his rights. The enforcement and maintenance of this protection is expensive.

## The United Kingdom

### Harris Tweed

#### Short description of the product

The Harris Tweed is a hand-woven woollen, spun, woven, and dyed by the islanders Outer Hebrides. The cloth is hand woven on the islands, predominantly in workshops in Islander's homes, using a range of traditional techniques, patterns and dyes. Therefore there is considerable expertise and know how in preparation of the cloth through all the stages of preparation and manufacture.

The cloth was first recognised in 1846 outside of the Islands when the local Landlord began to popularise the cloth more widely in Victorian Society, when it became very popular. In 1906 the first initiative to inspect for quality started with the Trade Mark orb and Maltese cross being introduced in 1910. The product continued to well recognised and popular through out the twentieth century, receiving specific protection in 1993 through an Act of Parliament.

#### Key economic data

The three main companies producing Harris Tweed are Harris Tweed Hebrides, Harris Tweed Textiles and Harris Tweed Scotland. Over 250 craftsmen and women are weaving and working in the mills of the Outer Hebrides.

#### Detailed analysis of the legal protection enjoyed by the product at the national level:

The product enjoys national protection under the following legal instruments:

- The Consumer Protection for Unfair Trading Regulations 2008
- The Trade mark law
- A specific law - the Harris Tweed Act 1993<sup>219</sup>

#### Unfair Trading Regulations

Harris Tweed benefits from the protection granted under the Unfair Trading Regulations for an indefinite period of time.

The Consumer Protection from Unfair Trading Regulations 2008 (CPRs) introduces a general prohibition on traders in all sectors engaging in unfair commercial practices against consumers. A commercial practice is a misleading action if it contains false information, notably with regard to the geographical or commercial origin of the product and it causes or is likely to cause the average consumer to take a transactional decision he would not have taken otherwise (article 5).

The powers of the authorities are large as they can to enter premises with or without a warrant, seize and detain goods. They can act on their own initiative. An administrative complaint can also be made to an Authority which is free to investigate or reject the complaint. It is important to note that the enforcement agencies are the only ones able to take action for breaches of these Regulations as there is no private right of action against traders by business or consumers. This means that producers of Harris Tweed cannot act to protect their right under these Regulations and must rely on enforcement Agencies that can

<sup>219</sup>

[http://www.legislation.gov.uk/ukla/1993/11/pdfs/ukla\\_19930011\\_en.pdf](http://www.legislation.gov.uk/ukla/1993/11/pdfs/ukla_19930011_en.pdf)

take a trader to court for breaches of the legislation. The court may grant an injunction on such terms as it may think fit to secure compliance with the Regulations. In addition to court actions for breach of the Regulations, Enforcement Agencies are able to ask for undertakings from traders not to engage in or repeat the conduct constituting an infringement. Enforcement Agencies can also carry out inspections of traders and issue warnings if they are in breach of the Regulations (Part 4 of the Regulations). Traders may also be subject of a fine of not more than the statutory maximum (at the moment this is £5,000) (civil enforcement) or, on conviction for indictment, an unlimited fine and imprisonment for a term not exceeding two years (criminal enforcement).

#### Trade mark law:

The Harris Tweed Authority registered several trade marks:

- *Collective Mark* n°: 2311169, registered on 30 April 2004, for “Harris Tweed”, which also covers a figurative mark<sup>220</sup>,
- *Collective Mark* n°: E60665, registered on 9 November 1999, for “HARRIS TWEED”<sup>221</sup>,
- *Certification Mark* n°: 319214, registered on 24 August 1910, for “HARRIS TWEED” which also covers a figurative mark<sup>222</sup>,
- *Figurative Mark* n°: 2461875, registered on 13 February 2009, for the logo<sup>223</sup>
- *Certification Mark* n°: 2058045, registered on 16 October 1998, for a figurative mark<sup>224</sup>

Under the trade mark law, the protection is granted for a period of 10 years renewable. The UK Intellectual Property Office is the competent authority for registration. The registration of trade marks costs £200 for the 1<sup>st</sup> class and £50 for the 2<sup>nd</sup> and following class for a paper application, and £170 for on-line filing. The renewal of a trade mark costs £200.

The Harris Tweed Authority is the owner of a private and collective logo, which the producers who meet the requirements set up in the Harris Tweed Act can use:



Under the trade mark act of 1994 (TMA), a normal mark, a collective mark and a certification mark confer the same rights on the holder. It has the exclusive rights on the use of the name and the logo in the classes where it has been registered. The holder has also the right to object to the use of an identical or confusingly similar mark. Furthermore, the mark enjoys protection against genericity as long as the trade mark is used and protected. A mark can be challenged for non-use. With regard to Collective Marks sections 3.1 & 3.2 allow for geographical indications but the holder cannot prohibit others with an ‘honest entitlement to the geographic name’. This is repeated in the Schedule for Certification Marks. For certification and collective marks, the registered proprietor - The Harris Tweed Authority - is the holder of the mark. However, the mark may also be enforced by any authorised users, such as Harris Tweed producers. Under the TMA, it is up to the right holder to act to enforce its rights.

#### Specific law - the Harris Tweed Act 1993<sup>225</sup>

<sup>220</sup> <http://www.ipo.gov.uk/domestic?domesticnum=2311169>

<sup>221</sup> <http://www.ipo.gov.uk/ohim?ohimnum=E60665>

<sup>222</sup> <http://www.ipo.gov.uk/domestic?domesticnum=319214>

<sup>223</sup> <http://www.ipo.gov.uk/t-find-number?detailsrequested=C&trademark=2461875>

<sup>224</sup> <http://www.ipo.gov.uk/t-find-number?detailsrequested=C&trademark=2058045>

The Harris Tweed Authority is constituted by Act of Parliament to protect and promote Harris Tweed (part II, section 3 of the Act). Its general duty is to “*furthering the Harris Tweed industry as a means of livelihood for those who live in the Outer Hebrides by safeguarding the standard and reputation of, promoting awareness in all parts of the world of, and disseminating information about, material falling within the definition of Harris Tweed and articles made from it*”.

This act does not provide for an intellectual property protection as such. It defines the product and establishes the Harris Tweed Authority which is given the right to promote and maintain the authenticity, standard and reputation of Harris Tweed for an indefinite period of time. This includes the ability to protect the Harris Tweed name through intellectual property rights.

The Harris Tweed Authority is a body corporate (SCHEDULE, Section 1) and a public body (SCHEDULE, Section 2). The Authority which is a non-profit association has a Board of directors and a management team. The Act provides that the Authority can work in the United Kingdom and at the international level, notably:

- to publicise the origin and qualities of the Harris Tweed, and to promote it,
- to contribute to the research into the technology used to produce it,
- to promote or otherwise seek, or to oppose, legislation in the United Kingdom or any other part of the world.

In order to obtain the protection under the specific law, the criteria to be fulfilled are the existence of production requirements and historical link to the territory. Part III Section 7 of the Harris Tweed Act provides the definition of Harris Tweed which:

- indicates the geographical area of production: the Outer Hebrides,
- provides that the raw material is pure virgin wool,
- defines the steps of production which all must take place on the islands:
  - the dyeing and spun of the pure virgin wool,
  - the processing, defined as the hand weaving of the wool,
  - the finishing of the product.

Section 8 on Additional requirements in relation to Harris Tweed provides that additional requirements may be adopted. However, to our knowledge, this appears not to be the case.

Under Section 9 of the Harris Tweed Act, it is forbidden any person to sell, expose or offer for sale, or have in his possession for the purposes of sale any material which is represented as Harris Tweed, or any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed, if the material does not fall within the definition of Harris Tweed. The Harris Tweed Act provides that the Harris Tweed Authority, a person involved in the Harris Tweed industry, or any person or body appearing to the court to be representative of the persons (or of any group of the persons) involved in the Harris Tweed industry can ask the Court of Session or a sheriff court in relation to Scotland and the High Court or a county court in relation to England and Wales to grant an injunction restraining or, in Scotland, an interdict prohibiting such conduct, and may make such further orders as it considers appropriate.

With regard to the protection of the Harris Tweed, the Authority can act:

- (c) to register and maintain in any part of the world intellectual property rights including patents, trade marks and other marks and designs, and to authorise the user of such intellectual property on such lawful terms and conditions as the Authority may think fit;

(d) to take or join in taking such steps, including legal proceedings, as may lawfully be taken in any jurisdiction in the world in order—

(i) to defend against infringement or likely infringement any intellectual property rights so registered and any other intellectual property; and

(ii) to prevent, or put a stop to, any person selling, exposing or offering for sale or having in his possession for the purposes of sale—

(aa) any material which is represented as Harris Tweed but is not Harris Tweed; or

(bb) any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed when it has not been so made;

The Harris Tweed Authority is also in charge of the controls.

### **Protection beyond national borders**

#### EU protection:

The Harris Tweed Authority registered the name “HARRIS TWEED”, as a collective trade mark, at the Office for Harmonization in the Internal Market (EU-wide protection for collective Community trade marks). It is registered since the 9 November 1999 and the expiry date is the 1<sup>st</sup> April 2016<sup>226</sup>. The protection can be renewed every 10 years. It is up to the right holder to act to enforce his rights.

#### International protection:

- Paris Convention for the protection of intellectual property from 7 July 1884<sup>227</sup>
- Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods on 15 July 1892

These international protection tools provide for a protection under unfair competition laws. The countries that are contracting parties to these agreements must have a legal framework that allows public authorities to act *ex officio* (on their own initiative) to protect the name and right holders to enforce their rights on the name.

It is useful to recall the content of Article 10 bis of Paris Convention which concerns unfair competition rules. “*Shall be prohibited indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*” Article 10 ter provides rules on the right for producers associations to take action. Federations and associations representing interested industrialists, producers, or merchants, ..., are permitted to take action in the courts or before the administrative authorities, with a view to the repression of the acts referred to in Articles 9, 10, and 10bis, in so far as the law of the country in which protection is claimed allows such action by federations and associations of that country.

The Madrid Agreement provides that that all goods bearing a false or deceptive indication of source must be seized on importation, or such importation must be prohibited, or other actions and sanctions must be applied in connection with such importation. The Agreement provides for the cases and the manner in which seizure may be requested and made. It prohibits the use, in connection with the sale or display or offering for sale of any goods, of all indications in the nature of publicity capable of deceiving the public as to the source of the goods. It is up to the courts of each contracting State to decide what appellations (other than

<sup>226</sup>

<http://esearch.oami.europa.eu/copla/trademark/data/000060665>

<sup>227</sup>

[http://www.wipo.int/treaties/en/ip/paris/trtdocs\\_wo020.html#P210\\_34746](http://www.wipo.int/treaties/en/ip/paris/trtdocs_wo020.html#P210_34746)

regional appellations concerning the source of products of the wine) do not, on account of their generic character, come within the scope of the Agreement.

#### International trade mark registration

- The Harris Tweed Authority also registered the name “Harris Tweed” in the USA at the US Patent and Trade mark Office (USPTO). The serial Number is 71535953 and it is registered since 4<sup>th</sup> July 1950. The protection can be renewed every 10 years. It is up to the right holder to act to enforce his rights.
- Trade marks are also registered in Argentina, Australia, Brazil, Canada, Chile, China, Colombia, Hong Kong, India, Japan, Korea, Malaysia, New Zealand, Norway, Sabah, Singapore, South Africa, South Korea, Switzerland, and Taiwan.

Scope of protection: the registration of the Harris Tweed trade mark in all these countries provides for the exclusive rights on the use of the name and/or logo in the classes to the producers of Harris Tweed that meet the requirements set out in the Harris Tweed Act where it has been registered. The name enjoys protection against genericity as long as the trade mark is used and protected. For the protection to be effective, the trade mark must be used on these markets.

### **Annex III - List of identified products**

#### **Austria**

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Adneter Marmor	Marble
2.	Alpenländisches Konglomerat	Conglomerate
3.	Augarten Porzellan	China
4.	Ausseer Hüte	Textile
5.	Ausseer Trachten	Textile
6.	Ausseer Tücher	Textile
7.	Berndorfer	Metalware
8.	Ferlacher Gewehre	Firearms
9.	Ferlacher Waffen	Firearms
10.	Frauenthaler Porzellanisolatoren	China
11.	Frauenthaler Porzellanwaren	China
12.	Friesacher Leinen	Linen
13.	Gebhartser Syenit	stone
14.	Gmundner Keramik	Ceramics
15.	Herschenberger Granit	Granit
16.	Hirtenberger Munition	Firearms
17.	Hirtenberger Patronen	munitions
18.	Hirtenberger Zündhütchen	munitions
19.	Imster Tonwafen	
20.	Ischler Hut	Textile
21.	Karlsteiner Uhren	clocks
22.	Lechtaler Teppiche	Textile
23.	Linzer Goldhauben	Golden headdress for women
24.	Mandlinger Loden	Textile
25.	Margarethner Kalksandstein	stone
26.	Montafoner Tisch	Wooden product
27.	Mühlviertler Leinen	Textile
28.	Mühlviertler Leinengewebe	Textile
29.	Murauer Wollwebereiwaren	Textile
30.	Mürztaler Keramik	ceramics
31.	Naarntaler Granit	Granit
32.	Naintscher Mineralprodukte	Stone
33.	Neue Wiener Geigen	music instrument
34.	Neuhauser Granit	Granit
35.	Neuzeug-Besteck	Cutlery
36.	Neuzeug-Hohlwaren	Cutlery
37.	Neuzeug-Messer	Cutlery
38.	Neuzeug-Tischgeräte	
39.	Original Wiener Schneekugeln	snowglobe
40.	Perger Granit	Granit
41.	Plansee-Produkte	Metalware
42.	Schladminger Loden/Perlloden Schladminger"	Pure Wool product/Textile
43.	Schladminger Socken	Socks
44.	Schladminger Walkjanker (Lodenwalker)	textile products
45.	Schwarzenseer Marmor	marble
46.	St. Eydener Feilen	
47.	St. Eydener Skistockrohre	
48.	St. Peter Keramik	ceramics
49.	Stoobar Tonwaren	ceramics
50.	Stubaiier Eisenwaren	iron goods

51.	Stubai-Werkzeuge	Cutlery and tools
52.	Talkum Naintsch	stone
53.	Tauerngrün	stone
54.	Ternitzer Konglomerat	conglomerate
55.	Treibacher Feuerzeuge	Lighters
56.	Treibacher Gasanziinder	Stone
57.	Treibacher Zündsteine	Stone
58.	Veitscher Magnesit	conglomerate
59.	Vöcklabrucker Keramik	ceramics
60.	Vorarlberger Stickerei	Embroidery
61.	Wachauer Goldhauben	Textile
62.	Wachauer Marmor	Marble
63.	Waldviertler Filetvorhänge, Tisch- und Bettdecken	Textile
64.	Waldviertler Filetvorhänge, Tisch- und Bettdecken	Textile
65.	Waldviertler handgestochene Zwirnknöpfe	Textile
66.	Waldviertler Strickhandschuhe	Textile
67.	Waldviertler Strickhandschuhe	Textile
68.	Weingrabner Granit	Granit
69.	Weingrabner Granit	Granit
70.	Wiener Mode(macher)	textile
71.	Wiener Porzellan	ceramics
72.	Wöllersdorfer Wollwaren	Textile
73.	Wöllersdorfer Wollwaren	Textile

### Belgium

	<b>Name of the product in the original language</b>	<b>Type of product</b>
74.	Coticule d'Ardenne	stone
75.	Dentelle de Binche	lace
76.	Diamant van Antwerpen	Diamond
77.	Etain de Huy	Tin
78.	Faïence de Mons	earthenware
79.	Pierre Bleue de Belgique	stone
80.	Tapis de Tournai	carpet
81.	Val Saint Lambert Glass and Crystal	Glass and Crystal

### Bulgaria

	<b>Name of the product in the original language</b>	<b>Type of product</b>
82.	Kaolinovski kaolin	Kaolin
83.	Kvarcov pjasâk junak	Quartz sand
84.	Kvarcov pjasak kaolinovo	Quartz sand
85.	Kvarcov pjasâk senovo	Quartz sand
86.	Kvarcov pjasâk vjatovo	Quartz sand
87.	Mramor ilindentci	Marble
88.	Mramor lepenitza	Marble
89.	Muschelkalk manastirishte	Marble
90.	Perlite-kardzali	Perlite
91.	Senovski kaolin	Kaolin
92.	Trojanska keramika	Ceramics
93.	Vjatovski kaolin	Kaolin
94.	Vratchanski varovik	Limestone

### Cyprus

	Name of the product in the original language	Type of product
95.	Lefkaritika	Lace

### Czech Republic

	Name of the product in the original language	Type of product
96.	České sklo	Glass
97.	Český granát, Český granátový šperk	Garnets (precious stones), jewellery, ornaments
98.	Český křišťál	Cristal
99.	Český porcelán, Duchcovský porcelán	Porcelain
100.	Chodská keramika	Ceramics
101.	Jablonecká bižuterie Jablonecké zboží Jablonecké sklo Jablonecká krystalerie	jewellery, ornaments, glass and crystal products
102.	Jindřichohradecký gobelín	gobelins/tapestries
103.	Kaolin Sedlecký	kaolin
104.	Karlovarská sůl, Karlovarská vřídelní sůl, Karlovarská přírodní vřídelní sůl, Karlovarská přírodní sůl	Natural thermal spring salt
105.	Karlovarský porcelán	Porcelain
106.	Kraslické hudební nástroje	Music instrument
107.	Kraslické krajky	Lace
108.	Kunštátská keramika	Ceramics
109.	Pirkenhammer	China
110.	Sedlecký kaolín	Kaolin
111.	Sokolovské brikety, Sokolovské uhelné brikety	Briquettes
112.	Valašskomeziříčský gobelín	gobelins/tapestries
113.	Vamberecká krajka	Lace
114.	Železnobrodské sklo Železnobrodské figurky	Glass, Glass figurines

### Denmark

	Name	Reason
115.	Holmegaard	Glass
116.	Royal Copenhagen China	Ceramic

### Estonia

	Name of the product in the original language	Type of product
117.	Haapsalu Ravimuda	THERAPEUTIC MUD
118.	Saaremaa Sepad	Traditional construction and interior items

### Finland

	Name of the product in the original language	Type of product
119.	Kantele	Music instrument

120.	Puukko	traditional Finnish belt-knife
121.	Rauma lace	lace
122.	Finnsheep wool products	wool products

### France

	<b>Name of the product in the original language</b>	<b>Type of product</b>
123.	Ardoise d'Angers	Stone
124.	Ardoise des Pyrénées	Stone
125.	Bérêt Basque	Textile
126.	Carreau provençal	Ceramics
127.	Carreaux de Ponchon	Ceramics
128.	Carreaux de Provins	Ceramics
129.	Carrelage de Saint Samson la Poterie	Ceramics
130.	Céramique du Beauvaisis	Ceramics
131.	Chaussures/Cuir de Romans	Leather products
132.	Cloche de Nay	Bell
133.	Cloches d'Hérépian	Bell
134.	Couteaux de Laguiole	Knives, Kitchen tools
135.	Couteaux de Nontron	Knives
136.	Couteaux de Thiers Coutellerie de Thiers	Knives, Kitchen tools
137.	Cristal de Baccarat	Cristal
138.	Cristal de Bayel – Royal Champagne	Cristal
139.	Cristal de Portieux	Cristal
140.	Cristal de Saint Louis	Cristal
141.	Cuir de Saint Junien	Leather
142.	Dentelle d'Alençon	Lace
143.	Dentelle d'Argentan	Lace
144.	Dentelle de Bayeux	Lace
145.	Dentelle de Calais	Lace
146.	Dentelle de Chantilly	Lace
147.	Dentelle de Luxeuil	Lace
148.	Dentelle de Mirecourt	Lace
149.	Dentelle du Puy	Lace
150.	Emaux Bressans	Emael
151.	Emaux de Briare	Emael
152.	Emaux de Limoges	Enamel
153.	Emaux de Longwy	Enamel
154.	Espadrilles basques/Mauléon	Shoes
155.	Espadrilles catalanes	Shoes
156.	Faïence de Giens	Earthenware
157.	Faïence de Longchamps	Earthenware
158.	Faïence de Malicorne	Earthenware
159.	Faïence de Moustiers	Ceramics
160.	Faïence de Nevers	Ceramics
161.	Faïence de Nevers	Earthenware
162.	Faïence de Quimper	Ceramics
163.	Faïence de Rouen	Earthenware
164.	Faïences de Martres Tolosane	Ceramics
165.	Filature de Langogne	Textile
166.	Gants de Millau	Leather gloves
167.	Granit Breton/Granit de Bretagne	Stone
168.	Granit du Tarn	Granit
169.	Grenat de Perpignan	Precious stone
170.	Grès de Gascogne	Stone
171.	Grès des Vosges	Stone

172.	Imagerie d'Epinal	Picture
173.	Makhila	cane
174.	Manufacture Royale de Lunéville St Clément	Earthenware
175.	Martres Tolosane	Earthenware
176.	Meubles d'Art de Revel	Wooden products
177.	Monoï de Tahiti	Natural oil
178.	Mouchoirs et toiles de Cholet	Textile
179.	Papeteries de Montségur	Paper
180.	Parapluies d'Aurillac	Umbrella
181.	Parapluies de Cherbourg	Umbrella
182.	Perle de Tahiti	Precious stone
183.	Pierre calcaire du Sud	Stone
184.	Pierre de Bourgogne	Stone
185.	Pipes Saint Claude	Pipes
186.	Porcelaine de Limoges	Ceramics
187.	Porcelaine du Berry	Porcelain
188.	Porcelaine/Céramique de Sèvres	Ceramics
189.	Poterie d'Accolay	Pottery
190.	Poterie d'Alsace	Ceramics
191.	Poterie de Bavent	Pottery
192.	Poterie de Betschdorf	Pottery
193.	Poterie de Ciboure	Pottery
194.	Poterie de Clionsclat	Pottery
195.	Poterie de la Montagne	Pottery
196.	Poterie de Niderviller	Pottery
197.	Poterie de Saintonge	Pottery
198.	Poterie de Vallauris	Pottery
199.	Sabots bressans	Wooden shoes
200.	Savon de Marseille	Cosmetic and cleaning product
201.	Soie/Soieries de Touraine	Silk/Weaving
202.	Soieries de Lyon	Silk
203.	Tapiserie de Bayeux	Tapestry
204.	Tapiserie de Cogolin	Tapestry
205.	Tapiserie des Gobelins	Tapestry
206.	Tapisseries d'Aubusson	Tapestry
207.	Terre cuite d'Aizenay	Ceramics
208.	Tissage des Rozier	Textile
209.	Tissu des Pyrénées	Cloth
210.	Toile de Jouy	Textile
211.	Toile de Mayenne	Textile
212.	Tomettes de Salernes	Ceramics
213.	Tuiles et Carreaux de Gironde	Ceramics
214.	Vannerie de Vallabrègues	Basket making
215.	Vannerie de Villaines	Basket making
216.	Vases d'Anduze	Ceramics
217.	Verrerie d'Art Soisy sur Ecole	Glass
218.	Verrerie de Biot	Glass
219.	Verrerie de Claret	Glass

### Germany

	<b>Name of the product in the original language</b>	<b>Type of product</b>
220.	Aachener Nadeln	Needles
221.	Aachener Tuche	Textile
222.	Auerbach	
223.	Augsburger Stoffe	Textile

224.	Baden-Badener Pastillen	Pastille
225.	Barmer Artikel (Bänder, Besätze, Litzen, Spitzen, Geflechte)	Lace
226.	Bavaria Glas	Glass
227.	Bavaria Porzellan	Porcelain
228.	Bayerischer Loden	Wool products
229.	Bergische Achsen	Axes
230.	Berliner Porzellan	Porcelain
231.	Berolina Strumpfwaren, Garne, gewebte u. gestrickte Bekleidungsstücke	Textile
232.	Bielefelder Fahrräder	Bicycles
233.	Bielefelder Leinen, —Wäsche	Textile
234.	Bielefelder Spielkarten	Playing cards
235.	Blaubeurener Leinen	Textile
236.	Brandenburger Dachkeramik	Ceramics
237.	Bremer Zigarren	Cigars
238.	Bünder Zigarren	Cigars
239.	Coswiger Keramik	Ceramics
240.	Crottendorfer Räucherkerzen	Incense
241.	Deutsches Steinzeug	Stone
242.	Deutz(er) Motoren	Engines
243.	Dresdner Porzellan	Porcelain
244.	Dürener Feinpapier	Paper
245.	Dürener Teppiche	Carpets
246.	Echt Kölnisch Wasser	Eau de Cologne
247.	Echte Altenburg-Stralsunder (Spielkarten)	Playing cards
248.	Edelsteine und Schmuck aus Idar-Oberstein	Gemstones, Jewellery
249.	Emser Pastillen, —Salz, —Balsam,— Kränchen	Pastilles
250.	Erzgebirgische Holzkunst / Erzgebirgische Volkskunst	Wooden handicraft products, toys, decoration, music instruments
251.	Erzgebirgisches Holzkunst	Wooden products
252.	Fahrzeuge aller Art	vehicules
253.	Fliesen aus Boizenburg	Tiles
254.	Frankfurte Pfanne	Pan
255.	Freiberger Porzellan	Porcelain
256.	Freiberger Präzisionsmechanik	Mechanics
257.	Freiberger Zinn	Tin products
258.	Friedrichstaler Handarbeitsgeräte	Hand tools
259.	Fürstenberg Porzellan	
260.	Füssen—Immenstadter Hanferzeugnisse, —Bindfaden, —Webgarne	Textile
261.	Glas aus Zwiesel	Glass
262.	Glashütter Uhren	Clocks
263.	Gmünder Silber (—waren)	Silverware
264.	Gögginger Nähfäden	Textile
265.	Großalmeroder Glashafenton	Glass
266.	Grünhainichener Schnitzerei	carving
267.	Hamborner Kipper	
268.	Hamburger Zigarren Hanauer Erzeugnisse	cigars
269.	Heidelberg(er) (—Druckmaschine, — Druckautomat, —Zylinder)	Printing machine, cylinder
270.	Heidelberger Zement	Cement
271.	Heilshorn	
272.	Herzberger Verpackungen	Packaging

