

## **Act no. 469/2003 Coll.**

### **on designations of origin for products and geographical indications for products and on amendment of some acts**

Amended by: **Act No 84/2007 Coll.**  
**Act No 279/2007 Coll.**  
**Act No 395/2009 Coll.**

The National Council of the Slovak Republic has adopted the following Act

#### **Title I**

#### **PART ONE BASIC PROVISIONS**

##### **Article 1**

Subject-matter of a regulation

This Act shall govern legal conditions to acquire right for protection of designation of origin for product or geographical indication for product and legal conditions for protection of that right and process of acquiring this right for territory of the European Union member states.

##### **Article 2**

Definition of terms

For purposes of this Act

a) designation of origin for product shall mean 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. The application of this paragraph shall be without prejudice to the provision of paragraph c).

b) geographical indication for product shall mean 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. The application of this paragraph shall be without prejudice to the provision of paragraph d),

c) designation of origin for wine means the name of a specific place, a region or, in exceptional cases, a country used to describe a product, the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, its production takes place in this geographical area; it is obtained from vine varieties belonging to *Vitis vinifera* and the grapes from which it is produced come exclusively from this geographical area;

d) geographical indication for wine means the name of a specific place or a region, in exceptional cases, a country, used to describe a product, which possesses a specific quality, reputation or other characteristics attributable to that geographical origin, the production of which takes place in this geographical area, it is obtained from vine varieties belonging to *Vitis vinifera* or a cross between the *Vitis vinifera* species and other species of the genus *Vitis*, and at least 85 % of the grapes used for its production come exclusively from this geographical area;

e) product shall mean any movable product produced, mined out or otherwise obtained, irrespective of its processing stage that is destined for a consumer,

f) 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,

g) holder of a certificate on registration of a designation of origin for product or on registration of a geographical indication for product shall be a person for which a designation of origin or geographical indication for product is entered into the Register of designations of origin and geographical indications,

h) user of registered designation of origin for product or registered geographical indication for product shall be a person who uses registered designation of origin for product or registered geographical indication for products complying with the conditions referred to in Articles 15 to 15b.

### **Article 3**

A designation of origin for product (hereinafter referred to as "designation of origin") and geographical indication for product (hereinafter referred to as "geographical indication"), which complies with conditions of protection pursuant to this Act, shall be entered into the Register of designations of origin and geographical indications (hereinafter referred to as "Register") kept by the Industrial Property Office of the Slovak Republic (hereinafter referred to as "the Office").

### **Article 4**

#### Exclusions from registration

Following shall not be registered as a designation of origin or geographical indication in the Register

a) indication though exact wording of which truly indicates name of place, region or country (hereinafter referred to as "territory") from which the product originates, despite it indication is capable to evoke a misconception about real origin of a product for public,

b) indication which is a generic name of a product although a product originates from a defined territory,

c) indication identical with a plant variety or animal breed which could in consequence of registration evoke a misconception about real origin of a product for public,

d) indication which registration could cause confusion with already registered designation of origin, geographical indication, trademark, or well-known trademark.

#### **Article 5**

Cancelled by Act no. 359/2009 Coll. as from 1 November 2009

### **PART TWO DESIGNATIONS OF ORIGIN**

Rights and obligations conferred by registration

#### **Article 6**

(1) Only a holder of a certificate on registration of a designation of origin for product (hereinafter referred to as "holder of registration certificate") and user of registered designation of origin for product (hereinafter referred to as "user") shall be entitled to use registered designation of origin.

(2) Holder of registration certificate or user shall be entitled to indicate on a product that it is a registered designation of origin.

(3) No approval for using registered designation shall be granted by license agreement.

(4) Right of lien on registered designation of origin shall not be established.

(5) Registered designation of origin shall not be a subject of an assignment.

#### **Article 7**

(1) 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.

(2) 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 to paragraph 1 a) or b).

### **Article 8**

(1) Right to protection of designation of origin shall arise on day of its entry into the Register.

(2) Term of protection of registered designation of origin shall not be limited.

### **Article 9**

#### Infringement of rights

(1) Any person shall be entitled to claim prohibition of using a registered designation of origin for identical or similar products, which do not meet conditions for its utilisation and removal of such products from market.

(2) In case of infringement of rights protected by this Act or jeopardising these rights, holder of registration certificate is entitled to claim the prohibition of infringement or jeopardising his rights and to eliminate consequences of infringement. Right to 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<sup>1a</sup>.

### **Article 9a**

#### Right of information

(1) Holder of registration certificate may request in infringement or jeopardizing of his rights protected by this Act that a person placing or intending to place identical or similar product on the market provided him with information related to origin of a product infringing rights pursuant to this Act and to circumstances of its placing on the market.

(2) Information pursuant to paragraph 1 shall contain in particular

a) name and surname or business name or name and place of permanent residence or place of business, or place of business of a producer, processor, storekeeper, distributor, provider, dealer and other previous holders of a product;

b) indications on produced, processed, provided or ordered quantity and price of relevant products.

(3) Also a person who

a) has in possession products infringing rights pursuant to this Act;

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<sup>1a</sup> Civil Code

- b) uses services infringing rights pursuant to this Act;
- c) provides services used in infringing of rights pursuant to this Act; or
- d) was indicated by a person mentioned in sub-paragraphs a) to c) as a person participating in production, processing or distribution of products or providing services infringing rights pursuant to this Act,

shall be obliged to provide information pursuant to paragraphs 1 and 2.

