

**PARLIAMENT OF THE REPUBLIC OF MOLDOVA**

**LAW**

**No. LP66/2008 of 27.03.2008**

**on the Protection of Geographical Indications,  
Appellations of Origin and Traditional Specialties Guaranteed**

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**AMENDED**

PL79 of 24.05.2018, OG195-209/15.06.18 Art. 338

The Parliament adopts this organic law.

**CHAPTER. I**

**GENERAL PROVISIONS**

**Article 1. Field of Regulation and Legal Framework**

(1) This Law shall establish rules related to the registration, legal protection and use of appellations of origin, geographical indications and traditional specialties guaranteed.

(2) The legal relations arising from registration, legal protection and use of geographical indications, appellations of origin and traditional specialties guaranteed shall be regulated by the Constitution of the Republic of Moldova, the Civil Code of the Republic of Moldova, the Code on Science and Innovation of the Republic of Moldova, the Customs Code of the Republic of Moldova, international treaties to which the Republic of Moldova is a party, the present Law and other normative acts.

(3) If the international treaties in the given field, to which the Republic of Moldova is a party, establish rules other than those provided for by this Law, the rules of the international treaties shall apply.

## **Article 2. Basic Concepts**

For the purposes of this Law, the following basic concepts shall mean:

*geographical designation* – a geographical name which designates existing geographical places, regions or countries;

*geographical indication* – the name of a region or a locality, a specific place or, in exceptional cases, a country, which serves to designate a product originating in that region or locality, in that specific place or in that country, which possesses a specific quality, reputation or other characteristics attributable to that geographical origin, and at least one of the production stages of which is carried out in the defined geographical area;

*appellation of origin* – the geographical name of a region or locality, a specific place or, in exceptional cases, a country, which serves to designate a product originating in that region, locality, specific place or country, the quality or characteristics of which are essentially or exclusively due to the particular geographical environment with its inherent natural and human factors, and the production stages of which are carried out all in the defined geographical area;

*production stage* – production, processing or preparation;

*surrounding area* – area in the immediate vicinity of the defined geographical area; *specific character* – a characteristic or a set of characteristics which clearly distinguishes an agricultural product or a foodstuff from the other similar agricultural products or foodstuffs of the same category;

*traditional* – proven usage on the domestic market for a period that allows transmission between generations; this period is to be at least 30 years;

*traditional specialty guaranteed* – a traditional agricultural product or foodstuff recognized for its specific character through its registration under this Law;

*official control* – any form of control carried out by a competent authority in order to verify products conformity to the specification for products with protected appellation of origin, with protected geographical indication and for traditional specialties guaranteed;

*Lisbon Agreement* – the Lisbon Agreement of 31 October 1958 for the Protection of the Appellations of Origin and their International Registration;

*International Bureau* – the International Bureau of the World Intellectual Property Organization;

*international registration* – the international registration of an appellation of origin according to the Lisbon Agreement;

*international application* – the application for international registration;

*International Register* – the official collection of data concerning international registrations, kept by the International Bureau, record of which is provided for by the Lisbon Agreement, irrespective of the medium in which these data are stored.

### **Article 3. National Office**

1) The State Agency on Intellectual Property (hereinafter – AGEPI) shall be the National Office in the field of intellectual property protection and the only authority providing, in accordance with this Law, legal protection for geographical indications, appellations of origin and traditional specialties guaranteed on the territory of the Republic of Moldova.

2) AGEPI shall:

a) elaborate draft legislative and other normative acts in the field of geographical indications, appellations of origin and traditional specialties guaranteed, instructions and other materials required for applying this Law;

b) receive and examine applications for registration of geographical indications, appellations of origin, and traditional specialties guaranteed, register protected geographical indications, protected appellations of origin, and traditional specialties guaranteed and issue - certificates for the right to use protected geographical indications and protected appellations of origin and publish official data in the Official Bulletin of Intellectual Property (hereinafter – BOPI);

c) keep the National Registers of Applications for Registration of Geographical Indications, Appellations of Origin and Traditional Specialties Guaranteed and the National Registers of Protected Geographical Indications, Protected Appellations of Origin and Traditional Specialties Guaranteed;

d) ensure the completion and storage of the national collections of protected geographical indications, protected appellations of origin and traditional specialties guaranteed;

e) serve as the competent authority of the Republic of Moldova within the Special Union of the Lisbon Agreement Member States;

f) perform other functions, as provided for by the law.

3) AGEPI shall represent the Republic of Moldova in the World Intellectual Property Organization, in other international and interstate organizations for the protection of intellectual property, and shall maintain cooperative relations with them in this area.

**CHAPTER II**  
**LEGAL PROTECTION, GRANTED RIGHTS AND FORFEITURE OF PROTECTION**

**Article 4. General Provisions of Legal Protection**

The legal protection of the geographical indications, appellations of origin and traditional specialties guaranteed on the territory of the Republic of Moldova shall be provided based on their registration with AGEPI according to the procedures laid down in this Law or on the bases of international treaties, including bilateral agreements to which the Republic of Moldova is a party.

**Article 5. Protection of Appellation of Origin and Geographical Indication**

(1) A geographical name of a region or locality, a specific place or, in exceptional cases, a country shall be protected as an appellation of origin where it serves to designate a product:

- a) originating in that region or locality, specific place or country, and
- b) the quality or characteristics of which are essentially or exclusively due to a particular geographical environment with its inherent natural and human factors, and
- c) the production stages of which take place in the defined geographical area.

(2) A geographical name of a region or locality, a specific place or, in exceptional cases, a country shall be protected as a geographical indication where it serves to designate a product:

- a) originating in that region or locality, specific place or country; and
- b) which possesses a specific quality, reputation or other characteristics attributable to that geographical origin, and
- c) at least one of the production stages of which takes place in the defined geographical area.

(3) Traditional geographical or non-geographical names designating a product which fulfil the conditions referred to in paragraph (1) or (2) shall also be considered as appellations of origin or geographical indications.

(4) Notwithstanding paragraph (1), certain geographical designations shall be treated as appellations of origin where the raw materials for the products concerned come from a geographical area larger than, or different from, the processing area, provided that:

- a) the production area of the raw materials is defined; and
- b) special conditions for the production of the raw materials exist, and

c) there is an inspection regime to ensure that the conditions referred to in letter b) are complied with.

The designations in question must have been recognized as appellations of origin in the country of origin before May 1, 2004.

5) In the sense of paragraph (4) shall be considered as raw material only live animals, meat and milk.

6) By way of derogation from paragraphs (1) and (2) and provided that this is stipulated in the product specification and is conducted under the supervision of the competent authority designated in accordance with Article 33 paragraph (1), grapes intended for the production of wines with protected appellation of origin or with protected geographical indication may be processed, turned into wine (made into wine) in the surrounding area.

7) By way of derogation from paragraph (2) and provided that this is stipulated in the product specification and is conducted under the supervision of the competent authority designated in accordance with Article 33 paragraph (1), grapes intended for the production of wines with protected geographical indication may be processed, turned into wine (made into wine) beyond the surrounding area by December 31, 2020.

8) By way of derogation from paragraph (1) and provided that this is stipulated in the product specification and is conducted under the supervision of the competent authority designated in accordance with Article 33 paragraph (1), a product may be made into sparkling wine or semi-sparkling wine with a protected appellation of origin beyond the surrounding area if this practice was in use prior to October 25, 2008.

#### **Article 6. Protection of Traditional Specialty Guaranteed**

(1) An agricultural product or a foodstuff shall be protected as a traditional specialty guaranteed where such product or foodstuff:

- a) is produced using traditional raw materials, or
- b) is characterized by a traditional composition, or
- c) is characterized by a mode of production and/or processing corresponding to a traditional type of production and/or processing.

(2) The characteristic or set of characteristics which determine the specific character of a product must relate to the product's intrinsic features such as its physical, chemical, microbiological or organoleptic features, to the product's production method or to specific conditions that pertain during its production. The appearance of an agricultural product or a foodstuff shall not be regarded as a characteristic determining its specific character.

(3) The specific character of a product may not be restricted to a qualitative or quantitative composition, or to a mode of production laid down in the legislation, or to the rules prescribed by standardization bodies or set arbitrarily. However, this provision shall not apply where the provisions of the said legislation or rules have been established in order to define the specificity of a product.