273.	Hildener Kessel	Boiler
274.	Höchster Porzellan	Porcelain
275.	Hohnsteiner Handspielpuppen	Toys
276.	Holz Schnitzkunst aus dem Bayerischen Rhön	Wood carving
277.	Hunsrücker Schiefer	Stone
278.	Hutschenreuter	Porcelain
279.	Idar—Obersteiner Schmuck (—waren)	Jewellery
280.	Isar Oderstein	Jewellery
281.	Isar neuron/ Isar Pharm	
282.	Jenaer Glas	Glass
283.	Kannenbäcker Steinzeug/ Keramik	Ceramics
284.	Karlsruher Brigandle, -Holzschnitzereien	Wood carving
285.	Karlsruher Majolika	Ceramics
286.	Kemmlitzer Kaolin	Kaolin
287.	Kiefersfelder Marmor, —Zement	Cement and marble
288.	Kissingener Pillen, —Tabletten, —Salz	Pills
289.	Klingenberger Ton	Clay
290.	Königliche Porzellan-Manufaktur Berlin GmbH (china)	Porcelain
291.	Königsbronner Walzen	rolls
292.	Krefelder Krawatten, —Samt, —Seide	Ties, velvet, silk
293.	Krefelder Zement	Cement
294.	Kur Selters aus Oberselters, für nat. Mineralwasser für med. Zwecke	Mineral water for medical purposes
295.	Laichinger Leinen, —Wäsche	Textile
296.	Lauscha Glaskunst	Glass
297.	Lausitzer Glas	Glass
298.	Lausitzer Keramik	Ceramics
299.	Leuna	Chemical industry
300.	Lindauer Sonneniglo,- Fertighäuser sowie Bauteile	prefabricated buildings and components
301.	Lindener Samt, —Tuch	Cloth
302.	Ludwigsburger Porzellan	Porcelain
303.	Ludwigstaler Bremscheiben	Disc brake for vehicles
304.	Markneukirchner Streich- und Zupfinstrumente/ Blasinstrumente	Music instruments
305.	Meissner Porzellan	Porcelain
306.	Mettlacher Fliesen	Tiles
307.	Mittenwalder Geigen	Music instruments
308.	Möbel aus Zeulenroda	Wooden furniture
309.	Moselschiefer	Stone
310.	Münchener Loden, —Trachten	Cloth
311.	Münchener Wachsfiguren	Wax figurines
312.	Münchner Spielkarten	Playing cards
313.	Münsterländer Meisterklinker	Hard brick used as paving
314.	Musbach Metall	Metal
315.	Musikinstrumente aus dem Vogtland	Music instruments, instrument equipment
316.	Neu-) Gablonzer Schmuckwaren/ Glaswaren	Glass
317.	Neukönigsförder Mineralpuder, - Mineralpuder, spurenelemente in Pulverform	Mineral powder
318.	Nordhäuser Kautabak	Chewing tobacco
319.	Nürnberger Meisterzinn, Spielwaren aus Zinn oder Zinnlegierungen	Toys
320.	Nürnberger Spielwaren	Toys
321.	Nymphenburger Porzellan	Porcelain

322.	Oberammergauer Holzschnitzkunst / handgeschnitzte Holzfiguren Oberammergau	Wooden handicraft products, carved sculptures
323.	Offenbacher Lederwaren	Leather products
324.	Olsberg, Heizgeräte_Kohle-,Kachel-, Kaminöfen	stove
325.	original Laaspher Windschutzbleche	Construction material
326.	Pforzheimer Schmuck (—waren)	Jewellery
327.	Pforzheimer Uhren	Clocks
328.	Pianos und Flügel aus Löbau	Music instruments
329.	Plaste und Elaste aus Schkopau	Plastic products
330.	Plauener Spitze	Lace
331.	Pulsnitzer Blaudruck	Textile
332.	Quint—Öfen	Ovens
333.	Ravensburger Spiele, —Werkkästen	Games
334.	Regensburger Karmelitengeist	Spirit balm
335.	Remscheider Werkzeuge	Tools
336.	Rhein Rod, Kupfergießwalsdraht	Copper wire
337.	Rheingauer Römer	Glass
338.	Rheinische Braunkohle	Mineral
339.	Rheinmöwe	
340.	Rhöna, Schweiß- u. Schneidegeräte	Welding and cutting equipment
341.	Rhönschnitzereien	carvings
342.	Ringelheimer Pulmonal, chem.- pharmazeut.Und organotherapeut. Präparate	Pharmaceutical preparations
343.	Rosenheimer Gummimäntel	Coats
344.	Rottweiler Jagdpatronen	Munitions
345.	Rügener Heilkreide	Pharmaceutical preparations
346.	Ruhrkohle, -Koks, -Briketts	Coal, briquettes
347.	Ruhrspaten/Ruhr-Brillant	Tools
348.	Rurpapier	Paper
349.	Saargummi	Car parts
350.	Saarkohle/-koks	Mineral
351.	Sächsische Arznei- und Gewürzdrogen	Pharmaceutical preparations
352.	Sauerländer Öl, med. Kräuteröl	Pharmaceutical preparations
353.	Schleifscheiben aus Rottluff	Tools
354.	Schlitzer Leinen	Textile
355.	Schneeberger Pyramiden	Wooden product
356.	Schramberger Majolika	Ceramics
357.	Schwabacher Textilnadeln	Textile
358.	Schwabenstahl/Schwabenguß	Iron
359.	Schwarzwald 24 Kräuteröl	Pharmaceutical preparations
360.	Schwarzwälder Herztrunk, med. Weine, Spirituosen mit Keislaufförd. Zusätzen	Pharmaceutical preparations
361.	Schwarzwälder Kuckucksuhr	Clocks with mechanical clockwork
362.	Schwarzwälder Massiv-Fertighäuser	Wooden houses
363.	Schwarzwälder Präzision, elektr. Kleingeräte	
364.	Schwarzwaldloden	Textile
365.	Schweinfurter Kugellager	
366.	Schwenninger Uhren	Clocks
367.	Sebnitzer Kunstblumen	Artificial flowers
368.	Seiffener..., überw. aus Holz besteh. Waren, Nusknacker, Räucherfiguren	Incense
369.	Siegener Fallkipper	
370.	Siegener Puffer	
371.	SKW Piesteritz	Chemistry

372.	Solinger Stahl- und Schneidwaren	Knives, scissors, blades, food utensils, manicure and pedicure equipment
373.	Solnhofener Lithographiersteine, —Platten	Stone
374.	Soltau Zinn, für Haus u. Küchengeräte	Tin
375.	Sonneberger Spielzeug/Puppen	Toys, dolls
376.	Spielgau, Kristallglaswaren	Crystal
377.	Staufen Wolle, Garne	Wool
378.	Steinacher Holzspielzeug	Wooden toys
379.	Steinhuder Leinen	Textile
380.	Stuttgarter Gardinen	Curtains
381.	Taunus—Fels—Hart—Quarzit	Mineral
382.	Taunus—Hart—Quarzit	Mineral
383.	Taunus—Quarzit	Mineral
384.	Thüringer Arznei- und Gewürzdrogen	Pharmaceutical preparations
385.	Thüringer Schiefer	Stone
386.	Thüringer Teppiche	Carpet
387.	Thüringer Waid (Anstrichstoffe, kosm. u. phamaz. Prod., Holzschutz- u. Bindemittel)	Wood products
388.	Tölzer Jod Tabletten, —Quellsalz, —Seife	Cosmetic products
389.	Trierer Gips, —Kalk, —Zement	Cement
390.	Trossinger Musikinstrumente	Music instrument
391.	Tuttlinger Instrumente	Music instrument
392.	Uerdinger Schienenfahrzeuge, Omnibusse, Container	vehicles
393.	Uhren aus Baden-Württemberg	Clocks
394.	Ulmer Keramik	Ceramics
395.	Ulmer Weiss	Mineral
396.	Walsroder Verpackungsfolien, künstl.Därme	Packaging films
397.	Waltershäuser Puppen	Dolls
398.	Wasseralfinger Stähle, —Öfen	Ovens
399.	Westerwald Ton	Mineral
400.	Westerwälder Steinzeug_ Westerwälder Keramik	Ceramics
401.	Westfalen - für Motortreibstoffe	
402.	Westfalen—Koks	
403.	Westfalia- für Ausrüstung, insbes. Maschinen, für Stall u. Weide, Seperatoren	Machines
404.	Westfalia- für Landfahrzeuge, motorisierte Wohnwagen, Wohn- u. Campingwagen, sowie	Vehicles
405.	Westfälisches Haustuch	Cloth
406.	Wetzlarer Optik feinmechanische opt. Geräte	Optical
407.	Wiehler Achsen	Axes

### Hungary

	<b>Name of the product in the original language</b>	<b>Type of product</b>
408.	Bonyhádi zománcozott edény (BONYHÁD)	Enameled pots
409.	Enameled pots from Budafok	Enameled pots
410.	Ferrous alum/Salt for medical bath and medical purposes from Paráđ	Cosmetic product
411.	Gércei alginát és algin sav sója (GÉRCE)	Alginate and salt of algin acid
412.	Hand-made lace, lace collar, lace cover from Kiskunhalas	Lace

413.	Herendi porcelán (HEREND)	Porcelain
414.	Hollóházi porcelán, edény és díszműárak (HOLLÓHÁZA)	Porcelain
415.	Lace from Hővej	Lace
416.	Sword blade and scythe from Szentgotthárd	Sword blade

### Italy

	<b>Name of the product in the original language</b>	<b>Type of product</b>
417.	Alabastro in Volterra	Stone
418.	Artigiani in Liguria	Hand-crafted products
419.	Cardato Pratese	Wool product
420.	Ceramica artistica e tradizionale di Albisola Superiore	Ceramics
421.	Ceramica artistica e tradizionale di Albissola Marina	Ceramics
422.	Ceramica artistica e tradizionale di Ariano Irpino	Ceramics
423.	Ceramica artistica e tradizionale di Ascoli Piceno	Ceramics
424.	Ceramica artistica e tradizionale di Assemini	Ceramics
425.	Ceramica artistica e tradizionale di Bassano del Grappa	Ceramics
426.	Ceramica artistica e tradizionale di Caltagirone	Ceramics
427.	Ceramica artistica e tradizionale di Castellamonte	Ceramics
428.	Ceramica artistica e tradizionale di Castelli	Ceramics
429.	Ceramica artistica e tradizionale di Cerreto Sannita	Ceramics
430.	Ceramica artistica e tradizionale di Civita Castellana	Ceramics
431.	Ceramica artistica e tradizionale di Este	Ceramics
432.	Ceramica artistica e tradizionale di Faenza	Ceramics
433.	Ceramica artistica e tradizionale di Grottaglie	Ceramics
434.	Ceramica artistica e tradizionale di Gualdo Tadino	Ceramics
435.	Ceramica artistica e tradizionale di Gubbio	Ceramics
436.	Ceramica artistica e tradizionale di Laterza	Ceramics
437.	Ceramica artistica e tradizionale di Lodi	Ceramics
438.	Ceramica artistica e tradizionale di Mondovì	Ceramics
439.	Ceramica artistica e tradizionale di Montelupo Fiorentino	Ceramics
440.	Ceramica artistica e tradizionale di Napoli	Ceramics
441.	Ceramica artistica e tradizionale di Nove	Ceramics
442.	Ceramica artistica e tradizionale di Oristano	Ceramics
443.	Ceramica artistica e tradizionale di Orvieto	Ceramics
444.	Ceramica artistica e tradizionale di San Lorenzello	Ceramics
445.	Ceramica artistica e tradizionale di Santo Stefano di Camastra	Ceramics
446.	Ceramica artistica e tradizionale di Sciacca	Ceramics
447.	Ceramica artistica e tradizionale di Sesto	Ceramics

	Fiorentino	
448.	Ceramica artistica e tradizionale di Squillace	Ceramics
449.	Ceramica artistica e tradizionale di Urbania	Ceramics
450.	Ceramica artistica e tradizionale di Vietri sul Mare	Ceramics
451.	Ceramiche di Deruta	Ceramics
452.	Ceramiche tradizionali di Bisignano	Ceramics
453.	Ceramiche tradizionali di Rogliano	Ceramics
454.	Coltello artigiano- Sardegna	Knives
455.	Cremona Violinmaking	Musical Instruments
456.	Divalenza	Jewels
457.	Ferrara Terra e Acqua	Advertising, paper, stickers, magazines, clothing
458.	Filigrana artigiana – Sardegna	Jewels
459.	Gioielli di Torre del Greco	Jewels
460.	Glasses Dolomiti	glasses
461.	Gorizia lace	lace
462.	Legno Arredo Arezzo	Wood handmade goods
463.	Marche eccellenza artigiana	Handmade goods
464.	Marchio distretto della sedia del Friuli	Artistic furniture factory
465.	Marchio Lago Maggiore casalinghi	Household goods
466.	Marchio Spazio Gran Paradiso	Handmade goods
467.	Marmo Botticino Classico	Marble
468.	Marmo di Carrara	Marble
469.	Matera Doc Artigianato Artistico	Ceramics, leather, wrought iron, wood, jeweller's art, terracotta, tufa
470.	Merletto a tombolo di Offida	Lace
471.	Mobile d'arte del Bassanese	Wooden products, artistic furniture
472.	Mobile d'arte in stile della pianura Veronese	Wooden products, furniture
473.	Parco di Portofino	handmade goods
474.	Parco Nazionale del Gran Sasso	handmade goods
475.	Parco Regionale di Veio	handmade goods
476.	Pietra di Comiso	stone
477.	Pietra di Vicenza	stone
478.	Pietre originali della bergamasca	stone
479.	Pipe di Varese	Pipes
480.	Ricami di Comiso	Ceramics, leather, wrought iron, wood, jeweller's art, terracotta, tufa
481.	Salento d'amare	handcraft
482.	Terme di Montecatini	cosmetics
483.	Terme di Salsomaggiore	Cosmetics
484.	Terme di Saturnia	Cosmetics
485.	Terme di Tabiano	cosmetics
486.	Tessuti di Longobucco	Textile
487.	Textiles from Biella	Textile
488.	Tuscia Viterbese	ceramics, handcraft goods
489.	Valdinievole- Artieri Toscani	shoe factory
490.	Vetro di Murano	Glass

### Ireland

	Name of the product in the original language	Type of product
491.	Borris Lace	Lace
492.	Carrickmacross Lace	Lace
493.	Cavan Crystal	Crystal

494.	Clones Lace	Lace
495.	Cork Crystal	Crystal
496.	Donegal Tweed	Tweed
497.	Galway Crystal	Crystal
498.	Hurley	Sport stick
499.	Kenmare lace	Lace
500.	Kilkenny Crystal	Crystal
501.	Limerick Lace	Lace
502.	Newbridge Silverware	Silverware
503.	Sligo Crystal	Crystal
504.	Tipperary Crystal	Crystal
505.	Uilleann Pipe	Music instrument
506.	Waterford Crystal	Crystal

### Lithuania

	Name of the product in the original language	Type of product
507.	Lietuviški kryžiai (kryždirbystė)	Wooden product
508.	Lietuviška lininė tekstilė	Textile
509.	Vilniaus krašto verbos	Bouquet of dried plants

### Luxembourg

	Name of the product in the original language	Type of product
510.	Péckvillchen (singular) / Péckvillercher (plural) - in Lëtzebuergesch	Pottery (terracotta)
511.	Stained glass	Glass
512.	The Slate of Haute Martelange	Slate

### Malta

	Name of the product in the original language	Type of product
513.	Bizzilla	lace
514.	Filigranated silver and gold jewellery	jewellery
515.	Arlogg tal lira' clocks	clocks
516.	Irdieden	Fireworks
517.	Karrozzin	horse-drawn cabs

### Poland

	Name of the product in the original language	Type of product
518.	Banded flint	Precious stone
519.	Ceramika bolesławiecka	Pottery
520.	Great poland carriages	carriages
521.	Koronki koniakowskie	Lace
522.	Strzegom granite	Granit
523.	Szkle krośnieńskie	Glass

### Portugal

	Name of the product in the original language	Type of product
524.	Artesanato dos Açores	handicraft covering wood, shell, lace and

		others
525.	Barro Preto de Olho Marinho	Ceramics
526.	Bordado de Guimarães	embroideries
527.	Bordados da Madeira	Embroidery
528.	Bordados de Castelo Branco	Embroidery of Castelo Branco
529.	Bordados de Viana do Castelo	embroideries
530.	Cerâmica criativa de Coimbra	Ceramics
531.	Faiança Artística de Coimbra or Louça de Coimbra	Porcelain
532.	Ferro forjado de Coimbra	forged iron
533.	Lenços de Namorados do Minho	handkerchiefs with particular embroideries
534.	Mantas de Lã de Mértola	Wool Products
535.	Máscara de Vinhais	Wooden Products
536.	Palitos Floridos e pequenos artefactos de madeira de Vila Nova de Poiares	Wooden products
537.	Renda de Bilros de Peniche	Lace
538.	Tapetes de Arraiolos	Carpet of Arraiolos
539.	Tecelagem de Almalaguês	weaving

### Romania

	Name of the product in the original language	Type of product
540.	Ceramica de Corund	Ceramics
541.	Ceramica de Cucuteni	Ceramics
542.	Ceramica de Horezu	Ceramics
543.	Ceramică de Maramureș	Ceramics
544.	Ceramică de Oboga	Ceramics
545.	Ceramică de Marginea	Ceramics
546.	Covoare de Cisnădie	Carpets

### Slovakia

	Name of the product in the original language	Type of product
547.	Banskobelanský Dinas	Silica bricks and unworked silica
548.	Levický zlatý ónyx	Decorative stone
549.	Modranská majolika	Pottery
550.	Piešťanské bahno	Mud
551.	Slovenský Magnezit	Raw material for manufacturing refractory pastes
552.	Soľnobanská čipka	Lace

### Slovenia

	Name of the product in the original language	Type of product
553.	Beehive panel	Wooden painted panels
554.	Idrijska čipka	Lace
555.	Kropa	Products of artificial blacksmith craft
556.	lončeni izdelki	Pottery
557.	National costume from Gorenjska	National costume
558.	Pletna	special boat used for transfer of people to Bled island
559.	Ribniška suha roba	Wooden Products
560.	ROGAŠKA crystal	crystal

## Spain

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Abanicos de Aldaya y Godella	Fan
2.	Afiladores de Ourense	Sharpener
3.	Alabastro del Sarral	Stone
4.	Albardas de Canarias	Saddle
5.	Alfarería artística y alfarería tradicional de Alba de Tormes	Pottery
6.	Alfarería de Bonxe (Olería tradicional de Bonxe)	Pottery
7.	Alfarería de Breda	Pottery
8.	Alfarería de Buño (Olería tradicional de Buño)	Pottery
9.	Alfarería de Cespedosa de Tormes	Pottery
10.	Alfarería de Fresno de Cantespino	Pottery
11.	Alfarería de Gundivós (Olería tradicional de Gundivós)	Pottery
12.	Alfarería de Jiménez de Jamuz	Pottery
13.	Alfarería de Miravet	Pottery
14.	Alfarería de Moveros	Pottery
15.	Alfarería de Navarrete	Pottery
16.	Alfarería de Niñodagua (Olería tradicional de Niñodagua)	Pottery
17.	Alfarería de Pereruela	Pottery
18.	Alfarería de Salvatierra de los Barros	Pottery
19.	Alfarería de Tajueco	Pottery
20.	Alfarería tradicional de Canarias	Pottery
21.	Alfarería tradicional de Portillo (Valladolid)	Pottery
22.	Alfarería Tradicional Gallega (Olería tradicional galega)	Pottery
23.	Alfarería y Cerámica de La Rambla	Pottery and Ceramics
24.	Alfombras de Astorga	Carpets
25.	Alfombras De Crevillente	Carpets
26.	Alfombras de esparto de Ubeda	Carpets
27.	Alfombras de La Alpujarra	Carpets
28.	Alpargatas de Cervera y Cabretón	Shoes
29.	Armas de fuego de Eibar	Firearms
30.	Artesanía de Eibar	Handicraft
31.	Artista fallero de Valencia, Alicante y Burriana	Sculptures
32.	Azabache de Asturias	Jewellery
33.	Azulejos y cerámica Sevillana	Ceramics
34.	Barcos tradicionales en Ribeira, O Grove, Sada, Rianxo, Outes, Cervo, Boiro, Vigo.	Traditional boats
35.	Belén de Murcia	Traditional clay Nativity
36.	Bisutería de Menorca	Jewellery
37.	Bordado 576errano de Salamanca	Embroidery
38.	Bordado de Carbajales	Embroidery
39.	Bordado de La Palma	Embroidery
40.	Bordado segoviano	Embroidery
41.	Bordados de Mallorca	Embroidery
42.	Botas de vino de Pamplona	wineskin
43.	Boteros de Burgos	
44.	Botos de Valderde	Boots
45.	Calado Canario	Lace
46.	Calzado de Elche	Leather products

47.	Calzado de Elda	Shoes
48.	Calzado de Inca	Shoes
49.	Calzado de Menorca	Shoes
50.	Camisería tradicional de Canarias	Textile
51.	Campanas de Trasmiera	Bells
52.	Cantería de Ávila	Stone
53.	Cantería de Bernardos	Stone
54.	Cantería de Campaspero	Stone
55.	Cantería de Canarias	Stone
56.	Cantería de León	Stone
57.	Cantería de Los Santos	Stone
58.	Cantería de Sepúlveda	Stone
59.	Cantería de Sorihuela	Stone
60.	Cantería de Villamayor	Stone
61.	Carpintería de Ribeira (Carpintería de Ribeira)	woodwork
62.	Carpintería de Ribera de Canarias	woodwork
63.	Carpintería tradicional de Canarias	woodwork
64.	Cencerros de Navarra	Bells
65.	Cencerros de Salamanca	Bells
66.	Cerámica de Alaejos	Ceramics
67.	Cerámica de Arenas de San Pedro	Ceramics
68.	Cerámica de Astudillo	Ceramics
69.	Cerámica de Ciudad Rodrigo	Ceramics
70.	Cerámica de Esparreguera	Ceramics
71.	Cerámica de La Bañeza	Ceramics
72.	Cerámica de la Bisbal	Ceramics
73.	Cerámica de Lorca	Ceramics
74.	Cerámica de Majadahonda	Ceramics
75.	Cerámica de Manises	Ceramics
76.	Cerámica de Muel	Ceramics
77.	Cerámica de Piedralaves	Ceramics
78.	Cerámica de Portillo	Ceramics
79.	Cerámica De Sargadelos	Ceramics
80.	Cerámica de Tamames de la Sierra	Ceramics
81.	Cerámica de Tiedra	Ceramics
82.	Cerámica de Totana	Ceramics
83.	Cerámica de Úbeda y Baeza	Ceramics
84.	Cerámica Fajalauza	Ceramics
85.	Cerámica negra de Quart y de Verdú	Ceramics
86.	Cerámica negra de Quintana Redonda	Ceramics
87.	Ceras y velas de la Vall d'Albaida	Wax candles
88.	Cestas de caña canaria	Baskets
89.	Cestas de colmo de la Palma	Baskets
90.	Cestas de junco de Canarias	Baskets
91.	Cestas de mimbre de Canarias	Baskets
92.	Cestas de palma de Canarias	Baskets
93.	Cestas de pírgano de Canarias	Baskets
94.	Cestas de vara de Canarias	Baskets
95.	Cestas en castaño de Montemayor del Rio	Baskets
96.	Cestas, mimbre de la Comunitat Valenciana	Baskets
97.	Chácaras y tambores de Canarias	Music instruments
98.	Cobre-latón de Guadalupe	Copper
99.	Colareiras de O Grove	Jewellery
100.	Collares y otros complementos con conchas de mar de Galicia	Jewellery
101.	Cordeles y redes de Benicarló	Rope