### **Disputes hearing**

#### **Article 10**

(1) Disputes on rights pursuant to this Act shall be heard and ruled by courts, unless this Act states otherwise.

(2) Holder of registration certificate shall be entitled to request the court to order that products, by means of which rights protected by this Act are infringed or jeopardised, were

- a) remove from a channels of commerce,
- b) definitely removed from a
- c) secured in other way by preventing further infringement or jeopardizing of right;
- d) destroyed in a suitable way; court shall not order destroying, if products by means of which rights protected by this Act are directly infringed or jeopardised, are not in possession of a person against which a proposal is being submitted.

(3) Provisions pursuant to paragraph 2 shall be executed at expense of a person infringing or jeopardising rights protected by this Act, unless special circumstances give reason for other process.

(4) The court shall not confer right to provide information pursuant to Article 9a, if seriousness of jeopardising or infringement of right was inadequate to seriousness of consequences resulting from the fulfilment of obligation imposed in such way.

#### **Article 11**

(1) Holder of registration certificate shall be entitled to propose so that court, in protection of rights pursuant to this Act, could impose by precaution<sup>2</sup> same duties as in decision on the merit if any delay could cause to entitled person a hardly reclaimable pecuniary or non-pecuniary injury.

(2) Within a decision on precaution the court may impose a duty to a plaintiff to pay a deposit of an adequate amount or to implicate that decision comes into force by execution of an imposed duty. The court shall take into account, within its deciding on the amount of a warranty deposit, the seriousness of a pecuniary or non-pecuniary injury which can occur to

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<sup>2</sup> Articles 74 to 77 and Article 102 of the Code of Civil Procedure

the adverse party as well as assets of a plaintiff therewith that imposing a duty to pay a deposit shall not be the substantial impediment of efficient application of right.

(3) The court may on request decide on giving warranty deposit over to the adverse party as a compensation of pecuniary or non-pecuniary injury in finance caused directly by execution of precaution issued without adequate reason.

(4) If within the period of six months from detection of injury occurrence pursuant to paragraph 3, compensation or satisfaction is not applied at the court or an agreement on using the warranty deposit between parties is not concluded, the court shall refund the warranty deposit.

### **PART THREE GEOGRAPHICAL INDICATIONS**

#### **Article 12** Geographical indication

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 FOUR PROCEEDINGS BEFORE THE OFFICE**

#### **Article 13**

(1) General rules on administrative proceedings<sup>3</sup> shall be applied to proceedings before the Office pursuant to this Act unless this Act states otherwise.

(2) Provisions on proceedings suspension, statutory declaration, time limits for decision and on measurements against inactivity pursuant to general rules on administrative proceedings<sup>3</sup> shall not apply to proceedings before the Office pursuant to this Act.

#### **Article 14** Application for designation of origin

(1) An application for designation of origin (hereinafter referred to as an “application”) may be filed by an association of producers or processors with legal personality<sup>4</sup> for 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.

(2) Any person shall have the right to become a member of an association according to paragraph 1, who produces, processes and prepares, within a specified territory, the product with quality or characteristics related to circumstances stated for registered designation of

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<sup>3</sup> Act no 71/1967 Coll. on Administrative Procedure as amended

<sup>4</sup> e.g. §§ 20(f) to 20(j) of Civil Code, Act no 83/1990 Coll. as amended, § 69 of Act no 455/1991 Coll. Trade Act,

origin and meets conditions of membership in an association, which shall not be discriminative nor contrary to rules of economic competition. An association shall be obliged to issue a certificate of membership to members upon request.

(3) An application shall contain:

- a) request for entry of designation of origin into the Register,
- b) 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) determination of a product or product specification,
- d) 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<sup>5</sup> (Article 37(2)),
- e) signature of an applicant or a person authorised to act on his behalf.

(4) An application shall be assigned with a file number, day of delivery of an application shall be marked and a receipt on filing an application shall be issued to an applicant.

#### **Article 15**

(1) Determination of a product shall contain:

- a) name of a product, including wording of designation of origin,
- b) geographical definition of territory where production, processing and preparation of a product is being realised,
- c) document confirming that a product originates from a defined territory,
- d) description of characteristics or qualitative signs of a product, which are given by a particular geographical environment
- e) description of a process of obtaining a product, eventually description of original and unchangeable local processes of its obtaining.

(2) An applicant without permanent residence or seat in the Slovak Republic and having a designation of origin protected pursuant to right effective in a country of origin of a product may substitute data pursuant to paragraph 1 c) with protection certificate for designation of origin pursuant to right effective in a country of origin.

#### **Article 15a**

Specification of a spirit drink shall contain

- a) name and category of a spirit drink,
- b) description of a spirit drink including principal physical, chemical or organoleptic characteristics of a product as well as specific characteristics of a spirit drink as compared to the relevant category;

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<sup>5</sup> Act no 344/2004 Coll. on Patent Representatives

- c) definition of a geographical area concerned,
- d) description of a method for obtaining the spirit drink and, if appropriate, authentic and unvarying local methods; and
- e) in case of a spirit drink with designation of origin, details bearing out that its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors; and in case of a spirit drink with geographical indication details bearing out the link with geographical environment.