(4) To be registered, the name of a traditional specialty guaranteed shall:

- a) have been traditionally used to designate the specific product; or
- b) identify the traditional character or specific character of the product.

(5) If the name of a traditional specialty guaranteed for which registration is sought is also used in a different region of the Republic of Moldova or in a different country, in order to distinguish between comparable products and products bearing an identical or similar name, the name of the traditional specialty guaranteed shall be accompanied by the designation “Made According to Traditions”, directly followed by the name of the region or country corresponding to the name for which registration is sought.

(6) The name of a traditional specialty guaranteed may contain a geographic term, without prejudice to the right to use a protected appellation of origin or a protected geographical indication, the right in a trademark, or any other intellectual property rights.

(7) The name of a plant variety or animal breed may be used in the name of a traditional specialty guaranteed, provided that it is not misleading the consumer as regards the nature of the product.

#### **Article 7. Grounds for Refusal to Register**

(1) Excluded from protection and not eligible for the registration shall be:

- a) as appellations of origin – the designations which do not comply with the requirements of Article 5 paragraph (1) or, where appropriate, paragraph (3) or paragraph (4);
- b) as geographical indications – the indications which do not comply with the requirements of Article 5 paragraph (2) or, where appropriate, paragraph (3);
- c) as traditional specialties guaranteed – the agricultural products or foodstuffs which do not comply with the requirements specified in Article 6;
- d) as appellations of origin, geographical indications and names of traditional specialties guaranteed – the names contrary to the public order or morality;
- e) as appellations of origin and geographical indications – the names that have become generic.

(2) Furthermore, a name may not be registered as an appellation of origin or a geographical indication where:

a) it is identical with or similar to a prior trademark registered in respect of products identical or similar to those for which the registration of an appellation of origin or a geographical indication is requested where, in the light of a trademark's reputation and fame and its term of use, the registration is liable to mislead the consumer as to the true identity of the product;

b) it conflicts with the wholly homonymous name of a plant variety or an animal breed for comparable products if it is shown before the expiry of the opposition procedure referred to in Article 22, that the variety or breed is in such commercial production outside the defined area prior to the date of application for registration of an appellation of origin or a geographical indication that consumers would be liable to confuse the products bearing the registered name with the variety or the breed.

(3) The registration of a name wholly or partially homonymous with that of a name already protected under this Law may be refused where, with due regard for local and traditional usage and the actual risk of confusion, it is likely to mislead the consumer into believing that products come from another territory, even if the name is accurate as far as the actual territory, region or place of origin of the agricultural products or foodstuffs in question is concerned.

(4) Registration as a traditional specialty guaranteed shall not be permitted in the case of an agricultural product or foodstuff the specific character of which is due to its provenance or geographic origin. However, the use of geographic terms shall be authorized in the name without prejudice to other prior intellectual property rights, in particular those referring to trademarks, protected appellations of origin and protected geographical indications.

(5) A name expressing specific character of an agricultural product or a foodstuff, as referred to in Article 6 paragraph (4) letter b), may not be registered if:

a) it refers only to claims of a general nature used for a set of agricultural products or foodstuffs, or to those provided for by particular normative acts in force;

b) it is misleading, such as a name that refers to an obvious characteristic of the product or one that does not correspond to the specification and is therefore likely to mislead the consumer as to the product's characteristics.

(6) For the purposes of this Law, a 'name that has become generic' shall mean the name of an agricultural product or a foodstuff which, although it relates to the place or the region where this product or foodstuff was originally produced or marketed, or constitutes a derivative of such indication, has lost its original meaning and become a common name of an agricultural product or

a foodstuff in the Republic of Moldova, or indicates its type, quality, category or any other feature or characteristic.

(7) To establish, whether or not a name has become generic, account shall be taken of all factors, in particular:

a) the existing situation in the area from which the name originates and in areas of consumption;

b) provisions of the relevant national legislation or, where appropriate, the legislation of the country of origin of the name in question.

### **Article 8. Product Specification**

(1) To be eligible for a protected appellation of origin or a protected geographical indication or for recognition as a traditional specialty guaranteed, a product shall comply with a product specification approved by a decision of the competent authority designated in accordance with Article 34 paragraph (1);

(2) The product specification for an appellation of origin or a geographical indication shall include at least:

a) the appellation of origin or the geographical indication requested for registration;

b) the name and a description of the product, including the raw materials, if appropriate, and the principal physical, chemical, microbiological and/or organoleptic characteristics of the product;

c) the definition of the geographical area and, where appropriate, details indicating compliance with the requirements of Article 5 paragraph (4);

d) evidence that the product originates in the defined geographical area referred to in Article 5 paragraph (1) or (2), as the case may be;

e) a description of the method of obtaining the product and, if appropriate, the authentic and unvarying local methods of obtaining it, as well as the description of the elements related to the packaging, if the applicant so determines and justifies the necessity of packaging the product in the defined geographical area to safeguard quality, or guarantee origin, or ensure control;

f) details justifying the following:

- the link between the quality or characteristics of the product and the geographical environment referred to in Article 5 paragraph (1) letter b), or ,

- the link between a specific quality, the reputation or other characteristic of the product and the geographical origin referred to in Article 5 paragraph (2) letter b);

g) the name and address of the competent authorities or bodies verifying compliance with the provisions of the specification and their specific tasks;

h) any specific labelling rule for the product in question;

i) any other statutory requirements laid down by the applicable legislation.

(3) The product specification for a traditional specialty guaranteed shall include the following:

a) the name proposed for registration, in the appropriate language versions;

b) a description of the product including its main physical, chemical, microbiological or organoleptic characteristics, showing the product's specific character;

c) a description of the production method that the producers must follow, including where appropriate the nature and characteristics of the raw materials or ingredients used and the method by which the product is prepared; and

d) the key elements that prove the product's traditional character.

#### **Article 9. Entitlement to the Protection**

(1) An appellation of origin, a geographical indication or a traditional specialty guaranteed shall be entitled for registration where:

a) it complies with the provisions of Article 5 or Article 6, where appropriate, as well as Article 8, and is not excluded from protection under the provisions of Article 7;

b) the application for registration is in compliance with the requirements laid down in this Law.

(2) Only a group shall be entitled to apply for registration of an appellation of origin, a geographical indication, or a traditional specialty guaranteed. For the purposes of this Law, 'group' shall mean any association, irrespective of its legal form mainly composed of producers or processors working with the products specified in the application. The specific rules applied to the group shall be laid down in the Regulations on the Procedure for Filing, Examination and Registration of Geographical Indications, Appellations of Origin and Traditional Specialties Guaranteed, hereinafter referred to as the Regulations, approved by the Government.

Other interested parties may join the group that file an application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed.

A natural or legal person, or a competent authority designated in accordance with Article 34 paragraph (1) may be treated as a group filing an application for registration of an appellation of

origin, a geographical indication or a traditional specialty guaranteed under the conditions set out in the Regulations.

(3) A group may file an application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed only for the products it produces or obtains, or, in the case of a competent authority designated in accordance with Article 34 paragraph (1) – only for the products related to the fields covered by that authority.

(4) The right to use a protected appellation of origin shall belong commonly to any person producing, processing and preparing in the corresponding geographical area the respective products in compliance with the requirements of the product specification.

(5) The right to use a protected geographical indication shall belong commonly to any person producing and/or processing and/or preparing in the corresponding geographical area the respective products in compliance with the requirements of the product specification.

(6) Any natural person or legal entity, irrespective of the type of ownership or legal form in the corresponding defined geographical area that produces products in compliance with the requirements of the product specification for a protected appellation of origin or for a protected geographical indication, acquires the right to use it under the conditions of this Law and the Regulations.

(7) A name registered as a traditional specialty guaranteed may be used by any natural or legal person marketing a product that complies with the corresponding product specification.

#### **Article 10. Term of Protection**

(1) The term of protection granted to an appellation of origin, a geographical indication or a traditional speciality guaranteed shall start on the day of filing the application for registration and shall be unlimited in time.

(2) The right to use a protected appellation of origin or a protected geographical indication shall be acquired and maintained only for the period in which the conditions laid down in the specification for that product are satisfied.

(5) The competent authorities designated in accordance with Article 34 paragraph (1) shall, within 5 working days, communicate to the AGEPI the data on the natural or legal persons having acquired the right to use a protected appellation of origin or a protected geographical indication, and on any amendment to that right for entry of these data in the National Register of Protected Appellations of Origin or in the National Register of Protected Geographical Indications, where appropriate, and for publication thereof in BOPI.