102.	Cucharas de Tortellà	Spoons
103.	Cuchillería de Albacete	Cutlery
104.	Cuchillos canarios	Knives
105.	Curtidos de Villarramiel	Tannery
106.	Curtiduría de Canarias	Tannery
107.	Damasquino y espadería de Toledo	Swords
108.	Diseño de moda de Castilla y León	Fashion design
109.	Dulzainas de Carbonero el Mayor	Music instrument
110.	Ebanistería de Canarias	Wood products
111.	Elaboración de vidrieras de Segovia	Stained glass window
112.	Encaje de bolillos de Arenys (Ret-fi) i encaje de Arboç	Lace
113.	Encaje de Camariñas (Encaixe de Camariñas)	Lace
114.	Encajes de Canarias	Lace
115.	Encajes de León	Lace
116.	Encajes de Valladolid	Lace
117.	Encajes de Zamora	Lace
118.	Esgrafiado de Segovia	Sgraffito
119.	Espadas y cuchillos de Toledo	Weapons
120.	Esparto de Blanca	Basket weaving
121.	Estaño de Pedraza	Tin
122.	Figuras de Pan de San Andrés de Teixido	Figures
123.	Figuras, montaje de escenografía y figurantes, Cubillas	Figures
124.	Filigrana charra (Joyería de Salamanca)	jewellery
125.	Filigrana de Cordoba	jewellery
126.	Flores artesanas de Valencia	Artificial flowers
127.	Forja de hierro en Aragón	Iron products
128.	Fundición de campanas de Saldaña	Bells
129.	Fundición de campanas y escultura de Valladolid	Bells
130.	Fundición sobre molde de arena en Medina de Rioseco	Bells
131.	Goyescas, mantillas y vélos de Granada	textiles
132.	Grabados de Valladolid	Engravings
133.	Guantes de laxoa de Baztán	Gloves
134.	Guarnicionería de Canarias	saddle
135.	Guitarra española de la Comunitat Valenciana	Music instrument
136.	Herrería, Forja y Cerrajería de Canarias	Iron products
137.	Hierro de Riotorto	Iron products
138.	Hierros artísticos de Toledo	jewellery
139.	Hilado de lana de Canarias	Wool product
140.	Hilado de lino de Canarias	Textile
141.	Hojalatería de Canarias	panel-beating
142.	Imaginería de Olot	Wood sculptures of religious characters
143.	Imaginería de Valladolid	Wood sculptures of religious characters
144.	Instrumentos de cuerda en Trigueros del Valle	Music instrument
145.	Jarapa de Lorca (tejido para mantas, colchas, alfombras, etc)	Textile
146.	Jaulas de Canarias	Bird cages
147.	Joyería de Córdoba	Jewellery
148.	Joyería de León	Jewellery
149.	Joyería tradicional de la Sierra de Francia	Jewellery
150.	Juguetes y muñecos de Ibi y Onil	Toys
151.	La forja de Sanchonuño	Forge

152.	Labores de Lagartera de El Puente del Arzobispo	Lace
153.	Ladrillos de Bailén	Bricks
154.	Ladrillos de Vélez	Bricks
155.	Lana de Oveja Xisqueta de la Vall d'Assua	Wool
156.	Lino de Galicia (Liño de Galicia)	Textile
157.	Lutier de Canarias	Music instrument
158.	Madera de la Sènia	Wooden products
159.	Madera de Olivo de Castro del Rio	Wooden products
160.	Madera de Sant Hilari Sacalm	Wooden products
161.	Madera y Cestería de avellano del Pallars	Wooden products and basket making
162.	Manias de Palencia	textiles
163.	Manta zamorana	blanket
164.	Marmol De Alicante	Marble
165.	Mármol de Macael	Marble
166.	Marroquinería de Ubrique	Leather products
167.	Mimbres de Lacina	Wooden products
168.	Mimbres de Villoruela	Wooden products
169.	Moscas de pesca de León	Fly (for fishing)
170.	Mueble de Pedraza	Furniture
171.	Mueble de Sonseca	Furniture
172.	Mueble de Yecla	Furniture
173.	Mueble tallado de La Alberca	Furniture
174.	Muebles De La Sènia	Furniture
175.	Muebles de León, Soria y Valladolid	Furniture
176.	Muebles de Manacor	Furniture
177.	Muebles de Valverde	Furniture
178.	Muebles y otros objetos de mimbre, caña, palma y similares de Valencia	Furniture
179.	Navajas y cuchillas de Albacete	Weapons
180.	Navajas y cuchillos de Taramundi / Cuchillería de Taramundi	Knives
181.	Orfebrería de Compostela	gold/silver articles
182.	Orfebrería de la Comunitat Valenciana	gold/silver articles
183.	Organería de Tordesillas	gold/silver articles
184.	Organería de Torquemada	gold/silver articles
185.	Paños de Tarrasa	textiles
186.	Panos de Sabadell	textiles
187.	Pauma de Terres de l'Ebre	Palm crafts
188.	Pelotas de cuero de Navarra	Leather
189.	Perlas de Manacor o de Mallorca	Pearls
190.	Picadillo de Canarias	Wood products
191.	Piedra Natural de Castilla y León, PINACAL	Stone
192.	Piel de Igualada y Vic	Leather
193.	Piel de Ubrique	Leather
194.	Piel y cuero (sillas de montar, zahones,....) de Salamanca	Leather
195.	Pipas y cachimbos de Canarias	Pipes
196.	Pirotecnia de la Comunitat Valenciana	Fireworks
197.	Polainas de Canarias	Leather products
198.	Policromía sobre madera en Segovia, Burgos y Valladolid	Wooden products
199.	Porcelana del Bidasoa	Ceramics
200.	Puros de Canarias	Cigars
201.	Retablos de Valladolid	Altars
202.	Retacería en Valladolid y León	Patchwork
203.	Rosetas de Lanzarote	Lace

204.	Rosetas de Tenerife	Lace
205.	Sal de Cardona	salt
206.	Sancosmeiros de Outes	Basket making
207.	Seda de La Palma	Silk
208.	Talavera Cerámica	Ceramics
209.	Talla de madera de Canarias	Wood carving
210.	Tallas de madera de Valencia	Wood carving
211.	Taracea Granadina	Marquetry
212.	Taracea o Marquetería de Canarias	Marquetry
213.	Teja de Cehegín	Tile
214.	Tejas de Canarias	Tile
215.	Tejidos de Canarias	Textile
216.	Tejidos de lana de Morella	Wool products
217.	Tejidos de seda de Valencia	Textile
218.	Tela de Lenguas o Tela Mallorquina (Spanish) Tela de Llengües or Tela Majorquina (Catalan)	Textile
219.	Textiles del Val de San Lorenzo	Textile
220.	Timples de Canarias	Music instrument
221.	Toneles de Canarias	Barrel
222.	Toneles en Nava del Rey	Barrel
223.	Tornería de la Vall del Ges	Wood products
224.	Trajes regionales castellanos en Valladolid y Segovia	Traditional dress
225.	Trillos de Cantalejo	Threshing board
226.	Vidrio de Cartagena	Glass
227.	Vidrio de L'Ollería	Glass
228.	Vidrio de la Granja	Glass
229.	Zurrones de Canarias	Leather product

### Sweden

	<b>Name of the product in the original language</b>	<b>Type of product</b>
230.	Morakniv	Knives

### Switzerland

	<b>Name of the product in the original language</b>	<b>Type of product</b>
231.	Articles de canalisation de Rondez	Water pipes
232.	Boîtes à musique de Sainte-Croix	music instrument
233.	Brienzer Holzschnitzereien	wood sculptures
234.	Brienzer Uhren	cuckoo clock
235.	Calcaire de Lägern	Stone
236.	Cristal de Sarnen	Crystal
237.	Découpages papier du Pays d'En-haut	Paper cutting
238.	Etoffe de Truns (Trunser Stoffe)	Textile
239.	Fil d'Aegeri (Aegeri Garne)	Textile
240.	Fil de la Lorze (Lorze-Garne)	Textile
241.	Granite de Andeer	Granite
242.	Granite de Calanca	Granite
243.	Gravier de Weiach	Stone
244.	Handgewebe	
245.	Langenthal	porcelain
246.	Lötschentaler Masken	masks
247.	Machines, produits en métal léger de	Machinery

	Menziken	
248.	Meubles de Saas	furniture
249.	Montre Suisse, Schweizer Uhr	Watches, clocks and alarm clocks
250.	Papier de Cham	paper
251.	Papier de Landquart	paper
252.	Profilé spécial de Gerlafingen	
253.	Quartzite de Calanca	Stone
254.	Quartzite de San Bernardino	Stone
255.	Quartzite de Soglio	Stone
256.	Robinetterie de Klus	Water pipes
257.	Serpentine de Poschiavo	Stone
258.	St.Galler Stickerei, St.Galler Spitzen	Embroidery
259.	Tissage à la main de Saas (Saaser)	Textile
260.	Tissage de Hasli (Hasliweberei)	Textile
261.	Tuyaux de Choindez	Water pipes
262.	Verre de Bülach	Glass
263.	Verre de Saint-Prex	Glass

### The Netherlands

	Name of the product in the original language	Type of product
264.	Delfts Blauw	Ceramics
265.	Dutch Clog	Wooden shoes
266.	Leerdam Crystal	Crystal
267.	Makkumer	Ceramics
268.	Texel Quilt	Wool product

### United Kingdom

	Name of the product in the original language	Type of product
269.	Butler Sheffield Steel	Steel
270.	Harris Tweed	Wool product
271.	Irish linen	textile
272.	North Staffordshire Pottery	Pottery
273.	Nottingham Lace	Lace
274.	Shetland woollen wear	Wool products

## **Annex IV - Legal questionnaire**

### **Fiche 1: Legal means of protection of the name of non-agricultural products comprising a geographical indication or a potential geographical indication<sup>228</sup>**

*This document shall be fulfilled for each product found.*

*In the framework of the study, the definition of geographical indications provided by Article 22.1 of the Trade-Related Aspects of Intellectual Property Rights Agreement of the World Trade Organisation shall be used, i.e.:*

*“Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”*

1.	<b>COUNTRY</b>	
	<i>If the non-agricultural product comprising a geographical indication or a potential geographical indication is produced in two or more countries, please indicate all of them</i>	
2.	<b>NAME OF THE EXPERT</b>	
3.	<b>NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GEOGRAPHICAL INDICATION OR A POTENTIAL GEOGRAPHICAL INDICATION in the local language(s)</b>	
4.	<b>NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR A POTENTIAL GI in English</b>	
5.	<b>TYPE OF PRODUCT</b>	
	<i>Please select one type of product in the following list: Ceramics, Cosmetic products, Crystal, Emael, Embroidery, Firearms, Fireworks, Fur products, Glass,</i>	

<sup>228</sup>

The term "name" also covers appellation/designations of non agricultural products comprising a geographical indication or potential geographical indication (GI)

	<i>Jewellery, Knives, Lace, Leather products, Music instruments, Porcelain, Slate, Stone / Marble, Transportation modes (e.g. traditional boat), Wooden products, Wool products, Others (please specify)</i>	
6.	<p align="center"><b>DESCRIPTION OF THE PRODUCT</b></p> <p align="center"><i>Please give a short description the product</i></p>	
7.	<p align="center"><b>HISTORY OF THE PRODUCT</b></p> <p align="center"><i>Please indicate the main dates of the history of the product</i></p> <p align="center"><i>Please indicate, if available, information on the reputation of the name of the non-agricultural products comprising a GI or potential GI</i></p>	
8.	<p align="center"><b>SPECIFIC PRODUCTION STEPS OR METHOD OF PRODUCTION WHICH MUST TAKE PLACE IN THE GEOGRAPHICAL AREA</b></p>	
9.	<p align="center"><b>LINK BETWEEN THE QUALITIES/SPECIAL CHARACTERISTICS OF THE PRODUCT AND THE GEOGRAPHICAL AREA</b> <i>(historical or geographical factors natural characteristics, process, know-how...)</i></p>	
<p><b>LEGAL PROTECTION OF THE NAME OF A NON-AGRICULTURAL PRODUCT COMPRISING A GEOGRAPHICAL INDICATION OR A POTENTIAL GEOGRAPHICAL INDICATION AT THE <u>NATIONAL LEVEL</u></b></p>		
10.	<p align="center"><b>IS THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI PROTECTED?</b></p>	<input type="checkbox"/> YES <input type="checkbox"/> NO (if no, please go to question 21)
11.	<p align="center"><b>TERRITORIAL SCOPE OF THE PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI</b></p>	<input type="checkbox"/> National <input type="checkbox"/> Regional (protection in a part of a territory of the state in question) <input type="checkbox"/> In a group of Member States (e.g. Benelux)

		<input type="checkbox"/> EU-wide protection for collective Community trade marks <input type="checkbox"/> International
12.	<b>WHAT TYPE OF PROTECTION IS USED AT THE NATIONAL / REGIONAL LEVEL?</b>	<input type="checkbox"/> <i>Sui generis</i> GI law <ul style="list-style-type: none"> <li>▪ Appellation of origin</li> <li>▪ Geographical Indication</li> <li>▪ Other</li> </ul> <input type="checkbox"/> Trade mark law <input type="checkbox"/> Specific law protecting the product <input type="checkbox"/> unfair competition law <input type="checkbox"/> Case law <input type="checkbox"/> Other
13.	<b>REFERENCE TO THE LEGAL ACT WHICH CONSTITUTES THE BASIS FOR PROTECTION, INCLUDING JUDICIAL DECISIONS WHEN APPROPRIATE</b> <i>(please indicate the link to the electronic version of the text)</i>	
14.	<b>HOLDER OF THE IP RIGHT</b> <i>Please indicate the name(s) of the holder(s) of the IP right(s)</i>	
15.	<b>CRITERIA TO BE FULFILLED IN ORDER TO OBTAIN THE PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI</b>	<input type="checkbox"/> Existence of production requirements (text explaining how the product is produced) <input type="checkbox"/> Existence of a group of producers <input type="checkbox"/> Historical link to the territory <input type="checkbox"/> Other
16.	<b>SPECIFY THE CHOICE OF THE SYSTEM OF PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI RATHER THAN ANOTHER</b> <i>Please indicate why the protection secured (see question 12) has been chosen</i>	<input type="checkbox"/> There is no other system of protection available <input type="checkbox"/> Cost effective protection <input type="checkbox"/> Other (specify)

17.	<b>DURATION OF THE PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI</b>	<input type="checkbox"/> Indefinite period <input type="checkbox"/> Definite period ( <i>please specify</i> ) <input type="checkbox"/> Definite period with possibility of renewal ( <i>please specify</i> )
18.	<b>COST OF THE REGISTRATION/PROTECTION</b> <i>Please indicate the cost in the national currency</i>	<input type="checkbox"/> Application fees: <input type="checkbox"/> Registration fees: <input type="checkbox"/> Renewal fees: <input type="checkbox"/> Other administrative fees <i>if applicable</i> : <input type="checkbox"/> Other fees, <i>if applicable</i> :
19.	<b>TYPE OF PROTECTION THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI after registration, if any</b>	<input type="checkbox"/> It is up to the right holder to act to enforce his rights <input type="checkbox"/> Public authorities can act on their own initiative to enforce the right (administrative procedure)
20.	<b>SCOPE OF THE PROTECTION</b> <i>You can select one or more option</i>	<input type="checkbox"/> Name protected in several languages (not only in the language of registration but also in translation) <input type="checkbox"/> Against “delocalizers” (e.g. “name of the GI” associated with the name of another country) <input type="checkbox"/> Against use of the GI name with expressions such as like, type, ect. <input type="checkbox"/> Against genericity <input type="checkbox"/> Other:
21.	<b>EXISTENCE OF A LOGO</b>	<input type="checkbox"/> YES <div style="display: inline-block; vertical-align: top; margin-left: 20px;"> <input type="checkbox"/> Private  <input type="checkbox"/> Public  <input type="checkbox"/> Individual  <input type="checkbox"/> Collective </div> <input type="checkbox"/> NO (if no, please go to question 23)
22.	<b>If there is a logo, please insert a copy of this logo if available or reference to document / publication where it can be found</b>	

LEGAL PROTECTION OF THE NAME OF A NON-AGRICULTURAL PRODUCT COMPRISING A GEOGRAPHICAL INDICATION OR A POTENTIAL GEOGRAPHICAL INDICATION AT THE <u>INTERNATIONAL LEVEL</u>		
23.	IS THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI PROTECTED VIA <u>INTERNATIONAL MULTILATERAL AGREEMENT(S)</u> ?	<input type="checkbox"/> YES <input type="checkbox"/> NO (if no, please go to question 29)
24.	If yes, give the reference to the International (multilateral) Agreement(s).	
25.	If yes, DURATION OF THE PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI	<input type="checkbox"/> Indefinite period <input type="checkbox"/> Definite period ( <i>please specify</i> ) <input type="checkbox"/> Definite period with possibility of renewal ( <i>please specify</i> )
26.	If yes, COST OF THE REGISTRATION/PROTECTION <i>Please indicate the currency</i>	<input type="checkbox"/> Application fees: <input type="checkbox"/> Registration fees: <input type="checkbox"/> Renewal fees: <input type="checkbox"/> Other administrative fees <i>if applicable</i> : <input type="checkbox"/> Other fees, <i>if applicable</i> :
27.	If yes, TYPE OF PROTECTION after registration, if any	<input type="checkbox"/> It is up to the right holder to act to enforce his rights <input type="checkbox"/> Public authorities can act on their own initiative to enforce the right (administrative procedure)
28.	If yes, SCOPE OF THE PROTECTION <i>You can select one or more option</i>	<input type="checkbox"/> Name protected in several languages (not only in the language of registration but also in translation) <input type="checkbox"/> Against “delocalizers” (e.g. “name of the GI” associated with the name of another country) <input type="checkbox"/> Against use of the GI name with expressions such as like, type, ect. <input type="checkbox"/> Against genericity <input type="checkbox"/> Other:
29.	IS THE NAME OF THE NON-AGRICULTURAL	<input type="checkbox"/> YES

	<b>PRODUCT COMPRISING A GI OR POTENTIAL GI PROTECTED BY BILATERAL AGREEMENT(S)?</b>	<input type="checkbox"/> NO (if no, please go to question 35)
30.	<b>If yes, give the reference to the bilateral Agreement(s).</b>	
31.	<b>If yes, DURATION OF THE PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI</b>	<input type="checkbox"/> Indefinite period <input type="checkbox"/> Definite period ( <i>please specify</i> ) <input type="checkbox"/> Definite period with possibility of renewal ( <i>please specify</i> )
32.	<b>If yes, COST OF THE REGISTRATION/PROTECTION</b> <i>Please indicate the currency</i>	<input type="checkbox"/> Application fees: <input type="checkbox"/> Registration fees: <input type="checkbox"/> Renewal fees: <input type="checkbox"/> Other administrative fees <i>if applicable</i> : <input type="checkbox"/> Other fees, <i>if applicable</i> :
33.	<b>If yes, TYPE OF PROTECTION after registration, if any</b>	<input type="checkbox"/> It is up to the right holder to act to enforce his rights <input type="checkbox"/> Public authorities can act on their own initiative to enforce the right (administrative procedure)
34.	<b>If yes, SCOPE OF THE PROTECTION</b> <i>You can select one or more option</i>	<input type="checkbox"/> Name protected in several languages (not only in the language of registration but also in translation) <input type="checkbox"/> Against “delocalizers” (e.g. “name of the GI” associated with the name of another country) <input type="checkbox"/> Against use of the GI name with expressions such as like, type, ect. <input type="checkbox"/> Against genericity <input type="checkbox"/> Other:
35.	<b>IS THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI PROTECTED IN OTHER COUNTRIES VIA THE NATIONAL LEGISLATION OF THESE COUNTRIES?</b> <i>For example: a Spanish product protected in Italy under Italian law</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO (if no, please go to question 41)

36.	If yes, give the name of the country and the reference to the legal act.	
37.	If yes, DURATION OF THE PROTECTION OF THE NAME OF THE NONAGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI	<input type="checkbox"/> Indefinite period <input type="checkbox"/> Definite period ( <i>please specify</i> ) <input type="checkbox"/> Definite period with possibility of renewal ( <i>please specify</i> )
38.	If yes, COST OF THE REGISTRATION/PROTECTION <i>Please indicate the currency</i>	<input type="checkbox"/> Application fees: <input type="checkbox"/> Registration fees: <input type="checkbox"/> Renewal fees: <input type="checkbox"/> Other administrative fees <i>if applicable</i> : <input type="checkbox"/> Other fees, <i>if applicable</i> :
39.	If yes, TYPE OF PROTECTION after registration, if any	<input type="checkbox"/> It is up to the right holder to act to enforce his rights <input type="checkbox"/> Public authorities can act on their own initiative to enforce the right (administrative procedure)
40.	If yes, SCOPE OF THE PROTECTION <i>You can select one or more option</i>	<input type="checkbox"/> Name protected in several languages (not only in the language of registration but also in translation) <input type="checkbox"/> Against “delocalizers” (e.g. “name of the GI” associated with the name of another country) <input type="checkbox"/> Against use of the GI name with expressions such as like, type, ect. <input type="checkbox"/> Against genericity <input type="checkbox"/> Other:
<b>CONTROLS</b>		
41.	EXISTENCE OF CONTROLS <u>before</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No (if no, please go to question 48)

	<u>registration/protection</u>	
42.	If yes, <b>TYPE OF CONTROLS</b> before registration/protection	<input type="checkbox"/> Private <input type="checkbox"/> Public <input type="checkbox"/> Internal controls <input type="checkbox"/> External controls <input type="checkbox"/> If external controls, certification?
43.	If yes, please indicate the name of the body in charge of the control and what it controls	
44.	<b>EXISTENCE OF CONTROLS</b> <u>after registration/protection</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No
45.	If yes, <b>TYPE OF CONTROLS</b> after registration/protection	<input type="checkbox"/> Private <input type="checkbox"/> Public <input type="checkbox"/> Internal controls <input type="checkbox"/> External controls <input type="checkbox"/> If external controls, certification?
46.	If yes, Please indicate the name of the body in charge of the control and what it controls	
47.	If yes, <b>COST</b> of the controls (if any)	<input type="checkbox"/> Before the registration/protection: <input type="checkbox"/> After the registration/protection:
<b>COLLECTIVE ORGANISATION OF PRODUCERS</b>		
48.	<b>IS THERE A COLLECTIVE ORGANISATION OF PRODUCERS?</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO (if no, please go to the last question)
49.	<b>TYPE OF ORGANISATION</b> <i>Please indicate the type of organisation, for example a group of producers, an association, a federation (association of associations or groups of producers), or an interbranch (an organisation of producers and processors).</i>	
50.	<b>Is the existence of an organisation of producers mandatory to obtain the registration/protection of the</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO

	name of the non-agricultural product comprising a GI or potential GI?	
51.	HOW MANY MEMBERS ARE THERE in the organisation?	
52.	EXISTENCE OF A BOARD OF DIRECTORS OR A CORRESPONDING BODY	<input type="checkbox"/> YES <input type="checkbox"/> NO
53.	EXISTENCE OF A MANAGEMENT TEAM	<input type="checkbox"/> YES <input type="checkbox"/> NO
54.	ROLES AND ACTIVITIES of the organisation of producers <i>Please provide a short description</i>	
55.	Does this collective organisation have legal personality?	<input type="checkbox"/> YES <input type="checkbox"/> NO
56.	If yes, which one	
57.	Is membership of this collective organisation compulsory for producers to be able to use the name of the non-agricultural product comprising a GI or potential GI?	<input type="checkbox"/> YES <input type="checkbox"/> NO
58.	Is it possible for a single producer in the area to apply for the registration of the name of a non-agricultural product including a geographical indication or potential GI?	<input type="checkbox"/> YES <input type="checkbox"/> NO
59.	COST OF MEMBERSHIP, IF ANY	
<b>ANY OTHER RELEVANT INFORMATION</b>		

## Annex V - Economic questionnaire

**Fiche 2: Economic information regarding non-agricultural products which name comprises a geographical indication or possible geographical indication<sup>229</sup>**