### **Article 15b**

Specification of wine shall contain

- a) name of wine
- b) description of wine
  - 1. for wines with a designation of origin, its principal analytical and organoleptic characteristics,
  - 2. for wines with a geographical indication, its principal analytical characteristics as well as evaluation or indication of its organoleptic characteristics;
- c) where applicable, specific oenological practices used to make wine as well as relevant restrictions on making wine;
- d) demarcation of geographical area concerned;
- e) maximum yields per hectare;
- f) indication of the wine grape variety or varieties the wine is obtained from,
- g) in case of wine with designation of origin details bearing out that its quality and characteristics are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and in case of wine with geographical indication details bearing out that the wine is of a specific quality, reputation or other characteristics attributable to that geographical environment.

### **Article 16**

Cancelled by Act no. 279/2007 Coll. as from July 1, 2007.

### **Article 17**

Proceedings on application

(1) The Office shall examine whether

- a) designation of origin stated in an application meets requirements for entry into the Register,
- b) an application contains formalities pursuant to Articles 14 to 15b,
- c) an applicant is represented by an authorised representative<sup>5</sup> (Article 37(2)).

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<sup>5</sup> Act no 344/2004 Coll. on Patent Representatives

(2) The Office shall within the examination procedure under paragraph 1 request the Ministry of Agriculture of the Slovak Republic (hereinafter referred to as "the Ministry") or person authorised by the Ministry to submit the opinion whether the specification under Article 15a meets prescribed requirements.

(3) The Office shall invite an applicant to correct irregularities ascertained pursuant to paragraph 1 b) and c) within a specified time limit, which shall not be shorter than two months. If an applicant fails to correct irregularities, the Office shall suspend proceeding on an application. An applicant shall be notified in an invitation of this consequence.

(4) The Office shall refuse an application if a designation is excluded from registration pursuant to paragraph 4 or it fails to meet conditions for entry into the Register. Before an application is refused, the Office shall enable an applicant to respond to ascertained reasons for refusal of an application.

(5) The Office shall be entitled to invite an applicant to submit a document of a relevant inspection authority<sup>5a</sup> that a product meets requirements stated in Article 15(1)(d). The Office shall determine 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.

### **Article 18**

#### Registration of designation of origin

The Office shall enter a designation of origin into the Register if an application meets conditions for entry into the Register and an application meets requirements pursuant to this Act. The Office shall issue a certificate on entry of a designation of origin into the Register to an owner and registration shall be published in the Official Journal of the Industrial Property Office of the Slovak Republic (hereinafter referred to as "Journal").

### **Article 19**

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

Applicant or holder of registration certificate may apply for approval of an amendment to a product determination, amendment to a spirit drink specification or amendment to a wine specification, in particular to take account of developments in scientific and technical knowledge or to redefine the geographical area. The procedure provided for in Articles 14 to 18 shall apply *mutatis mutandis* in respect of request for approval of an amendment to a product determination, amendment to a spirit drink specification or amendment to a wine specification.

### **Article 20**

(1) Any person shall be entitled to request issuing a document or other legal instrument important for application or protection of his right from relevant inspection authorities<sup>5a</sup>.

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<sup>5a</sup> e.g. § 40 of Act no 182/2005 Coll. on Winegrowing and Vinery, Act no 152/1995 Coll. on foodstuffs as amended, § 40 of Act no 538/2005 Coll. on Natural Healing Waters

<sup>5a</sup> e.g. § 40 of Act no 182/2005 Coll. on Winegrowing and Vinery, Act no 152/1995 Coll. on foodstuffs as amended, § 40 of Act no 538/2005 Coll. on Natural Healing Waters

(2) Results of a control or assessment performed by a foreign authority shall be taken into account by the Office in proceedings on the base of international treaty or on the base of reciprocity.

#### Cancellation of designation of origin registration

##### **Article 21**

(1) The Office shall cancel registration of designation of origin if it ascertains, in the proceedings started on request of a third party (hereinafter referred to as "plaintiff"), inspection authority or ex-officio, that

a) designation of origin has been registered contrary to conditions for registration,

b) conditions given by particular geographical environment set for registration of designation of origin have ceased to exist;

c) product for which a designation of origin has been registered, does not meet the requirements of determination under Article 15 or specification under Article 15a or 15b and these requirements were not met even within additional time limit specified by the Office.

(2) Registration of designation of origin referred to in paragraph 1 c) shall not be cancelled , if a product, which meets the requirements of determination under Article 15 or specification under Article 15a or 15b is placed on a market or if such product is not placed on a market but natural conditions have not ceased.

##### **Article 22**

(1) Where a registered designation of origin is cancelled pursuant to Article 21(1)(a), it shall be deemed not to have been registered.

(2) Where a registered designation of origin is cancelled pursuant to Article 21(1)(b) and (c) it shall be deemed cancelled on a date of filing a proposal for cancellation.

(3) The Office shall enter a decision on cancellation into the Register and publish in the Journal.

##### **Article 23**

(1) If a proposal for cancellation of designation of origin (hereinafter referred to as "proposal for cancellation") fails to contain reasons for cancellation of registration of designation of origin pursuant to Article 21(1), the Office shall invite the plaintiff to supplement the proposal or to correct irregularities within a specified time limit. If a plaintiff fails to supplement the proposal or correct irregularities within a specified time limit, the Office shall suspend proceedings on proposal for cancellation.