## **Article 11. Effects of the Registration of Appellations of Origin and Geographical Indications**

(1) Registered appellations of origin and geographical indications shall be protected against:

a) any direct or indirect commercial use of a registered name in respect of products not covered by the registration:

- in so far as those products are comparable to the products registered under that name, or -  
- in so far as using the name permit to exploit the reputation of the protected name;

b) any misuse, imitation or evocation, even if the true origin of the product is indicated or if the protected name is used in translated form or is accompanied by an expression such as 'kind', 'style', 'type', 'imitation' or other similar expressions;

c) any other false or misleading indication as to the provenance, origin, nature or essential qualities of the product, being on the product or on the packing thereof, advertising material or documents relating to the product concerned, as well as against utilization as a packaging of 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.

e) Where a registered name contains within it the generic name of a product, the use of that generic name on the appropriate products shall not be considered to be contrary to letter a) or b) in this paragraph.

(2) Protected names may not become generic.

(3) A registered appellation of origin or geographical indication may not be assigned or licensed and it may not form a subject-matter of any real rights.

(4) Any misuse or misleading use of the term "Protected appellation of origin" or "Protected geographical indication" and of the associated national symbols shall be prohibited.

## **Article 12. Effects of the Registration of Traditional Specialties Guaranteed**

(1) The names of traditional specialties guaranteed registered under this Law shall be protected against any misuse, imitation or evocation and against any other practice liable to mislead the consumer.

(2) Any use in commerce of product names which may be confused with the names of traditional specialties guaranteed registered in accordance with this Law shall be prohibited.

(3) Any abusive or misleading use of the term 'Traditional specialty guaranteed' and of the associated national symbols shall be prohibited.

## **Article 13. Termination of Protection and Revocation of Rights**

(1) The rights obtained as result of the registration shall be terminated:

a) with retroactive effect from the date of filing the application where the registration is cancelled;

b) with retroactive effect from the beginning of the revocation procedure, where protection is revoked.

(2) The registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed shall be cancelled where it has been found to be contrary to the provisions of this Law.

(3) Protection granted to an appellation of origin or a geographical indication shall be revoked where:

a) it becomes impossible to ensure compliance with the conditions of the specification for the product due to changes or disappearance of its inherent natural and/or human factors specific for the defined geographical area, referred to in Article 5;

b) it is no longer protected in its country of origin, in case it is located geographically in a third country;

c) it is no longer protected under the international treaties to which the Republic of Moldova is a party.

(4) The protection granted to an appellation of origin, a geographical indication or a traditional specialty guaranteed shall be revoked where the competent authority designated in accordance with Article 34 paragraph (1) identifies non-compliance between the real product characteristics and the respective requirements of the product specification where such noncompliance cannot be remedied in any way.

(5) The right to use an appellation of origin or a geographical indication shall terminate:

a) in the conditions referred to in paragraph (1);

b) in case of liquidation of the legal person or death of the natural person – holder of the respective right;

c) if the holder of the right to use waives such right in a written declaration, submitted to the competent authority designated in accordance with Article 34 paragraph (1) – from the date the waiver declaration was submitted.

d) based on the decision of the competent authority designated in accordance with Article 34 paragraph (1) where the authority finds non-compliance with the requirements of the product specification.

### **CHAPTER III**

## **REGISTRATION OF GEOGRAPHICAL INDICATIONS, APPELLATIONS OF ORIGIN AND TRADITIONAL SPECIALTIES GUARANTEED**

### **Article 14. Filing an Application for Registration**

(1) The application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed shall be filed with AGEPI by a group which is in compliance with the provisions of Article 9 paragraph (2).

(2) The application shall be filed on a standard form approved by AGEPI. The application and the documents attached thereto shall be filed in Romanian. In case the documents attached to the application are filed in a different language, their translation into Romanian shall be filed within 2 months from the filing date of the application.

(3) The application shall be filed in any way accepted by AGEPI, in conformity with the provisions of the Regulations.

### **Article 15. Representation**

(1) Natural or legal persons, which have their domicile or main office, or an effective and functional industrial or commercial establishment in the Republic of Moldova, shall act before AGEPI personally or through a representative empowered by a power of attorney.

(2) Natural or legal persons, who have neither their domicile, nor their main office, nor an effective and functional industrial or commercial establishment in the Republic of Moldova, shall be represented before AGEPI in any procedure established by this Law by an authorized attorney empowered by a power of attorney.

(3) The authorized attorneys shall act in conformity with the Regulation on their activity, approved by the Government.

### **Article 16. Conditions Which the Application for Registration Must Satisfy**

(1) The application for registration of an appellation of origin or a geographical indication shall contain :

- a) the name and the address of the applicant;
- b) the product specification provided for in Article 8 paragraph (2), approved by the decision of the competent authority;
- c) a single document that includes:

- the main elements of the specification: the name the registration of which is requested for, a description of the product, including, where appropriate, specific rules applicable to product packaging and labelling, and a a cocise definition of the geographical area;

- a description of the link between the product and the geographical environment or geographical origin referred to in Article 5 paragraph (1) or (2), as the case may be, including, where appropriate, the specific elements of the product description or production method justifying the link.

(2) The application for registration of a traditional specialty guaranteed shall contain:

a) the name and address of the applicant;

b) the product specification provided for in Article 8 paragraph (3), approved by the decision of the competent authority;

c) the names and addresses of the competent authorities or bodies verifying compliance with the provisions of the specification, and their specific tasks;

d) the documents proving the product's specific and traditional character.

(3) Where the application relates to a geographical area outside the Republic of Moldova, in addition to the elements provided for in paragraph (1) letter a) and c) or, where appropriate, in paragraph (2), it shall be accompanied by the proof of registration, in the country of origin, of this appellation of origin, geographical indication or traditional specialty guaranteed.

(4) The application referred to in in paragraph (1) or (2) shall be accompanied by the proof of payment of the application filing fee .

(5) The power of attorney shall be attached to the application filed through an authorized attorney or through another representative.

(6) The conditions for completing and filing an application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed, and the documents attached to the application, shall be laid down in the Regulations.

### **Article 17. Filing Date**

The filing date of an application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed shall be the date on which the applicant submits to the AGEPI an application in compliance with the provisions of Article 16 paragraph (1) or, where appropriate, paragraph (2) or (3), as well as paragraph (4).

## **Article 18. Withdrawal and Amendment of the Application**

(1) The applicant, at any time, prior to the date of adoption of the decision to register an appellation of origin, a geographical indication or a traditional specialty guaranteed, shall be entitled to request from AGEPI:

a) withdrawal of the application;

b) amendment, addition, clarification or correction of the application documents, provided that these actions do not involve amendments to the product specification.

(2) Additions and/or clarifications that substantially change the name requested for registration subject-matter shall not be allowed or taken into consideration, they may be the subject-matter of a new registration application.

(3) If an application has already been published, the data regarding its withdrawal, and the amendments made, shall be published in BOPI.

(4) The procedures referred to in paragraph (1) shall be subject to payment of the prescribed fees, except where they were requested within 1 month from the filing date.

(5) The requirements for completing, filing and examining the application for performing the actions specified in paragraph (1) shall be laid down in the Regulations.

## **Article 19. Procedure for the Examination of an Application**

(1) AGEPI shall examine whether the application filed in accordance with the provisions of Article 16 is justified and whether it meets the conditions of protection laid down in this Law. The examination should not exceed a period of 12 months.

(2) The examination procedure, specified in paragraph (1), shall include the examination of compliance with the application filing conditions and the substantive examination.

(3) During the application examination period, AGEPI shall have the right to request from the applicant some additions or clarifications to the application materials without which the examination cannot be carried out. In the case of notification to the applicant, the term between the date of notification and the date of receipt by AGEPI of the response to the notification shall not be taken into account when calculating the term provided for in paragraph 1.

(4) The materials requested in accordance with paragraph (3) shall be presented within 2 months from the date of receipt of the notification.

(5) If the applicant fails to present the requested materials within the time limit provided for in paragraph (4) or fails to file a request for extension of the said time limit, the application shall be considered withdrawn, such fact being notified to the applicant. The request for extension of

the time limit shall be accompanied by a document proving the payment of the established fees. The conditions for the extension of the time limits shall be laid down in the Regulations.