<b>GENERAL INFORMATION ON THE NON-AGRICULTURAL PRODUCT BEARING A NAME COMPRISING A GI OR POTENTIAL GI AND ITS LOCALISATION</b>		
<b>1.</b>	<b>NAME OF THE EXPERT</b>	<i>First name and family name</i>
<b>2.</b>	<b>NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI in the local language(s)</b>	<i>Example: "Ferlacher Waffen" in local language (German)</i>
<b>3.</b>	<b>NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI, in English</b>	<i>Same example: "Ferlacher weapons"</i>
<b>4.</b>	<b>TYPE OF PRODUCT</b> <i>Please select one type of product in the following list: Ceramics, Cosmetic products, Crystal, Emael, Embroidery, Firearms, Fireworks, Fur products, Glass, Jewellery, Knives, Lace, Leather products, Music instruments, Porcelain, Slate, Stone / Marble, Transportation modes (e.g. traditional boat), Wooden products, Wool products, Others (please specify)</i>	<i>In our example: Firearm.</i>  <i>If you don't find the category in the list, create your own, for instance: painting</i>
<b>5.</b>	<b>COUNTRY</b> <i>Indicate the country of origin (if more than 1 country, indicate all the concerned countries)</i>	<i>In our example: Austria</i>
<b>GEOGRAPHICAL AREA OF PRODUCTION</b>		
<b>6.</b>	<b>Is the geographical area of production already defined?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>7.</b>	<b>Geographical area of production</b> <i>Indicate the name of the geographical area of production as it is usually done for designating it by the producers (no need to stick to official administrative</i>	<i>Name of a city, region, country or place.</i>  <i>In our example: The municipality of Ferlach</i>

<sup>229</sup> The term "name" also covers appellation/designations of non agricultural products comprising a geographical indication or potential geographical indication (GI)

	names)	
<b>ENTERPRISES PRODUCING THE PRODUCTS</b>		
<p><i>This part is devoted to the collection of the data about enterprises. The data need to be as precise as possible. If there is no official source of data (as census), if possible please double check in crossing at least two reliable sources before indicating any number. If you only have weak estimations (neither double check nor reliable source), please indicate it in the remark sections, but put nevertheless your own estimation instead of putting no data at all. We will focus on the final stage of the production, so please consider only the enterprises delivering the final product, i.e. the ones ready to sell to clients.</i></p>		
<b>8.</b>	<p><b>Number of enterprises (upstream in the supply chain, not including the enterprises producing the final non-agricultural product bearing a name comprising a GI or potential GI)</b>  <i>Give the total number of enterprises involved in the production up-stream in the supply chain, and located in the area of production.  "A single producer" shall be considered as "1 individual enterprise"</i></p>	<p><i>Possible sources: webpages, yellow pages, professional bodies, national databases, direct contact with identified enterprises/producers/experts ("by word of mouth"), existing studies on the sector</i></p> <p><i>Please be as precise as possible</i></p>
<b>9.</b>	<p><b>Reliability of the estimation on the number of enterprises (question 8)</b>  <i>You can choose one or more option</i></p>	<p><input type="checkbox"/> Census  <input type="checkbox"/> Double-check with reliable sources  <input type="checkbox"/> Own estimation (less than 2 reliable sources)  <input type="checkbox"/> Other</p>
<b>10.</b>	<p><b>Number of enterprises (producing non-agricultural product bearing a name comprising a GI or potential GI)</b>  <i>Give the total number of enterprises involved in the production of the final product (ready to sell to clients).  "A single producer" shall be considered as "1 individual enterprise"</i></p>	<p><i>Possible sources: webpages, yellow pages, professional bodies, national databases, direct contact with identified enterprises/producers/experts ("by word of mouth"), existing studies on the sector</i></p> <p><i>Please be as precise as possible</i></p>
<b>11.</b>	<p><b>Reliability of the estimation on the number of enterprises (question 10)</b>  <i>You can choose one or more option</i></p>	<p><input type="checkbox"/> Census  <input type="checkbox"/> Double-check with reliable sources  <input type="checkbox"/> Own estimation (less than 2 reliable sources)  <input type="checkbox"/> Other</p>
<b>12.</b>	<p><b>Source(s) of information on the number of enterprises (questions 9 and 10)</b></p>	<p><i>Sources used to answer questions 8 and 9:</i>  - Name, position, organisation, address of interviewed person  - Website link: example: <a href="http://www.ferlacherpraezision.com">www.ferlacherpraezision.com</a></p>

		- Document references: research papers & reviews, newspaper articles, books, etc.: author, year, title, editor with location of editor
13.	<p><b>Size of the enterprise (average)</b>  <b>This figure should be based on the percentage of workers of the relevant enterprises involved in the production of the non-agricultural product bearing a name comprising a GI or potential GI.</b>  <i>The size of the enterprises, based on the number of persons who work in the observation unit (inclusive of working proprietors, partners working regularly in the unit and unpaid family workers), as well as persons who work outside the unit who belong to it and are paid by it (e.g. sales representatives). This should include persons absent for a short period (e.g. sick or paid leave), and also those on strike, but not those absent for an indefinite period. Includes part-time workers, seasonal workers, apprentices, and home workers on the payroll.</i></p>	<input type="checkbox"/> Micro enterprises (1-9 persons employed) in %: <input type="checkbox"/> Small enterprises (10-49 persons employed) in %: <input type="checkbox"/> Medium-sized enterprises (50-249 persons employed) in %: <input type="checkbox"/> Large enterprises (250 or more persons employed) in %: <p><i>Please indicate the number of enterprises per category in addition to the percentage.</i></p> <p><i>Once you have identified the enterprises (questions 9 and 10), the most efficient way to get this information is to get directly in touch with the firms.</i>  <i>Other sources: webpages, national databases and registers, representatives of professional bodies</i></p>
14.	<p><b>Reliability of the estimation on the size of the enterprises (questions 13)</b>  <i>You can choose one or more option</i></p>	<input type="checkbox"/> Census <input type="checkbox"/> Double-check with reliable sources <input type="checkbox"/> Own estimation (less than 2 reliable sources) <input type="checkbox"/> Other
15.	<p><b>Qualitative assessment of the size of the facilities used for the production</b>  <b><i>If possible, please provide a short description of how the production is organised (micro, small, medium-sized or large facilities)</i></b></p>	<p><i>If possible, contact directly the enterprises (production manager/owner)</i></p>
16.	<p><b>Reliability of the estimation on the size of the enterprises (questions 15)</b>  <i>You can choose one or more option</i></p>	<input type="checkbox"/> Census <input type="checkbox"/> Double-check with reliable sources <input type="checkbox"/> Own estimation (less than 2 reliable sources) <input type="checkbox"/> Other
17.	<p><b>Source(s) of information on the size of enterprises (questions 14 and 15)</b></p>	<p><i>Sources used to answer questions 12 and 13:</i></p> <ul style="list-style-type: none"> <li>- Name, position, organisation, address of interviewed person</li> <li>- Website link: example: <a href="http://www.ferlacherpraezision.com">www.ferlacherpraezision.com</a></li> <li>- Document references: research papers &amp; reviews, newspaper articles, database, books, etc.: author, year, title, editor, location of the editor</li> </ul>

18.	<p><b>Proportion of female workers (workers mean individual entrepreneur or employee)</b>  <i>The gender is an important issue for the impact of the activity of the enterprises from a social point of view (gender balance in accessing the work-places)</i></p>	<p> <input type="checkbox"/> Less than 20%  <input type="checkbox"/> 20-40%  <input type="checkbox"/> 41-60%  <input type="checkbox"/> 61-80%  <input type="checkbox"/> 81% and more  <input type="checkbox"/> Do not know </p> <p><i>Please take the most efficient and credible sources directly provided by the enterprises.</i></p>
19.	<p><b>Average age of the workers</b>  <i>The age of the workers is important regarding the continuation of activity: if the workers are old, the production may disappear as and when they all retired. As workers, please take only those who work directly on the products bearing the name comprising a geographical indication or a possible geographical indication.</i></p>	<p>Average age of the workers engaged in the production: ..... years old</p> <p><input type="checkbox"/> Do not know</p> <p><i>Please take the most efficient and credible sources directly provided by the enterprises.</i></p>
20.	<p><b>Average education of the employees / required qualification for the work</b>  <i>If possible, please provide indications on the most frequent level of education obtained by the workers, with the usual designation for their qualifications in the geographical area of production. If required by the employers, indicate the qualifications most often asked for the technical jobs. Indicate the equivalence in numbers of years, indicating the last degree of school (primary or secondary)</i></p>	<p><i>Please take the most efficient and credible sources directly provided by the enterprises.</i></p>
21.	<p><b>Contribution of enterprise(s) to the employment in the relevant geographical area of production</b>  <i>The contribution is to be classified in 5 main categories, to get an estimation of its importance for the economic development of the area of production.</i></p>	<p> <input type="checkbox"/> less than 5%  <input type="checkbox"/> between 5 and 10%  <input type="checkbox"/> between 11 and 20%  <input type="checkbox"/> Between 21 and 30%  <input type="checkbox"/> 31% or more </p> <p>Indicate please the absolute number of workers engaged in the production, converted in full-time jobs equivalent: ..... Full-time jobs</p> <p><i>Please take the most efficient and credible sources directly provided by the enterprises.</i></p>

**MARKET**

*This section requires to position first the product of its relevant market segments.*

*A market segment is defined as the products/clients, which make sense regarding the major competition's framework.*

<b>22.</b>	<p><b>Market share</b>  <i>The market share is related to the main similar products produced outside the geographical area of production  The indication is expected in percentage.  The main similar products are the ones covering the same need by the final consumers (taking into consideration both the expected quality and the price segment).</i></p>	<p style="text-align: center;">In %:</p> <p><i>Possible sources (Figures and statistics of the sector/product category/markets, Experts' identification and interviews, Databases on economic figures and statistics, Direct interviews with key persons in the enterprises)</i></p>
<b>23.</b>	<p><b>Characterize the relevant market(s) segments</b>   <b>Please indicate the percentage of sales made on each market segment</b></p>	<p> <input type="checkbox"/> Regional (one part of the territory of the State in question) in %:  <input type="checkbox"/> National in %:  <input type="checkbox"/> European Union  <input type="checkbox"/> European (EU + Norway, Iceland and Liechtenstein + Switzerland) in %:  <input type="checkbox"/> International in %:  <i>The total should amount to 100%</i> </p> <p><i>Possible sources (Figures and statistics of the sector/product category/markets, Experts' identification and interviews, Databases on economic figures and statistics, Direct interviews with key persons in the enterprises)</i></p>
<b>24.</b>	<p><b>Market share of the 3 main similar products outside the geographical area of production</b>  <i>If possible, please indicate the estimated market share of the (at most) 3 similar products, which you have identified as major competitors. This identification has to be done in crossing information obtained by some key-relevant experts knowing the sector well and relevant markets. Consider as relevant the market(s) indicated in question 22 above.  (No need to answer if there is no competitor)</i></p>	<p><i>For instance in the case of the hunting weapons: competitors of Ferlacher weapons are: weapons of Perrazi (Italy) and Merkel weapons from Suhl (Germany), all luxury products and niche markets.</i></p>
<b>25.</b>	<p><b>Consolidated global turnover made for this product by all the enterprises involved in its production (equivalent to the value of sales)</b></p>	<p><i>If possible, contact directly the enterprises (manager/owner).</i></p> <p><i>Other possible sources: national trade report, benchmark reports for specific</i></p>

	<p><i>This is to give an indication of the total turnover for the final non-agricultural product bearing a name comprising a GI or potential GI – Do not indicate the turnover by enterprise (except if there is only 1 producer involved). Please consider only the non-agricultural product comprising a GI or potential GI and not the entire turnover of the enterprises when they produce other products. Give the data for the period 2006 to 2010 (5 years). The values must be in euro value for exchange rate 1.1.2012, with the appropriate correction of the inflation rate.</i></p>	<p>sectors.</p> <p><i>The best way to obtain reliable data is to cross check the sources of information.</i></p>
26.	<p><b>Reliability of the estimation on the global revenues of the enterprises for the final product (question 26)</b> <i>You can choose one or more option</i></p>	<p><input type="checkbox"/> Census</p> <p><input type="checkbox"/> Double-check with reliable sources</p> <p><input type="checkbox"/> Own estimation (less than 2 reliable sources)</p> <p><input type="checkbox"/> Other</p>
27.	<p><b>Source(s) of information on the global revenues of the enterprises for the final product (question 26)</b></p>	<p><i>Sources used to answer question 23:</i></p> <ul style="list-style-type: none"> <li>- <i>Name, position, organisation, address of interviewed persons</i></li> <li>- <i>Website link: example: <a href="http://www.ferlacherpraezision.com">www.ferlacherpraezision.com</a></i></li> <li>- <i>Document references: research papers &amp; reviews, newspaper articles, database, report</i></li> </ul>
28.	<p><b>Rules concerning labelling of the non-agricultural product bearing a name comprising a GI or potential GI</b> <i>You can choose one or more option</i></p>	<p><input type="checkbox"/> Each enterprise uses its own label</p> <p><input type="checkbox"/> The enterprises use a common private label owned by an association according to its membership</p> <p><input type="checkbox"/> The enterprises are enrolled in voluntary scheme (like organic, fairtrade, etc.)</p> <p><input type="checkbox"/> The enterprises are enrolled in a common mandatory scheme, which is controlled by an institution (public or private)</p> <p><input type="checkbox"/> Enterprises are free to use a common label, which is not controlled nor certified</p> <p><input type="checkbox"/> Enterprises may use a common label, which is certified by an independent third-party certification body</p>
29.	<p><b>Collective marketing</b> <i>This section should provide basic information about the actions undertaken to promote the product towards consumers</i></p>	<p><i>Existence or not of a collective organisation promoting the product.</i></p> <p><i>Existence or not of a common message and logo.</i></p> <p><i>Tools used for promotion: website, leaflet, exposition or other events and campaigns, product part of a “basket of goods” such as the Laguiole knife in France (for instance: promotion through the arts and craft roads of the region)</i></p>

30.	<b>Global budget for promotion</b> <i>This is an estimation of the budget available for the collective promotion of the product, in- and outside the geographical area of production.</i>	<i>Direct contact with the collective organisation promoting the product and/or the enterprises;</i> <i>Other possible sources: website of organisation/enterprise, existing studies on the sector/product</i>
31.	<b>Number of clients buying the products</b> <i>This is an indication of the numbers of clients</i>	<input type="checkbox"/> Less than 1000 <input type="checkbox"/> Above 1000 but less than 10 000 <input type="checkbox"/> More than 10 000 <i>Interviews: staff/manger of the enterprise or collective organisation, database, Internet research, market inquiry</i>
<b>INFRINGEMENTS</b>		
32.	<b>Value of the imports of infringing or of potentially infringing goods from third countries (outside of the European Union, Switzerland, Iceland, Norway and Liechtenstein)</b> <i>This is a question relevant only if some infringements can be found on the market (relevant market for the product i.e. all the markets where the original product is sold). If it is not possible to have an idea of the value, then indicate where possible volumes, or rather if there is significant infringement problems.</i> <i>Give if possible data from 2006 to 2010 (5 years).</i> <i>These values must be in euro, with the appropriate correction of the inflation rate.</i>	<i>First step: check for existent infringes through interviews and Internet/databases (enterprises, WIPO, EU...)</i> <i>If existing, get information on this issue through same sources as already used for previous questions.</i>
33.	<b>Reliability of the information on the value of imports</b> <i>You can choose one or more option</i>	<input type="checkbox"/> Census <input type="checkbox"/> Double-check with reliable sources <input type="checkbox"/> Own estimation (less than 2 reliable sources) <input type="checkbox"/> Other
34.	<b>Source(s) of information on the value of imports (question 34)</b>	<i>Sources used to answer question 31:</i> <ul style="list-style-type: none"> <li>- Name, position, organisation, address of interviewed persons</li> <li>- Website link: example: <a href="http://www.wipo.int">www.wipo.int</a>,</li> <li>- Databases, research papers &amp; reviews, newspaper articles, ...</li> </ul>

35.	<b>Loss of revenues in euros for producers caused by the sale of infringing or potentially infringing goods</b> <i>If possible, please provide an indication of the proportion of the losses in relation to the global turnover</i>	<input type="checkbox"/> Less than 5% <input type="checkbox"/> Between 5 and 10 <input type="checkbox"/> Between 10 and 30 <input type="checkbox"/> Between 30 and 50 <input type="checkbox"/> More than 50%
36.	<b>Reliability of the information on the value of imports</b> <i>You can choose one or more option</i>	<input type="checkbox"/> Census <input type="checkbox"/> Double-check with reliable sources <input type="checkbox"/> Own estimation (less than 2 reliable sources) <input type="checkbox"/> Other
37.	<b>Source(s) of information on the number of the losses (question 36)</b>	<i>Sources used to answer question 31:</i> <ul style="list-style-type: none"> <li>- Name, position, organisation, address of interviewed persons</li> <li>- Website link: example: <a href="http://www.wipo.int">www.wipo.int</a>,</li> <li>- Databases, research papers &amp; reviews, newspaper articles, ...</li> </ul>
38.	<b>Indicate the method of calculation of the losses (question 36)</b>	<i>Indicate how you did the calculation in detail (i.e. the total sums in euros or in local currency)</i>
39.	<b>Costs of actions before the courts or administrative bodies (customs or other)</b> <i>List the actions (claims against infringers) and if possible their respective costs.</i>	<i>You can ask experts or directly the enterprises, or refer to the lawyers in charge of the cause.</i>
<b>EVOLUTION SINCE THE PROTECTION OF THE NAME OF THE NON-AGRICULTURAL PRODUCT COMPRISING A GI OR POTENTIAL GI</b>  <i>If there is a collective trade mark or quality seal (or label), which intend to protect the name of the non-agricultural products comprising a GI or potential GI against infringements, please fill this section as well. The evolution can be due to other factors than the protection of the name of the product. If yes, you may indicate it in the last question of this section.</i>		
40.	<b>How has the price evolved since the introduction of the protection?</b> <i>The price should be indicated as average price and expressed in euros. Please put a reference to a quantity of products for example whether the average price relates to a certain number of pieces, litters, tons etc.</i> <i>Please specify in a percentage the general trend as compared with trends in prices before the protection (i.e. increase, decrease, etc)</i>	<i>Look for existing surveys/studies/figures and statistics in the sector at enterprise/collective organisation level, as well as national and EU level;</i> <i>Interviews with main actors of the sector and experts: researcher/intellectual property rights</i>

41.	<p><b>How have sales volumes evolved since the introduction of the protection?</b></p> <p><i>Please indicate the evolution in a percentage in average since the introduction of the protection (if applicable)</i></p> <p><i>Please specify in a percentage the general trend as compared with trends in prices before the protection (i.e. increase, decrease, etc)</i></p>	<p><i>Look for existing surveys/studies/figures and statistics in the sector at enterprise/collective organisation level, as well as national and EU level;</i></p> <p><i>Interviews with main actors of the sector and experts: researcher/intellectual property rights</i></p>
42.	<p><b>Have new main export markets been developed since the introduction of the protection? Indicate each new market (list the countries) and indicate the evolution in a percentage since the introduction of the protection (if applicable)</b></p>	<p><i>Look for existing surveys/studies/figures and statistics in the sector at enterprise/collective organisation level, as well as national and EU level;</i></p> <p><i>Interviews with main actors of the sector and experts: researcher/intellectual property rights</i></p>
43.	<p><b>Main reasons explaining the evolution described above</b></p> <p><i>If you have information about the reasons for the observed evolution, please give the three most relevant based on your opinion and knowledge</i></p>	<p><i>Look for existing surveys/studies/figures and statistics in the sector at enterprise/collective organisation level, as well as national and EU level;</i></p> <p><i>Interviews with main actors of the sector and experts: researcher/intellectual property rights</i></p>
<p><b>ANY OTHER RELEVANT INFORMATION / COMMENTS</b></p> <p><i>You have identified some possible topics which can be for economic interest, feel free to add comments or complements to all the questions listed above as well</i></p>		
44.	<p><b>Impact on cultural events</b></p>	<p><i>As part of a cultural or regional heritage, the product or the craft can contribute to maintain or revive traditional/cultural events: e.g. Ferlacher gunsmiths craft is part of the intangible cultural heritage of Austria (UNESCO)</i></p>
45.	<p><b>Impact on social links between the region of origin and other parts of the country / other countries</b></p>	
46.	<p><b>Impact on the landscape</b></p>	<p><i>For instance: maintaining the architectural landscape of a city/region (the guncraft shops of Ferlach contribute in characterizing the architecture of the city)</i></p>
47.	<p><b>Impact on the tourism</b></p>	<p><i>For instance: the product attracts tourists in the region because of its reputation or the existence of specific attractions/events set up around the product: exhibition, museum, festival, tourism path....</i></p>
48.	<p><b>Impact on economic development of other sectors in the geographical area of production</b></p>	<p><i>For instance: the product is part of a basket of goods and thus strengthens the sale of other products in the region, or it maintains and creates new jobs in a manufacturing sector or tourism.</i></p>

**Annex VI - List of products for which a legal and/or an economic fiche was completed**

**Austria**

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Ferlacher Waffen	Firearms
2.	Montafoner Tisch	Wooden product
3.	"Schladminger Loden/Perlloden Schladminger"	Pure Wool product/Textile
4.	Vorarlberger Stickerei	Embroidery

**Belgium**

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Coticule d'Ardenne	stone
2.	Dentelle de Binche	lace
3.	Diamant van Antwerpen	Diamond
4.	Pierre Bleue de Belgique	stone

**Bulgaria**

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Kaolinovski kaolin	Kaolin
2.	Kvarcov pjasâk junak	Quartz sand
3.	Kvarcov pjasak kaolinovo	Quartz sand
4.	Kvarcov pjasâk senovo	Quartz sand
5.	Kvarcov pjasâk vjatovo	Quartz sand
6.	Mramor ilindentci	Marble
7.	Mramor lepenitza	Marble
8.	Muschelkalk manastirishte	Marble
9.	Perlite-kardzali	Perlite
10.	Senovski kaolin	Kaolin
11.	Trojanska keramika	Ceramics
12.	Vjatovski kaolin	Kaolin
13.	Vratchanski varovik	Limestone

**Cyprus**

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Lefkaritika	Lace

**Czech Republic**

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Český granát, Český granátový šperk	Garnets (precious stones), jewellery, ornaments
2.	Český porcelán, Duchcovský porcelán	Porcelain
3.	Jablonecká bižuterie Jablonecké zboží Jablonecké sklo Jablonecká krystalerie	jewellery, ornaments, glass and crystal products
4.	Jindřichohradecký gobelin	gobelins/tapestries
5.	Kaolin Sedlecký	kaolin

6.	Karlovarská sůl, Karlovarská vřídelní sůl, Karlovarská přírodní vřídelní sůl, Karlovarská přírodní sůl	Natural thermal spring salt
7.	Železnobrodské sklo Železnobrodské figurky	Glass, Glass figurines

#### Estonia

	Name of the product in the original language	Type of product
1.	Haapsalu Ravimuda	THERAPEUTIC MUD

#### Finland

	Name of the product in the original language	Type of product
1.	Kantele	Music instrument

#### France

	Name of the product in the original language	Type of product
1.	Carrelage de Saint Samson la Poterie	Ceramics
2.	Chaussures/Cuir de Romans	Leather products
3.	Couteaux de Laguiole	Knives, Kitchen tools
4.	Couteaux de Thiers Coutellerie de Thiers	Knives, Kitchen tools
5.	Dentelle d'Argentan	Lace
6.	Dentelle de Calais	Lace
7.	Dentelle du Puy	Lace
8.	Emaux de Limoges	Enamel
9.	Emaux de Longwy	Enamel
10.	Faïence de Moustiers	Ceramics
11.	Faïence de Nevers	Ceramics
12.	Faïence de Quimper	Ceramics
13.	Faïences de Martres Tolosane	Ceramics
14.	Granit Breton/Granit de Bretagne	Stone
15.	Grès des Vosges	Stone
16.	Imagerie d'Epinal	Picture
17.	Monoï de Tahiti	Natural oil
18.	Pierre de Bourgogne	Stone
19.	Porcelaine de Limoges	Ceramics
20.	Porcelaine/Céramique de Sèvres	Ceramics
21.	Poterie d'Alsace	Ceramics
22.	Poterie de Betschdorf	Pottery
23.	Poterie de Vallauris	Pottery
24.	Savon de Marseille	Cosmetic and cleaning product
25.	Soie/Soieries de Touraine	Silk/Weaving
26.	Soieries de Lyon	Silk
27.	Tapisseries d'Aubusson	Tapestry
28.	Tissu des Pyrénées	Cloth
29.	Tuiles et Carreaux de Gironde	Ceramics
30.	Vannerie de Vallabrègues	Basket making
31.	Vannerie de Villaines	Basket making
32.	Vases d'Anduze	Ceramics

#### Germany

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Erzgebirgische Holzkunst / Erzgebirgische Volkskunst	Wooden handicraft products, toys, decoration, music instruments
2.	Edelsteine und Schmuck aus Idar-Oberstein	Gemstones, Jewellery
3.	Oberammergauer Holzschnitzkunst / handgeschnitzte Holzfiguren Oberammergau	Wooden handicraft products, carved sculptures
4.	Schwarzwälder Kuckucksuhr	Clocks with mechanical clockwork
5.	Solinger Stahl- und Schneidwaren	Knives, scissors, blades, food utensils, manicure and pedicure equipment
6.	Musikinstrumente aus dem Vogtland	Music instruments, instrument equipment