(2) The Office shall deliver proposal for cancellation to a registration certificate holder and concurrently invites him to respond to the proposal within a specified time limit.

(3) If a registration holder certificate fails to respond within a time limit specified in a notice, the Office shall decide on a basis of a file contents.

(4) If an owner is not being represented by an authorised representative and fails to comply with a notice to submit a letter of attorney within a specified time limit, he shall be deemed not to have responded to proposal for cancellation.

(5) If a nature of a matter so requires, the Office shall order an oral proceedings. The Office shall set a date for oral proceedings and shall concurrently deliver a statement of a registration certificate holder on a proposal for cancellation to a plaintiff.

(6) The Office shall continue in proceedings and decide in a matter also when a duly summoned party fails to participate in oral proceedings.

(7) Extending or supplementing proposal for cancellation shall be inadmissible and shall not be taken into consideration by the Office within proceedings and making a decision on a matter.

#### **Article 24**

##### Further proceedings

(1) On request of a party to proceedings on extension of a time limit specified by the Office for performing an act, filed before the expiry of this time limit, the Office shall be entitled to extend a time limit.

(2) A party to proceedings who failed to comply with a time limit specified by the Office for performing an act, shall be is entitled, after expiry of such time limit, to ask the Office for further proceedings and at the same time to perform an omitted action no later than two months from delivery of a decision of the Office issued as a consequence of failure to comply with a time limit.

(3) The Office shall refuse a request pursuant to paragraph 2 in case of failure to comply with a time limit for responding of registration certificate holder on proposal to cancellation according to Article 23(1), to comply with a time limit for responding of an applicant to oppositions according to Article 33 (3) and Article 36c(3).

(4) The Office shall refuse a request for time limit extension or a request for further proceedings, which fails to meet conditions pursuant to paragraph 1 or paragraph 2 or it shall be refused pursuant to paragraph 3; before taking a decision on refusing a request the Office shall enable applicant to respond to ascertained facts on basis of which a request shall be refused.

(5) If the Office accords a request for further proceedings, legal effects of a decision issued in consequence of failure to comply with time limit shall cease or shall not arise.

(6) If the Office does not decide on refusing a request pursuant to paragraph 1 within two months from its delivery, a request shall be deemed to be granted.

**Article 25**  
*Restitutio in integrum*

(1) If a party to proceedings before the Office unintentionally fails to comply with legal time limit or time limit for performing an act set by the Office whereas the consequence of failure to perform this act is proceedings suspension or forfeiture of other right, he is entitled to ask the Office for *restitutio in integrum* and at same time to perform the omitted act within two months from elimination of the impediment causing failure of performing the act at the latest within 12 months from expiry of non-complied time limit.

(2) Party to proceedings shall be obliged to sustain request pursuant to paragraph 1 and to state facts preventing performing the act. The Office shall not take into consideration statements submitted after time limits pursuant to paragraph 1 expired in deciding about request.

(3) In case of reasonable doubts about veracity of a statement pursuant to paragraph 2, the Office is entitled to invite the applicant to prove his statements other way.

(4) Request for *restitutio in integrum* shall not be satisfied in case of failure to comply with time limits for:

- a) performing acts pursuant to paragraph 1,
- b) performing acts pursuant to Article 24(2) or (3),
- c) filing an appeal pursuant to Article 27(1),
- d) filing oppositions pursuant to Article 33(1), Article 34(2) and Article 36c(1).

(5) The Office shall refuse request for *restitutio in integrum* which fails to comply with conditions pursuant to paragraphs 1 and 2, or it is not possible to be satisfied pursuant to paragraph 4, or the applicant fails to prove his statements pursuant to paragraph 3; before the request is refused the Office shall enable the applicant to respond to ascertained reasons on basis of which request is to be refused.

(6) If the Office satisfies the request for *restitutio in integrum*, legal effects of the decision issued as a consequence of failure to comply with the time limit shall be retracted or shall not ensue.

(7) The rights of the third parties acquired within the territory of the Slovak Republic in a good faith from the validity date of the decision issued as a consequence of failure to comply the time limit of the legal effects of this decision pursuant to paragraph 6, shall be retained.

**Article 26**  
Grounds for decision

(1) Party to proceedings shall be obliged to submit or propose an evidence to support his statements.

(2) The Office shall decide on the basis of facts ascertained from performed evidences submitted or proposed by parties to proceedings.

## **Article 27**

### Remedies

- (1) An appeal against a decision of the Office may be lodged within one month from delivery of a decision; an appeal filed in due time shall have deferring effect.
- (2) The Office shall be bound by scope of an appeal in deciding on it; this shall not apply
  - a) for matters in which proceedings can be started *ex officio*,
  - b) for matters of joint rights or obligations concerning several parties to proceedings on one side.
- (3) Filing an appeal shall not be admissible against a decision by which a request for further processing or request for *restitutio in integrum* has been satisfied.