#### **Article 20. Examination for Compliance with the Application Filing Requirements**

- (1) Within 1 month after the date on which the application is filed, AGEPI shall examine it for compliance with the requirements of Article 17 to assign a filing date.
- (2) Following the examination carried out in accordance with paragraph (1), AGEPI shall:
  - a) assign a filing date, in accordance with Article 17, if it reveals that the application complies with the requirements for according a filing date;
  - b) notify the applicant on the identified irregularities and grant a two-month period, from the date on which the application was filed, for remedying them, if it reveals that the application does not comply with the requirements for according a filing date.
- (3) Following the notification specified in paragraph (2) letter b), AGEPI shall:
  - a) assign a filing date on the date on which all the irregularities have been remedied, if the applicant remedies the irregularities found within the prescribed period;
  - b) consider the application not have been filed, if the applicant fails to remedy the irregularities found within the prescribed period, such fact being notified to the applicant.
- (4) AGEPI shall enter the data related to the application to which the filing date has been assigned in the National Register of the Applications for Registration of Appellations of origin, in the National Register of Applications for Registration of Geographical Indications or, where appropriate, in the National Register of Applications for Registration of Traditional Specialties Guaranteed.
- (5) Within one month of the date of entry of data related to the application in the register, AGEPI shall examine:
  - a) whether the applicant complies with the requirements provided for in Article 9 paragraph (2) and the Regulations;
  - b) whether the specifications complies with the provisions of Article 8 and the Regulations;
  - c) whether the documents attached to the application are in conformity with the provisions of the Law and the Regulations;
  - d) whether the fees for the actions provided for by the Law are paid in due amounts and  
within the prescribed time limits.

(6) Following the examination carried out in conformity with paragraph (5), AGEPI shall:

a) accept an application for publication, if it establishes that the application complies with the requirements provided for in paragraph (5);

b) notify the applicant of the irregularities found and ask him to remedy them within a period of 2 months from the date of notification, if it is found that the application does not meet the requirements stipulated in paragraph (5).

(7) If, following the notification according to paragraph (6) letter b), the applicant does not remedy the irregularities found within the prescribed period, the application shall be considered withdrawn, such fact being notified to the applicant.

### **Article 21. Publication of the Application**

Where the requirements provided for in Article 20 paragraph (6) letter (a) are satisfied, the application data shall be published in BOPI. The application elements to be published shall be laid down in the Regulations.

### **Article 22. Opposition**

(1) Within three months from the date of publication of the application, any person having a legitimate interest is entitled to formulate an opposition against the registration.

(2) The reasoned opposition shall be submitted in writing to the AGEPI, being accompanied by the proof of payment of the prescribed fees. If the fee is not paid within the prescribed time-limit, the opposition shall be deemed not to have been formulated. The person having formulated the opposition may, within one month from the filing date thereof, present additional evidence and arguments in support of the opposition.

(3) The opposition shall be admissible to examination only if it is received by AGEPI within the time-limit set in paragraph (1).

(4) Opposition against the registration of an appellation of origin or a geographical indication shall be admissible only if it:

a) shows non-compliance with the conditions referred to in Article 5 paragraph (1) or (2), as the case may be; or

b) shows that the name proposed for registration would be contrary to the provisions of Article 7 paragraph (1) letter d) or Article 7 paragraph (2) or (3); or

c) shows that the registration of the name proposed would jeopardise the existence of an entirely or partly homonymous name or of a trademark of goods or services or the existence of products which have been legally on the market for at least 5 years preceding the date of the publication provided for in Article 21; or

d) presents evidence from which it can be concluded that the name requested for registration is generic within the meaning of Article 7 paragraph (6).

(5) The opposition against the registration of a traditional specialty guaranteed shall be admissible only if it shows:

a) non-compliance with the conditions referred to in Article 6; or

b) that the name requested for registration will be contrary to the provisions of Article 7 paragraphs (4) and (5); or

c) that use of the name requested for registration is lawful, renowned and economically significant for similar agricultural products or foodstuffs.

### **Article 23. Substantive Examination**

(1) During the substantive examination AGEPI shall examine:

a) whether no grounds for refusal exist pursuant to Article 7;

b) oppositions submitted according to Article 22.

(2) Depending on the findings of the substantive examination, AGEPI shall adopt the decision of registration, as appropriate, of the appellation of origin, geographical indication or traditional specialty guaranteed or reject the application. The decision shall be notified to the applicant within one month from the date of adoption.

(3) The procedure of substantive examination shall be subject to payment of the prescribed fees.

### **Article 24. Examination of Opposition**

(1) If the opposition is admissible within the meaning of Article 22 paragraph (3), AGEPI shall notify such fact to the applicant, who, within 2 months from the date of notification, will be able to express his point of view, and shall invite the interested parties to engage in consultations to reach an agreement.

(2) If the opponent and the applicant reach an agreement, such fact shall be communicated to AGEPI, accompanied by opinions of the both parties. If the said agreement does not result in any amendment of the data published according to Article 21, or the amendments made are insignificant, AGEPI shall take into consideration the reached agreement and shall carry out the procedures provided for in Article 26. Otherwise, AGEPI shall proceed to a new examination according to the procedures established in Article 19.

(3) If the parties have not reached an agreement, AGEPI shall examine the opposition in accordance with paragraphs (4)-(7) and take a decision taking into account local and traditional usage and the actual risk of confusion.

(4) AGEPI shall examine the admissibility of the opposition and evaluate the arguments of the parties. The criteria referred to in Article 22 paragraph (4) letter b) - d) or, as appropriate, in paragraph (5), shall be evaluated in relation to the territory of the Republic of Moldova, and in case of intellectual property rights - in relation to the rights protected on the territory of the Republic of Moldova.

(5) Upon the applicant's request, the owner of a prior trademark who has formulated an opposition must provide evidence that during 5 years prior to the publication of the application pursuant to Article 21, the prior trademark forming the basis for the objection has been actually used in the Republic of Moldova in respect of the products and/or services for which it was registered, or there have been valid grounds for its non-use, provided that at the respective date the trademark is registered for at least 5 years. The opposition shall be rejected in the absence of such evidence.

(6) The examination of the opposition may be suspended at the reasoned request of a party for a period not exceeding 6 months .

(7) If the examination finds the opposition admissible, AGEPI shall reject the application for registration, on the contrary, the opposition shall be rejected, such fact being communicated to the parties.

#### **Article 25. Rejection of the Application**

(1) AGEPI shall take a decision to reject an application for registration where:

a) the examination according to Articles 23 of this Law reveals that the name for which registration is requested does not comply with the requirements provided for in this Law for its registration as an appellation of origin or a geographical indication, as the case may be, or the product for which registration is requested does not comply with the requirements provided for in this Law for its registration as a traditional specialty guaranteed;

b) the opposition against the registration has been admitted.

(2) If the name requested for registration as an appellation of origin or a geographical indication contains one or more generic terms, and the inclusion of these elements in the name is likely to be misleading as to the scope of its protection, AGEPI shall request, as a pre-requisite for registration, that the applicant declare his agreement not to claim any exclusive rights to such elements. This declaration shall be published together with the application to register the respective name or, as the case may be, together with the data regarding its registration.

(3) Where an application is rejected because the name applied for registration as an appellation of origin or geographical indication is generic, AGEPI shall publish the respective information in BOPI.

(4) The decision to reject the application may be taken only after the applicant is given the possibility to withdraw or amend the application in question or to express his opinion regarding the reasons for refusal.

### **Article 26. Registration of an Appellation of Origin, a Geographical Indication or a Traditional Specialty Guaranteed**

(1) If the examination of the application pursuant to Articles 20 and 23 reveals that the conditions are satisfied for the registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed, and if no oppositions or appeals are submitted against its registration or the received oppositions or appeals are deemed not admissible, AGEPI shall decide to register:

- a) an appellation of origin – in the National Register of Protected Appellations of Origin;
- b) a geographical indication – in the National Register of Protected Geographical Indications;
- c) a traditional specialty guaranteed - in the National Register of Traditional Specialties Guaranteed.

(2) Within 3 months from the date of adopting the decision to register, AGEPI shall issue the applicant, on request and free of charge, the certificate for the right to use the protected appellation of origin or the protected geographical indication.

(3) The data relating to the registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed as well as data relating to the holders of the right to use the protected appellation of origin or the protected geographical indication shall be published in BOPI.