#### Hungary

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Bonyhádi zománcozott edény (BONYHÁD)	Enameled pots
2.	Gércei alginát és algin sav sója (GÉRCE)	Alginate and salt of algin acid
3.	Herendi porcelán (HEREND)	Porcelain
4.	Hollóházi porcelán, edény és díszműárúk (HOLLÓHÁZA)	Porcelain

#### Ireland

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Kenmare lace	Lace
2.	Donegal Tweed	Tweed

#### Italy

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Alabastro in Volterra	Stone
2.	Cremona Violinmaking	Musical Instruments
3.	Ceramiche di Deruta	Ceramics
4.	Ceramica artistica e tradizionale di Faenza	Ceramics
5.	Marmo Botticino Classico	Marble
6.	Marmo di Carrara	Marble
7.	Mobile d'arte del Bassanese	Wooden products, artistic furniture
8.	Mobile d'arte in stile della pianura Veronese	Wooden products, furniture
9.	Vetro di Murano	Glass
10.	Ceramica artistica e tradizionale di Vietri sul Mare	Ceramics

#### Lithuania

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Lietuviški kryžiai (kryždirbystė)	Wooden product
2.	Lietuviška lininė tekstilė	Textile
3.	Vilniaus krašto verbos	Bouquet of dried plants

#### Luxembourg

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Péckvillchen (singular) / Péckvillercher (plural) - in Lëtzebuergesch	Pottery (terracotta)

#### Poland

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Ceramika bolesławiecka	Pottery
2.	Szkło krośnieńskie	Glass
3.	Koronki koniakowskie	Lace

#### Portugal

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Barro Preto de Olho Marinho	Ceramics
2.	Bordados da Madeira	Embroidery
3.	Mantas de Lã de Mértola	Wool Products
4.	Máscara de Vinhais	Wooden Products
5.	Palitos Floridos e pequenos artefactos de madeira de Vila Nova de Poiares	Wooden products

#### Romania

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Ceramica de Corund	Ceramics
2.	Ceramica de Cucuteni	Ceramics
3.	Ceramica de Horezu	Ceramics
4.	Ceramică de Maramureş	Ceramics
5.	Ceramica de Oboga	Ceramics

#### Slovakia

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Levický zlatý ónyx	Decorative stone
2.	Modranská majolika	Pottery
3.	Piešťanské bahno	Mud
4.	Soľnobanská čipka	Lace

#### Slovenia

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Idrijska čipka	Lace
2.	Ribniška suha roba	Wooden Products

#### Spain

	<b>Name of the product in the original language</b>	<b>Type of product</b>
1.	Alfarería de Salvatierra de los Barros	Pottery
2.	Alfarería tradicional de Portillo (Valladolid)	Pottery
3.	Alfarería y Cerámica de La Rambla	Pottery and Ceramics
4.	Azabache de Asturias	Jewellery
5.	Belén de Murcia	Traditional clay Nativity

6.	Calzado de Elche	Leather products
7.	Cerámica de Manises	Ceramics
8.	Cerámica de Totana	Ceramics
9.	Mármol de Macael	Marble
10.	Navajas y cuchillos de Taramundi / Cuchillería de Taramundi	Knives
11.	Piedra Natural de Castilla y León, PINACAL	Stone
12.	Piel de Ubrique	Leather
13.	Talavera Cerámica	Ceramics
14.	Tela de Lenguas o Tela Mallorquina (Spanish) Tela de Llengües or Tela Majorquina (Catalan)	Textile

#### Sweden

	Name of the product in the original language	Type of product
1.	Morakniv	Knives

#### Switzerland

	Name of the product in the original language	Type of product
1.	Découpages papier du Pays d'En-haut	Paper cutting
2.	Montre Suisse, Schweizer Uhr	Watches, clocks and alarm clocks
3.	St.Galler Stickerei, St.Galler Spitzen	Embroidery

#### The Netherlands

	Name of the product in the original language	Type of product
1.	Delfts Blauw	Ceramics
2.	Leerdam Crystal	Crystal
3.	Makkumer	Ceramics

#### United Kingdom

	Name of the product in the original language	Type of product
1.	Harris Tweed	Wool product

## Annex VII – Annexes related to the economic analysis

**Table 47: Impact on cultural events, social links, landscape, tourism and economical development**  
See explanations at the end of the table.

	Impact on cultural events	No impact on cultural events	Not significant impact on cultural events	No data for impact on cultural events	Impact on social links	No impact on social links	Not significant impact on social links	No data for impact on social links	Impact on landscape	No impact on landscape	Not significant impact on landscape	No data for impact on landscape	Impact on tourism	No impact on tourism	Not significant impact on tourism	No data for impact on tourism	Impact on economic development	No impact on economic development	Not significant impact on economic development	No data for impact on economic development
<b>Austria</b>	4	0	0	0	1	0	0	3	1	0	0	3	4	0	0	0	4	0	0	0
Embroidery of Vorarlberg	1	0	0	0	1	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0
Ferlacher weapons	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	1	0	0	0
Montafon table	1	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	1	0	0	0
Schladminger Loden	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	1	0	0	0
<b>Belgium</b>	3	0	0	0	0	1	0	2	2	1	0	0	2	0	0	1	3	0	0	0
Antwerp Diamonds	1	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	1	0	0	0
Belgian Bluestone	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	1	1	0	0	0
Binche Lace	1	0	0	0	0	1	0	0	0	1	0	0	1	0	0	0	1	0	0	0
<b>Bulgaria</b>	9	0	0	3	9	0	0	3	2	0	0	10	2	0	0	10	8	0	0	4
Ceramics from Trojan	1	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	1	0	0	0
Kaolin from Kaolinovo	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Kaolin from Senovo	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Kaolin from Vjatovo	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Kuartz sand Junak	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Kuartz sand Kaolinovo	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Kuartz sand Senovo	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Kuartz sand Vjatovo	1	0	0	0	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0
Limestone from the city of Vratza	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1
Marble from Ilindentci	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	1
Muschelkalk from Manastirishte	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1
Perlite-Kardzali	0	0	0	1	1	0	0	0	0	0	0	1	0	0	0	1	0	0	0	1
<b>Czech Republic</b>	6	0	1	0	6	1	0	0	4	2	1	0	6	1	0	0	2	0	5	0
Carlsbad Thermal Spring Salt	1	0	0	0	0	1	0	0	0	1	0	0	1	0	0	0	0	0	1	0
Czech garnet jewellery	1	0	0	0	1	0	0	0	0	0	1	0	1	0	0	0	0	0	1	0
Duchcov porcelain	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	1	0
Gablonz Jewellery, Wares, Crystal Ware	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	1	0
Glass and figurines of Železný Brod	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Kaolin Sedlec	0	0	1	0	1	0	0	0	1	0	0	0	0	1	0	0	1	0	0	0
Tapestry of Jindřichuv Hradec	1	0	0	0	1	0	0	0	0	1	0	0	1	0	0	0	0	0	1	0
<b>Estonia</b>	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1
Haapsalu therapeutic mud	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1
<b>Finland</b>	1	0	0	0	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	1
Kantele	1	0	0	0	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	1
<b>France</b>	30	0	0	1	2	1	1	27	5	3	0	23	29	1	1	0	1	2	9	19
Alsace Potteries	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Anduze Vase	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Argentan Lace	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Aubusson Tapestry	1	0	0	0	0	0	1	1	0	0	0	1	0	0	0	0	0	0	1	0
Betschdorf Pottery	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Bourgogne Stone	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	1	0
Calais Lace	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Du Puy Lace	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Epinal picture	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Gironde Tiles	0	0	0	1	0	0	0	1	1	0	0	0	0	1	0	0	0	0	0	1
Granite from Bretagne	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Limoges China	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Limoges enamels	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Longwy enamels	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Lyon silk	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Marseille Soap	1	0	0	0	0	0	1	1	0	0	0	1	0	0	0	0	0	0	1	0
Martres Tolosane Earthenware	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Moustiers Earthenware	1	0	0	0	1	0	0	0	0	0	1	1	0	0	0	0	0	0	1	0
Nevers Earthenware	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Pyrenees Clothes	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Quimper Earthenware	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Romans shoes/leather	1	0	0	0	0	0	1	0	1	0	0	1	0	0	0	0	1	0	0	0
Saint Samson la Poterie Tiles	1	0	0	0	0	1	0	0	1	0	0	1	1	0	0	0	0	1	0	0
Sèvres Porcelain/Ceramics	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Tahiti Monoi	1	0	0	0	0	0	1	1	0	0	0	1	1	0	0	0	0	0	1	0
Thiers Knives and Cutlery	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Touraine Silk	1	0	0	0	1	0	0	0	1	0	0	0	0	0	1	0	0	1	0	0
Vallabrigues Basketworks	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Vallauris Pottery	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Villaines Basketwork	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0
Vosges Sanstone	1	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	0

<b>Germany</b>	<b>6 0 0 0</b>	<b>2 0 0 4</b>	<b>3 1 0 2</b>	<b>6 0 0 0</b>	<b>4 0 2 0</b>
"Solingen" cutting equipment	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0	1 0 0 0
Cuckoo Clock made in Black Forest	1 0 0 0	0 0 0 1	0 0 0 1	1 0 0 0	0 0 1 0
Erzgebirge wood art	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Idar-Oberstein Gemstone products	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0	1 0 0 0
Oberammergau wood carvings	1 0 0 0	0 0 0 1	0 1 0 0	1 0 0 0	0 0 1 0
Vogtland Music Instruments	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0
<b>Hungary</b>	<b>2 0 0 2</b>	<b>2 0 0 2</b>	<b>3 0 0 1</b>	<b>2 0 0 2</b>	<b>2 0 0 2</b>
Alginate and salt of algin acid from Gérce	0 0 0 1	0 0 0 1	1 0 0 0	0 0 0 1	0 0 0 1
Enameled pots from Bonyhád	0 0 0 1	0 0 0 1	1 0 0 0	0 0 0 1	1 0 0 0
Porcelain from Herend	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Porcelain, pot and fancy goods from Hollóháza	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	0 0 0 1
<b>Ireland</b>	<b>2 0 0 0</b>	<b>2 0 0 0</b>	<b>0 0 0 2</b>	<b>2 0 0 0</b>	<b>2 0 0 0</b>
Donegal Tweed	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0
Kenmare Lace	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0
<b>Italy</b>	<b>7 0 0 4</b>	<b>4 0 0 7</b>	<b>3 0 0 8</b>	<b>4 0 0 7</b>	<b>3 0 0 8</b>
Alabaster in Voleterra	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1
Art furniture of the Bassa Pianura Veronese	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1
Bassanese Artistic Furniture	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1
Botticino Classico Marble	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1
Carrara Marble	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0	1 0 0 0
Ceramics of Faenza	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Cremona Violinmaking	1 0 0 0	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1
Deruta artistic and traditional ceramics	1 0 0 0	1 0 0 0	0 0 0 1	0 0 0 1	0 0 0 1
Jewels from Torre del Greco	1 0 0 0	0 0 0 1	0 0 0 1	0 0 0 1	0 0 0 1
Murano Glass	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0
Vietri sul Mare artistic and traditional ceramics	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	0 0 0 1
<b>Lithuania</b>	<b>3 0 0 0</b>	<b>2 0 0 1</b>	<b>3 0 0 0</b>	<b>3 0 0 0</b>	<b>1 0 0 2</b>
Lithuanian crosses	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0	0 0 0 1
Lithuanian flax textile	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Vilnius region palms	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	0 0 0 1
<b>Luxembourg</b>	<b>1 0 0 0</b>	<b>1 0 0 0</b>	<b>0 0 0 1</b>	<b>1 0 0 0</b>	<b>0 0 0 1</b>
Peckvillchen/Peckvillercher	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	0 0 0 1
<b>Netherlands</b>	<b>2 0 0 1</b>	<b>0 0 0 3</b>	<b>1 0 0 2</b>	<b>2 0 0 1</b>	<b>2 0 1 0</b>
Blue Delftware	1 0 0 0	0 0 0 1	0 0 0 1	1 0 0 0	1 0 0 0
Leerdam Crystal	1 0 0 0	0 0 0 1	0 0 0 1	0 0 0 1	1 0 0 0
Makkumer	0 0 0 1	0 0 0 1	1 0 0 0	1 0 0 0	0 0 1 0
<b>Poland</b>	<b>3 0 0 0</b>	<b>3 0 0 0</b>	<b>1 2 0 0</b>	<b>3 0 0 0</b>	<b>3 0 0 0</b>
Boleslawiec pottery	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Koniakow laces	1 0 0 0	1 0 0 0	0 1 0 0	1 0 0 0	1 0 0 0
Krosno glass	1 0 0 0	1 0 0 0	0 1 0 0	1 0 0 0	1 0 0 0
<b>Portugal</b>	<b>5 0 0 0</b>	<b>2 2 0 1</b>	<b>0 4 0 1</b>	<b>4 0 0 1</b>	<b>3 0 0 2</b>
Black Clay of Olho Marinho	1 0 0 0	1 0 0 0	0 1 0 0	1 0 0 0	1 0 0 0
Blankets wool of Mértola	1 0 0 0	0 1 0 0	0 1 0 0	1 0 0 0	1 0 0 0
Flower sticks-Small wooden artefacts of Vila Nova de Poiares	1 0 0 0	1 0 0 0	0 1 0 0	1 0 0 0	1 0 0 0
Madeira Embroidery	1 0 0 0	0 0 0 1	0 1 0 0	1 0 0 0	0 0 0 1
Mask of Vinhais	1 0 0 0	0 1 0 0	0 0 0 1	0 0 0 1	0 0 0 1
<b>Romania</b>	<b>5 0 0 0</b>	<b>5 0 0 0</b>	<b>4 1 0 0</b>	<b>5 0 0 0</b>	<b>4 0 0 1</b>
Corund Ceramics	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Cucuteni Ceramics	1 0 0 0	1 0 0 0	0 1 0 0	1 0 0 0	1 0 0 0
Horezu Ceramics	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Maramureş ceramics	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Oboga ceramics	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	0 0 0 1
<b>Slovak Republic</b>	<b>4 0 0 0</b>	<b>4 0 0 0</b>	<b>2 0 0 2</b>	<b>4 0 0 0</b>	<b>3 0 0 1</b>
Golden onyx of Levice	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
Lace of Soľná Baňa	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	0 0 0 1
Majolica of Modra	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0
Piešťany mud	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0	1 0 0 0
<b>Slovenia</b>	<b>1 0 0 0</b>	<b>1 0 0 0</b>	<b>0 0 0 1</b>	<b>1 0 0 0</b>	<b>1 0 0 0</b>
Idrija lace	1 0 0 0	1 0 0 0	0 0 0 1	1 0 0 0	1 0 0 0

<b>Spain</b>	<b>11</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>9</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>6</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>13</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>12</b>	<b>1</b>	<b>0</b>	<b>1</b>
Elche shoes	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Jet of Asturias	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Majorca cloth or textile	1	0	0	0	0	1	0	0	0	1	0	0	1	0	0	0	1	0	0	0
Manises ceramics	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Marble from Macael	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	1	0	0
Nativity Set of Murcia	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	1	0	0	0
Natural Stone form Castile and Leon-Pinacal	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Portillo Traditional Pottery	1	0	0	0	1	0	0	0	0	0	1	0	1	0	0	0	1	0	0	0
Pottery and Ceramics of La Rambla	1	0	0	0	1	0	0	0	0	0	1	0	1	0	0	0	1	0	0	0
Pottery of Salvatierra de los Barros	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Talavera Ceramics	0	0	0	1	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1
Taramundi knives and pocket knives	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0
Totana Ceramics	1	0	0	0	1	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0
Ubrique Leather	0	1	0	0	0	1	0	0	0	1	0	0	1	0	0	0	1	0	0	0
<b>Sweden</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>
Mora knife	1	0	0	0	0	0	1	0	0	0	1	0	1	0	0	0	1	0	0	0
<b>Switzerland</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>
Paper cuts of Pays d'Enhaut	1	0	0	0	1	0	0	0	0	1	0	0	1	0	0	0	0	0	1	0
St.Galler embroidery	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	1	0
Swiss watches	1	0	0	0	0	0	0	1	1	0	0	0	1	0	0	0	1	0	0	0
<b>United Kingdom</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
Harris Tweed	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	1	1	0	0	0
Irish Linen	1	0	0	0	0	0	0	1	0	0	1	0	0	0	0	1	0	0	0	1
<b>Total</b>	<b>111</b>	<b>1</b>	<b>2</b>	<b>13</b>	<b>58</b>	<b>7</b>	<b>3</b>	<b>59</b>	<b>42</b>	<b>17</b>	<b>6</b>	<b>62</b>	<b>98</b>	<b>2</b>	<b>2</b>	<b>25</b>	<b>61</b>	<b>3</b>	<b>19</b>	<b>44</b>

This table shows the existence of cultural events related to the product, the social links created thank the product, the effects on the landscapes (for example the herding of sheeps in case of wool products), the impact on tourism like organisation of special event, or presence of a museum dedicated to the product and its history, and the general impact on economic development. Precise questions can be found in the questionnaire (see annex V). The assessment has been made in interviewing people from the region and key-experts.

**Table 48: Impact on cultural events, social links, landscape, tourism and economical development**

	Number of products	Impact on cultural events	No impact on cultural events	Not significant impact on cultural events	No data for impact on cultural events	Impact on social links	No impact on social links	Not significant impact on social links	No data for impact on social links	Impact on landscape	No impact on landscape	Not significant impact on landscape	No data for impact on landscape	Impact on tourism	No impact on tourism	Not significant impact on tourism	No data for impact on tourism	Impact on economic development	No impact on economic development	Not significant impact on economic development	No data for impact on economic development
Basket making	2	2	0	0	0	0	0	0	2	0	0	0	2	2	0	0	0	0	0	1	1
Bouquet of dried plants	1	1	0	0	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	1
Ceramics/pottery	32	29	0	0	3	18	0	1	13	12	3	2	15	30	1	0	1	15	1	5	11
Cosmetic product	6	4	0	0	2	1	1	0	4	4	1	0	1	4	0	0	2	1	0	1	4
Crystal	1	1	0	0	0	0	0	0	1	0	0	0	1	0	0	0	1	1	0	0	0
Embroidery	3	3	0	0	0	1	0	0	2	0	1	0	2	3	0	0	0	1	0	1	1
Enamels	3	2	0	0	1	0	0	0	3	1	0	0	2	2	0	0	1	1	0	0	2
Firearms	1	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	1	0	0	0
Glass	3	3	0	0	0	3	0	0	0	1	1	0	1	3	0	0	0	3	0	0	0
Jewellery	6	6	0	0	0	3	0	0	3	4	0	1	1	5	0	0	1	3	0	2	1
Knives	4	4	0	0	0	1	0	1	2	2	0	1	1	4	0	0	0	3	0	0	1
Lace	8	8	0	0	0	4	1	0	3	0	2	0	6	8	0	0	0	4	0	3	1
Leather products	3	2	1	0	0	1	1	0	1	1	2	0	0	3	0	0	0	3	0	0	0
Mineral	9	7	0	1	1	9	0	0	0	1	0	0	8	0	1	0	8	8	0	0	1
Music instrument	3	3	0	0	0	2	0	0	1	0	0	0	3	2	0	0	1	1	0	0	2
Paper cutting	1	1	0	0	0	1	0	0	0	0	1	0	0	1	0	0	0	0	0	1	0
Pictures	1	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1
Porcelain	4	4	0	0	0	3	0	0	1	2	0	0	2	4	0	0	0	1	0	1	2
Stone/Marble	13	8	0	1	4	4	0	1	8	6	0	1	6	7	0	1	5	4	1	0	8
Tapestry	2	2	0	0	0	1	0	0	1	1	1	0	0	2	0	0	0	0	0	1	1
Textile (other than wool)	6	6	0	0	0	1	2	0	3	1	2	1	2	4	0	1	1	2	1	1	2
Traditional clay Nativity	1	1	0	0	0	0	0	0	1	0	0	0	1	1	0	0	0	1	0	0	0
Watches, clocks and alarm clocks	2	2	0	0	0	0	0	0	2	1	0	0	1	2	0	0	0	1	0	1	0
Wooden product	8	6	0	0	2	2	1	0	5	3	2	0	3	5	0	0	3	3	0	1	4
Wool products	4	4	0	0	0	2	1	0	1	1	1	0	2	3	0	0	1	4	0	0	0
<b>Gesamtergebnis</b>	<b>127</b>	<b>111</b>	<b>1</b>	<b>2</b>	<b>13</b>	<b>58</b>	<b>7</b>	<b>3</b>	<b>59</b>	<b>42</b>	<b>17</b>	<b>6</b>	<b>62</b>	<b>98</b>	<b>2</b>	<b>2</b>	<b>25</b>	<b>61</b>	<b>3</b>	<b>19</b>	<b>44</b>

In percentage of valid answers

<b>97</b>	<b>1</b>	<b>2</b>	<b>85</b>	<b>10</b>	<b>4</b>	<b>65</b>	<b>26</b>	<b>9</b>	<b>96</b>	<b>2</b>	<b>2</b>	<b>73</b>	<b>4</b>	<b>23</b>
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**Table 49: Products for which the micro enterprises are the unique form of enterprise**

<b>Country</b>	<b>Type of product</b>	<b>Name of product (English)</b>
Austria	Wooden product	Montafon table
Belgium	Lace	Binche Lace
Estonia	Cosmetic product	Haapsalutherepeutic mud
France	Ceramics	Saint Samson la Poterie Tiles
France	Leather products	Romans shoes/Leather
France	Pottery	Betschdorf Pottery
France	Cosmetic and cleaning product	Marseille Soap
France	Ceramics/pottery	Gironde Tiles
France	Lace	Argentan Lace
France	Enamels	Limoges enamels
France	Cosmetic product	Tahiti Monoï
France	Ceramics	MartresTolosane Earthenware
France	Ceramics	Moustiers Earthenware
France	Ceramics	Nevers Earthenware
France	Pottery	Vallauris Pottery
France	Wooden product	Vallabrègues Basketworks
Germany	Wooden handicraft products, carved sculptures	Oberammergau wood carvings
Hungary	Alginate and salt of algin acid	Alginate and salt of algin acid from Gèrce
Ireland	Lace	Kenmare Lace
Italy	Ceramics	Ceramics of Faenza
Italy	Musical Instrument	Cremona Violinmaking
Italy	Ceramics	Deruta artistic and traditional ceramics
Lithuania	Bouquet of dried plants	Vilnius region palms
Lithuania	Wooden products	Lithuanian crosses (cross-making)
Luxembourg	Pottery (terracotta)	Peckvillchen / Peckvillercher
Poland	Lace	Koniakow laces
Portugal	Ceramics	Black Clay of OlhoMarinho
Portugal	Wooden Products	“Flower sticks and Small wooden artefacts of Vila Nova de Poiares”
Portugal	Wool Products	Blankets wool of Mértola
Portugal	Wooden Products	Mask of Vinhais
Romania	Ceramics	Oboga ceramics
Romania	Ceramics	Maramureş ceramics
Romania	Ceramics	Corund Ceramics
Romania	Ceramics	Cucuteni Ceramics
Romania	Ceramics	Horezu Ceramics
Spain	Traditional Pottery	Portillo Traditional Pottery
Spain	Ceramics	Pottery of Salvatierra de los Barros
Spain	Jewellery	Jet of Asturias
Spain	Traditional clay Nativity	“Nativity Set of Murcia”
Spain	Ceramics	Talavera Ceramics

Spain	Ceramics	"Totana Ceramics"
Spain	Knives	Taramundi knives and pocket knives / Taramundi cutlery
Spain	Textile	Majorca cloth or textile
Slovenia	Lace	Idrija lace
Switzerland	Paper cutting	Paper cuts of Pays d'Enhaut

**Table 50: Products for which the small enterprises are the unique form of enterprise**

<b>Country</b>	<b>Type of product</b>	<b>Name of product (English)</b>
Bulgaria	Ceramics	Ceramics from Trojan
Czech Republic	Gobelins, tapestries	Tapestry of Jindrichuv Hradec, NeuhauserGobelin
Czech Republic	Salt from thermal spring, alimentation supplement	Carlsbad Salt (KarlsbaderSalz), Carlsbad Thermal Spring Salt (KarlsbaderSprudelsalz), Carlsbad Natural Thermal Spring Salt (KarlsbaderNatürlichesSprudelsalz), Carlsbad Natural Salt (KarlsbaderNatürlichesSalz)
Finland	Music instrument	Kantele
France	Silk / Weaving	Touraine Silk/Silks
France	Stone/Marble	Vosges Sandstone
France	Pictures	Epinal picture
France	Textile	Pyrenees Clothes
France	Wooden product	Villaines Basketwork
Italy	Marble	Carrara Marble
Italy	Wooden product, artistic furniture	Bassanese Artistic Furniture
Italy	Glass	Murano Glass
Ireland	Textile	Donegal Tweed
Lithuania	Textile	Lithuanian flax textile
The Netherlands	Ceramics	Blue Delftware
The Netherlands	Crystal	Leerdam Crystal
The Slovak Republic	Ceramics	Majolica of Modra
The Slovak Republic	Lace	Lace of SoľnáBaňa
The Slovak Republic	Decorative stone	Golden onyx of Levice
United Kingdom	Textile	Irish Linen