## **Article 28**

### File inspection and data accessibility

- (1) Parties to proceedings shall have right to inspect files, to make records and writing-offs.
- (2) After entry of a designation of origin into the Register or after publication of a request pursuant to Article 32(6) or Article 36b(5) the Office shall enable third party on request to inspect a file concerning an application, registered designation of origin or request (Article 32(1), Article 36b (1)).
- (3) Right to a file inspection shall include right for making photocopies for payment of material costs concerning making copies and their sending.
- (4) From right to file inspection shall be excluded:
  - a) parts of file containing information of confidential character, publication of which is not necessary to secure right to information of third parties including parties to proceedings,
  - b) parts of file containing trade secret on a written request of a certificate on registration applicant or holder, and
  - c) records of voting and parts of file containing helping notes or proposals of decisions, scopes or view-points.

## **Article 29**

### Register and Official Journal

- (1) Following shall be entered into the Register:
  - a) number of an application,
  - b) filing date of an application,
  - c) number of registration of designation of origin,
  - d) date of registration of designation of origin,
  - e) wording of designation of origin,
  - f) name of a product to which designation of origin is related,

g) 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) 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 or name and seat of authorised representative or entitled person,

i) determination of a product or specification of a product,

j) cancellation of designation of origin, and,

k) other decisive data.

(2) The Office shall enter into the Register changes, which arose after entry of a designation of origin into the Register, on request and after verification of submitted data.

(3) Data entered into the Register shall be considered valid unless a decision of a relevant authority states otherwise.

(4) Change in data entered into the Register ensuing from valid and enforceable decision of a relevant authority shall be entered without delay into the Register by the Office after delivery of decision with a validity clause.

(5) Entry of data and facts ensuing from law or from decision of a relevant authority pursuant to paragraph 4 shall not be considered a decision issued in proceedings pursuant to provisions of the Administrative Procedure Code<sup>3</sup>.

(6) Any person shall be entitled to inspect the Register.

(7) The Office shall issue an abstract of record on request. An abstract of record shall contain data valid on day of making a record.

(8) The Office shall issue the Official Journal, in which it publishes entry of a designation of origin into the Register, its cancellation and other decisive data concerning designation of origin.

## **PART FIVE**

### **INTERNATIONAL PROTECTION**

#### **International registration of designation of origin**

##### **Article 30**

(1) Persons with permanent residence or seat within the territory of the Slovak Republic shall have right to request international registration of designation of origin pursuant to international agreement<sup>6</sup> through the Office.

(2) A person requesting international registration of designation of origin shall be obliged to pay fees set pursuant to international agreement<sup>6</sup> for acts pursuant to paragraph 1. Amounts of fees set by this agreement shall be published by the Office in the Official Journal.

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<sup>3</sup> Act no 71/1967 Coll. on Administrative Procedure as amended

<sup>6</sup> Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 31. October 1958, revised in Stockholm on 14 July 1967, published under No. 67/1975 Coll. as amended

## Article 31

- (1) International registration of designation of origin shall have same effects as registration of designation of origin by the Office.
- (2) Designation of origin registered internationally, for which protection in the Slovak Republic has been refused, shall be deemed to have never been registered in the Slovak Republic.

### **Protection of designations of origin and geographical indications for agricultural products and foodstuffs under European Community law**

## Article 32

- (1) Persons pursuant to special regulation<sup>6a</sup> shall be entitled to lodge an application for registration of agricultural products or foodstuffs pursuant special regulation<sup>7</sup> (hereinafter referred to as “application for registration of agricultural products or foodstuffs”), which are being produced, processed or prepared in the territory of the Slovak Republic.
- (2) An application for registration of agricultural products or foodstuffs shall be lodged in three copies.
- (3) The Office shall examine whether the application for registration of agricultural products or foodstuffs is justified, meets defined requirements and whether designation is not a part of exclusions<sup>7a</sup>.
- (4) The Office within the examination pursuant to paragraph 3 shall request the Ministry or other competent person authorised by the Ministry<sup>7b</sup> to submit an opinion, whether specification of an agricultural product or a foodstuff<sup>7c</sup> (hereinafter referred to as “specification”) meets defined requirements.
- (5) The Office shall invite applicant to correct irregularities found pursuant to paragraph 3 within the time limit prescribed by the Office. If an applicant fails to correct irregularities, the Office shall refuse the request. An applicant shall be notified of this consequence in an invitation to correct irregularities.
- (6) If an application for registration of agricultural products or foodstuffs is justified, meets defined requirements and designation is not a part of exclusions<sup>7a</sup>, the Office shall publish its essential parts in the Official Journal.

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<sup>6a</sup> Article 5(1) and (2) of Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (*OJ L 93, 31.3.2006*)

<sup>7</sup> Council Regulation (EC) No 510/2006 as amended.

Commission Regulation (EC) No 1898/2006 of 14 December 2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (*OJ L 369, 23.12.2006*) amended by Commission Regulation (EC) No 628/2008 of 2 July 2008 (*OJ L 173, 3.7.2008*).

<sup>7a</sup> Articles 3 to 5 of Council Regulation (EC) No 510/2006

<sup>7b</sup> § 9a of Act no 152/1995 Coll. as amended

<sup>7c</sup> Article 4 of Council Regulation (EC) No 510/2006

### Article 33

(1) After publication of essential parts of the application for registration of agricultural products or foodstuffs in the Official Journal any person, who proves legal interest, having permanent residence or seat at the territory of the Slovak Republic (hereinafter referred to as “opponent”), shall be entitled to file objections against the application within time limit of three months from the publication with the Office. The objections shall be justified and shall prove that requested designation of origin or geographical indication fails to meet conditions pursuant to a special regulation<sup>7</sup> for entry into the Register of protected designations of origin and geographical indications maintained by the European Commission<sup>8</sup>.