### **Article 27. Registers**

(1) AGEPI shall keep the National Register of Applications for Registration of Geographical Indications, the National Register of Applications for Registration of Appellations of origin, the National Register of Applications for Registration of Traditional Specialties Guaranteed, the National Register of Protected Appellations of Origin, the National Register of Protected Geographical Indications and the National Register of Traditional Specialties Guaranteed. The data whose registration is provided by this Law and the Regulations shall be entered in the registers. Any entries or amendments made in the registers shall be published in BOPI.

(2) The registers referred to in paragraph (1) shall be available for public consultations.

(3) AGEPI may issue extracts from the above registers upon request and subject to payment of the prescribed fees.

## **Article 28. Official Bulletin of Intellectual Property**

The Official Bulletin of Intellectual Property is the official periodical publication, published by AGEPI, in which the following is published:

- a) the data on the industrial property objects entered in the National Registers, including the data on appellations of origin, geographical indications and traditional specialties guaranteed, as well as other information thereon, which are subject to publication under this Law or other normative acts in the field;
- b) national and international normative acts, communications and information of general character as well as any other information pertaining to industrial property.

## **CHAPTER IV**

### **APPEALS, CONFLICTS WITH OTHER RIGHTS. CONTROL**

#### **Article 29. Appeals against Decisions on Applications for Registration of Appellations of Origin, Geographical Indications and Traditional Specialties Guaranteed**

(1) Any decision on applications for registration of appellations of origin, geographical indications or traditional specialties guaranteed may be subject of appeals filed by the parties within 2 months from the date of its receipt or by the third parties, who have information related to the respective registration, within the period between the date of issuance of the decision and the date of registration thereof. The appeal shall have a suspending effect.

(2) Appeals shall be filed with AGEPI and examined by the Appeals Board according to its Regulations approved by the Government.

(3) Appeals shall be filed in writing and duly reasoned; they shall be deemed filed only upon payment of the prescribed fees.

(4) The Appeals Board shall take decisions and ordinances, within its powers.

#### **Article 30. Examination of Appeals**

(1) During the examination of an appeal, the Appeals Board shall invite the parties to submit their observations regarding the communications filed by the other parties. If, during the examination of the appeal, divergences of a normative nature appear, the rules of the Code of Civil Procedure shall apply.

(2) Following examination of the appeal, the Appeals Board shall take one of the following decisions:

a) to maintain the effectiveness of the appealed decision;

b) to cancel the appealed decision in full or in part.

(3) The decision of the Appeals Board shall enter into force on the date of adoption.

(4) The decision of the Appeals Board shall be communicated to the parties and may be appealed in the court in whose jurisdiction the AGEPI headquarters are located within the terms provided by law.

### **Article 31. Use of Homonymous Names**

The use of homonymous registered geographical indications or appellations of origin shall be authorized only if the homonymous name registered subsequently is sufficiently distinct from the prior registered one, having regard to the need to treat the producers concerned in an equitable manner and not to mislead the consumer.

### **Article 32. Relations between Appellations of Origin, Geographical Indications and Trademarks**

(1) Where an appellation of origin or a geographical indication is protected under this Law, the application for registration of a trademark corresponding to one of the situations referred to in Article 11 of this Law and relating to the same category of product shall be refused if the application for registration of the trademark is submitted after the date of beginning the protection of an appellation of origin or a geographical indication.

(2) Trademarks registered in breach of the provisions of paragraph (1) shall be cancelled.

(3) A trademark the use of which corresponds to one of the situations referred to in Article 11, which has been applied for or registered in good faith before the date of beginning the protection of the appellation of origin or geographical indication, as the case may be, may continue to be used notwithstanding the registration of the appellation of origin or geographical indication, provided that no grounds for its cancellation or revocation of the applicant's rights exist, in conformity with the applicable trademark Law. In such a case the appellation of origin or the geographical indication may be used concomitantly with the respective trademark.

### **Article 33. Official Controls**

(1) The Government shall, in accordance with the legislation in force, designate the competent authorities responsible for official controls for the purposes of verifying compliance with specifications of products with a protected appellation of origin, with a protected geographical indication and of traditional specialties guaranteed.

(1<sup>1</sup>) For the purposes of this Law, the official control shall cover:

- a) verification of a product`s compliance with the corresponding product specification;
- b) surveillance of the use of registered names to describe products placed on the market in conformity with Article 11 – in the case of appellations of origin and geographical indications and in conformity with Article 12 – in the case of traditional specialties guaranteed.

(2) Any producer complying with this Law is entitled to be covered by a system of official controls.

(3) AGEPI shall publish in BOPI and update periodically the names and addresses of the authorities and bodies referred to in paragraph (1) of this Article and in Article 34.

#### **Article 34. Verification of Compliance with Specifications**

(1) The Government shall designate, for different product categories, competent authorities empowered with and responsible for approval of specifications, completion of general principles, approval of control phases and procedures as to ensure compliance with specifications in accordance with the provisions of this law.

(2) Verification of compliance with the product specification in respect of appellations of origin and geographical indications relating to a defined geographical area within the territory of the Republic of Moldova, and in respect of traditional specialties guaranteed produced on the territory of the Republic of Moldova shall be ensured by the competent authority designated in accordance with Article 33 paragraph (1).

(3) Verification of compliance with the product specification in respect of appellations of origin and geographical indications relating to a defined geographical area outside the territory of the Republic of Moldova, and in respect of traditional specialties guaranteed produced outside the territory of the Republic of Moldova shall be ensured by the authority designated by the country of origin.

(4) The costs of verification of compliance with the specifications shall be borne by the producers subject to that control.

#### **Article 35. Names, Indications and Symbols**

(1) An appellation of origin or geographical indication protected under this Law may be used only by the possessors of the right to use them.

(2) The products originating in the Republic of Moldova, marketed under a name protected under this Law, may be marked with the indications “protected appellation of origin” or “protected geographical indication” and/or the national symbols associated with them, approved by the Government.

(3) The products originating in third countries and marketed under a name protected under this Law may also be marked with the indications referred to in paragraph (2).

(4) Only producers complying with the product specification may refer to a traditional specialty guaranteed on the labelling, advertising or other documents relating to an agricultural product or foodstuff.

(5) Where reference is made to a traditional specialty guaranteed on the labelling of an agricultural product or foodstuff produced in the Republic of Moldova, the name of the product shall be accompanied by the indication “Traditional specialty guaranteed” and/or the national symbols associated with it, approved by the Government.

(6) The indication referred to in paragraph (5) shall be optional for traditional specialties guaranteed which are produced outside the territory of the Republic of Moldova.

### **Article 36. Detailed Rules on the Use of Names of Traditional Specialties Guaranteed**

(1) From the date of publication of the information on registration of a traditional specialty guaranteed, a name entered in the National Register of Traditional Specialties Guaranteed may be used only to identify the agricultural product or foodstuff corresponding to the product specification as a traditional specialty guaranteed in accordance with the provisions laid down in Article 35 paragraphs (4), (5) and (6).

(3) In the case of names of traditional specialties guaranteed whose registration is sought in a single language, the applicant group may specify in the product specification that, when the product is marketed, the label may contain, in addition to the name of the product in the original language, an indication in other languages that the product has been obtained in accordance with the tradition of the region or third country from which the application originated.

### **Article 37. Amendment to a Product Specification**

(1) A group satisfying the conditions of Article 9 paragraph (2) and having a legitimate interest may apply for entry of amendments in the product specification and, where appropriate, in the single document referred to in Article 16 paragraph (1) letter c), in respect of an appellation of origin, a geographical indication and a traditional specialty guaranteed, as appropriate. The application shall include a description of the amendments requested and the justification therefore.

(2) The amendment application shall, according to paragraph (1) of this Article, be accompanied by:

a) the decision of the competent authority designated in accordance with Article 34 paragraph (1) on approval of amendments where the defined geographical area is in the territory of the Republic of Moldova;

b) the proof of making the amendments concerned in the country of origin, where the defined geographical area is outside the territory of the Republic of Moldova.

(3) Where the amendment to the product specification requested according to paragraph (1) involves one or more amendments that are not minor, the amendment application shall be subject to examination and publication and shall be open to opposition procedures.