**Table 51: Products for which the medium-sized enterprises are the unique form of enterprise**

<b>Country</b>	<b>Type of product</b>	<b>Name of product (English)</b>
Bulgaria	Limestone	Limestone from the city of VRATZA
Czech Republic	Jewellery	Czech garnet, Czech garnetjewelry
Czech Republic	Minerals	Kaolin Sedlec
France	Ceramics	Sèvres Porcelain/Ceramics
Netherlands	Ceramics/Pottery	Makkumer
Sweden	Knives	Mora knife

**Table 52: Products for which the large-sized enterprises are the unique form of enterprise**

<b>Country</b>	<b>Type of product</b>	<b>Name of product (English)</b>
Bulgaria	Kaolin	KAOLIN from Kaolinovo
Bulgaria	Kuartz Sand	KUARTZ SAND JUNAK
Bulgaria	Kuartz Sand	KUARTZ SAND KAOLINOVO
Bulgaria	Kuartz Sand	KUARTZ SAND SENOVO
Bulgaria	Kuartz Sand	KUARTZ SAND VJATOVO
Bulgaria	Kaolin	KAOLIN from Senovo
Bulgaria	Kaolin	KAOLIN from Vjatovo
Bulgaria	Marble	Marble from ILINDENTCI
Bulgaria	Muschelkalk	MUSCHELKALK from MANASTIRISHTE
Bulgaria	Perlite	PERLITE-KARDZALI
Czech Republic	Porcelain	Czech porcelain, Duchcov porcelain (in English)
Hungary	Enameled pots	Enameled pots from Bonyhád

**Table 53: Contribution to local employment by product**

<b>Contribution of 5 to 10%</b>	
Germany	"Solingen" cutting equipment
France	Aubusson Tapestry
Poland	Boleslawiec pottery
Poland	BotticinoClassico Marble
Italy	Carrara Marble
Germany	Cuckoo Clock made in Black Forest
Hungary	Enamelled pots from Bonyhád
France	Epinal picture
Czech Republic	Glass and figurines of ŽeleznýBrod
Slovak Republic	Golden onyx of Levice
Germany	Idar-Oberstein Gemstone products
Czech Republic	Kaolin Sedlec
Slovak Republic	Majolica of Modra
France	MartresTolosane Earthenware
Spain	Portillo Traditional Pottery
Spain	Pottery of Salvatierra de los Barros
France	Pyrenees Clothes
Austria	SchladmingerLoden
France	Sèvres Porcelain/Ceramics
Switzerland	St.Galler embroidery
Spain	Talavera Ceramics
France	Villaines Basketwork
France	Vosges Sanstone
France	Vallauris Pottery
Sweden	Mora knife
Ireland	Donegal Tweed
Austria	Embroidery of Vorarlberg
<b>Contribution of 11 to 20%</b>	
Spain	Pottery and Ceramics of La Rambla
Spain	Natural Stone form Castile and Leon, PINACAL
France	Thiers Knives, Theirs Cutlery
France	Moustiers Earthenware
The Slovak Republic	Piešťany mud
Italy	Vietri sul Mare artistic and traditionalceramics
Germany	Vogtland Music Instruments
<b>Contribution of 21 to 30%</b>	
Spain	Taramundi knives and pocket knives / Taramundi cutlery
<b>Contribution above 31%</b>	
Czech Republic	GablonzJewellery(Gablonzer Schmuck), Gablonz Wares (GablonzerWaren), Gablonz Glass (GablonzerGlas), Gablonz Crystal Ware (GablonzerKristallglaswaren)

Spain	Marble from Macael
Spain	Elche shoes
Hungary	Porcelain from Herend
Italy	Bassanese Artistic Furniture
Italy	Art furniture of the BassaPianura Veronese
Romania	Corund Ceramics
Germany	Erzgebirge wood art
Spain	Ubrique Leather

**Table 54: Products with less than 20% female workers**

<b>Country</b>	<b>Product Name</b>
Austria	Montafon table
Austria	Ferlacher weapons
Austria	Embroidery of Vorarlberg
Belgium	Antwerp Diamonds
Bulgaria	Limestone from the city of Vratza
Czech Republic	Carlsbad Thermal Spring Salt
France	Anduze Vase
France	Betschdorf Pottery
France	Bourgogne Stone
France	Gironde Tiles
France	Granite from Bretagne
France	Saint Samson la Poterie Tiles
France	Vallabrègues Basketworks
France	Alginate and salt of algin acid from Gêrce
France	Belgian Bluestone
Germany	Oberammergau wood carvings
Italy	BotticinoClassico Marble
Italy	Cremona Violinmaking
Italy	Carrara Marble
Lithuania	Lithuanian crosses
Netherlands	Makkumer
Spain	Jet of Asturias
Spain	Natural Stone form Castile and Leon-Pinacal
Spain	Portillo Traditional Pottery
Spain	Pottery of Salvatierra de los Barros
Spain	Taramundi knives and pocket knives
Spain	Totana Ceramics

**Table 55: Products with more than 81% female workers**

<b>Country</b>	<b>Product Name</b>
Belgium	Binche Lace
Czech Republic	Glass and figurines of ŽeleznýBrod
Czech Republic	Tapestry of Jindrichuv Hradec
Ireland	Kenmare Lace
France	Argentan Lace
France	MartresTolosane Earthenware
France	Pyrenees Clothes
France	Du Puy Lace
France	Vallauris Pottery
Lithuania	Vilnius region palms
Poland	Boleslawiec pottery
Portugal	Madeira Embroidery
Portugal	Blankets wool of Mértola
Portugal	Flower sticks-Small wooden artefacts of Vila Nova de Poiares
Portugal	Koniakow laces
Slovak Republic	Lace of SoľnáBaňa
Sloveni	Idrija lace

**Table 56: Employment according to NUTS 2 and contribution of the full time jobs to the employment by product**

	Unemployment (NUTS2)	Employment in the region (NUTS2)	Employment by activity (NUTS2)	Total Full time jobs	Contribution of full time jobs to employment in the economical sector (NUTS2) in %
"Solingen" cutting equipment	175,900	2,231,300	488,200	4,500	0.9
Alsace Potteries	70,500	761,600	174,900	140	0.1
Anduze Vase	139,300	890,200	95,500	100	0.1
Antwerp Diamonds	45,400	638,400	140,700	34,000	24.2
Art furniture of the Bassa Pianura Veronese	111,900	2,071,800	617,100	12,944	2.1
Aubusson Tapestry	25,800	281,800	46,600	150	0.3
Bassanese Artistic Furniture	111,900	2,071,800	617,100	6,957	1.1
Belgian Bluestone	121,100	826,100	156,500	1,000	0.6
Binche Lace	61,900	354,200	71,100	2	0.0
Blue Delftware	93,600	1,503,800	136,100	58	0.0
Boleslawiec pottery	134,600	1,107,200	295,300	2,000	0.7
Bourgogne Stone	67,800	596,100	98,500	700	0.7
Calais Lace	221,800	1,404,500	254,800	700	0.3
Carlsbad Thermal Spring Salt	53,600	490,100	163,800	8	0.0
Carrara Marble	107,500	1,519,600	299,400	4,850	1.6
Ceramics of Faenza	109,700	1,921,100	538,500	250	0.0
Corund Ceramics	116,800	935,100	286,600	275	0.1
Cremona Violinmaking	261,400	4,163,000	1,137,100	700	0.1
Cuckoo Clock made in Black Forest	35,900	101,400	321,200	600	0.2
Cucuteni Ceramics	88,100	167,100	216,500	5	0.0
Deruta artistic and traditional ceramics	25,700	344,600	77,600	609	0.8
Donegal Tweed	84,700	415,100	69,700	82	0.1
Du Puy Lace	52,100	512,100	94,400	18	0.0
Duchcov porcelain	53,600	490,100	163,800	220	0.1
Elche shoes	612,500	1,856,200	327,700	9,150	2.8
Embroidery of Vorarlberg	7,100	170,100	50,100	600	1.2
Epinal picture	110,400	819,000	181,800	15	0.0
Erzgebirge wood art	64,700	627,000	169,700	1,200	0.7
Ferlacher weapons	9,700	250,000	46,200	120	0.3
Flower sticks-Small wooden artefacts of Vila Nova de Poiares	131,100	1,082,000	225,100	4	0.0
Gironde Tiles	134,500	1,236,600	156,000	18	0.0
Golden onyx of Levice	101,500	751,100	272,000	25	0.0
Granite from Bretagne	105,800	1,254,500	206,700	1,000	0.5
Haapsalu therepeutic mud	86,800	587,400	139,200	7	0.0
Harris Tweed	21,100	232,600	34,900	100	0.3
Horezu Ceramics	75,700	1,012,000	184,400	115	0.1
Idar-Oberstein Gemstone products	33,500	588,100	144,700	2,500	1.7
Idrija lace	34,100	440,900	94,300	25	0.0
Irish Linen	61,800	784,600	107,600	200	0.2
Jet of Asturias	85,700	388,300	55,500	100	0.2
Jewels from Torre del Greco	288,000	1,506,200	210,300	2,600	1.2
Kaolin Sedlec	53,600	490,100	163,800	80	0.0

Krosno glass	122,100	836,200	197,400	2,500	1.3
Leerdam Crystal	93,600	1,503,800	136,100	5	0.0
Limestone from the city of Vratza	42,600	293,100	18,200	39	0.2
Limoges China	25,800	281,800	46,600	1,000	2.1
Lithuanian crosses	248,800	1,366,900	243,100	12	0.0
Lithuanian flax textile	248,800	1,366,900	243,100	53	0.0
Longwy enamels	110,400	819,000	181,800	70	0.0
Madeira Embroidery	18,000	111,900	7,600	140	1.8
Majolica of Modra	20,700	324,300	50,300	44	0.1
Makkumer	14,800	263,800	36,300	50	0.1
Manises ceramics	612,500	1,856,200	327,700	270	0.1
Maramureş ceramics	63,800	1,157,700	302,800	75	0.0
Martres Tolosane Earthenware	115,800	1,169,900	160,700	7	0.0
Montafon table	7,100	170,100	50,100	14	0.0
Mora knife	36,200	356,800	69,500	110	0.2
Moustiers Earthenware	223,600	1,829,200	184,000	37	0.0
Murano Glass	111,900	2,071,800	617,100	3,102	0.5
Nativity Set of Murcia	187,400	539,600	68,200	34	0.0
Natural Stone form Castile and Leon-Pinacal	197,800	953,300	153,000	2,510	1.6
Nevers Earthenware	67,800	596,100	98,500	70	0.1
Oboga ceramics	75,700	1,012,000	184,400	40	0.0
Paper cuts of Pays d'Enhaut	50,200	721,900	78,100	9	0.0
Portillo Traditional Pottery	229,200	678,400	124,700	70	0.1
Pottery and Ceramics of La Rambla	1,212,000	2,744,300	252,400	240	0.1
Pottery of Salvatierra de los Barros	124,000	362,700	39,200	36	0.1
Pyrenees Clothes	134,500	1,236,600	156,000	20	0.0
Quimper Earthenware	105,800	1,254,500	206,700	61	0.0
Saint Samson la Poterie Tiles	81,400	567,400	144,000	6	0.0
Schladminger Loden	20,200	567,900	121,000	110	0.1
Sèvres Porcelain/Ceramics	490,300	5,079,400	498,400	200	0.0
St.Galler embroidery	21,100	540,600	126,500	800	0.6
Swiss watches	184,300	3,844,000	649,600	48,500	7.5
Talavera Ceramics	229,200	678,400	124,700	100	0.1
Tapestry of Jindrichuv Hradec	32,700	557,800	186,500	14	0.0
Taramundi knives and pocket knives	85,700	388,300	55,500	20	0.0
Thiers Knives and Cutlery	52,100	512,100	94,400	1,565	1.7
Totana Ceramics	187,400	539,600	68,200	34	0.0
Touraine Silk	99,100	930,900	177,600	15	0.0
Ubrique Leather	1,212,000	2,744,300	252,400	8,000	3.2
Vallabrègues Basketworks	139,300	890,200	95,500	1	0.0
Vietri sul Mare artistic and traditional ceramics	288,000	1,506,200	210,300	350	0.2
Villaines Basketwork	99,100	930,900	177,600	45	0.0
Vilnius region palms	248,800	1,366,900	243,100	4	0.0
Vogtland Music Instruments	64,700	627,000	169,700	1,250	0.7
Vosges Sanstone	110,400	819,000	181,800	120	0.1
<b>Total</b>	<b>12,534,900</b>	<b>88,844,500</b>	<b>17,141,400</b>	<b>160,479</b>	<b>0.9</b>

**Table 57: Employment according to NUTS 2 and contribution of the full time jobs to the employment per products**

	Unemployment (NUTS2)	Employment in the region (NUTS2)	Employment by activity (NUTS2)	Total Full time jobs	Contribution of full time jobs to employment in the economical sector (NUTS2) in %
Antwerp Diamonds	45,400	638,400	140,700	34,000	24.2
Swiss watches	184,300	3,844,000	649,600	48,500	7.5
Ubrique Leather	1,212,000	2,744,300	252,400	8,000	3.2
Elche shoes	612,500	1,856,200	327,700	9,150	2.8
Art furniture of the Bassa Pianura Veronese	111,900	2,071,800	617,100	12,944	2.1
Limoges China	25,800	281,800	46,600	1,000	2.1
Madeira Embroidery	18,000	111,900	7,600	140	1.8
Idar-Oberstein Gemstone products	33,500	588,100	144,700	2,500	1.7
Thiers Knives and Cutlery	52,100	512,100	94,400	1,565	1.7
Carrara Marble	107,500	1,519,600	299,400	4,850	1.6
Natural Stone form Castile and Leon-Pinacal	197,800	953,300	153,000	2,510	1.6

**Table 58: Employment according to NUTS 2 and contribution of the full time jobs to the employment per country**

	Number of products	Unemployment (NUTS2)	Employment in the region (NUTS2)	Employment by activity (NUTS2)	Total Full time jobs	Contribution of full time jobs to employment in the economical sector (NUTS2) in %
Switzerland	3	255,600	5,106,500	854,200	49,309	5.8
Belgium	3	228,400	1,818,700	368,300	35,002	9.5
Italy	9	1,416,000	17,176,100	4,324,500	32,362	0.7
Spain	12	4,975,400	13,729,600	1,849,200	20,564	1.1
Germany	5	374,700	4,174,800	1,293,500	10,050	0.8
France	23	2,783,400	24,673,400	3,712,800	6,058	0.2
Poland	2	256,700	1,943,400	492,700	4,500	0.9
Austria	4	44,100	1,158,100	267,400	844	0.3
Romania	5	420,100	4,283,900	1,174,700	510	0.0
Czech Republic	4	193,500	2,028,100	677,900	322	0.0
United Kingdom	2	82,900	1,017,200	142,500	300	0.2
Portugal	2	149,100	1,193,900	232,700	144	0.1
Netherlands	3	202,000	3,271,400	308,500	113	0.0
Sweden	1	36,200	356,800	69,500	110	0.2
Ireland	1	84,700	415,100	69,700	82	0.1
Lithuania	3	746,400	4,100,700	729,300	69	0.0
Slovak Republic	2	122,200	1,075,400	322,300	69	0.0
Bulgaria	1	42,600	293,100	18,200	39	0.2
Slovenia	1	34,100	440,900	94,300	25	0.0
Estonia	1	86,800	587,400	139,200	7	0.0
<b>Total</b>	<b>87</b>	<b>12,534,900</b>	<b>88,844,500</b>	<b>17,141,400</b>	<b>160,479</b>	<b>0.9</b>

**Table 59: Average age of workers by product and country**

	Average age of workers
<b>▼ Austria</b>	
Ferlacher weapons	50
Montafon table	37.5
Schladminger Loden	50
Embroidery of Vorarlberg	50
<b>▼ Belgium</b>	
Belgian Bluestone	0
Binche Lace	50
Antwerp Diamonds	0
<b>▼ Bulgaria</b>	
Ceramics from Trojan	50
Kaolin from Kaolinovo	50
Kaolin from Senovo	50
Kaolin from Vjatovo	50
Kuartz sand Junak	50
Kuartz sand Kaolinovo	50
Kuartz sand Senovo	50
Kuartz sand Vjatovo	50
Limestone from the city of Vratza	45
Marble from Ilindentci	0
Muschelkalk from Manastirishte	0
Perlite-Kardzali	0
<b>▼ Czech Republic</b>	
Carlsbad Thermal Spring Salt	31
Czech garnet jewellery	47
Duchcov porcelain	44
Gablonz Jewellery, Wares, Crystal Ware	0
Glass and figurines of Železný Brod	50
Kaolin Sedlec	44
Tapestry of Jindrichuv Hradec	42
<b>▼ Estonia</b>	
Haapsalu therepeutic mud	40
<b>▼ Finland</b>	
Kantele	52

▼ France	
Alsace Potteries	40
Anduze Vase	40
Argentan Lace	60
Aubusson Tapestry	47.5
Betschdorf Pottery	40
Bourgogne Stone	0
Epinal picture	35
Gironde Tiles	45
Granite from Bretagne	42
Limoges enamels	35
Longwy emanels	40
Lyon silk	0
Marseille Soap	42.5
Martres Tolosane Earthenware	50
Moustiers Earthenware	40
Nevers Earthenware	35
Pyrenees Clothes	45
Romans shoes/leather	0
Saint Samson la Poterie Tiles	40
Sèvres Porcelain/Ceramics	45
Tahiti Monoï	40
Thiers Knives and Cutlery	45.5
Touraine Silk	45
Vallabrègues Basketworks	50
Villaines Basketwork	43.5
Vosges Sanstone	0
Du Puy Lace	40
Vallauris Pottery	45
Quimper Earthenware	0
Limoges China	45
Calais Lace	50
▼ Germany	
"Solingen" cutting equipment	45
Cuckoo Clock made in Black Forest	50
Erzgebirge wood art	55
Idar-Oberstein Gemstone products	50
Oberammergau wood carvings	50
Vogtland Music Instruments	45

<b>▼ Hungary</b>	
Alginate and salt of algin acid from Gérce	50
Enameled pots from Bonyhád	45
Porcelain from Herend	55
Porcelain, pot and fancy goods from Hollóháza	55
<b>▼ Ireland</b>	
Kenmare Lace	44
Donegal Tweed	50
<b>▼ Italy</b>	
Alabaster in Voleterra	0
Art furniture of the Bassa Pianura Veronese	0
Bassanese Artistic Furniture	0
Botticino Classico Marble	40
Carrara Marble	0
Ceramics of Faenza	0
Cremona Violinmaking	0
Deruta artistic and traditional ceramics	0
Murano Glass	0
Vietri sul Mare artistic and traditional ceramics	35
Jewels from Torre del Greco	0
<b>▼ Lithuania</b>	
Lithuanian crosses	50
Lithuanian flax textile	45
Vilnius region palms	0
<b>▼ Luxembourg</b>	
Peckvillchen/Peckvillercher	40
<b>▼ Poland</b>	
Boleslawiec pottery	42.5
Koniakow laces	40
Krosno glass	42
<b>▼ Portugal</b>	
Black Clay of Olho Marinho	40
Blankets wool of Mértola	55
Flower sticks-Small wooden artefacts of Vila Nova de Poiares	57
Madeira Embroidery	50
Mask of Vinhais	0

<b>▼ Spain</b>	
Elche shoes	45
Jet of Asturias	45
Majorca cloth or textile	39
Manises ceramics	43
Marble from Macael	45
Nativity Set of Murcia	47
Natural Stone form Castile and Leon-Pinacal	42
Portillo Traditional Pottery	0
Pottery and Ceramics of La Rambla	47
Pottery of Salvatierra de los Barros	46
Talavera Ceramics	40
Taramundi knives and pocket knives	37
Totana Ceramics	45.5
Ubrique Leather	30
<b>▼ Switzerland</b>	
Paper cuts of Pays d'Enhaut	48
St.Galler embroidery	48
Swiss watches	0
<b>▼ Sweden</b>	
Mora knife	40
<b>▼ United Kingdom</b>	
Irish Linen	0
Harris Tweed	0
<b>▼ Netherlands</b>	
Blue Delftware	52
Leerdam Crystal	42.5
Makkumer	50
<b>▼ Romania</b>	
Horezu Ceramics	40
Cucuteni Ceramics	40
Corund Ceramics	40
Maramureş ceramics	50
Oboga ceramics	50
<b>▼ Slovak Republic</b>	
Golden onyx of Levice	47
Lace of Sol'ná Baňa	67
Majolica of Modra	45
Piešťany mud	45
<b>▼ Slovenia</b>	
Idrija lace	0

**Table 60: Percentage of the different geographical markets per product**

	National market (%)	EU+markets (%)	International market (%)
<b>▼ Austria</b>			
Embroidery of Vorarlberg	0.0	41.0	59.0
Ferlacher weapons	15.0	35.0	50.0
Montafon table	90.0	10.0	0.0
Schladminger Loden	47.0	50.0	3.0
<b>▼ Belgium</b>			
Belgian Bluestone	75.0	24.0	1.0
<b>▼ Bulgaria</b>			
Kaolin from Kaolinovo	100.0	0.0	0.0
Kaolin from Senovo	100.0	0.0	0.0
Kaolin from Vjatovo	100.0	0.0	0.0
Kuartz sand Junak	100.0	0.0	0.0
Kuartz sand Kaolinovo	100.0	0.0	0.0
Kuartz sand Senovo	100.0	0.0	0.0
Kuartz sand Vjatovo	100.0	0.0	0.0
Limestone from the city of Vratza	5.0	95.0	0.0
Marble from Ilindentci	100.0	0.0	0.0
<b>▼ Czech Republic</b>			
Carlsbad Thermal Spring Salt	34.0	14.0	52.0
Czech garnet jewellery	70.0	10.0	20.0
Duchcov porcelain	45.0	20.0	35.0
Gablonz Jewellery, Wares, Crystal Ware	40.0	40.0	20.0
Glass and figurines of Železný Brod	30.0	30.0	40.0
Kaolin Sedlec	40.0	50.0	10.0
Tapestry of Jindrichuv Hradec	40.0	30.0	30.0
<b>▼ Estonia</b>			
Haapsalu therapeutic mud	95.0	5.0	0.0
<b>▼ Finland</b>			
Kantele	80.0	10.0	10.0
<b>▼ France</b>			
Anduze Vase	70.0	0.0	30.0
Aubusson Tapestry	80.0	15.0	5.0
Calais Lace	35.0	45.5	19.5
Epinal picture	95.0	0.0	5.0
Gironde Tiles	100.0	0.0	0.0
Limoges China	50.0	0.0	50.0
Limoges enamels	50.0	0.0	50.0
Longwy emannels	90.0	2.0	8.0
Martres Tolosane Earthenware	70.0	0.0	30.0
Moustiers Earthenware	74.0	20.0	6.0
Nevers Earthenware	95.0	3.0	2.0
Pyrenees Clothes	80.0	16.0	4.0
Tahiti Monoï	60.0	30.0	10.0
Thiers Knives and Cutlery	0.0	60.0	40.0
Vallabrègues Basketworks	80.0	0.0	20.0
Vallauris Pottery	50.0	0.0	50.0
Villaines Basketwork	85.0	10.0	5.0
Vosges Sanstone	50.0	50.0	0.0