(2) If the Office ascertains that objections have not been filed by an opponent in due time, have not been regularly justified or have not indicated proofs, that requested designation of origin or geographical indication fails to meet conditions set out in special regulation<sup>7</sup> for entry into the Register of protected designations of origin and geographical indications maintained by the European Commission<sup>8</sup>, the Office shall suspend the proceedings on objections. Decision on suspension of proceedings on objections shall be delivered by the Office to applicant and to opponent.

(3) The Office shall deliver objections on which proceedings has not been suspended pursuant to paragraph 2 to applicant; at the same time the Office shall invite the applicant and the opponent to resolve the contradiction by a mediation within the time limit of two months. If a contradiction has not been resolved, the applicant and the opponent shall deliver to the Office their opinions within the time limit of one month from expiry of a time limit to conclude proceedings by mediation.

(4) If a contradiction between applicant and opponent has not been resolved by mediation proceedings pursuant to paragraph 3, the Office shall decide on objections. If objections refer to the specification of a product or determination of distinctiveness of geographical environment<sup>7c</sup>, the Office shall request the Ministry for a statement whether the objections are justified before deciding on objections.

(5) If the Office ascertains in proceedings on objections that applied designation fails to meet conditions pursuant to a special provision<sup>7</sup>, it shall refuse the application for registration of agricultural products or foodstuffs; otherwise it shall refuse objections.

### Article 33a

(1) If an application for registration of agricultural products or foodstuffs is justified and meets defined requirements, a designation is not a part of exclusions<sup>7a</sup> and it has not been refused pursuant to Article 33(5), the Office shall issue decision on granting the application.

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<sup>7</sup> Council Regulation (EC) No 510/2006 as amended.

Commission Regulation (EC) No 1898/2006 of 14 December 2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (*OJ L 369, 23.12.2006*) amended by Commission Regulation (EC) No 628/2008 of 2 July 2008 (*OJ L 173, 3.7.2008*).

<sup>8</sup> Article 7(6) of Council Regulation (EC) No 510/2006

<sup>7c</sup> Article 4 of Council Regulation (EC) No 510/2006

<sup>7a</sup> Articles 3 to 5 of Council Regulation (EC) No 510/2006

(2) The Office shall deliver decision pursuant to paragraph 1 to the applicant and shall publish a decision in the Journal by which the application has been granted, and electronic access to the specification.

(3) The Office shall deliver requirements pursuant to a special provision<sup>7</sup> for further proceedings after issuing decision on granting the application, and shall inform the applicant about this fact.

### **Article 33b**

#### Transitional protection and time limit for adaptation

(1) Transitional protection for designation and two years time limit for adaptation under conditions pursuant to a special provision<sup>8a</sup> shall arise by decision on granting the application for registration of agricultural products or foodstuffs.

(2) Transitional protection shall lapse from the day of issuing a decision on entry into the Register or from the day of refusing an application for registration of agricultural products or foodstuffs.

### **Objections against application for registration of designation of origin or geographical indication of other member state into the Register of the European Commission**

### **Article 34**

(1) Opponent shall be entitled to file with the Office duly substantiated objections against entry of a designation of origin or geographical indication for agricultural products or foodstuffs of other member state into the Register of protected designations of origin and protected geographical indications maintained by the European Commission or objections against amendment of specification of an agricultural product or foodstuff to a designation of origin or to a geographical indication of other member state (hereinafter referred to as "objections), or the Office shall be entitled to file objections *ex officio*.

(2) Objections shall be filed not later than within five months from the day on which the Commission published substantial requirements of application for registration of agricultural products or foodstuffs or amendment of specification of an agricultural product or foodstuff.

(3) Objections shall be filed in the official language of the Slovak Republic.

(4) The Office shall submit reasonable objections to the European Commission for further proceedings within the time limit pursuant to a special provision<sup>8b</sup>.

(5) The Office shall refuse to submit objections to the European Commission if they have not been filed by a person entitled to file objections, if they have not been duly substantiated

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<sup>7</sup> Council Regulation (EC) No 510/2006 as amended.

Commission Regulation (EC) No 1898/2006 of 14 December 2006 laying down detailed rules of implementation of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs (*OJ L 369, 23.12.2006*) amended by Commission Regulation (EC) No 628/2008 of 2 July 2008 (*OJ L 173, 3.7.2008*).

<sup>8a</sup> Article 5(6) of Council Regulation (EC) No 510/2006

<sup>8b</sup> Article 7(1) of Council Regulation (EC) No 510/2006

and if they have been filed after the time limit pursuant to paragraph (2); a person filing objections shall be informed about this fact.

### **Article 35**

(1) If the European Commission invites concerned parties to conclude an agreement on objections, the Office shall be competent for such hearing on behalf of the Slovak Republic.

(2) If an agreement is concluded within six months, the Office shall deliver the agreement to the European Commission together with documents proving conclusion of the agreement including opinion of an applicant and a person filing the objections. If an agreement is not concluded, the Office shall communicate negative opinion to the European Commission.