(4) The amendment applications submitted by domestic applicants in the wine sector and the oppositions relating to these applications shall be submitted by a group within the meaning of Article 9 paragraph (2), or by the opposing party, as appropriate, to the Ministry of Agriculture, Regional Development and Environment and shall be examined pursuant to the procedure approved by the latter. In the case of approval of the amendments requested, the referred authority shall, within 5 working days from the date of approval thereof, submit to the AGEPI the information concerned for publication in BOPI and entry in the registers referred to in paragraph (12) of this Article.

[Art. 37 paragraph (4) amended by PL79 of 24.05.18, OG195-209/15.06.18 Art. 338]

(5) Where the amendments, the registration of which is requested in accordance with paragraph (1) are minor ones, the registration thereof shall be made without recourse to the procedures referred to in paragraph (3).

(6) An amendment shall be deemed minor, in the case of protected appellations of origin and protected geographical indications, if it does not:

- a) relate to the essential characteristics of the product;
- b) alter the link referred to in Article 8 paragraph (2) letter f);
- c) include a change to the name or to any part of the product name;
- d) affect the defined geographical area; or
- e) generate further restrictions on the marketing of the product or of the raw materials.

(7) An amendment shall be deemed minor, in the case of traditional specialties guaranteed, if it does not:

- a) relate to the essential characteristics of the product;
- b) introduce essential changes to the production method; or
- c) include a change to the name, or to any part of the product name.

(8) Where entry of amendments to a traditional specialty guaranteed is requested, besides the oppositions referred to in Article 22 paragraph (5), the oppositions showing an economic interest in the production of traditional specialties guaranteed shall also be admissible.

(9) The oppositions submitted against entry of amendments in the product specification shall be subject *mutatis mutandis* to the examination procedures referred to in Article 24. AGEPI shall notify the competent authority designated in accordance with Article 34 paragraph (1) on the submitted opposition, which shall, within 2 months from the date of notification, express its views.

(10) If, following the adoption by public administration authorities of mandatory sanitary or phytosanitary measures, entry of certain temporary amendments to the product specification is requested, the amendment application shall be accompanied by appropriate supporting documentation, and the information relating to their registration shall be published without being subjected to opposition proceedings.

(11) The amendment application referred to in paragraph (1) or in paragraph (10), where appropriate, shall be filed with AGEPI. The conditions for drawing up, submission and examination of the amendment application shall be set out in the Regulations.

(12) If, following the examination of the amendment application, it is established that all requirements provided for in this Law and Regulations are fulfilled and if no opposition was filed against amendment registration or the oppositions filed have been rejected, AGEPI shall entry all amendments made and a justification thereof in the National Register of protected appellations of origin, the National Register of protected geographical indications or the National Register of traditional specialties guaranteed, where appropriate, and shall publish that information in BOPI.

### **Article 38. Interdiction on the Use of an Appellation of Origin, a Geographical Indication or of the Name of a Traditional Specialty Guaranteed**

(1) Any natural or legal person who claims that:

- an appellation of origin,
- a geographical indication, or
- a name of a traditional specialty guaranteed, reserved under Article 36 paragraph

(2), protected under this Law, is used in direct or indirect prejudice of his/her interests and in violation of his/her rights in respect of a natural or processed product, having a different origin, or, as the case may be, lacking the respective specificity, shall be entitled to request an interdiction on the use of that designation, or indication, or name.

(2) Unions and associations for the protection of consumers' rights, which are activating for at least 6 months earlier, shall be entitled to proceed in conformity with paragraph (1) in respect of the rights which they are willing to protect.

(3) The application seeking interdiction on the use of a protected appellation of origin, or a protected geographical indication, or a name of a traditional specialty guaranteed, reserved under Article 36 paragraph (2), shall be submitted to the Chisinau Court of Appeals.

**Article 39. Cancellation of the Registration or Revocation of the Protection or of the Right to Use**

(1) If, following the controls performed according to Articles 33 or 34 , it is revealed that compliance with the conditions of the specification for a product covered by an appellation of origin or a geographical indication or for a traditional speciality guaranteed, registered under this Law, is no longer ensured the competent authority shall initiate the procedure for the cancellation of the registration or, where appropriate, decide to revoke the right to use the respective name. The decision of the competent authority to revoke the right to use may be appealed in the court within the period prescribed by the Administrative Litigation Law No. 793-XIV of 10 February 2000.

(2) Any natural or legal person having a legitimate interest may request cancellation of the registration or revocation of the protection of an appellation of origin, a geographical indication or a traditional specialty guaranteed or, as the case may be, of the right to use the appellation of origin or geographical indication.

(3) The provisions of paragraph (2) shall apply *mutatis mutandis* to unions and associations for the protection of consumer or producer rights, working for at least 6 months, in respect of the rights which they are willing to protect.

(4) A request for cancellation of the registration or for revocation of the protection of an appellation of origin, a geographical indication or a traditional speciality guaranteed or, as the case may be, the right to use the appellation of origin or geographical indication, shall, under the provisions of paragraph (2), be filed with the court in whose jurisdiction AGEPI headquarters are located;

(5) The competent authorities designated in accordance with Article 34 paragraph (1) shall notify the AGEPI of the information on the revocation of protection or the revocation of the right to use the protected appellation of origin or the protected geographical indication within 5 working days after the final decision.

**CHAPTER V**

**INTERNATIONAL REGISTRATION OF APPELLATIONS OF ORIGIN**

**Article 40. General Provisions**

The provisions of this Law shall apply *mutatis mutandis* to international registrations of appellations of origin pursuant to the Lisbon Agreement, for which the Republic of Moldova is a

country of origin or which cover the Republic of Moldova, excepting the cases where the above Agreement provides otherwise.

#### **Article 41. International Application**

(1) An international application pursuant to Article 5 of the Lisbon Agreement for an appellation of origin entered in the National Register of Protected Appellations of Origin, for which the Republic of Moldova is a country of origin, shall be filed with the International Bureau via AGEPI.

(2) An international application pursuant to paragraph (1) may be filed by any natural and/or legal person who has the right to use the respective appellation of origin.

(3) An international application should be drawn up in conformity with the Common Regulations under the Lisbon Agreement.

#### **Article 42. Effects of International Registration of an Appellation of Origin, having the Republic of Moldova as the Country of Origin**

(1) The international registration performed by the International Bureau of an appellation of origin, for which Moldova is a country of origin, shall ensure, without renewal, its protection in the member-states of the Lisbon Agreement, which have not made a declaration of refusal or which have withdrawn such declaration subsequently, for the entire duration of protection granted to the respective designation in the Republic of Moldova.

(2) The international protection for the appellation of origin referred to in paragraph (1) shall expire if the respective designation is no longer protected on the territory of the Republic of Moldova.

#### **Article 43. Fees for the International Application**

(1) Filing an international application shall involve payment of the following fees:

a) at AGEPI - for receipt, verification, examination and transfer of the application to the International Bureau;

b) at the International Bureau – for registration of the appellation of origin pursuant to Article 7 of the Lisbon Agreement.

(2) The fees referred to in paragraph (1) letter b) may be paid directly or transferred to the International Bureau via AGEPI.

(3) The international application shall be deemed not to have been filed if the respective fees are not paid.

#### **Article 44. Procedure for Verification of an International Application with AGEPI**

(1) AGEPI, within one month from the receiving date, shall examine and verify the documents contained in the international application for compliance with the provisions of Article 41 paragraph (3) and conformity of the application data with the data entered in the National Register of Protected Appellations of Origin.

(2) Where the application meets the requirements of this Law and the Common Regulations under the Lisbon Agreement, AGEPI shall sign and send a copy thereof to the International Bureau, with a copy to the applicant as confirmation of filing.

(3) The date of the international registration shall be the date on which the application, including all the elements referred to in the Common Regulations under the Lisbon Agreement, was received by the International Bureau.

(4) If following verification conducted in accordance with paragraph (1), errors or irregularities are identified, AGEPI shall notify the applicant and invite him/her to remedy them within a reasonable period of time, with due account of the provisions of paragraph (3).

#### **Article 45. Procedure of Examination of an International Registration Notified by the International Bureau**

(1) Any international registration notified by the International Bureau shall be subject to the opposition procedure, according to Article 22, and the substantive examination, according to Article 23, under the same conditions as the application filed directly with AGEPI.

(2) Where the international registration subject to examination according to paragraph (1) does not satisfy the conditions for protection provided for by this Law or where an opposition has been formulated against such registration, AGEPI shall issue a declaration of refusal, which is notified to the International Bureau.