<b>▼ Germany</b>			
Cuckoo Clock made in Black Forest	10.0	40.0	50.0
Erzgebirge wood art	80.0	5.0	15.0
<b>▼ Hungary</b>			
Alginate and salt of algin acid from Gérce	100.0	0.0	0.0
Enameled pots from Bonyhád	65.0	35.0	0.0
Porcelain from Herend	28.0	40.0	32.0
Porcelain, pot and fancy goods from Hollóháza	71.0	20.0	9.0
<b>▼ Ireland</b>			
Donegal Tweed	33.0	30.0	37.0
Kenmare Lace	25.0	0.0	75.0
<b>▼ Italy</b>			
Art furniture of the Bassa Pianura Veronese	29.0	47.0	24.0
Bassanese Artistic Furniture	91.9	5.6	2.5
Botticino Classico Marble	5.0	5.0	90.0
Carrara Marble	3.0	23.7	73.3
Ceramics of Faenza	95.0	4.0	1.0
Deruta artistic and traditional ceramics	82.5	6.1	11.4
Jewels from Torre del Greco	26.0	74.0	0.0
Vietri sul Mare artistic and traditional ceramics	60.0	20.0	20.0
<b>▼ Lithuania</b>			
Lithuanian crosses	100.0	0.0	0.0
Lithuanian flax textile	15.0	85.0	0.0
Vilnius region palms	100.0	0.0	0.0
<b>▼ Luxembourg</b>			
Peckvillchen/Peckvillercher	70.0	25.0	5.0
<b>▼ Netherlands</b>			
Blue Delftware	95.0	2.5	2.5
Leerdam Crystal	99.0	0.5	0.5
Makkumer	55.0	0.0	45.0
<b>▼ Poland</b>			
Boleslawiec pottery	20.0	20.0	60.0
Koniakow laces	30.0	40.0	30.0
Krosno glass	35.0	30.0	35.0
<b>▼ Portugal</b>			
Black Clay of Olho Marinho	95.0	0.0	5.0
Blankets wool of Mértola	95.0	3.0	2.0
Flower sticks-Small wooden artefacts of Vila Nova de Poiares	98.0	0.0	2.0
Madeira Embroidery	51.0	26.0	23.0
<b>▼ Romania</b>			
Corund Ceramics	90.0	10.0	0.0
Cucuteni Ceramics	95.0	4.5	0.5
Horezu Ceramics	83.0	15.0	2.0
Maramureş ceramics	85.0	10.0	5.0
Oboga ceramics	90.0	10.0	0.0
<b>▼ Slovak Republic</b>			
Golden onyx of Levice	100.0	0.0	0.0
Lace of Sol'ná Baňa	70.0	10.0	20.0
Majolica of Modra	75.0	20.0	5.0
Piešťany mud	40.0	35.0	25.0
<b>▼ Slovenia</b>			
Idrija lace	50.0	0.0	50.0

<b>▼ Spain</b>			
Elche shoes	40.0	40.0	20.0
Jet of Asturias	100.0	0.0	0.0
Majorca cloth or textile	90.0	10.0	0.0
Manises ceramics	30.0	14.0	56.0
Marble from Macael	46.3	35.0	18.7
Nativity Set of Murcia	93.0	6.0	1.0
Natural Stone form Castile and Leon-Pinacal	90.0	7.0	3.0
Portillo Traditional Pottery	100.0	0.0	0.0
Pottery and Ceramics of La Rambla	45.0	40.0	15.0
Pottery of Salvatierra de los Barros	100.0	0.0	0.0
Talavera Ceramics	90.0	0.0	10.0
Taramundi knives and pocket knives	99.0	1.0	0.0
Totana Ceramics	60.0	15.0	25.0
Ubrique Leather	40.0	42.0	18.0
<b>▼ Sweden</b>			
Mora knife	35.0	45.0	20.0
<b>▼ Switzerland</b>			
Paper cuts of Pays d'Enhaut	10.0	15.0	75.0
St.Galler embroidery	3.0	75.0	22.0
Swiss watches	5.0	24.0	71.0
<b>▼ United Kingdom</b>			
Irish Linen	0.0	50.0	50.0

**Table 61: Average percentage of different markets per country**

	Number of products	Average of National market (%)	Average of EU+markets (%)	Average of International market (%)
Estonia	1	95.0	5.0	0.0
Bulgaria	9	89.4	10.6	0.0
Romania	5	88.6	9.9	1.5
Portugal	4	84.8	7.3	8.0
Netherlands	3	83.0	1.0	16.0
Finland	1	80.0	10.0	10.0
Belgium	1	75.0	24.0	1.0
Spain	14	73.1	15.0	11.9
Lithuania	3	71.7	28.3	0.0
Slovak Republic	4	71.3	16.3	12.5
Luxembourg	1	70.0	25.0	5.0
France	18	67.4	14.0	18.6
Hungary	4	66.0	23.8	10.3
Slovenia	1	50.0	0.0	50.0
Italy	8	49.1	23.2	27.8
Germany	2	45.0	22.5	32.5
Czech Republic	7	42.7	27.7	29.6
Austria	4	38.0	34.0	28.0
Sweden	1	35.0	45.0	20.0
Ireland	2	29.0	15.0	56.0
Poland	3	28.3	30.0	41.7
Switzerland	3	6.0	38.0	56.0
United Kingdom	1	0.0	50.0	50.0
<b>Total</b>	<b>100</b>	<b>63.4</b>	<b>18.4</b>	<b>18.3</b>

**Table 62: Labelling per type of products**

	Number of products						
		Type 1	Type 2	Type 3	Type 4	Type 5	Type 6
Basket making	2	2	0	0	0	0	0
Bouquet of dried plants	1	1	0	0	0	0	0
Ceramics/pottery	32	21	8	0	6	7	1
Cosmetic product	6	4	2	0	3	0	0
Crystal	1	1	0	0	0	0	0
Embroidery	3	3	0	0	0	0	2
Enamels	3	3	0	0	0	0	0
Firearms	1	1	0	0	0	0	0
Glass	3	2	1	0	0	1	0
Jewellery	6	5	2	0	0	0	1
Knives	4	4	1	0	1	0	0
Lace	8	1	2	0	1	2	1
Leather products	3	2	0	0	0	1	0
Mineral	9	9	0	0	0	8	0
Music instrument	3	2	0	0	0	0	0
Paper cutting	1	1	0	0	0	0	0
Pictures	1	1	0	0	0	0	0
Porcelain	4	4	0	0	0	1	1
Stone/Marble	13	9	3	0	3	5	1
Tapestry	2	1	0	0	0	0	0
Textile (other than wool)	6	5	1	0	0	0	0
Traditional clay Nativity	1	0	0	0	1	0	0
Watches, clocks and alarm clocks	2	1	1	0	0	0	1
Wooden product	8	4	2	0	3	0	0
Wool products	4	2	1	0	1	0	0
<b>Gesamtergebnis</b>	<b>127</b>	<b>89</b>	<b>24</b>	<b>0</b>	<b>19</b>	<b>25</b>	<b>8</b>

**Legend for labelling:**

Type 1- Each enterprise uses its own label

Type 2 - The enterprises use a common private label owned by an association according to its membership

Type 3 - The enterprises are enrolled in voluntary scheme (like organic, fairtrade, etc.)

Type 4 - The enterprises are enrolled in a common mandatory scheme, which is controlled by an institution (public or private)

Type 5 - Enterprises are free to use a common label, which is not controlled nor certified

Type 6 - Enterprises may use a common label, which is certified by an independent third-party certification body

Table 63: Size of the enterprises per products

	Percentage of Micro enterprises	Percentage of Small enterprises	Percentage of Medium enterprises	Percentage of Large enterprises	No data for the size of enterprises
<b>▼ Austria</b>					
Schladminger Loden	0.0	50.0	50.0	0.0	0.0
Ferlacher weapons	10.0	90.0	0.0	0.0	0.0
Montafon table	100.0	0.0	0.0	0.0	0.0
Embroidery of Vorarlberg	70.0	30.0	0.0	0.0	0.0
<b>▼ Belgium</b>					
Belgian Bluestone	15.0	0.0	30.0	55.0	0.0
Binche Lace	100.0	0.0	0.0	0.0	0.0
Antwerp Diamonds	0.0	0.0	0.0	0.0	1.0
<b>▼ Bulgaria</b>					
Kaolin from Kaolinovo	0.0	0.0	0.0	100.0	0.0
Kaolin from Senovo	0.0	0.0	0.0	100.0	0.0
Kaolin from Vjatovo	0.0	0.0	0.0	100.0	0.0
Kuartz sand Junak	0.0	0.0	0.0	100.0	0.0
Kuartz sand Kaolinovo	0.0	0.0	0.0	100.0	0.0
Kuartz sand Senovo	0.0	0.0	0.0	100.0	0.0
Kuartz sand Vjatovo	0.0	0.0	0.0	100.0	0.0
Marble from Ilindentci	0.0	0.0	0.0	100.0	0.0
Muschelkalk from Manastirishte	0.0	0.0	0.0	100.0	0.0
Perlite-Kardzali	0.0	0.0	0.0	100.0	0.0
Limestone from the city of Vratza	0.0	0.0	100.0	0.0	0.0
Ceramics from Trojan	0.0	100.0	0.0	0.0	0.0
<b>▼ Czech Republic</b>					
Duchcov porcelain	0.0	0.0	0.0	100.0	0.0
Czech garnet jewellery	0.0	0.0	100.0	0.0	0.0
Kaolin Sedlec	0.0	0.0	100.0	0.0	0.0
Carlsbad Thermal Spring Salt	0.0	100.0	0.0	0.0	0.0
Tapestry of Jindrichuv Hradec	0.0	100.0	0.0	0.0	0.0
Gablonz Jewellery, Wares, Crystal Ware	60.0	40.0	0.0	0.0	0.0
Glass and figurines of Železný Brod	90.0	10.0	0.0	0.0	0.0
<b>▼ Estonia</b>					
Haapsalu therepeutic mud	100.0	0.0	0.0	0.0	0.0
<b>▼ Finland</b>					
Kantele	0.0	100.0	0.0	0.0	0.0

<b>▼ France</b>					
Limoges China	0.0	0.0	0.0	0.0	1.0
Sèvres Porcelain/Ceramics	0.0	0.0	100.0	0.0	0.0
Quimper Earthenware	0.0	50.0	50.0	0.0	0.0
Thiers Knives and Cutlery	47.0	19.0	34.0	0.0	0.0
Calais Lace	0.0	87.0	13.0	0.0	0.0
Aubusson Tapestry	47.5	47.5	5.0	0.0	0.0
Bourgogne Stone	0.0	0.0	0.0	0.0	1.0
Granite from Bretagne	0.0	0.0	0.0	0.0	1.0
Epinal picture	0.0	100.0	0.0	0.0	0.0
Pyrenees Clothes	0.0	100.0	0.0	0.0	0.0
Touraine Silk	0.0	100.0	0.0	0.0	0.0
Villaines Basketwork	0.0	100.0	0.0	0.0	0.0
Vosges Sanstone	0.0	100.0	0.0	0.0	0.0
Anduze Vase	43.0	57.0	0.0	0.0	0.0
Du Puy Lace	45.0	55.0	0.0	0.0	0.0
Longwy enamels	75.0	25.0	0.0	0.0	0.0
Alsace Potteries	0.0	0.0	0.0	0.0	1.0
Lyon silk	0.0	0.0	0.0	0.0	1.0
Argentan Lace	100.0	0.0	0.0	0.0	0.0
Betschdorf Pottery	100.0	0.0	0.0	0.0	0.0
Gironde Tiles	100.0	0.0	0.0	0.0	0.0
Limoges enamels	100.0	0.0	0.0	0.0	0.0
Marseille Soap	100.0	0.0	0.0	0.0	0.0
Martres Tolosane Earthenware	100.0	0.0	0.0	0.0	0.0
Moustiers Earthenware	100.0	0.0	0.0	0.0	0.0
Nevers Earthenware	100.0	0.0	0.0	0.0	0.0
Romans shoes/leather	100.0	0.0	0.0	0.0	0.0
Saint Samson la Poterie Tiles	100.0	0.0	0.0	0.0	0.0
Tahiti Monoï	100.0	0.0	0.0	0.0	0.0
Vallabrègues Basketworks	100.0	0.0	0.0	0.0	0.0
Vallauris Pottery	100.0	0.0	0.0	0.0	0.0
<b>▼ Germany</b>					
Vogtland Music Instruments	83.0	12.0	4.0	1.0	0.0
"Solingen" cutting equipment	10.0	80.0	10.0	0.0	0.0
Erzgebirge wood art	78.0	20.0	2.0	0.0	0.0
Idar-Oberstein Gemstone products	95.0	4.0	1.0	0.0	0.0
Cuckoo Clock made in Black Forest	50.0	50.0	0.0	0.0	0.0
Oberammergau wood carvings	100.0	0.0	0.0	0.0	0.0
<b>▼ Hungary</b>					
Enamelled pots from Bonyhád	0.0	0.0	0.0	100.0	0.0
Porcelain from Herend	0.0	50.0	0.0	50.0	0.0
Porcelain, pot and fancy goods from Hollóháza	50.0	50.0	0.0	0.0	0.0
Alginate and salt of algin acid from Gérce	100.0	0.0	0.0	0.0	0.0
<b>▼ Ireland</b>					
Kenmare Lace	100.0	0.0	0.0	0.0	0.0
Donegal Tweed	0.0	100.0	0.0	0.0	0.0

<b>▼ Italy</b>					
Botticino Classico Marble	5.0	90.0	5.0	0.0	0.0
Vietri sul Mare artistic and traditional ceramics	75.0	20.0	5.0	0.0	0.0
Carrara Marble	0.0	100.0	0.0	0.0	0.0
Art furniture of the Bassa Pianura Veronese	0.0	99.0	1.0	0.0	0.0
Murano Glass	0.0	100.0	0.0	0.0	0.0
Bassanese Artistic Furniture	0.0	100.0	0.0	0.0	0.0
Ceramics of Faenza	100.0	0.0	0.0	0.0	0.0
Cremona Violinmaking	100.0	0.0	0.0	0.0	0.0
Deruta artistic and traditional ceramics	100.0	0.0	0.0	0.0	0.0
Alabaster in Volterra	0.0	0.0	0.0	0.0	1.0
Jewels from Torre del Greco	63.0	34.0	0.0	3.0	0.0
<b>▼ Lithuania</b>					
Lithuanian flax textile	0.0	100.0	0.0	0.0	0.0
Vilnius region palms	100.0	0.0	0.0	0.0	0.0
Lithuanian crosses	100.0	0.0	0.0	0.0	0.0
<b>▼ Luxembourg</b>					
Peckvillchen/Peckvillercher	100.0	0.0	0.0	0.0	0.0
<b>▼ Poland</b>					
Krosno glass	0.0	40.0	40.0	20.0	0.0
Boleslawiec pottery	33.0	53.0	7.0	7.0	0.0
Koniakow laces	100.0	0.0	0.0	0.0	0.0
<b>▼ Portugal</b>					
Madeira Embroidery	84.0	16.0	0.0	0.0	0.0
Black Clay of Olho Marinho	100.0	0.0	0.0	0.0	0.0
Blankets wool of Mértola	100.0	0.0	0.0	0.0	0.0
Flower sticks-Small wooden artefacts of Vila Nova de Poiares	100.0	0.0	0.0	0.0	0.0
Mask of Vinhais	100.0	0.0	0.0	0.0	0.0
<b>▼ Spain</b>					
Marble from Macael	60.0	36.0	3.0	1.0	0.0
Natural Stone form Castile and Leon-Pinacal	50.0	45.0	5.0	0.0	0.0
Elche shoes	53.0	44.0	3.0	0.0	0.0
Ubrique Leather	86.0	13.0	1.0	0.0	0.0
Manises ceramics	80.0	20.0	0.0	0.0	0.0
Pottery and Ceramics of La Rambla	95.0	5.0	0.0	0.0	0.0
Jet of Asturias	100.0	0.0	0.0	0.0	0.0
Majorca cloth or textile	100.0	0.0	0.0	0.0	0.0
Nativity Set of Murcia	100.0	0.0	0.0	0.0	0.0
Portillo Traditional Pottery	100.0	0.0	0.0	0.0	0.0
Pottery of Salvatierra de los Barros	100.0	0.0	0.0	0.0	0.0
Talavera Ceramics	100.0	0.0	0.0	0.0	0.0
Taramundi knives and pocket knives	100.0	0.0	0.0	0.0	0.0
Totana Ceramics	100.0	0.0	0.0	0.0	0.0
<b>▼ Switzerland</b>					
Swiss watches	0.0	0.0	98.3	1.7	0.0
St.Galler embroidery	40.0	20.0	40.0	0.0	0.0
Paper cuts of Pays d'Enhaut	100.0	0.0	0.0	0.0	0.0

<b>▼ Sweden</b>					
Mora knife	0.0	0.0	100.0	0.0	0.0
<b>▼ United Kingdom</b>					
Irish Linen	0.0	100.0	0.0	0.0	0.0
Harris Tweed	0.0	0.0	0.0	0.0	1.0
<b>▼ Netherlands</b>					
Makkumer	0.0	0.0	100.0	0.0	0.0
Blue Delftware	0.0	100.0	0.0	0.0	0.0
Leerdam Crystal	0.0	100.0	0.0	0.0	0.0
<b>▼ Romania</b>					
Horezu Ceramics	100.0	0.0	0.0	0.0	0.0
Cucuteni Ceramics	100.0	0.0	0.0	0.0	0.0
Corund Ceramics	100.0	0.0	0.0	0.0	0.0
Maramureş ceramics	100.0	0.0	0.0	0.0	0.0
Oboga ceramics	100.0	0.0	0.0	0.0	0.0
<b>▼ Slovak Republic</b>					
Golden onyx of Levice	0.0	100.0	0.0	0.0	0.0
Lace of Solná Baňa	0.0	100.0	0.0	0.0	0.0
Majolica of Modra	0.0	100.0	0.0	0.0	0.0
Piešťany mud	0.0	0.0	0.0	0.0	1.0
<b>▼ Slovenia</b>					
Idrija lace	100.0	0.0	0.0	0.0	0.0
<b>Total</b>	<b>6092.5</b>	<b>3361.5</b>	<b>1007.3</b>	<b>1338.7</b>	<b>9</b>

**Table 64: Geographical scope of the markets, per each product, with indication of the percentage of products with domestic market of 80% and over, and with acces to foreign markets**

	Market share (%)	National market (%)	EU+markets (%)	International market (%)	NATIONAL IS 80% OR OVER	ACCESS TO FOREIGN MARKETS
<b>Austria</b>						
Ferlacher weapons	1.5	15.0	35.0	50.0	0	1
Montafon table	0.0	90.0	10.0	0.0	1	1
Schladminger Loden	22.5	47.0	50.0	3.0	0	1
Embroidery of Vorarlberg	23.0	0.0	41.0	59.0	0	1
<b>Belgium</b>						
Belgian Bluestone	0.0	75.0	24.0	1.0	0	1
<b>Bulgaria</b>						
Kaolin from Kaolinovo	0.0	100.0	0.0	0.0	1	0
Kaolin from Senovo	0.0	100.0	0.0	0.0	1	0
Kaolin from Vjatovo	0.0	100.0	0.0	0.0	1	0
Kuartz sand Junak	0.0	100.0	0.0	0.0	1	0
Kuartz sand Kaolinovo	0.0	100.0	0.0	0.0	1	0
Kuartz sand Senovo	0.0	100.0	0.0	0.0	1	0
Kuartz sand Vjatovo	0.0	100.0	0.0	0.0	1	0
Limestone from the city of Vratza	95.0	5.0	95.0	0.0	0	1
Marble from Ilindentci	0.0	100.0	0.0	0.0	1	0
<b>Czech Republic</b>						
Carlsbad Thermal Spring Salt	100.0	34.0	14.0	52.0	0	1
Czech garnet jewellery	50.0	70.0	10.0	20.0	0	1
Duchcov porcelain	0.0	45.0	20.0	35.0	0	1
Gablonz Jewellery, Wares, Crystal Ware	85.0	40.0	40.0	20.0	0	1
Glass and figurines of Železný Brod	7.5	30.0	30.0	40.0	0	1
Kaolin Sedlec	90.0	40.0	50.0	10.0	0	1
Tapestry of Jindrichuv Hradec	10.0	40.0	30.0	30.0	0	1
<b>Estonia</b>						
Haapsalu therepeutic mud	50.0	95.0	5.0	0.0	1	1
<b>Finland</b>						
Kantele	0.0	80.0	10.0	10.0	1	1
<b>France</b>						
Anduze Vase	100.0	70.0	0.0	30.0	0	1
Aubusson Tapestry	0.0	80.0	15.0	5.0	1	1
Epinal picture	0.0	95.0	0.0	5.0	1	0
Gironde Tiles	0.0	100.0	0.0	0.0	1	0
Limoges enamels	0.0	50.0	0.0	50.0	0	0
Longwy emanels	99.0	90.0	2.0	8.0	1	1
Martres Tolosane Earthenware	0.0	70.0	0.0	30.0	0	0
Moustiers Earthenware	0.0	74.0	20.0	6.0	0	1
Nevers Earthenware	0.0	95.0	3.0	2.0	1	1
Pyrenees Clothes	0.0	80.0	16.0	4.0	1	1
Tahiti Monoï	0.0	60.0	30.0	10.0	0	1
Thiers Knives and Cutlery	80.0	0.0	60.0	40.0	0	1
Vallabrègues Basketworks	0.0	80.0	0.0	20.0	1	0
Villaines Basketwork	0.0	85.0	10.0	5.0	1	1
Vosges Sanstone	0.0	50.0	50.0	0.0	0	1
Vallauris Pottery	0.0	50.0	0.0	50.0	0	1
Limoges China	0.0	50.0	0.0	50.0	0	1
Calais Lace	0.0	35.0	45.5	19.5	0	1
<b>Germany</b>						
Cuckoo Clock made in Black Forest	0.0	10.0	40.0	50.0	0	1
Erzgebirge wood art	70.0	80.0	5.0	15.0	1	1

<b>Hungary</b>						
Alginate and salt of algin acid from Gérce	100.0	100.0	0.0	0.0	1	0
Enameled pots from Bonyhád	100.0	65.0	35.0	0.0	0	1
Porcelain from Herend	72.0	28.0	40.0	32.0	0	1
Porcelain, pot and fancy goods from Hollóháza	29.0	71.0	20.0	9.0	0	1
<b>Ireland</b>						
Kenmare Lace	0.0	25.0	0.0	75.0	0	1
Donegal Tweed	0.0	33.0	30.0	37.0	0	1
<b>Italy</b>						
Art furniture of the Bassa Pianura Veronese	17.5	29.0	47.0	24.0	0	1
Bassanese Artistic Furniture	0.0	91.9	5.6	2.5	1	1
Botticino Classico Marble	0.0	5.0	5.0	90.0	0	1
Carrara Marble	16.0	3.0	23.7	73.3	0	1
Ceramics of Faenza	5.0	95.0	4.0	1.0	1	1
Deruta artistic and traditional ceramics	0.0	82.5	6.1	11.4	1	1
Vietri sul Mare artistic and traditional ceramics	0.0	60.0	20.0	20.0	0	1
Jewels from Torre del Greco	0.0	26.0	74.0	0.0	0	1
<b>Lithuania</b>						
Lithuanian crosses	100.0	100.0	0.0	0.0	1	0
Lithuanian flax textile	80.0	15.0	85.0	0.0	0	1
Vilnius region palms	100.0	100.0	0.0	0.0	1	0
<b>Luxembourg</b>						
Peckvillchen/Peckvillercher	0.0	70.0	25.0	5.0	0	1
<b>Poland</b>						
Boleslawiec pottery	70.0	20.0	20.0	60.0	0	1
Koniakow laces	0.0	30.0	40.0	30.0	0	1
Krosno glass	25.0	35.0	30.0	35.0	0	1
<b>Portugal</b>						
Black Clay of Olho Marinho	1.0	95.0	0.0	5.0	1	1
Blankets wool of Mértola	0.0	95.0	3.0	2.0	1	1
Flower sticks-Small wooden artefacts of Vila Nova de Poiares	20.0	98.0	0.0	2.0	1	1
Madeira Embroidery	0.0	51.0	26.0	23.0	0	1
<b>Spain</b>						
Elche shoes	40.0	40.0	40.0	20.0	0	1
Jet of Asturias	5.0	100.0	0.0	0.0	1	0
Majorca cloth or textile	0.0	90.0	10.0	0.0	1	1
Manises ceramics	15.0	30.0	14.0	56.0	0	1
Marble from Macael	40.0	46.3	35.0	18.7	0	1
Nativity Set of Murcia	58.3	93.0	6.0	1.0	1	1
Natural Stone form Castile and Leon-Pinacal	40.0	90.0	7.0	3.0	1	1
Portillo Traditional Pottery	0.0	100.0	0.0	0.0	1	0
Pottery and Ceramics of La Rambla	0.0	45.0	40.0	15.0	0	1
Pottery of Salvatierra de los Barros	15.0	100.0	0.0	0.0	1	0
Talavera Ceramics	10.0	90.0	0.0	10.0	1	1
Taramundi knives and pocket knives	0.1	99.0	1.0	0.0	1	1
Totana Ceramics	96.0	60.0	15.0	25.0	0	1
Ubrique Leather	43.0	40.0	42.0	18.0	0	1
<b>Switzerland</b>						
Paper cuts of Pays d'Enhaut	0.0	10.0	15.0	75.0	0	1
St.Galler embroidery	17.5	3.0	75.0	22.0	0	1
Swiss watches	55.0	5.0	24.0	71.0	0	1
<b>Sweden</b>						
Mora knife	77.0	35.0	45.0	20.0	0.0	1
<b>United Kingdom</b>						
Irish Linen	0.0	0.0	50.0	50.0	0.0	1
<b>Netherlands</b>						
Blue Delftware	0.0	95.0	2.5	2.5	1	1
Leerdam Crystal	100.0	99.0	0.5	0.5	1	1
Makkumer	0.0	55.0	0.0	45.0	0	1
<b>Romania</b>						
Horezu Ceramics	1.0	83.0	15.0	2.0	1	1
Cucuteni Ceramics	2.0	95.0	4.5	0.5	1	1
Corund Ceramics	20.0	90.0	10.0	0.0	1	1
Maramureş ceramics	0.0	85.0	10.0	5.0	1	1
Oboga ceramics	1.0	90.0	10.0	0.0	1	1
<b>Slovak Republic</b>						
Golden onyx of Levice	0.0	100.0	0.0	0.0	1	0
Lace of Soľná Baňa	0.0	70.0	10.0	20.0	0	1
Majolica of Modra	95.0	75.0	20.0	5.0	0	1
Piešťany mud	100.0	40.0	35.0	25.0	0	1
<b>Slovenia</b>						
Idrija lace	0.0	50.0	0.0	50.0	0	1
<b>TOTAL</b>					<b>45</b>	<b>80</b>

## **Annex VIII - Stakeholder survey – Questionnaire for producers**

### **SURVEY FORM TO BE COMPLETED BY PRODUCERS OR REPRESENTATIVES OF PRODUCERS**

#### **Survey relating to the stakeholders' needs and expectations on the legal protection of names of non-agricultural products comprising a geographical indication or a potential geographical indication at the European Union level<sup>230</sup>**

*This form shall be fulfilled only by producers and representatives of producers (for example representative of an association of producers) of non-agricultural products comprising a geographical indication (GI) or a potential GI.*

1.	<b>COUNTRY</b>	
2.	<b>NAME OF THE RESPONDANT</b> <i>Please note that your name and position will not be disclosed</i>	
3.	<b>POSITION OF THE RESPONDANT</b> <i>Please indicate the company or organisation and their position in this company or organisation</i>	
4.	<b>Do you know what a geographical indication commonly known as "GI" is?</b> <i>If you do not, please look at the definition at the end of this page<sup>231</sup></i>	<input type="checkbox"/> YES <input type="checkbox"/> NO
5.	<b>What is the name of the non-agricultural product comprising a GI or a potential GI you produce or represent?</b>	
6.	<b>Is the name of your non-agricultural product comprising a GI or potential GI legally protected? if</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO

<sup>230</sup> The term "name" also covers appellation and designations of non agricultural products comprising a geographical indication or potential geographical indication (GI)  
 Definition of a geographical indication, as provided by Article 22.1 of the Trade-Related Aspects of Intellectual Property Rights Agreement of the World Trade Organisation: "Geographical indications are [...] indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin."