### **Article 36**

#### Amendment to specification

(1) In case of an amendment to a specification , provisions of Articles 32 to 35 shall apply *mutatis mutandis*.

(2) Where the amendment to a specification of agricultural product or foodstuff does not involve any change to the single document, or where the amendment concerns a temporary change in the specification of agricultural product or foodstuff resulting from the imposition of obligatory sanitary or phytosanitary measures by a public authorities, the Office shall consider the amendment and after issuing the decision on granting the application, it shall announce amendment to a specification of agricultural product or foodstuff, electronic access to the specification in a Journal and shall communicate this fact to the European Commission.

### **Article 36a**

#### Cancellation of registration

Any person proving legitimate interest may lodge a request for cancellation of registration of designation of origin or geographical indication in the Register of protected designations of origin and geographical indications maintained by the European Commission with the Office for the reason, that agricultural product or foodstuff fails to meet conditions of specification. In respect of cancellation of registration, the provisions of Articles 33 and 33a shall apply *mutatis mutandis* to proceedings before the Office.

## **Protection for designation of origin and geographical indication for wines under European Community law**

### **Article 36b**

(1) Persons pursuant to special regulation<sup>8c</sup> shall be entitled to lodge with the Office an application for protection of designation of origin or geographical indication of wines pursuant special regulation<sup>8d</sup> (hereinafter referred to as an “application for protection of

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<sup>8c</sup> Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) *OJ L 299, 16.11.2007*

<sup>8d</sup> Council Regulation (EC) No 1234/2007

wines”), which are being produced, processed or prepared in the territory of the Slovak Republic.

(2) An application for protection of wines shall be lodged with the Office in three copies.

(3) The Office shall examine whether the application for protection of wines meets the conditions set out in special regulation<sup>8d</sup>.

(4) The Office shall invite the applicant to correct irregularities found pursuant to paragraph 3 within the time limit prescribed by the Office. If a applicant fails to correct irregularities, the Office shall suspend proceeding on an application. An applicant shall be notified in an invitation of this consequence.

(5) If an application for protection of wines meets conditions set out in special regulation<sup>8d</sup>, the Office shall publish essential parts of the application in the Official Journal.

### **Article 36c**

(1) After publication of essential parts of the application for protection of wines in the Official Journal, an opponent shall be entitled to file objections against this application within time limit of three months from the publication. The objection shall be justified and shall prove, that requested designation of origin or geographical indication fails to meet conditions set out in special regulation<sup>8d</sup> for entry into the Register of protected designations of origin and geographical indications maintained by the European Commission<sup>8e</sup>.

(2) If the Office ascertains that objections have not been filed by an opponent in due time, have not been regularly justified or have not indicated proofs that requested designation of origin or geographical indication fails to meet conditions set out in a special regulation<sup>8d</sup> for entry into the Register of protected designations of origin and geographical indications maintained by the European Commission<sup>8e</sup>, have not been indicated in these objections, the Office shall suspend the proceedings on objections. Decision on suspension of proceedings on objections shall be delivered by the Office to applicant and to opponent.

(3) The Office shall deliver objections on which proceedings has not been suspended pursuant to paragraph 2 to the applicant; at the same time the Office shall invite the applicant and opponent to resolve the contradiction by a mediation within the time limit of two months. If a contradiction has not been resolved; applicant and opponent shall deliver to the Office their opinions within one month from expiry of a time limit to conclude proceedings by mediation.

(4) If a contradiction between applicant and opponent has not been resolved by mediation proceedings pursuant to paragraph 3, the Office shall decide on objections. If objections refer to the specification of a product or to determination of distinctiveness of geographical environment<sup>8f</sup>, the Office shall request the Ministry for a statement whether the objections are justified before deciding on objections.

(5) If the Office ascertains in proceedings on objections that requested designation fails to meet conditions set out in a special regulation<sup>8d</sup>, the application for protection of wines shall be refused; otherwise the Office shall refuse objections.

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<sup>8e</sup> Article 118n of Council Regulation (EC) No 1234/2007

<sup>8f</sup> Article 118c(2) of Council Regulation (EC) No 1234/2007

<sup>8d</sup> Council Regulation (EC) No 1234/2007

### **Article 36d**

(1) If an application for protection of wines meets conditions set out in a special regulation<sup>8d</sup> and it has not been refused pursuant to Article 36c(5), the Office shall publish single document and specification of wine and shall make them accessible electronically.

(2) After publication of data pursuant to paragraph 1 the Office shall deliver the application for protection of wines containing requirements set out in special regulation<sup>8g</sup> for further proceedings with the European Commission and shall inform the applicant about this fact.

### **Article 36e**

#### Amendment to specification of wine

(1) In case of an amendment to a specification of wine, provisions of Articles 36b to 36d shall apply *mutatis mutandis*.

(2) Where the amendment to a specification of wine does not involve any change to the single document, the Office shall consider the amendment and after issuing the decision on granting the application, it shall announce amendment to specification of wine, electronic access to the specification of wine in a Journal and shall communicate this fact to the European Commission in writing.

### **Article 36f**

#### Cancellation of registration

Any person proving legitimate interest, may lodge a request for cancellation of registration of designation of origin or geographical indication in the Register of protected designations of origin and geographical indications maintained by the European Commission with the Office for the reason that wine fails to meet conditions defined by specification of wine. In respect of cancellation of registration, the provisions of Articles 36c and 36d shall apply *mutatis mutandis* to proceedings before the Office.