(3) The period of time for the communication of a declaration of refusal shall not exceed one year from the date on which AGEPI receives the notification of the International Bureau regarding the international registration in question.

(4) Any procedure provided for by the Law, subsequent to the declaration of refusal referred to in paragraph (2), shall take place directly between AGEPI and the applicant represented by a patent attorney.

(5) AGEPI, following the prescribed procedures, shall notify the International Bureau of the total or partial withdrawal of the declaration of refusal and of all final decisions taken by the court on the revocation of protection or cancellation of the international registration.

(6) Where the examination according to paragraph (1) finds that the appellation of origin has already been used by third parties on the territory of the Republic of Moldova prior to the date of notification, AGEPI shall grant such third parties a period not exceeding 2 years to terminate such use and notify accordingly the International Bureau within 3 months following the expiration of the period provided for in paragraph (3).

#### **Article 46. Effects of International Registration**

(1) Any international registration of an appellation of origin notified by the International Bureau shall have the same effects as an application filed directly with AGEPI, starting on the date of the international registration.

(2) Where AGEPI does not notify the International Bureau of any declaration of refusal in accordance with Article 45 paragraph (2), or if the declaration of refusal was later withdrawn in whole or in part, the protection, in the Republic of Moldova, of the appellation of origin corresponding to the international registration in question, starting with the date referred to in paragraph (1) of this article, shall be the same as if this denomination has been registered directly with AGEPI.

(3) In the event that the declaration of refusal specified in Article 45 paragraph (2) was not later withdrawn, it shall be considered that in the Republic of Moldova the respective international registration did not produce the effects referred to in paragraphs (1) and (2) of this article .

(4) An appellation of origin which complies with the provisions of paragraph (2) may not become generic as long as it is protected as an appellation of origin in the country of origin.

## **CHAPTER VI**

### **ENFORCEMENT OF RIGHTS**

#### **Article 47. An Action for Infringement of Rights**

(1) Any natural or legal person, other interested entities, whose right has been infringed by the illegal use of a protected geographical indication, a protected appellation of origin, or a right relating to a traditional speciality guaranteed, causing direct or indirect damage, shall be entitled to initiate an action in court, in the manner established by Law, in order to protect its legitimate rights and interests.

(2) The following persons shall be entitled to bring an action for infringement of rights conferred under Articles 11 or 12:

a) the holder of the right to use a protected geographical indication, a protected appellation of origin, or a right relating to a traditional speciality guaranteed;

b) other natural or legal persons or entities entitled to represent the holder of the right to use or organizations established specially for that purpose, provided that the latter have been active for at least 6 months.

(3) In the proceeding of a case related to an infringement of the right to use, the defendant may be entitled to contest the right to use which has generated the conflict, requesting cancellation or revocation of that right;

(4) The examination of the action shall be suspended until the final resolution of the issue regarding the validity of the right to use.

#### **Article 48. An Action for the Statement of Non-Infringement of Rights**

(1) Any person believing that a procedure for the infringement of a right to a protected geographical indication or a protected appellation of origin could be initiated against him, may, prior to the initiation of such a procedure, request the adoption of a court decision by which to establish that his product does not infringe the protected denomination. During the examination of the application, the court may involve any interested party in the proceedings, including the holder of the right to use.

(2) If, according to paragraph (1), the court has adopted a final non-infringement decision an action for infringement of a right relating to a protected geographical indication or a protected appellation of origin can no longer be initiated against the same person in respect of the same product.

(3) Court costs and other expenses related to the legal proceedings, including the expenses incurred by the holder of the right to use a protected geographical indication or a protected appellation of origin, must be born by the person initiating the action regarding the statement of non-infringement.

(4) The court examining an action regarding the statement of non-infringement shall determine the amount of expenses incurred by the holder of the right to use the protected geographical indication or the protected appellation of origin, which must be paid by the person who has initiated the action regarding the statement of non-infringement.

#### **Article 49. Measures for Preserving Evidence Prior to Court Actions**

(1) Any entitled person who has presented sufficient evidence to support his claims that his rights are infringed may request the court or another competent authority, prior to the initiation of the proceedings against the illegal actions, to apply prompt and provisional measures for providing the relevant evidence, subject to the protection of confidential

information and on the condition of depositing a security or an adequate equivalent guarantee, necessary to repair the damage which might be caused to the defendant in the event that the presence of an infringement will not found.

(2) In order to take measures to preserve the evidence, the court shall be entitled:

- a) to request a detailed description of the products covered by the litigation with or without the taking of samples;
- b) to order the seizure of the products covered by the litigation;
- c) to order the seizure of the materials and implements used in the production and/or distribution of the products covered by the litigation and the documents relating thereto.

(3) The procedure for applying the measures to preserve the evidence provided for in this Article and in Article 50 shall be used by the court in accordance with the respective provisions of the Civil Procedure Code. The measures to preserve the evidence shall be taken with the participation of a court bailiff and, if applicable, a representative of the competent authority designated in accordance with Article 33 paragraph (1), who may be assisted by a police officer.

#### **Article 50. Urgent Measures for Preserving Evidence**

(1) Measures to preserve evidence may be established without the defendant having been heard, where any delay may be likely to cause irreparable harm to the rightholder or where there is a risk of evidence being destroyed. The court decision shall be communicated promptly to the affected party.

(2) The decision to preserve the evidence may be challenged in court.

(3) The court shall apply the measures to preserve the evidence provided that the plaintiff submits adequate security or an equivalent assurance, intended to ensure the compensation of the damages suffered by the defendant according to Article 51 paragraph (2).

#### **Article 51. Cancellation of Measures for Preserving Evidence**

(1) The measures for preserving evidence shall be null and void:

- a) if the applicant does not initiate, within 20 working days or 31 calendar days from the date of the issuance of the conclusion on the measures for preserving evidence, an action in the court on infringement of rights;
- b) as a result of any damaging actions or inaction of the applicant;
- c) if no infringement or attempted infringement of rights is found to exist;
- d) in other cases provided for in the applicable Law.

(2) Where measures to preserve evidence have caused prejudice and were declared null and void, the applicant will pay an appropriate compensation to the defendant.

## **Article 52. Presentation and Preservation of Evidence in the Proceedings on the Infringement of Rights**

(1) Where a party provides evidence that its claims are founded and information that certain evidence is in the possession of the opposing party, the court shall order that such evidence be presented in a sufficient and reasonable amount, provided the protection of confidential information is ensured. Where the infringement of rights is committed on a commercial scale, the court may additionally order the parties to present banking, financial or commercial documents.

(2) Where a party to the proceedings refuses unreasonably to provide access to the necessary information or delays its presentation in bad faith, which prevents the settlement of the dispute, the court shall decide on the acceptability or rejection of the action based on the available information, including the complaint or claim submitted by the injured party by preventing access to the information, provided that the parties are given the opportunity to be heard on the claims or their evidence components.

## **Article 53. Right to Information**

(1) Where it is found during the examination of a dispute that the rights arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed are infringed, the court may request that information on the origin and distribution networks of the goods or services which infringe those rights be provided by the defendant and/or any other person who:

- a) was found in possession of counterfeit goods intended for marketing;
- b) was found to be using, for commercial purposes, the services with counterfeit goods;
- c) was found to be providing, for commercial purposes, services used in counterfeiting activities; or
- d) was indicated by any person referred to in letters a), b) or c) as being involved in the actions of production, manufacture or distribution of the goods or provision of the services.

(2) The information referred to in paragraph (1) shall, as appropriate, comprise:

- a) the names and addresses of the producers, distributors, suppliers and other previous holders of such goods or services, as well as their presumable wholesalers and retailers;
- b) information on the quantities produced, delivered, received or ordered as well as the prices for the respective goods or services.

(3) The provisions of paragraph (1) and (2) shall apply without prejudice to other legal provisions which:

- a) entitle the rightholder to receive more detailed information;
- b) govern the use in civil or criminal proceedings of the information provided pursuant to this Article;
- c) establish responsibility for misuse of the right of information;
- d) afford an opportunity for refusing to provide information which would compel the person referred to in paragraph (1) to recognize his/her own participation or the participation of his/her close relatives in an infringement of the right arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed; or
- e) govern the protection of confidentiality of information sources or the processing of personal data.