	<i>applicable</i>						
7.	<b>If yes, how is it protected?</b>	<input type="checkbox"/> <i>Sui generis</i> Geographical Indication law <input type="checkbox"/> Trade mark law <input type="checkbox"/> Decree or law protecting the product <input type="checkbox"/> Unfair competition law <input type="checkbox"/> Case law <input type="checkbox"/> Other					
8.	<b>Please indicate the reference to the relevant legal act or/and case law.</b> <i>if available</i>						
9.	<b>On a scale of 1 to 5, how would you rate the existing means of protection of names of non-agricultural products comprising a GI or potential GI at the national level?</b>	<p style="text-align: center;"><i>1 means "dissatisfied" and 5 "highly "satisfied"</i></p> <table border="1" style="width: 100%; text-align: center;"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5
1	2	3	4	5			
10	<b>Please explain this evaluation, in particular the strengths and weaknesses of the existing means of protection</b>						
11	<b>On a scale of 1 to 5, how would you rate the existing means of protection of names of non agricultural products comprising a GI or potential GI at the European level?</b>	<p style="text-align: center;"><i>1 means "dissatisfied" and 5 "highly "satisfied"</i></p> <table border="1" style="width: 100%; text-align: center;"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5
1	2	3	4	5			
12	<b>Please explain this evaluation, in particular the strengths and weaknesses of the existing means of protection</b>						
13	<b>Do you wish to have a <u>broader choice</u> of legal instruments relating to the protection of the name of non-agricultural products comprising a GI or potential GI at the EU level?</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO					
14	<b>If yes, please indicate which type of protection you would like to enjoy</b>	<input type="checkbox"/> A uniform GI protection for non-agricultural products at the EU level, <input type="checkbox"/> National <i>sui generis</i> systems of GI protection for non-agricultural products <input type="checkbox"/> Other, please specify:					

15	<p>If yes, do you think a <u>uniform legal protection</u> of the name of non-agricultural products comprising a GI at <u>European Union</u> level is needed?</p>	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Do not know																									
16	<p>If yes, for which type of protection do you have a preference?</p>	<input type="checkbox"/> Appellation of origin <input type="checkbox"/> Geographical indication <input type="checkbox"/> Do not know																									
17	<p>If yes, what could be, in your opinion, the benefits of such legal protection?</p> <p>Please rate the following options from 1 to 5</p> <p>1 means that you totally disagree with the option 5 means that you totally agree with the option</p>	<input type="checkbox"/> The name of the non-agricultural product comprising a GI would benefit from a EU wide protection <table border="1" data-bbox="1131 563 2051 596"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> It would help producers to communicate on the product <table border="1" data-bbox="1131 699 2051 732"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> All the producers will have to fulfil the same criteria to use the name of the non-agricultural product comprising a GI <table border="1" data-bbox="1131 834 2051 868"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> It would have a positive impact on the price of the product from a producers' point of view <table border="1" data-bbox="1131 970 2051 1003"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1" data-bbox="1131 1074 2051 1107"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
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1	2	3	4	5																							
18	<p>To which extent do you think consumers could benefit from such an EU wide protection scheme for the name of the non-agricultural product comprising a GI?</p> <p>Please rate the following options from 1 to 5</p> <p>1 means that you totally disagree with the option 5 means that you totally agree with the option</p>	<input type="checkbox"/> They will be better informed on the specific features or characteristics of the product <table border="1" data-bbox="1131 1185 2051 1219"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> They will be sure the product comes from a specific area <table border="1" data-bbox="1131 1321 2051 1355"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5															
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		<input type="checkbox"/> They will be better informed on the specificities of the GI scheme <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5															
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19	<p><b>What should be the role of public bodies <u>before and during</u> registration?</b></p> <p><i>Please rate the following options from 1 to 5</i></p> <p><i>1 means that you totally disagree with the option</i></p> <p><i>5 means that you totally agree with the option</i></p>	<input type="checkbox"/> Verification of the link to the specific area <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Assessment of the specific features or characteristics of the product <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Control of the compliance with the definition of the boundaries of the geographical area where the product can be produced <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Provide adequate procedure to allow third parties to take position on registration procedure (opposition) <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
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20	<p><b>What should be the role of public bodies <u>after</u> registration?</b></p> <p><i>Please rate the following options from 1 to 5</i></p> <p><i>1 means that you totally disagree with the option</i></p> <p><i>5 means that you totally agree with the option</i></p>	<input type="checkbox"/> Control of compliance with specific features or characteristics set in the production requirements before registration, including the control of the definition of the boundaries of the geographical area where the product can be made <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Control of products bearing the protected name of the GI on the market <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> In case of non-respect of the production	1	2	3	4	5	1	2	3	4	5															
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		<p>requirements, possibility to impose fines or to cancel the registration</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> It could inform on the specificities of the new GI scheme and promote it</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> Other: <i>Please specify</i></p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5															
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21	<p><b>What could be the economic effects of the introduction of an EU wide protection of geographical indications for non-agricultural products?</b></p> <p><i>Please rate the following options from 1 to 5</i></p> <p><i>1 means that you totally disagree with the option</i> <i>5 means that you totally agree with the option</i></p>	<p><input type="checkbox"/> An impact on the sales volumes</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> A positive impact on the price of the product from a producers' point of view</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> An impact on employment</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> A impact on promotion costs</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> A impact on protection costs</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <p><input type="checkbox"/> Other: Please specify</p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
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22	<p><b>On a scale of 1 to 5, how would you rate the existing means of protection of names of non-agricultural products comprising a GI or potential GI <u>at the International level</u>?</b></p>	<p><i>1 means "dissatisfied" and 5 "highly "satisfied"</i></p> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5																									
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23	<p><b>Please explain this evaluation, in particular the strengths and weaknesses of the existing means of protection</b></p>																															

24	<b>ANY OTHER RELEVANT INFORMATION / COMMENTS</b>

## Annex IX - Stakeholder survey – Questionnaire for non producers

### SURVEY FORM TO BE COMPLETED BY ALL STAKEHOLDERS EXCEPT PRODUCERS OR REPRESENTATIVES OF PRODUCERS

#### Survey relating to the Stakeholders' needs and expectations on the legal protection of names of non-agricultural products comprising a geographical indication or a potential geographical indication at the European Union level<sup>232</sup>

*This form should be fulfilled by all interested stakeholders except producers of non-agricultural products comprising a geographical indication (GI) or a potential GI and their representatives.*

	<b>COUNTRY</b>					
	<b>NAME OF THE RESPONDANT</b>					
	<b>POSITION OF THE RESPONDANT</b> <i>Please indicate the organisation or institution in which you are employed and your position in this organisation or institution</i>					
	<b>Do you know what a geographical indication commonly known as "GI" is?</b> <i>If you do not, see definition at the end of this page<sup>233</sup></i>	<input type="checkbox"/>	YES			
		<input type="checkbox"/>	NO			
	<b>On a scale of 1 to 5, how would you rate the existing means of protection of names of non-agricultural products comprising a GI or potential GI at the national level?</b>	<i>1 means "dissatisfied" and 5 "highly satisfied"</i>				
		1	2	3	4	5
	<b>Please explain this evaluation, in particular the strengths and weaknesses of the existing means of protection</b>					
	<b>On a scale of 1 to 5, how would you rate the existing means of protection of names of non-agricultural products comprising a GI or potential GI at the European level?</b>	<i>1 means "dissatisfied" and 5 "highly satisfied"</i>				
		1	2	3	4	5

<sup>232</sup> The term "name" also covers appellation and designations of non agricultural products comprising a geographical indication or potential geographical indication (GI)

<sup>233</sup> Definition of a geographical indication, as provided by Article 22.1 of the Trade-Related Aspects of Intellectual Property Rights Agreement of the World Trade Organisation: "Geographical indications are [...] indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin."

	<p>Please explain this evaluation, in particular the strengths and weaknesses of the existing means of protection</p>																													
	<p>Do you think a <u>uniform legal protection</u> of geographical indications for non-agricultural products at <u>European Union level</u> is needed?</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>YES NO Do not know</p>																											
	<p>If yes, for which type of protection do you have a preference?</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<p>Appellation of origin Geographical indication Do not know</p>																											
	<p>If yes, what could be, in your opinion, the benefits of such legal protection? Please rate the following options from 1 to 5  1 means that you totally disagree with the option 5 means that you totally agree with the option</p>	<input type="checkbox"/> The name of the non-agricultural product comprising a GI would benefit from a EU wide protection <table border="1" data-bbox="1131 611 2051 643"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> It would help producers to communicate on the product <table border="1" data-bbox="1131 746 2051 778"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> All the producers will have to fulfil the same criteria to use the name of the non-agricultural product comprising a GI <table border="1" data-bbox="1131 882 2051 914"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> It would have a positive impact on the price of the product from a producers' point of view <table border="1" data-bbox="1131 1018 2051 1050"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1" data-bbox="1131 1121 2051 1153"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5			
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	<p>To which extent do you think consumers could benefit from such an EU wide protection scheme for the name of the non-agricultural product comprising a GI? Please rate the following options from 1 to 5  1 means that you totally disagree with the option 5 means that you totally agree with the option</p>	<input type="checkbox"/> They will be better informed on the specific features or characteristics of the product <table border="1" data-bbox="1131 1225 2051 1257"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> They will be sure the product comes from a specific area <table border="1" data-bbox="1131 1361 2051 1393"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5																		
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		<input type="checkbox"/> They will be better informed on the specificities of the GI scheme <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5															
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	<p><b>What should be the role of public bodies <u>before and during registration</u>?</b>  <i>Please rate the following options from 1 to 5</i></p> <p><i>1 means that you totally disagree with the option</i>  <i>5 means that you totally agree with the option</i></p>	<input type="checkbox"/> Verification of the link to the specific area <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Assessment of the specific features or characteristics of the product <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Control of the compliance with the definition of the boundaries of the geographical area where the product can be produced <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Provide adequate procedure to allow third parties to take position on registration procedure (opposition) <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
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	<p><b>What should be the role of public bodies <u>after registration</u>?</b>  <i>Please rate the following options from 1 to 5</i></p> <p><i>1 means that you totally disagree with the option</i>  <i>5 means that you totally agree with the option</i></p>	<input type="checkbox"/> Control of compliance with specific features or characteristics set in the production requirements before registration, including the control of the definition of the boundaries of the geographical area where the product can be made <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Control of products bearing the protected name of the GI on the market <table border="1"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5															
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		<input type="checkbox"/> In case of non-respect of the production requirements, possibility to impose fines or to cancel the registration <table border="1" data-bbox="1131 261 2049 296"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> It could inform on the specificities of the new GI scheme and promote it <table border="1" data-bbox="1131 395 2049 430"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1" data-bbox="1131 497 2049 533"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5															
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	<p><b>What could be the economic effects of the introduction of an EU wide protection of geographical indications for non-agricultural products?</b>  <i>Please rate the following options from 1 to 5</i></p> <p><i>1 means that you totally disagree with the option</i>  <i>5 means that you totally agree with the option</i></p>	<input type="checkbox"/> An impact on the sales volumes <table border="1" data-bbox="1131 574 2049 609"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> A positive impact on the price of the product from a producers' point of view <table border="1" data-bbox="1131 708 2049 743"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> An impact on employment <table border="1" data-bbox="1131 810 2049 845"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> A impact on promotion costs <table border="1" data-bbox="1131 912 2049 948"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> A impact on protection costs <table border="1" data-bbox="1131 1015 2049 1050"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table> <input type="checkbox"/> Other: <i>Please specify</i> <table border="1" data-bbox="1131 1117 2049 1152"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
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	<p><b>On a scale of 1 to 5, how would you rate the existing means of protection of names of non-agricultural products comprising a GI or potential GI <u>at the International level</u>?</b></p>	<p><i>1 means "dissatisfied" and 5 "highly "satisfied"</i></p> <table border="1" data-bbox="1131 1238 2049 1273"> <tr> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> </tr> </table>	1	2	3	4	5																									
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	<p><b>Please explain this evaluation, in particular the strengths and weaknesses of the existing means of protection</b></p>																															

	<b>ANY OTHER RELEVANT INFORMATION / COMMENTS</b>

## ***Annexe X – List of respondents to the stakeholders’ survey***

<b>Producers</b>
------------------

### **European Union**

#### Austria:

1. Representative of the Austrian Embroideries

#### Belgium:

2. ASBL "Centre de la dentelle et de métiers d'Art de Binche".

#### Bulgaria:

3. Producer of Trojan Ceramics

#### Czech Republic:

4. Producer of Český porcelán
5. Producer of Jindřichohradecký gobelin
6. Producer of Kaolin Zettlitz la

#### Estonia:

7. Producer of Ravimuda OÜ

#### France:

8. Association de Défense des Dénominations « Laguiole » et « Aubrac »
9. Institut de Recherche, Innovation et Développement des arts textiles – Centre d'enseignement de la dentelle aux fuseaux (IRIDAT/CEDF) Le Puy en Velay
10. Syndicat Professionnel des Emailleurs Français (SPEF)
11. Faïences de Ponchon
12. UNICEM (L'Union nationale des industries de carrières et matériaux de construction), Bretagne
13. Association Granit de France
14. Producer of Laguiole knives
15. Groupement Interprofessionnel du Monoi de Tahiti
16. Union des Fabricants de Porcelaine de Limoges (U F P L)
17. Association "Potiers d'Alsace"
18. Cité internationale de la tapisserie et de l'art tissé, producing the tapisserie d'Aubusson
19. Cité de la céramique – Sèvres & Limoges
20. Office du Tourisme Anduze, representing the producers of the Vase d'Anduze
21. Syndicat des bijoutiers des Pyrénées-Orientales
22. Association Pierre de Bourgogne
23. Producer of Vannerie de Vallabrègues
24. Cité de la céramique – Sèvres & Limoges
25. A producer of Images d'Epinal
26. Union des Producteurs de Grès des Vosges

#### Germany:

27. Schneidwaren Solingen
28. Erzgebirgische Holzkunst

#### Greece:

29. A producer of handmade ceramic beads and jewellery
30. A producer of ceramics
31. A producer of orthodox religious items and icons
32. A producer of cloth
33. A producer of Statues
34. A producer of folk art
35. A producer of folk art
36. A producer of folk art

Ireland:

37. A Producer of Donegal Tweed
38. A Producer of Donegal Tweed
39. Na Píobairí Uilleann

Italy:

40. Consorzio Marmo Botticino Classico
41. Italian Ceramics Association - Associazione italiana città della ceramica (AICC), which gathers 34 artistic and traditional ceramics
42. Consorzio Liutai "Antonio Stradivari" Cremona

Poland:

43. A producer of Krośnieńskie Szkło
44. A producer of Krośnieńskie Szkło
45. A producer of Krośnieńskie Szkło
46. A producer of Krośnieńskie Szkło
47. A producer of Krośnieńskie Szkło
48. A producer of Koniakowian lace
49. A producer of Koniakowian lace
50. A producer of Koniakowian lace

Portugal:

51. Association for Poiares Integrated Development
52. City hall of Mértola, supporting the producers of the town
53. Felgueiras City hall, representing the producers of "Terra de Sousa" Embroidery
54. QUALIFICA, Associação Nacional De Municípios E De Produtores Para A Valorização E Qualificação Dos Produtos Tradicionais Portugueses

Romania:

55. Craftsmen Association "Roosters of Horezu", producing Horezu ceramics
56. "Ars continua" Association, producing Cucuteni ceramics
57. Pottery Association of Corund, producing Corund ceramics
58. Association "Potter's Wheel", producing Maramureş ceramics
59. Producer of Oboga ceramics

Slovakia:

60. Producer of Levický zlatý ónyx
61. Producer of Piešťanské bahno
62. Producer of Sol'nobanská čipka

Slovenia:

63. Idrija Lace School

Spain:

64. Producer of Alfareria De Portillo
65. Asociación De Alfareros De Salvatierra De Los Barros
66. Producer of Alfareros De Salvatierra De Los Barros
67. AZEBACHE - Asociación para el desarrollo de la tradición del Azabache en Asturias
68. AZEBACHE - Asociación para el desarrollo de la tradición del Azabache en Asturias
69. Producer of Azabache en Asturias
70. Producer of Azabache en Asturias
71. Producer of Azabache en Asturias
72. Producer of Belenes De Murcia
73. AICE-Asociación de Industriales del Calzado de Elche
74. Asociación De Alrtesanos Alfareros De La Rambla
75. Asociación Valenciana De Cerámica Avec-Gremio, representing Ceramica de Manises
76. Asociación Valenciana De Cerámica Avec-Gremio, representing Ceramica de Manises
77. Producer of Ceramica de Manises

78. Producer of Ceramica de Manises
79. Producer of Ceramica de Manises
80. Representant of Cerámica De Talavera De La Reina
81. Producer of Cerámica de Totana
82. Producer of Cerámica de Totana
83. Producer of Cuchillería De Taramundi
84. Producer of Cuchillería De Taramundi
85. Asociacion De Empresarios Del Marmol De Andalucia
86. Asociacion Empresarial Pinacal
87. Producer of Piedra Natural de Castilla Y León
88. Producer of Piedra Natural de Castilla Y León
89. Producer of Piedra Natural de Castilla Y León
90. ASOCIACIÓN EMPIEL - Asociación de Empresas de Complementos de Moda y Piel.
91. Administradora De La Marca Y Denominación Del Artículo De Piel De Ubrique, S.A., a company managing the trade marks
92. Producer of Piel de Ubrique
93. Producer of Piel de Ubrique
94. Producer of Piel de Ubrique
95. Producer of Piel de Ubrique
96. Producer of Tela De Llengües
97. Asociación De Artesanos De La Madera De Olivo De Castro Del Rio
98. Producer of Estaño De Pedraza
99. Asociación Profesional Palilleiras Rendas
100. Producer of Hierro De Riorto
101. Producer of Alfarería De Buño
102. Producer of Alfarería De Gundivós
103. Producer of Alfarería De Niñodagua
104. Cerámica De Verdu
105. Cerámica De La Bisbal

The Netherlands:

106. Producer of Royal Delftware / Delft Blue/ Blue Delft
107. Producer of Leerdam Crystal
108. Producer of Entirely handpainted Delftware

United Kingdom:

109. British Lace Federation

Switzerland

110. Federation of the Swiss watch industry
111. A producer of cuttings of Pays d'En Haut
112. Swiss Textile Federation

<b>Non-producers – private bodies</b>
---------------------------------------

**European Union**

Bulgaria:

1. Sofia Chamber of Commerce and Industry

Czech Republic:

2. Chamber of Commerce of the Czech Republic

Estonia:

3. Tallinn University, contractual lecturer on IP Law
4. Estonian Lawyer

France:

5. Institut Supérieur des Métiers, label « Entreprise du patrimoine vivant »
6. Musées de Cholet

7. Pro France (Assemblée des Chambres Françaises de Commerce et d'Industrie)

Germany:

8. Association of consumer protection of the federal state of Baden-Württemberg

Italy:

9. Chamber of Commerce of Verona

Portugal:

10. QUALIFICA

Romania:

11. Association for Promoting Genuine Heritage Horezu

12. Association "Depression of Horezu" / "Valley of Horezu"

13. Contemporary Folk Art Gallery Horezu

14. Craftsmen Association Of Moldova

Slovenia:

15. Development Agency of Idrija and Cerkno

Spain:

16. Foacal (Castilla Y León)

17. Zoco Del Arte - Andalucía

18. Crea (Murcia)

19. Albacete

20. Alcoy

21. Alicante

22. Almeria

23. Avila

24. Cordoba

25. Granada

26. Huesca

27. Jaen

28. La Rioja

29. Lanzarote

30. Madrid

31. Mallorca

32. Murcia

33. Orihuela

34. Santiago De Compostela

35. Sevilla

36. Toledo

37. Valladolid

38. Zamora

39. Zaragoza

40. Castellon

41. Irache - Consumidores Navarra

### **Non EU countries**

Norway:

42. Norwegian Design Council

43. Oslo Handelskammer/ Oslo Chamber Of Commerce

44. Norwegian Folk and Craft Association

Switzerland :

45. AGRIDEA

46. REDD SA

47. Association suisse des AOC-IGP

## Non-producers – public bodies

### European Union

Austria:

1. Austrian Patent Office

Bulgaria:

2. Patent Office of the Republic of Bulgaria

Czech Republic

3. Industrial Property Office
4. Central Bohemia Region, Regional Authority of Central Bohemia Region, Department of Regional Development
5. South Bohemia Regional Authority
6. Business Development Agency of Karlovy Vary Region (BDA)
7. Regional Office of the Vysočina Region
8. Regional authority of the Usti Region
9. Hradec Králové Region
10. Ministry of Industry and Trade

Denmark:

11. Danish Patent and Trade mark Office

Estonia:

12. Patent Office - non official answer

Ireland:

13. Department of Jobs, Enterprise and Innovation
14. Crafts Council of Ireland

Lithuania:

15. State Patent Bureau
16. Ministry of Agriculture
17. Fine Craft Association - Vilniaus dailiųjų amatų asociacija
18. Ministry of Economics

Poland:

19. Polish Patent office

Portugal

20. Expert from city hall of Mértola

Romania:

21. Oboga Town Hall
22. Corund Town Hall
23. County Center for Preservation and Promotion of Maramures Traditional Culture
24. Museum of the University. I. Cuza – Iasi, Department of Cucuteni
25. The National Museum Complex “Moldova”
26. Horezu City Hall

Slovakia:

27. Industrial Property Office of the Slovak Republic
28. District Office of Mining in Banská Bystrica
29. Slovak Trade Inspection

Spain:

30. Mineco
31. Minetur/Fundesarte
32. Oepm

33. Junta Andalucia
34. Ayuntamiento De La Rambla (Andalucía)
35. Gobierno Aragon
36. Gobierno Asturias
37. Ayuntamiento De Taramundi (Asturias)
38. Gobierno Balear
39. Personal Opinion.Gobierno Canarias
40. Junta Castilla-La Mancha
41. Junta Castilla Y Leon
42. Centro Artesania Castilla Y León
43. Generalitat Valenciana
44. Centro Artesania Comunitat Valenciana
45. Fundación Centro Galego Da Artesania E Do Deseño
46. Concello Malpica De Bergantiños (Galicia)
47. Ayuntamiento De Camariñas
48. Gobierno De La Rioja
49. Región De Murcia
50. Región De Murcia
51. Gobierno De Navarra
52. Ayuntamiento De La Bisbal

Sweden:

53. Ministry of Justice

United Kingdom:

54. Shetland Islands Council

### **Non EU countries**

Iceland:

55. Icelandic Patent Office
56. Icelandic Consumer Agency

Norway:

57. Ministry of Trade & Industry
58. Innovation Norway

Switzerland:

59. Swiss Federal Institute of Intellectual Property