### **Protection of geographical indications for spirits under European Community law**

### **Article 36g**

(1) Protection of geographical indications for spirit drinks shall be regulated by special regulation<sup>8h</sup>.

(2) Acts pursuant to special regulation<sup>8i</sup> shall be exercised by the Office.

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<sup>8g</sup> Article 118f(5)(b) of Council Regulation (EC) No 1234/2007

<sup>8h</sup> Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89, *OJ L 39, 13.2.2008*

<sup>8i</sup> Article 17(2) of Regulation (EC) No 110/2008

**PART SIX**  
**COMMON, TRANSITIONAL AND REPEALING PROVISIONS**

**Article 37**

(1) Parties with permanent residence or seat within a territory of a member state to an international convention<sup>9</sup> or within a territory of a Member State to the World Trade Organization<sup>10</sup>, shall have same rights and obligations as national applicants or entitled persons; if a state, in which parties have permanent residence or seat, is not a member state to an international convention or a member to the World Trade Organization, rights and obligations pursuant to this Act shall be granted only under the condition of reciprocity.

(2) Parties without permanent residence or seat within the territory of the Slovak Republic shall have to be represented in proceedings on designations of origin or geographical indications by an authorised representative<sup>5</sup>.

(3) Provision of the paragraph 2 shall not apply to parties to proceedings, who are residents of a member state to the European Union or to a state, who is a contracting party to the Agreement on the European Economic Area, and are seated within the territory of the Slovak Republic or provides services within the territory of the Slovak Republic, and legal entities, which have their administration or seat of their business activity within the territory of a member state to the European Union or of the state, which is a contracting party to the Agreement on the European Economic Area, and are seated within the territory of the Slovak Republic or provides services within the territory of the Slovak Republic. Such party to the proceedings shall be obliged to communicate delivery address within the territory of the Slovak Republic to the Office. If a party to the proceedings fails to communicate delivery address to the Office, official reports related to the proceedings shall be deposited with the Office; they shall be deemed to be delivered after 30 day from the day of deposit. A party to proceedings shall be noticed about this fact.

(4) Filing with the Office shall be made in the official language of the Slovak Republic only<sup>11</sup>.

**Article 38**

Transitional provisions

(1) Proceedings on applications of designations of origin, which have not been legally concluded before this Act comes into effect, shall be concluded pursuant to this Act, therewith that an applicant shall be obliged to harmonise his application with requirements required for designation of origin application pursuant to this Act within the time limit specified by the Office and on invitation of the Office.

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<sup>9</sup> Paris Convention on the Industrial Property Protection from March 20, 1883, revised in Brussels on December 14, 1900; in Washington, D.C. on June 2, 1911; in The Hague on November 6, 1925; in London on June 2, 1934; in Lisbon on October 31, 1958 and in Stockholm on June 14, 1967, promulgated by the Decree of the Minister of Foreign Affairs No. 64/1975 Coll. and amended by the Decree of the Minister of Foreign Affairs No. 81/1985 Coll.

<sup>10</sup> Communication of the Ministry of Foreign Affairs of the Slovak Republic No. 152/200 Coll. on concluding the Agreement Establishing the World Trade Organization

<sup>5</sup> Act no 344/2004 Coll. on Patent Representatives

<sup>11</sup> Act no 270/1995 Coll. on State language as amended

(2) Relations from designations of origin for products entered into the Register before this Act comes into effect shall be governed by provisions of this Act. Arising of these relations as well as claims arising from them before this Act comes into effect shall be assessed in accordance with provisions effective in time of their arising.

(3) Protection of designations of origin pursuant to this Act shall be related to such designation of origin, by which the protection of designations of origin was granted pursuant to present Act before this Act comes into effect, if a registered user or registered users meet requirements of registration pursuant to this Act within two years from the day when this Act came into effect. The Office shall cancel such designation of origin from the Register after inefficient lapse of this time limit.

(4) The protection within the meaning of first to fourth part of this Act shall apply in respect of designation of origin and geographical indication for wines and designation of origin and geographical indication for spirit drinks, to which the protection was conferred prior 1 November 2009 under the Act effective until 31 October 2009, provided that the holder of certificate on registration fulfils all conditions for registration as set out in this Act until 1 November 2013. After expire of the time limit without any actions taken such designation of origin and geographical indication shall lose effect.

### **Article 39**

#### Repealing provision

The following shall be repealed

(1) Act No. 159/1973 Coll. on protection of appellations of origin of products in wording of the Act of the National Council of the Slovak Republic No. 90/1993 Coll.

(2) Decree of the Office of Inventions and Discoveries No. 160/1973 Coll. on procedure in respect of designations of origin of products.

### **Title IV**

#### Entry into force

This Act shall take effect on 1 December 2003, except Articles 32 to 36, which shall take effect on the day when the Convention on accession of the Slovak Republic to the European Union enters into force.

Act No 84/2007 Coll. entered into force on 1<sup>st</sup> March 2007

Act No 279/2007 Coll. entered into force on 1<sup>st</sup> July 2007

Act No 395/2009 Coll. entered into force on 1<sup>st</sup> November 2009

Rudolf Schuster s. m.

Pavol Hrušovský s. m.

Mikuláš Dzurinda s. m.