#### **Article 54. Measures Providing for Injunction Order on Infringement of Rights**

(1) Where the court has established the fact or imminence of the infringement of the rights arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed, it may, upon request of the rightholder, order the taking of measures to bring an action for infringement of rights against the defendant and/or intermediaries, such as:

(a) to issue, on a provisional basis, an interlocutory injunction intended to prevent any actions constituting an infringement of rights or to allow the continuation of the actions subject to the lodging of guarantees sufficient to ensure the compensation of the rightholder;

b) to order the seizure of the goods suspected of infringing the rights so as to prevent their entry into the channels of commerce;

c) to order the precautionary seizure of any property of the defendant, including the blocking of his/her bank accounts, the presentation of bank, financial or commercial documents, if the infringement was committed on a commercial scale and there is a risk of non-recovery of damages.

(2) The court may order the measures provided for in paragraph (1) of this Article without the defendant having been heard. The provisions of Article 50 shall apply *mutatis mutandis* in that case.

#### **Article 55. Corrective Measures**

(1) Having established that an infringement of rights has taken place, the court may order, at the request of the applicant, that appropriate measures be taken with regard to goods that have been found to be infringing a right arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed, or, where appropriate, with regard to

materials and implements used in the creation and manufacture of those goods. Such measures shall include, in particular:

- (a) recall from the channels of commerce;
- (b) definitive removal from the channels of commerce; or
- (c) destruction.

(2) The measures referred to in paragraph (1) shall be carried out at the expense of the defendant, unless particular reasons are invoked for not doing so.

(3) In considering a request for the application of corrective measures, the court shall be guided by the principle of equity, taking into account the seriousness of the infringement, the remedies ordered, as well as the interests of third parties.

#### **Article 56. Enforcement of Court Decision**

Where a court decision is taken finding an infringement of the rights arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed, the court may, at the request of the rightholder, take measures to enforce the court decision against the defendant, forcing the latter to terminate any activities found to infringe the holder's rights. For this purpose, the court may require the submission by the defendant of adequate security or an equivalent assurance. The rightholder may also request the ordering of these measures against intermediaries whose services are used by a third party to infringe the rights arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed.

#### **Article 57. Alternative Measures**

Where the defendant has acted unintentionally or by imprudence, the court may order, at the request of the interested party, pecuniary compensation to be paid instead of applying the measures provided for in this chapter, if the application of the measures in question would cause him/her disproportionate harm and if pecuniary compensation to the plaintiff appears reasonably satisfactory.

#### **Article 58. Damages**

(1) At the request of the injured party, the defender who knowingly, or with reasonable grounds to know, infringed the rights arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed shall be ordered to pay the rightholder damages appropriate to the actual prejudice suffered by him/her as a result of the infringement of his rights. When evaluating the damages, due account shall be taken of all appropriate aspects, such as the negative economic consequences, including lost profits which the injured party has

suffered, any unfair profits made by the defendant and, in appropriate cases, other aspects, such as the moral prejudice caused to the rightholder by the infringement of his rights.

(2) Where the defendant has committed the infringement unknowingly or is reasonably believed to be unaware of the infringement, he shall be obliged to reimburse the lost profits or the damage which the rightholder has suffered evaluated according to the applicable Law.

#### **Article 59. Publication of Court Decisions**

(1) In a proceeding instituted for infringement of the rights arising from a protected geographical indication, a protected appellation of origin or a traditional specialty guaranteed, the competent court may order, at the request of the applicant and at the expense of the infringer of the right, appropriate measures for the purpose of disseminating information concerning the court decision, including its display, and publishing the decision in full or in part .

(2) The competent court will be able to order additional publicity measures which are appropriate to the special circumstances, including large-scale advertising.

(3) The court will sent a copy of the final court decision to AGEPI.

## **CHAPTER VII COMMON PROVISIONS**

#### **Article 60. Competence in Settling Disputes**

(1) Disputes arising from the application of this Law shall be settled by the AGEPI Appeals Board, the court in whose jurisdiction AGEPI headquarters are located or a specialized arbitration.

(2) The AGEPI Appeals Board shall settle disputes regarding appeals of against decisions issued by AGEPI subdivisions.

(3) The court in whose jurisdiction AGEPI is headquartered shall settle disputes concerning:

a) grant of the rights to use the protected appellation of origin or the protected geographical indication;

b) infringement of the rights granted by the registration of the appellation of origin, geographical indication or traditional specialty guaranteed;

c) actions to protect the right to use the protected appellation of origin or the protected geographical indication;

- d) cancellation of the registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed;
- e) revocation of the protection of an appellation of origin, a geographical indication or a traditional specialty guaranteed;
- f) revocation of the right to use the protected appellation of origin or the protected geographical indication;
- g) actions related to the declaration of non-infringement of rights;
- h) measures to preserve evidence prior to the initiation of a court action;
- i) preventive and provisional measures provided for in Article 56;
- j) examination of appeals lodged against the decisions of the AGEPI Appeals Board;

(4) The specialized arbitration shall examine litigations arising both in contractual or non-contractual relationships, related to industrial property, namely regarding:

- a) acquisition of the right to use the protected appellation of origin or the protected geographical indication;
- b) grant and use of the rights granted by registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed;
- c) violation of the right to use the protected appellation of origin or the protected geographical indication;
- d) other litigations not related to the activity of public authorities.

#### **Article 61. Fees**

(1) Submission and examination of an application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed; submission of an opposition or appeal; registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed; as well as other actions of legal significance, related to the application examination procedures and legal protection of an appellation of origin, a geographical indication and a traditional specialty guaranteed, shall be subject to payment of fees.

(2) The actions for which a fee is charged and the amount thereof shall be approved by the Government.

(3) The fees shall be paid by the applicant, the holder of the right to use or any other duly authorized legal or natural persons.

(4) The paid fees, except for the fee for the filing of an application for registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed, shall be

reimbursed to the payer, at the request thereof, in case the procedures for which they were paid have not started.

(5) The fee paid in the amount below the prescribed rate shall be taken into account upon payment of the difference, and the procedure shall start upon payment of the fee in full.

(6) The fee for the registration of an appellation of origin, a geographical indication or a traditional specialty guaranteed that has not been paid within the prescribed time-limit may be paid later, within six months from the omitted time-limit, with a 50% increase.

(7) Where urgent execution of the procedures is requested, the fee shall increase by 100%, and the term for the execution of the respective actions shall be reduced by 2 times.

(8) Oppositions and appeals of the central and local public administration authorities shall be examined free of charge where such authorities act in the public interest.

### **Article 62. Rights of Foreign Natural and Legal Persons**

Foreign natural and legal persons shall enjoy the rights granted by this Law on an equal basis as natural and legal persons of the Republic of Moldova.

## **CHAPTER VIII**

### **FINAL AND TRANSITORY PROVISIONS**

#### **Article 63. Entry into Force and Applicability of This Law**

(1) This Law shall enter into force upon expiry of 3 months after its publication with the exception of Articles 49, 50, 51 and 52, which shall be implemented upon the entry into force of the appropriate amendments made in the Civil Procedure Code.

(1<sup>1</sup>) This Law is compatible with Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (published in the Official Journal of the European Union L 157 of 30 April 2004), and the Regulation (EU) No.1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (published in the Official Journal of the European Union L343 of 14 December 2012) as well as the Commission Regulation (EC) No.607/2009 of 14 July 2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No.479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products (published in the Official Journal of the European Union L 193 of 24 July 2009).

(2) The Law No.588-XIII of 22 September 1995 on product trademarks and appellations of origin shall be abrogated on the date this Law enters into force.

(3) It is established that:

a) the applications for registration of appellations of origin, the examination procedures of which are not complete prior to the day of entry into force of this Law, shall be examined in accordance with the procedure established by this Law;

b) the appellations of origin registered with the AGEPI until the date of entry into force of this Law shall be equivalent in terms of the legal regime to the appellations of origin registered in accordance with this Law;

c) the disputes under examination on the date this Law enters into force shall be settled in compliance with the norms of the legislation applicable on the date the litigation arose.

#### **Article 64. Organization of the Implementation of This Law**

The Government, within three months following the date of entry into force of this Law, shall:

a) submit proposals to the Parliament for bringing the legislation into force in compliance with this Law;

b) bring its own normative acts in accordance with this Law;

c) adopt normative acts necessary for the application of this Law

**CHAIRMAN OF THE PARLIAMENT**

**No. 66-XVI. Chisinau, March 27, 2008**